
Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 11 OCTOBER 2000

Chairman: Mr. Albert Wright (Denmark)

The Committee on Import Licensing held its twelfth meeting on 11 October 2000. The agenda proposed for the meeting, contained in WTO/AIR/1393, was adopted as follows:

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1. Election of Officers

1.1 The Committee elected Mr. Albert Wright (Denmark) as Chairman of the Committee by acclamation, to hold office until the end of the first meeting in 2001, under Rule 12 of the Committee's Rules of Procedure (G/L/147). It also elected Ms. Fonny Shek (Hong Kong, China) as the new Vice-Chairperson.

2. Notifications

(i) *Notifications under Articles 1.4(a) and/or 8.2(b) (publications and/or legislation)*

2.1 The Chairman recalled that under Articles 1.4(a) and 8.2(b) of the Agreement, and the procedures for notification agreed to by the Committee, all Members were required to notify to the Committee their laws, regulations and administrative procedures relevant to import licensing, together with copies of any relevant publications or laws and regulations, upon becoming a Member of the WTO. Following these first notifications, the Agreement further required Members to notify

to the Committee any subsequent changes to these laws, regulations and administrative procedures. Those which did not apply import licensing procedures or had no laws or regulations relevant to the Agreement were also required to notify this fact in order to obtain a complete overview of the licensing regimes of all Members. However, the status of notifications under these provisions could not be considered to be very satisfactory as, since the entry into force of the WTO Agreement, the Committee had received notifications under these two provisions from only 66 Members (counting the EC and its member States as one Member). This included the notification submitted by Jordan since the airgram convening this meeting had been issued. He therefore requested all Members which had not yet provided any information to the Committee of their import licensing systems to submit their notifications without further delay.

2.2 The representative of the United States expressed his appreciation to Members for the notifications made. With respect to the notifications from Estonia and Switzerland which were lengthy and were still under review, his delegation wished to reserve their right to forward written questions within a reasonable time after the meeting. With respect to the notification from Madagascar (G/LIC/N/1/MDG/2), he noted that while its import licensing regulations were contained in Decree 92-424 of 3 April 1992, it had abolished import licensing with the exception of some strategic goods, the importation of which nevertheless required prior authorization from the Ministries responsible. In its earlier notification (G/LIC/N/1/MDG/1 of February 1998), however, it had indicated that it did not have an import licensing system at all. As there was no past or current notification under Article 7.3 from Madagascar, his delegation would have a few questions in order to clarify this apparent ambiguity. These questions would also be circulated to the Committee. As concerned the notification from Bangladesh which indicated that import licences were not required for any import, he wished to know how Bangladesh regulated the importation of products with health or security implications, such as explosives, where one would expect a system of import licensing. As concerned Chad, which had notified that it did have import licensing for some products, but had not yet provided the Committee with any information on the laws on which the licensing was based nor the information requested in the Questionnaire on Import Licensing Procedures required under Article 7.3, a more complete notification would be appreciated.

2.3 The Chairman requested the United States representative to provide the questions concerning these notifications in writing, for circulation to the Committee. As agreed by the Committee (G/LIC/4), replies to these questions would also be circulated to the Committee for its information¹.

2.4 The representative of India informed the Committee that a notification under Articles 1.4(a) and 5 of the Agreement would be submitted shortly².

2.5 The Committee took note of the statements made. It agreed to postpone the review of the notification from Switzerland to its next meeting.

(ii) *Notifications under Article 7.3 (replies to the Questionnaire on Import Licensing Procedures)*

2.6 The Chairman informed the Committee that since the last meeting 16 Members had submitted replies to the Questionnaire. This included the notifications listed in the airgram (from Bahrain; Bangladesh; Bolivia; Chad; Haiti; Iceland; Kyrgyz Republic; Malta; Namibia;

¹ Questions received from the United States concerning the notifications from Madagascar, Bangladesh and Chad were subsequently circulated as documents G/LIC/Q/MDG/1, G/LIC/Q/BGD/1 and G/LIC/Q/TCD/1.

² Circulated as document G/LIC/N/1/IND/3 - G/LIC/N/2/IND/3.

Norway; Switzerland; and the United Arab Emirates) as well those notifications received since the airgram had been issued (from Estonia; Hong Kong, China; Jordan; and Zimbabwe) which would be reviewed at the next meeting.

2.7 The Chairman informed the Committee that, since the entry into force of the WTO Agreement, a total of only 67 Members (counting the EC and its member States as one Member) had thus far made the required notifications. This accounted for notifications from 11 Members in 1995, 22 Members in 1996, 25 Members each in 1997 and 1998, 20 Members in 1999, and, out of a WTO membership of 138 this year, from only 20 Members up to the date of this meeting. He recalled that pursuant to Article 7.3 of the Agreement, and the procedures for notification agreed in the Committee, all Members were required to submit replies to the Questionnaire on an annual basis, by 30 September. Noting that notifications were overdue from many Members, he urged those Members which had not yet done so to submit their notifications without any further delay. He reminded the Committee in this context that even those Members which had not made any changes to their import licensing procedures since their previous notifications, or which did not apply import licensing procedures, were required to notify this fact to the Committee in order to obtain a full overview of the situation.

2.8 The representative of the United States expressed his appreciation to delegations which had made the required notifications and said that he wished to reserve the right to pose questions concerning the submissions from the Kyrgyz Republic and Norway, should they be necessary. While his delegation would submit questions in writing relating to other notifications as well, he wished to raise several questions concerning the submissions by the delegations that were present at this meeting³. The first concerned the notification from Iceland (G/LIC/N/3/ISL/2), section I.8 of which stated that "beyond the failure of an applicant to meet standard criteria, a request for permit to import can be refused at the discretion of the relevant Minister. Reasons for refusal will normally be given. While no formal procedures exist through which an appeal may be lodged, an applicant may choose to contact the Ministry to question that decision." In section VII, concerning permits for importation of communication equipment, there was no information given on whether a reason would be given for why the permit was not approved or if a right of appeal existed. His delegation requested confirmation from Iceland that, notwithstanding this information, Iceland provided the benefits of Article 3.5(e) of the Agreement to traders requesting an import permit, i.e., that "if a licence application was not approved, that application shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing Member." A reply from Iceland, if possible at this meeting, would be appreciated by other delegations as well.

2.9 In order to stimulate a discussion in the Committee, and to advise Malta of their interest in the notification, the representative of the United States wished to read out the question concerning Malta's notification as well (G/LIC/N/3/MLT/2/Add.1). He noted from this recent notification that there had been no changes to Malta's import licensing procedures since its earlier notifications. The response to question 8 in G/LIC/N/3/MLT/2 stated that "except in cases where the importation of certain goods is prohibited, licences were not normally refused, that reasons for refusal were generally given, and applicants may, if they wish, appeal to the Minister responsible for trade." His delegation noted that the list of imports subject to import licensing in Malta was extensive and therefore sought confirmation from Malta that it provided the benefits of Article 3.5(e) of the Agreement to traders whose request for an import licence was refused, i.e., that "if a licence

³ Questions received from the United States concerning the notifications from Bahrain, Bolivia, Haiti, Iceland, Malta and the United Arab Emirates were subsequently circulated as documents G/LIC/Q/BHR/1, G/LIC/Q/BOL/1, G/LIC/Q/HTI/1, G/LIC/Q/ISL/1, G/LIC/Q/MLT/2 and G/LIC/Q/ARE/1, respectively, and the reply of Malta as document G/LIC/Q/MLT/3.

application was not approved, that applicant shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing Member". A clarification of this from Malta would be appreciated, if possible, at this meeting, or later in writing.

2.10 The representatives of Iceland and Malta requested the United States to provide the questions in writing in order to forward them to their capitals⁴.

2.11 The representative of India said that a notification under Article 7.3 would be submitted to the Secretariat shortly⁵. Recalling the questions posed by Canada at the last meeting concerning India's previous notification (G/LIC/N/3/IND/3) (G/LIC/M/11, paragraphs 1.9-1.10), he informed the Committee that the requested information had been received from his capital and would be forwarded to Canada and to the Secretariat shortly.

2.12 The Committee took note of the statements made. It agreed to postpone the review of the notification from Switzerland to its next meeting.

(iii) *Notifications under Article 5 (institution of new import licensing procedures or changes)*

2.13 The Chairman informed the Committee that only one notification had been received under Article 5 since the last meeting, i.e. from Switzerland, which would be reviewed at the next meeting.

2.14 The representative of India said that a notification under Article 5 would be submitted to the Secretariat shortly⁶.

2.15 The representative of the United States referred to the questions posed by Uruguay to Venezuela at the last meeting concerning changes to its licensing system notified in document G/LIC/N/2/VEN/1 (G/LIC/M/11, paragraphs 1.12-1.13). The representative of Venezuela had taken note of the questions and had said that the requested information would be provided at this meeting. His delegation would be interested in seeing Venezuela's response to Uruguay on this matter. He also noted that Venezuela had been recorded in the background document for the third biennial review of the Agreement (G/LIC/W/14) as not having supplied both mandatory notifications relating to its laws and regulations and replies to the Questionnaire.

2.16 The representative of Venezuela replied that bilateral consultations had been held between the two countries on this matter and that her delegation had provided a response to Uruguay in writing. As concerned Venezuela's notifications required under the Agreement, her authorities were in the process of preparing the replies to the Questionnaire which would be submitted to the Committee shortly.

2.17 The Chairman said that a copy of Venezuela's response to Uruguay had not been received by the Secretariat up to the date of this meeting and therefore requested Venezuela to forward a copy of it for circulation to Committee members⁷.

⁴ See footnote 3.

⁵ Circulated as document G/LIC/N/3/IND/4.

⁶ See footnote 2.

⁷ A copy of the response referred to was received by the Secretariat on 18 October 2000 and was circulated as document G/LIC/Q/VEN/1.

2.18 The representative of the United States, referring further to the minutes of the last meeting of this Committee, noted that the Chairman had requested Brazil to forward to the Committee for circulation to other Members copies of any replies it had sent to the EC and Switzerland. His authorities would be interested in seeing the responses given to the two delegations circulated for information of the whole Committee. The information requested concerned certain modifications introduced in August 1998 by Brazil to its non-automatic import licensing system, which were not covered in Brazil's notifications made in April 1998 under Articles 5, 1.4(a), 8.2(b) and 7.3 (G/LIC/M/9, paragraphs 2.1-2.4, G/LIC/M/10, paragraphs 3.1-3.4 and G/LIC/M/11, paragraphs 2.1-2.8). Noting that these modifications had not yet been notified to the Committee, he requested Brazil to correct this deficiency by circulating its response to the EC and Switzerland and by notifying formally the changes in its licensing regime. His authorities wondered whether the information sought by the two delegations had in fact been provided, and, if not, would appreciate whatever efforts that could be made in this regard.

2.19 The representative of the European Communities said that her delegation shared the concerns expressed by the United States concerning the modifications to the Brazilian import licensing system and said that they would like to receive replies to the questions that her delegation had asked at several meetings of this Committee, and also to see that Brazil notified to the Committee the modifications to its import regime and requested that the representative of Brazil transmit this message to his capital.

2.20 The representative of Brazil restated that this matter was related to the dispute settlement procedures on the same issue. Consultations on this matter had been held with the European Communities in 1999 and with the United States on a similar issue in July 2000. Since the questions posed in this Committee were also linked with the aforementioned dispute settlement procedures, his delegation, in compliance with confidentiality in the dispute settlement process, was not currently in a position to circulate these responses. He also informed the Committee that responses to the questions posed by the two delegations had been sent directly by his authorities to them. As concerned the notifications due from Brazil under the Agreement, he informed the Committee that, since 1998, its non-automatic import licensing system had been under review by the Brazilian authorities. The review of the regulations was at a final stage and therefore the notifications to the Committee would be submitted as soon as possible.

2.21 The representative of the European Communities took note of the reply given by the representative of Brazil in the context of the dispute settlement process. She recalled, however, that her delegation had posed a number of questions to the delegation of Brazil, on several occasions within this Committee, which required replies.

2.22 The representative of the United States also took note of the comments made by the delegation of Brazil for referral to his authorities and said he did not consider that this matter needed to be on the agenda for the next meeting, but that his delegation would, if necessary, revert to it at a future meeting.

2.23 The representative of Brazil said that he too did not consider that this matter should be on the agenda for the next meeting.

2.24 The representative of Switzerland informed the Committee that his authorities had indeed received a response from Brazil and wondered whether Brazil could circulate that response to the Committee for reasons of transparency.

2.25 The representative of Brazil replied that, in view of developments on this matter in the dispute settlement process, and as the questions posed by Switzerland were similar to those of the EC, his authorities would reflect on this matter and would provide a response to the Swiss proposal as soon as possible.

2.26 The Committee took note of the statements made.

3. Members' compliance with notification obligations

3.1 The Chairman recalled that the Committee had agreed at the last meeting to review the situation with respect to the compliance of Members with the notification requirements under the Agreement (G/LIC/M/11, paragraphs 2.9-2.10). As had been suggested, with a view to facilitating discussions at this meeting, a table showing the status of notifications as at 26 September 2000 had been sent by fax to delegations. There were several more notifications that needed to be added to that listing to bring it up to date, i.e., Article 7.3 notifications for 2000 from the EC; Estonia; Hong Kong, China; Jordan; and Zimbabwe; Articles 1.4(a) and 8.2(b) notification for Jordan; and Article 5 notification for Switzerland.

3.2 The Chairman said that as Members were aware, one main objective of the Agreement was transparency of import licensing procedures. There were several provisions of the Agreement which required notifications from Member countries. However, as could be seen from the information made available by the Secretariat, the situation regarding notifications was not very satisfactory. In spite of numerous reminders and urging from the Committee, and periodic reminders from the Administrator of the Central Registry of Notifications, the situation had not improved. For example, the legislative notifications required under Articles 1.4(a) and 8.2(b) had so far been received from only 81 Members; and the replies to the Questionnaire under Article 7.3 from only 20 Members in 2000 and from only 82 since the entry into force of the WTO Agreement. The ideal number for all three requirements ought to be 138, which was the total number of Members of the WTO. Many Members had not submitted any notification since joining the WTO. Given this situation, the Committee needed to address the issue and find ways of redressing the situation.

3.3 The representative of Switzerland said that the information provided by the Secretariat clearly showed that a large gap existed between the requirements of the Agreement and the actual number of notifications received and reviewed by this forum. While it was true that the notification requirements of the Agreement were rather complex, he nevertheless felt that the actual situation, where about half of the Membership had not even once notified their legislation and publications requested under Article 1.4 risked endangering the functioning and purposes of the Agreement. The compliance with the notification obligations continued to be poor and was deteriorating each year. Members as a whole were delaying more and more their notifications thereby reducing the usefulness of the information once it was finally notified. Further, it led to a situation where Members which had fulfilled their obligations came under close scrutiny of Members which had not yet submitted their notifications, creating a situation detrimental to the well-being of this Organisation. The same situation persisted with respect to the replies to the Questionnaire required under Article 7.3 and for notification of any subsequent changes as stipulated in Article 5. He understood that constraints on human and financial resources could sometimes be a fundamental reason for difficulties of Members in notifying their systems of licensing. In order to remedy the problem in a pragmatic manner he suggested that all Members which had not yet done so make a special commitment to bring themselves fully up to date regarding the notification of their legislation as requested under Article 1 of the Agreement. For the annual questionnaire, the option

of making a single "best efforts" notification covering all of the time periods for which a notification was due, but putting most emphasis on the most recent period, could be envisaged.

3.4 The representative of Singapore informed the Committee that the replies to the Questionnaire for 2000 would be submitted a in a few days. Singapore had not submitted the required notifications under Article 7.3 for some time now. The new notification would therefore be a full update for the outstanding years⁸.

3.5 The representative of the United States regretted that the US submissions under Articles 7.3, 1.4 and 8.2 had been delayed and said that the replies to the Questionnaire were nearly completed and would be submitted within the next two weeks⁹. The United States would also update its legislative notifications. His delegation would be pleased to receive written questions from Committee Members on both notifications and would be prepared to discuss them at the next meeting of the Committee. His delegation shared the concerns expressed by the Chairman at this meeting and by Chairmen at previous meetings and hoped that by April 2001 a number of additional Committee Members would have made their initial submissions.

3.6 With respect to the Chairman's request for ideas in order to encourage additional notifications, he hoped that perhaps attention would be given to those who had most recently joined the WTO to encourage them and to help them to have their submissions ready for the next meeting. His delegation would also suggest that the Chairman contact Members who had never notified their legislation or submitted responses to the Questionnaire and seek their efforts in complying with these requirements prior to the next meeting. In particular, Members that used licensing to operate tariff rate quotas on agricultural products should be encouraged to comply. The Chairman should also investigate how the Secretariat and Committee Members might be able to offer assistance to other Members to respond to the Questionnaire. Also Members should participate more fully in reviewing the notifications that were made. Often, there appeared to be very little technical analysis of the notifications made, to the extent that meaningful inputs that might be well received could not be offered to the countries that provided the notifications. The notifications, though cumbersome for some Members, including to the United States, was not too difficult for any Member whether or not a licensing or a prior authorization system was used to regulate parts of its import regime. The notifications were an essential element of Members' obligations, tangible evidence of the respect they owed each other as Members, to be both transparent in the administration of their trade regimes and responsive to the legitimate request for information about access to each other's markets.

3.7 The representative of the European Communities said that they too were deeply concerned with the poor status of notifications. There was a big difference between what the Agreement stated and the level of notifications. They believed that respect of this obligation was indispensable for the good functioning of the Agreement and therefore encouraged those who had difficulties in notifying to inform the Committee or the Secretariat to see how assistance could be provided.

3.8 The representative of Chile said that, as the table prepared by the Secretariat showed, this was not a problem limited to developing or least-developed countries but, in general, to both developed as well as developing countries. He drew a parallel with the situation regarding the integrated databases, where great efforts had been made to enable countries to comply with their obligations. Perhaps it would be necessary to give new impetus in the area of import licensing by being more proactive, for example, by sending letters to delegations indicating what their notification obligations were.

⁸ Circulated as document G/LIC/N/3/SGP/3.

⁹ Circulated as document G/LIC/N/3/USA/3.

3.9 The Committee took note of the statements made and agreed that the item would be on the agenda of its next meeting with a view to agreeing how to ensure full compliance of all Members with the obligations to notify import licensing procedures.

4. Report (2000) to the Council for Trade in Goods

4.1 The Chairman said that the Committee was required to submit annually a report on its activities to the Council for Trade in Goods. A draft report to the CTG, covering the activities of the Committee in 2000, had been circulated in document G/LIC/W/13 for the Committee's consideration. The information covered in the draft report, including its annex, would be updated to reflect the notifications received up to the present meeting as well as the discussions at this meeting. The latest notifications submitted by Estonia; the EC; Hong Kong, China; Jordan; Switzerland; and Zimbabwe would therefore be reflected in the relevant paragraphs and in the Annex.

4.2 The representative of Mexico suggested that reference to the Committee's Rules of Procedure be made in the Report.

4.3 The representatives of India and the United States suggested that the Report be updated to reflect the notifications received up to the end of the month or up to the date of the CTG meeting.

4.4 The Chairman suggested that the Secretariat be requested to redraft paragraph 9 to add a factual summary of the discussion that took place at this meeting relating to the lack of compliance of Members with notification obligations, in order to indicate to the CTG that this concerned a problem of a long duration, and to state that the Committee would consider the suggestions made by a number of delegations to remedy the problem. If Members agreed, the guidance of the CTG could also be sought on how to proceed on this matter.

4.5 The representative of Hong Kong, China, supported by Canada, the European Communities and Mexico, said that she had some reservation on whether the Committee should seek guidance from the CTG at this stage. In her view, the Report should rather indicate that the Committee had heard several suggestions to ensure full compliance with Members' obligations to notify and that it would examine the difficulties faced by delegations in this regard and proposals to remedy the situation.

4.6 The representative of India, supported by Chile and the United States, suggested that the text relating to the notifications issue in paragraph 9 be included in a separate paragraph, together with a summary of several proposals made by delegations to remedy the problem, as well as what the Committee intended to do in this regard. He mentioned in this context that, in his view, the Committee was competent enough to take suitable action to improve the transparency obligations of Members, and that it should not at this stage rush to seek guidance from the Council for Trade in Goods. As regarded paragraph 10, reference might also be made to the notification obligations of Article 5.

4.7 The representative of the United States suggested that the order of paragraphs 9 and 10 be reversed.

4.8 The Chairman said that the Report would be redrafted to take into account the various proposals made and circulated to delegations for their consideration and acceptance. It was so

agreed. The Report, as revised and approved by the Committee, was circulated subsequently as document G/L/403.

5. Third biennial review of the implementation and operation of the Agreement

5.1 The Chairman referred to the background document by the Secretariat, containing factual information for the period 7 November 1998 to 26 September 2000, and circulated as document G/LIC/W/14, in preparation for the review foreseen under Article 7.1 of the Agreement. He said that this document would be updated to take into account the discussion at the present meeting as well as the notifications received up to this meeting.

5.2 The representative of India suggested that the last sentence of paragraph 5 be replaced by the text that would be agreed for the Annual Report, and the Questionnaire on Import Licensing Procedures used for Article 7.3 notifications also be annexed to the document.

5.3 The Chairman said that the background document would be updated in light of the discussion at this meeting. The revised document would be circulated as document G/LIC/7.

6. Other business

(i) Tentative dates for meetings in 2001

6.1 The following two dates, 4 April and 9 October 2001, were tentatively reserved for the Spring and Autumn meetings of the Committee in 2001, on the understanding that additional meetings would be convened if necessary.
