

**Working Group on Notification  
Obligations and Procedures**

**DRAFT**

**Report of the Working Group to the Council for Trade in Goods**

**I. The Mandate and the Establishment of the Working Group**

1. The Marrakesh Decision on Notification Procedures<sup>1</sup> provides in its Part III for the review of notification obligations and procedures as follows:

"The Council for Trade in Goods will undertake a review of notification obligations and procedures under the Agreements in Annex 1A of the WTO Agreement. The review will be carried out by a working group, membership in which will be open to all Members. The group will be established immediately after the date of entry into force of the WTO Agreement.

The terms of reference of the working group will be:

- to undertake a thorough review of all existing notification obligations of Members established under the Agreements in Annex 1A of the WTO Agreement, with a view to simplifying, standardizing and consolidating these obligations to the greatest extent practicable, as well as to improving compliance with these obligations, bearing in mind the overall objective of improving the transparency of the trade policies of Members and the effectiveness of surveillance arrangements established to this end, and also bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations;
- to make recommendations to the Council for Trade in Goods not later than two years after the entry into force of the WTO Agreement."

2. This Ministerial Decision was adopted by the General Council on 31 January 1995.<sup>2</sup> On 20 February 1995, the Council for Trade in Goods established a Working Group on Notification Obligations and Procedures to carry out the tasks set by the Decision.<sup>3</sup> At the same meeting, Mr. A. Shoyer (United States) was appointed Chairman. This appointment was renewed by the CTG at its meeting on 14 February 1996.<sup>4</sup>

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<sup>1</sup>The full text of the Decision is set out in Annex I.

<sup>2</sup>Document WT/GC/M/1, paragraph 9.

<sup>3</sup>Document G/C/M/1, paragraphs 6.1-6.3.

<sup>4</sup>Document G/C/M/8, paragraphs 6.1-6.3.

## **II. The Task and Organization of the Working Group**

3. The Working Group held [eleven] meetings, on 7 July, 19 October and 28 November 1995, plus 7 February, 11 March, 16 April, 7 May, 6 June, 3 July, 13 September [and 30 October 1996].

4. At its first meeting the Working Group noted that it was being called upon to thoroughly review all existing notification obligations in the 12 Agreements listed in Annex 1A of the WTO Agreement, as well as the GATT 1994, including the six Understandings interpreting certain articles thereof. The mandate did not include the Agreements on Services, TRIPs, DSU, TPRM or the Plurilateral Trade Agreements. The question arose at the outset as to whether the recommendations of the Group should focus exclusively on procedural aspects or if they should or could extend to matters entailing possible changes in notification obligations. As noted in the Group's 1995 report to the CTG (G/L/30, paragraph 2), it was considered that the Group could undertake its work with wide scope to make whatever recommendations it felt appropriate within the terms of reference of the Ministerial Decision. As is borne out in the following sections, however, the recommendations of the Group do not extend to the substantive aspects of the notifications, which the Group considered best served by the respective committees.

5. In launching its work, Members were requested to provide written inputs identifying problems and suggestions, both of a general nature and with respect to particular agreements. The Chairman undertook to contact the chairpersons of various committees with an interest in the Group's work, to encourage them to inform the Group of areas which it could usefully examine. Following replies received, the Chairman observed at the meeting in October 1995 that the committees were well aware of the importance and difficulties in the notification requirements and were actively working towards an efficient system in each of their respective areas of responsibility. For the purposes of this Group, however, he suggested that a horizontal approach across all Annex 1A agreements, would be the most productive. For this, as had been suggested, identification of areas for examination would have to originate with Members directly. The individual Members were exposed to notification demands across the whole spectrum, while the committees were focusing, quite rightly, only on their specific areas of responsibility.

6. To assist the Group in its work, the Secretariat prepared three papers in the early stages: (i) a background note on notification procedures in the GATT since 1979; (ii) a comprehensive list of notifications required from WTO Members under agreements in Annex 1A of the WTO Agreement; and (iii) information on formats for notifications under the covered agreements.<sup>5</sup>

7. The Group's work consisted basically of three phases: the first entailed the development of an inventory of those notification obligations or procedures where Members considered that problems might exist. This was addressed at the three meetings in 1995. The second phase, for the first half of 1996, was dedicated to a detailed examination of these possible problem areas. [This was followed by the third phase, in September-October 1996, when the present report was prepared and the Group's recommendations formulated.]

8. At its first meeting the Group heard a presentation, for information purposes, on the implementation and operation of the Central Registry of Notifications, created under Part II of the Ministerial Decision. Updates were provided at the Group's meetings in October and November 1995.

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<sup>5</sup>A list of all documents provided to the Group is contained in Annex 2.

### **III. Overall Observations**

9. While the details of the specific work conducted by the Group, along with its observations and recommendations, are set out in Sections A to F below, the Group considered that the following overall observations should be brought to the attention of the CTG.

10. At the outset of the Group's work, delegations emphasized that a credible notification process was essential for the effective operation of the WTO. Difficulties experienced in the past with respect to notification requirements could be compounded in the future by the increased obligations on Members resulting from the Uruguay Round. Therefore, it was important that the Working Group address aspects of the notification and counternotification process with a view to improving compliance with obligations, while also seeking to rationalize requirements and avoid duplication. Some stressed, however, that in its efforts towards such goals, the Group should not lose sight of the obligations and objectives in the various agreements and the specific information required for the proper functioning of individual committees. Furthermore, the overall contribution of the notification process to improved transparency and effective surveillance of trade policies and practices should not be compromised.

11. A number of delegations were concerned that it would be difficult to conduct a comprehensive examination of the notification situation at a point in time when Members had only limited experience in the operation of the notification system under the WTO. It was noted that since the entry into force of the WTO on 1 January 1995, little practical experience had been gained in both the preparation of notifications and their examination in the relevant Committees. In some respects, therefore, the work of the Group was seen as being premature, lacking a broad overview of the real difficulties Members would experience in carrying out their notification obligations. This situation would require that the Group examine the notification obligations and arrive at conclusions and recommendations for improvements more on the basis of theory than from practical experience. In these circumstances, it would be difficult to achieve the compromises needed to harmonize procedures in certain areas.

12. With respect to the relationship with other committees, it was also pointed out that this Group might have certain limitations in expertise when it came to examining the specific or technical details of the notification obligations in each of the agreements in question. The Group might, therefore, make recommendations as to the approach or processes under which specific problems might be dealt with, leaving the implementation to the relevant committees themselves. The view was generally shared that there was no overlap of jurisdiction between the Group and the committees, whose respective responsibilities differed in nature.

13. The Group observed that there were three types of notification obligations and procedures in Annex 1A: (i) ad hoc notifications which are specifically required when certain actions are taken by a concerned Member; (ii) "one-time only" notifications, most of which are required to provide information on the situations existing at the entry into force of the WTO Agreement for a Member, or within a specified period calculated from that date; and (iii) the regular or periodic notification obligations (semi-annual, annual, biennial, triennial). Of the 175 notification obligations or procedure found in Annex 1A, twenty-six were deemed to be of the regular or periodic type. In light of the ongoing nature of these obligations and procedures, the Group focused particular attention in its work on these provisions.

14. In the Group's examination of the specific notification obligations and of the questionnaires and formats used to present the required information, the key topics were the potential for overlapping or duplication in the notification obligations and the possibilities for simplifying or standardizing the various questionnaires and formats. After much examination and discussion, the Group found that duplication in the reporting requirements was not a widespread phenomenon. Indeed, only in the case of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Duties was there

sufficient scope for elaborating a recommendation for change. In all other cases the duplication was either minor in its extent or related to one-time notifications which did not warrant change.

15. The Group also found that there was little scope, at this point in time, to improve the questionnaires and formats which had been developed, in many cases, very recently through negotiations in the Uruguay Round. Furthermore, the highly technical nature of the requirements in the agreements convinced many participants that changes should be initiated and developed within the respective committees where the greatest technical expertise and sensitivity resided. In this regard, the Group noted that such work was proceeding in many committees as they developed new or amended questionnaires and guidelines, and elaborated their individual reporting processes. It became clear that the committees were very active in this area rendering less critical the need for the Group to make recommendations.

16. As the Group expanded the scope of its discussions, particularly in the latter stages of its work, it became increasingly aware of the importance of two other topics - improvement in the rate of compliance with notification obligations and the need for assistance in this regard to some developing country Members. Increasingly it was recognized that much work needed to be done to improve compliance rates in all agreements, to ensure the efficient operation of the agreements, to ensure maximum transparency and to bring all Members fully into the functioning of the WTO system.

17. It was further recognized that the key to improved rates of compliance, at least with respect to certain developing country Members, was extensive and carefully focused technical assistance in a number of forms. A concerted attack from three sides was considered to provide the best means of providing this assistance: (i) intensive training to inform Members of their obligations; (ii) guidance in setting up systems in the domestic administration to channel the obligations and the responses; and (iii) a practical handbook to provide detailed information on the preparation of notifications.

#### **IV. The Individual Areas of Examination**

18. In the first year, four broad areas were identified by the Group where problems might exist, namely: (a) duplication or overlapping in certain notification obligations; (b) the scope for simplification of data requirements and the standardization of formats; (c) the possibility to coordinate the timing aspects of the reporting processes (uniform periodicity); and (d) the need of some developing country Members for assistance in meeting their notification obligations;

19. As mentioned in the Chairman's informal updating report to the CTG on 19 March 1996<sup>6</sup>, discussion of a further issue, i.e. the question of improving Member's compliance with the notification obligations, was at that point in time in its early stages. Yet a further issue, i.e. the status of notification obligations established pursuant to Decisions of the GATT 1947 CONTRACTING PARTIES, was taken up as of April 1996.

20. The points raised in the Group's examination of these six areas, along with its conclusions, observations and, where considered appropriate, recommendations are set out in the following six sections.

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<sup>6</sup>The text of this report is re-printed as an Annex to document G/NOP/6.

**Section A: Duplication or Overlapping in Certain Notification Obligations**

21. Participants identified four sets of agreements where some elements of duplication or overlapping might exist. These were: (i) Agreement on Trade-Related Investment Measures (TRIMs) and Agreement on Subsidies and Countervailing Measures; (ii) Agreement on Agriculture and Agreement on Import Licensing Procedures; (iii) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and Agreement on Technical Barriers to Trade (TBT); and (iv) Agreement on Agriculture, Agreement on Subsidies and Countervailing Measures and Article XVI of GATT 1994.

**(i) Agreement on Trade-Related Investment Measures (TRIMs) and Agreement on Subsidies and Countervailing Measures (Subsidies Agreement)**

22. As regards the possible duplication or overlapping in the TRIMs and Subsidies Agreements, it was noted that the Subsidies Agreement prohibited specific subsidies of a type which might have a parallel in the TRIMs Agreement, namely those subsidies which were contingent upon the use of domestic over imported goods (Article 3.1). These could not be granted or maintained under the Subsidies Agreement although special provisions in its Article 27.3 indicated that this prohibition need not be applied for five and eight years to LDCs and LLDCs respectively. In the TRIMs Agreement, the Annex pointed to certain measures that were inconsistent with the national treatment obligations in GATT Article III:4 and which might be of a similar nature to those covered by the Subsidies Agreement.

23. The Group noted, however, that the TRIMs notification in this regard was a one-time obligation and was due within 90 days of the entry into force of the WTO followed by the elimination of any measures not in conformity with the Agreement within two years (five for LDCs and seven for LLDCs). At the time of the examination of this matter, the 90-day period had elapsed for such notification while for new Members the obligation would remain, but as a one-time only requirement.

**24. The Group concluded that while these TRIMs measure could be maintained by some Members for certain periods of time, they would have to be notified only on one occasion under this Agreement and although some element of duplication with the Subsidies Agreement was present, there would be little purpose in the Group taking steps to address non-recurring duplication.**

**(ii) Agreement on Agriculture and Agreement on Import Licensing Procedures**

25. With respect to the potential for duplication between the Agreement on Agriculture and the Agreement on Import Licensing Procedures, it was noted that, pursuant to Article 7.3 of the latter Agreement, Members were required to complete the annual questionnaire and submit it to the Committee on Import Licensing by 30 September each year. This questionnaire required 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 were 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 part of a tariff or other quota allocation programme. Full notification of any such quota administration system was required on a "one-off" basis in 1995 with any substantial changes in the system being notified ad hoc. The specific informational requirements for notifications under the Agreement on Agriculture were summarized in document G/AG/2.

26. This examination aroused discussion of the broader question whether agriculture tariff rate quota systems with import licensing procedures needed to be included in general notification obligations of the Agreement 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 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.

27. While bearing this in mind, some participants were of the view that the actual extent of overlap in the areas of Agriculture and Import Licensing was minimal. The view was also expressed that the overlap between the Agriculture and Import Licensing Agreements reflected a legal difference which could entail an interpretation of the notification obligations themselves. It was questioned if such matters were appropriate to this Group or rather should be left to the respective committees.

**28. In considering all of these points, the Group concluded that, in these particular circumstances, efforts to remove the possible duplication were not warranted.**

**(iii) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and Agreement on Technical Barriers to Trade (TBT)**

29. The Group noted that the TBT Agreement required notification of proposed new or changed technical standards or regulations, while the SPS Agreement required that Members notify proposed new or changed sanitary or phytosanitary regulations which could significantly affect trade. Provisions also exist in both for emergency actions to be subsequently notified. The Group also observed that the notification formats and the procedures agreed by both the TBT and the SPS Committees were very closely aligned in recognition of the fact that often the same officials were responsible for notifications under both agreements and the type of information requested was also similar. It was clear that there was the possibility of some overlap in that a single regulation might contain elements which were relevant to the SPS Agreement and other elements which were relevant under the TBT Agreement. However, both Committees had committed to coordinate closely in this respect and to work with the governments concerned to limit any duplications.

30. In fact, the potential for overlap between TBT and SPS notifications has long been recognized and in November 1995 a joint meeting of the two committees was held to examine notification problems (G/TBT/W/16 and G/SPS/W/33). To deal with instances where a notification contained elements relevant to both TBT and SPS, two suggestions were advanced: a Member could submit a single notification to the Secretariat to be circulated as both an SPS and TBT Committee document but clearly indicating the respective SPS and TBT elements of the proposed regulation, or Members could separate the subject matter into individual notifications for the SPS and TBT Committees each containing only the relevant information.

31. After examination of the possible duplication, the Group was of the view that the subject matters and operation of these two agreements were clearly intended to be kept separate. Article 1.5 of the TBT Agreement states that the provisions of that agreement do not apply to sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement. Some participants also felt the problem was being resolved over time as Members became more familiar with the operation of the two Agreements, and the two Committees were aware of the problem and had been jointly working to resolve it.

**32. Accordingly, the Group concluded that the problems encountered in respect of these two Agreements were more in the nature of a possible 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 Agreements? It was not considered to be a question of duplication, but a**

**"mechanical" problem, with the distinction between the reporting processes of these two agreements being generally understood by Members. No further action by the Group was considered necessary.**

**(iv) Agreement on Agriculture and Agreement on Subsidies and Countervailing Measures (Subsidies Agreement)/Article XVI of GATT 1994**

33. From the outset, it was recognized that there were differences in the objectives of the notification procedures of these agreements. In the Agriculture Agreement, the objective of subsidy notification was to ensure compliance with the reform programme which was largely based on quantitative measurements while in the Subsidies Agreement and Article XVI of GATT 1994<sup>7</sup>, the notification procedures had the objective of setting out legal, economic and other qualitative information related to the commitments themselves. It was considered that it might be possible to work towards a degree of unification in the notification formats, and perhaps a common format. It was 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. One benefit of eliminating duplication would be to encourage broader fulfilment of these notification requirements by all Members.

34. After lengthy discussion of possible approaches to this question, New Zealand provided a paper (G/NOP/W/7) which set out three options on how to approach the question of duplication/overlapping in the notification of agricultural subsidies. The first option was that no change should be made to the present arrangements; rather, the Group could decide to review the arrangements at a specified date in the future when Members would have had the experience of a full cycle of notifications in their present format. The second option foresaw the development of a revised notification format for agricultural subsidies which would merge the two current sets of obligations, resulting in one single notification format meeting the requirements of all three Agreements. The third option would start with the Agriculture Agreement notification format and add to it the additional qualitative information required by the Subsidies Agreement notification format to respond to the needs of all three Agreements through one format.

35. In the ensuing discussions, some participants indicated a preference for the first option of making no change to the present formats at this time. They considered that it was too early to undertake a review of the notification process without the experience of a full cycle of Subsidies and Agriculture notifications; some Members had not yet submitted their Subsidies Agreement or Article XVI notifications and many Agriculture Agreement notifications were due only later in 1996. Some considered that the Group did not have enough basic information to make reliable judgements or recommendations in this matter. Others were of the view that the present notification requirements had not presented serious problems; that the agreements did not have extensive specific overlapping; and therefore, they did not warrant substantive changes.

36. Other participants, however, considered that options two and three presented a good basis for a substantive discussion in the Group. It was stressed that a single notification format for agricultural subsidies would simplify the administrative process by removing the double collection of information on the same programmes. There were a number of descriptive or information requirements in the Subsidies format which could be accommodated in the format adopted for the Agriculture Agreement, such as the titles of the programmes and information on their operation. It was considered worthwhile to examine the possibility of adding these to the Agriculture format to arrive at a single notification while not changing the transparency of substantive obligations of the Agreements concerned. In addition,

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<sup>7</sup>Notifications required by Article XVI:1 of GATT 1994 are currently subject to the questionnaire format developed by the Committee on Subsidies and Countervailing Measures (G/SCM/6).

the United States suggested in a paper (G/NOP/W/8) that the Group consider the elimination of requirements to provide information on subsidy per unit and trade effects of agricultural subsidies, except where information is reasonably available for commodity-specific programmes.

37. To illustrate its suggestions, the United States provided a paper (G/NOP/W/10) which started with the existing notification requirements relating to domestic support and export subsidies under the Agreement on Agriculture and added a number of questions under the columns which required descriptions of policies. These questions were taken from the notification requirements under the Subsidies Agreement and Article XVI of GATT 1994. The objective was to combine the statistical features of the Agriculture Agreement notifications with the descriptive elements of the Subsidies requirements. This would provide a fuller explanation of subsidy policies in both a quantitative and contextual basis. The proposal would apply only to subsidies covered by the current agricultural subsidy notifications; other types of subsidies would remain subject to the notification procedures of the Subsidies Agreement and Article XVI of GATT 1994.

38. The European Community also introduced a paper (G/NOP/W/11) which went in the same direction as that of the United States starting with the Agriculture format and supplementing it with details from the Subsidies format. They considered that the duplication in these requirements could be avoided by creating a single format which would be applicable only to agricultural subsidies.

39. A number of participants, including Argentina (G/NOP/W/12), commented on these proposals. In particular, they stressed that the goal of any recommended modifications to the notification formats should be to meet all of the informational requirements of the Agreements concerned while removing the reporting duplication. However, simplification must not entail changes in the notification obligations themselves, nor impair the achievement of the objectives of the Agreements. They observed that the proposal of the United States, as supported by the European Community, would involve modifications to elements found in the Subsidies Agreement.

40. The question of timing under a unified format was also examined. It was stressed that the proposed revisions to the notification formats would not alter existing deadlines. Members would continue to be subject to the various deadlines for notifications in both the Agreement on Agriculture and the Subsidies Agreement, and those established by the Committees. Members could use the formats to notify measures to the Committee on Agriculture according to the intervals determined by that Committee in G/AG/2 (according to crop year, marketing year, etc.), and could submit the same notifications to the SCM Committee no later than 30 June of each year to satisfy the notification obligations and procedures of the Subsidies Agreement.

41. After extensive discussion, the Chairman undertook to prepare a text for the Group's consideration, drawing on these proposals and the points raised in the Group's discussions. His draft text (G/NOP/W/15) contained notification formats for measures that were subject to the notification obligations and procedures of both the Agreement on Agriculture, on the one hand, and the Agreement on Subsidies and Article XVI of the GATT 1994, on the other. Certain supporting tables adopted by the Committee on Agriculture (G/AG/2) were modified so that a Member could use the formats adopted by the Committee on Agriculture to satisfy the existing requirements in that Agreement (G/AG/2) as well as the elements set forth in Article 25.3 of the Subsidies Agreement, Article XVI of the GATT 1994 and the relevant portions of the formats adopted by the Committee on Subsidies and Countervailing Measures (G/SCM/6). No other revisions to these documents were proposed and nothing was deleted from the documents. The Chairman noted that the adoption of these revised documents would not suggest that the scope of review of the relevant Committees had been modified. Some of the information in the new formats would not be relevant under the provisions of all of the relevant agreements and it was clear that each Committee would be required to examine only the information falling within its mandate.

42. The Chairman's Text was presented at the July 1996 meeting [and was examined in detail at the September meeting ...]

43. **The Working Group recommends that the CTG request the Committee on Agriculture to [consider] [implement] the modified notification formats contained in the draft revision to document G/AG/2, as set out in document G/NOP/W/15 [with a view to its adoption] and that the CTG request the Committee on Subsidies and Countervailing Measures to [consider] [implement] the modified notification formats contained in draft revision to document G/SCM/6, as set out in document G/NOP/W/15 [with a view to its adoption].**

**Section B: The Scope for Simplification of Data Requirements and the Standardization of Formats**

44. The Group noted that questionnaires and formats had been developed both through the Uruguay Round negotiating process and through the work of some committees to facilitate the presentation of the information required to be notified. In this regard the questions raised in the initial consideration of this topic were: (i) if any of these formats went beyond the obligations of the agreements concerned; (ii) if there were any further areas which would lend themselves to standardized formats; and (iii) could formats be developed such that one submission could respond to the requirements of more than one agreement. To assist these discussions, the Secretariat prepared a list of all agreements for which notification formats had been developed (G/NOP/W/3).

45. There was concern in examining this topic that changes to formats would require both technical expertise on the nature and goal of the agreement itself as well as a sensitivity to the negotiation background of the existing formats. Hence the suggestion was made that possible improvements under this topic should be the responsibility of the respective committees which possess the specific technical expertise. It was stressed that, at a minimum, this Group should not propose to modify formats without the consideration and input of the concerned committees.

46. It became clear through several months of examination and reflection that it would not prove fruitful for this Group to conduct a detailed examination of all the individual formats and questionnaires currently being used in the various committees. Accordingly, it was decided that the Chairman should send a note to the chairpersons of the committees in the "goods" area indicating that these issues had been discussed in the Working Group and would continue to be considered, but that it might be useful to have these questions examined in the relevant committees as well. Subsequently, a number of responses were received indicating that the committees were considering, as an ongoing responsibility, the various aspects of the questionnaires and formats, adapting existing ones as circumstances warranted and, in some cases, developing new ones.

47. To assist the Group in its efforts to maintain an awareness of the work which was being done in the various committees on this topic, the Secretariat assembled an overview of such discussions drawing upon committee meeting reports or minutes (G/NOP/W/13).

48. **In the absence of any firm proposals under this topic and recognizing that several committees were actively working to improve their own systems, the Group decided to take no further action.**

**Section C: Coordination of Timing Aspects of the Reporting Processes**

49. It was suggested that the Group could usefully examine the scope for improvements in the timing aspects of the notification process as the overall burden of preparing, submitting and reviewing notifications might be eased if these obligations were not grouped at certain times but were staggered over the full year.

50. To assist the Group in this discussion, the Secretariat prepared a document (G/NOP/W/5) setting out the timing aspects of the notification requirements in the agreements in the "goods" area. It was found that there were 175 such notifications comprising 106 ad hoc requirements whereby a Member was obliged to submit a notification only if a specific action was taken and 43 one-time only obligations, most of which related to the implementation of the agreements in 1995 or upon accession. There were also a further 26 regular or periodic requirements (3 semi-annual, 17 annual, 3 biennial and 3 triennial).

51. The Group examined the regular notifications with specific reporting dates, and noted in particular that the dates set out in the agreements had particular relevance to the obligations of each particular agreement and to the needs of the respective committees. It was considered that this was not a question for separate examination but might be more appropriately included in the Group's examination of two other topics, duplication/overlapping and simplification/standardization. It was suggested that in making proposals on these two topics, consideration of the timing aspects should be built in to such proposals rather than their being dealt with as a stand-alone item.

52. **On this basis, the Group decided not to pursue the topic of timing as a separate matter.**

**Section D: The Need of Some Developing Country Members for Assistance in Meeting their Notification Obligations**

53. Opening the consideration of this item, some developing country participants pointed out that in view of the ever-increasing workload, combined with limited resources in the small delegations, they had great difficulty in advising their governments on all aspects of the notifications required. Many developing countries had difficulty understanding the frequently complex and highly technical information demanded, and therefore faced a prohibitive task in providing complete responses to the notification requirements and formats. While they recognized that these notifications were part of their Membership obligations and they were prepared to respond to the maximum of their abilities, there were serious constraints to what they could achieve due to their limited resources. In this regard it was recognized that the WTO Technical Co-operation and Training Division was aware of the problem, had developed two workshops for delegations on this specific topic in 1995 and 1996 and would continue to provide assistance on notification obligations through their seminars and other programmes.

54. As participants considered the specific needs of the developing, and particularly of the least-developed country Members, a number of questions were raised including: whether some additional forms of special and differential treatment in respect of the obligations themselves should be considered or if greater technical assistance to meet the existing obligations would be the most appropriate. With respect to the former, it was suggested that simplified formats might be developed for the developing countries with more detailed information being provided to the committees only when requested. In some situations, prolonged time-frames might be considered.

55. Some participants did not favour such approaches, considering that the information in the agreed formats reflected the obligations which all Members had undertaken and were vital to the efficient operation of the agreements and to maintain full transparency. It was also 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.

56. Another idea was that explanatory commentaries should be prepared for each agreement on how to complete the questionnaires/formats. In this connection, the Group agreed that the technical cooperation programmes of the WTO were a sound vehicle for assisting developing countries in meeting their notification obligations. Particular reference was made to the two notification workshops mentioned above, and to seminars which were being held on this topic in the regions. It was suggested that, to maximize the effectiveness of these programmes, they should not be "one-off" seminars but followed up and broadened.

57. A formal proposal made by Chile and Norway was that a practical handbook or manual should be developed setting out the notification obligations, questionnaires or formats, guiding the Members through the information required to complete the submissions. On the basis of this proposal, the Group expanded the concept further leading to the development of a five-part draft document which would contain (i) a description of the notification obligations in the agreement based on the presentations made by the Secretariat staff at the February 1996 workshop; (ii) a list of the specific notification obligations in the respective agreements drawn from document G/NOP/W/2/Rev.1; (iii) all documents issued by the committees containing questionnaires, formats and guidelines for each agreement; (iv) mock examples of fully completed notifications; and (v) the text of the relevant agreement. A separate, loose-leaf handbook would be prepared for each agreement on this basis. To assist the Group, a model of the handbook for two agreements was prepared by the Secretariat. It was further agreed that the handbook would include a disclaimer to make it very clear that it was not a legal interpretation of any agreement but was a practical tool of the WTO technical assistance programme. The handbook would be provided to the Chairmen of various committees for their information and input.

58. As the discussions proceeded and the handbook took shape, many delegations commented that such a handbook could prove so helpful that it should not be delayed several months until the formal conclusions of the Group's work programme, in particular since the WTO Secretariat could undertake such work anyway within its resources. Indeed, many delegations desiring to meet their notification obligations had already been seeking technical assistance in this area. The Group noted that no Member appeared to have difficulty with the concept of a practical handbook, and that there was in fact broad agreement on its structure and contents. The Group was also informed of work underway along similar lines in the Technical Co-operation and Training Division in response to requests from Members.

**59. The Group recognized the benefit a practical handbook would provide to many Members and supported the initiatives to prepare and circulate it as soon as possible. This is being done by the Technical Cooperation and Training Division as part of that Division's regular work programme.**

60. One suggestion advanced was that industrialized countries could provide direct assistance to developing countries by exchange of visits of technical experts to discuss with and assist developing country Members in the preparation of responses to notification obligations. After discussion on the possible modalities of such an exchange programme, it found little favour and was not pursued.

**Section E: The Status of Notification Obligations Established Pursuant to Decisions of the GATT 1947 CONTRACTING PARTIES**

61. The Group examined the list of notification obligations in document G/NOP/W/2/Rev.1, section II(b), which were created by Decisions of the GATT 1947 CONTRACTING PARTIES. It was suggested that some of these CONTRACTING PARTIES Decisions might be redundant or obsolete in the current situation. Those cited were: (a) Items 2, 3 and 4 on pages 48 and 49 of G/NOP/W/2/Rev.1 on CPs Decisions relating to Quantitative Restrictions and Non-tariff Measures which appear to be superseded by the CTG Decisions of 1 December 1995 (G/L/59 and G/L/60);

(b) Item 6, also on page 49, on Import Licensing Procedures which appears to be superseded by the WTO Agreement on Import Licensing Procedures plus the new Questionnaire (G/LIC/3); (c) Item 8 on page 50 on Marks of Origin (GATT Article IX) for which, according to the notes in the 1995 edition of the WTO Analytical Index, there have been no submissions since 1961; and (d) Item 12 on Liquidation of Strategic Stocks which dates back to a CPs Decision in 1995.

62. The questions posed under this topic were (i) are these obligations now redundant or obsolete; (ii) are there are others; (iii) if they are redundant or obsolete how should they be addressed; and (iv) what legal process should be followed.

63. The Group decided that the CPs Decisions in points (a) and (b) above were clearly superseded by the procedures adopted after the entry into force of the WTO and these earlier Decisions could now be proposed for deletion. The CPs Decisions in points (c) and (d) above were possibly obsolete but this would have to be examined in greater detail.

64. **Accordingly, the Group recommends that the CTG request the General Council to take the necessary steps to eliminate the notification obligations in the Decisions of the GATT 1947 CONTRACTING PARTIES (BISD 32S/92-93 and BISD 31S/227-8) relating to quantitative restrictions and non-tariff measures (S/R 28/6 and L/3756) and relating to import licensing procedures. The Working Party further recommends that the CTG refer the Decisions of the GATT 1947 CONTRACTING PARTIES (BISD 7S/30-33) on Marks of Origin (BISD 3S/51) and on Liquidation of Strategic Stocks to the appropriate bodies for consideration of the need to continue to maintain these notification obligations.**

#### **Section F: Improving Members' Compliance with Notification Obligations**

65. The goal of improving the compliance with the notification obligations and procedures under Annex 117 was recognized as a key responsibility of all Members to maximize transparency of trade policies and measures. Accordingly, the Group considered that the question of compliance deserved very careful examination as it touched upon the very functioning of the WTO system. To consolidate the gains of the Round, each and every agreement must be fully and faithfully implemented. That requires very detailed monitoring by the responsible committees and councils which, in turn, could only be achieved if there is sufficient transparency - which means compliance with the notification obligations.

66. To assist the Group in examining this item, the Secretariat prepared two papers - G/NOP/W/9 which set out general information on the volume of notifications received up to mid-February 1996 with some analysis of the degree of compliance, and G/NOP/W/14 which listed the periodic and one-time obligations and the notification situation in this regard of each individual WTO Member.

67. The examination of the situation in compliance as reported in document G/NOP/W/9 involved the examination of over 1500 notifications received in the first fourteen months of the WTO. It revealed that over 40 per cent of all notifications were of technical regulations under the TBT and SPS Agreements. The next largest quantities of notifications were in the areas of subsidies (10 per cent), textiles (9 per cent), anti-dumping (8 per cent), safeguards and rules of origin (6 per cent each). What was also important, over 80 per cent of the notifications received were either ad hoc (required only when a specific action was taken) or one-time only (usually in relation to entry into force of the agreements). Therefore, only about 18 per cent of all notifications received were regular or periodic. The exact rates of compliance with the one-time and periodic notification obligations were sometimes difficult to calculate as not all Members were obligated to provide all notifications at that time; nevertheless, it was clear that compliance rates varied greatly and few exceeded 50 per cent.

68. Among the questions raised in the discussions of this topic: (i) was there a link between the volume of notifications to be made by Members and the degree of compliance; (ii) did the complexity of the questionnaires/formats reflect on compliance rates; (iii) could the timing of notifications affect compliance; and (iv) could specific obligations that attract a low or for that matter a high compliance rate be identified? Although there were no clear replies to these questions, the discussion brought out several points.

69. A number of opinions were advanced as to why compliance rates were low. One was that the WTO Agreements had been in place for just over one year and the demands at the outset were considerable. Notifications of measures in place upon entry into force of the WTO Agreements and of laws and regulations, etc. added to the initial burden. New systems had to be developed in capitals to handle the greater demands and these would require some time to get "up to speed". It was also noted that many administrations had limited resources to coordinate the substantial demands both in the WTO and in the capitals. A number of Members had no mission in Geneva, which further complicated their task. The Group considered that compliance frequently suffered because of a lack of awareness in some capitals, particularly in the ministries more removed from the offices which usually dealt with WTO matters. This would hinder comprehension of the requirements and delay or even prevent the submission of information.

70. The Group considered that the information contained in G/NOP/W/14 on all periodic and one-time notifications requirements and the responses to these obligations by all WTO Members provided a comprehensive overview of Members' participation and thereby improved the transparency of the system and assisted Members in seeing their own individual situation at a glance. A number of participants commented that this full listing had been found helpful in the capitals and would provide a positive impetus to the task of improving compliance. [This document has been updated to the end of August 1996 and is included in this report as Annex 3.]

**71. The Group recommends that a comprehensive listing of notification obligations and the compliance therewith by all WTO Members be maintained on an ongoing basis and be circulated [semi-annually] [annually] [at appropriate intervals] to all Members.**

72. A number of suggestions were made on how compliance rates could be improved. One was that there could be a central entity or office in each Member responsible for coordinating that Member's notification submissions in all areas. The Group fully accepted that some form of coordination in the capitals to improve the flow of information both to and from Geneva and among the various ministries would be an important assistance to the notification process. It was recognized that different Members would require different domestic structures and, indeed, some had already established such coordination offices.

**73. The Group recognized that benefits were possible both to the individual Members and to the WTO System from a central national coordination of notification submissions, and recommended this for consideration by individual Members.**

74. Another suggestion was that the CTG could develop guidelines to assist the committees in administering the notification system. These guidelines could include regular review of their notification questionnaires or formats, regular reminders to be made prior to each meeting on the notification situation in each Member, and the regular publication of the situation as regards compliance with the notification obligations. In this regard, the Group observed that the more active committees were in this area and the more persistent in requesting notifications, the higher were their rates of compliance.

75. **The Group, therefore, recommends that the CTG consider the preparation of general guidelines for the bodies under its purview, providing for the regular review of questionnaires and formats and of the situation as regards compliance with notification obligations.**

76. The Group also touched on the possibilities for using electronic means for transmitting information. Although this concept was not elaborated, it was clear that many members could see merit in having the possibility to submit notifications electronically and to have access to the notification of others through such means.

77. The Group also considered a suggestion concerning the semi-annual reminders issued by the Central Registry of Notifications pursuant to Part II of the Marrakesh Decision on Notification Procedures. While this topic was outside the purview of the Working Group, in view of the proximity of the subject matter to the topics under discussion - improving Members' compliance - the Group offered the **observation that the reminders issued by the CRN would be of greater assistance to Members if they provided basic descriptions of the information being sought.** This could take the form of brief descriptions of the notification obligations being referred to, reference to the related provisions in the notification handbook, an indication if a "nil" report was required in cases where the Member did not maintain the measure in question, and similar information of a pedagogic nature.

#### **Future Work in this Area**

78. The Group was of the opinion that the detailed, technical review of notification obligations and procedures in each individual agreement should be an ongoing responsibility of the committees overseeing the functioning of the respective agreements. However, the Group also saw benefit in conducting periodic reviews of the operation of the entire notification process from a more detached and global perspective under a mandate along the lines of the present Working Group. In the future, this work could be coordinated with a review of notification requirements under Annexes 1B and 1C.

79. **Accordingly, the Group recommends that, at an appropriate point in time, the CTG consider the establishment of a body with a mandate along the lines of Part III of the Decision on Notification Procedures to conduct a further comprehensive review of the notification obligations and procedures in the agreements in Annex 1A of the WTO Agreement. Alternatively, the CTG might recommend that the Ministerial Conference or the General Council consider the establishment of a body with a mandate to review the notification obligations and procedures throughout the WTO Agreement.**

**ANNEX 1**

**DECISION ON NOTIFICATION PROCEDURES**

*Ministers,*

*Decide* to recommend adoption by the Ministerial Conference of the decision on improvement and review of notification procedures set out below.

*Members,*

*Desiring* to improve the operation of notification procedures under the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and thereby to contribute to the transparency of Members' trade policies and to the effectiveness of surveillance arrangements established to that end;

*Recalling* obligations under the WTO Agreement to publish and notify, including obligations assumed under the terms of specific protocols of accession, waivers, and other agreements entered into by Members;

*Agree* as follows:

*I. General obligation to notify*

Members affirm their commitment to obligations under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, regarding publication and notification.

Members recall their undertakings set out in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 (BISD 26S/210). With regard to their undertaking therein to notify, to the maximum extent possible, their adoption of trade measures affecting the operation of GATT 1994, such notification itself being without prejudice to views on the consistency of measures with or their relevance to rights and obligations under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, Members agree to be guided, as appropriate, by the annexed list of measures. Members therefore agree that the introduction or modification of such measures is subject to the notification requirements of the 1979 Understanding.

*II. Central registry of notifications*

A central registry of notifications shall be established under the responsibility of the Secretariat. While Members will continue to follow existing notification procedures, the Secretariat shall ensure that the central registry records such elements of the information provided on the measure by the Member concerned as its purpose, its trade coverage, and the requirement under which it has been notified. The central registry shall cross-reference its records of notifications by Member and obligation.

The central registry shall inform each Member annually of the regular notification obligations to which that Member will be expected to respond in the course of the following year.

The central registry shall draw the attention of individual Members to regular notification requirements which remain unfulfilled.

Information in the central registry regarding individual notifications shall be made available on request to any Member entitled to receive the notification concerned.

*III. Review of notification obligations and procedures*

The Council for Trade in Goods will undertake a review of notification obligations and procedures under the Agreements in Annex 1A of the WTO Agreement. The review will be carried out by a working group, membership in which will be open to all Members. The group will be established immediately after the date of entry into force of the WTO Agreement.

The terms of reference of the working group will be:

- to undertake a thorough review of all existing notification obligations of Members established under the Agreements in Annex 1A of the WTO Agreement, with a view to simplifying, standardizing and consolidating these obligations to the greatest extent practicable, as well as to improving compliance with these obligations, bearing in mind the overall objective of improving the transparency of the trade policies of Members and the effectiveness of surveillance arrangements established to this end, and also bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations;
- to make recommendations to the Council for Trade in Goods not later than two years after the entry into force of the WTO Agreement.

**ANNEX II**

**List of Working Documents Issued by the Group**

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<b>Document Number</b>	<b>Date</b>	<b>Title</b>
G/NOP/W/1	30/06/95	Background Note by the Secretariat on Notification Procedures in the GATT since 1979
G/NOP/W/2 & Rev.1	30/06/95 & 25/09/95	Notifications Required from WTO Members Under Agreements in Annex 1A of the WTO Agreement
G/NOP/W/3	22/09/95	Information on Formats for Notifications Under the Agreements in Annex 1A of the WTO Agreement
G/NOP/W/4	03/11/95	Communication from the United States
G/NOP/W/5	21/11/95	Timing Aspects for the Notification Requirements in the Agreements in Annex 1A of the WTO Agreement
G/NOP/W/6	21/11/95	Notification Requirements in the Agreements in Annex 1A of the WTO Agreements Which Appear to have some Elements of Duplication
G/NOP/W/7	14/02/96	Communication from New Zealand
G/NOP/W/8	21/02/96	Communication from the United States
G/NOP/W/9	08/03/96	Information on Compliance with the Notification Obligations Under the Agreements in Annex 1A of the WTO Agreement
G/NOP/W/10	11/04/96	Communication from the United States
G/NOP/W/11	16/04/96	Communication from the European Community
G/NOP/W/12	30/04/96	Communication from Argentina
G/NOP/W/13	10/05/96	Information on Discussions Being Held in Various WTO Committees Related to Topics Under Examination in the Working Group
G/NOP/W/14	20/05/96	Information on Notifications Made Under the Agreements in Annex 1A of the WTO Agreement
G/NOP/W/15	02/07/96	Chairman's Text
G/NOP/W/16		Draft Report of the Working Group to the Council for Trade in Goods