

Committee on Import Licensing

MINUTES OF MEETING
HELD ON 12 OCTOBER 1995

Chairman: Mr. Calson Mbegabolawe (Zimbabwe)

1. The Committee on Import Licensing held its second meeting on 12 October 1995.
2. The agenda proposed for the meeting was circulated in WTO/AIR/171 and adopted as follows:

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3. The Chairman noted that in accordance with the agreement reached at the first meeting held on 3 May 1995, the IMF, UNCTAD and the World Bank had been invited to this meeting (G/LIC/M/1, paragraph 10). He proposed that pending agreement on the criteria and conditions for observer status

for international intergovernmental organizations in the WTO, the same organizations also be invited to its next meeting.

4. The Committee so agreed.

A. Election of Vice-Chairperson

5. The Committee elected Mr. Jan Michalek (Poland) as Vice-Chairman of the Committee for 1995.

B. Rules of Procedure

6. The Chairman stated that as requested at the first meeting, the Secretariat had circulated draft rules of procedure for meetings of the Committee in document G/LIC/W/1. These draft rules were based on the rules of procedure for meetings of the Council for Trade in Goods, adopted by the General Council on 31 July 1995 (WT/L/79). He proposed that the Committee adopt the rules of procedure circulated in document G/LIC/W/1. The rules of procedure adopted by the Committee would be forwarded to the Council for Trade in Goods for approval, in accordance with Article IV.6 of the WTO Agreement.

7. The Committee adopted the draft rules of procedure contained in G/LIC/W/1.

C. Notification procedures (Articles 1.4 (publications); 8.2 (laws and regulations); 7.3 (Questionnaire))

8. The Chairman recalled that the Committee had already discussed the procedures for notification under the Agreement on Import Licensing Procedures at the first meeting of the Committee held on 3 May 1995 and subsequently at an informal meeting held on 23 June 1995. He hoped that the Committee would agree on this matter at this meeting in order to make the provisions for notifications under the Agreement fully operational.

Firstly, Article 1.4(a) of the Agreement required Members to notify the sources in which information concerning import licensing procedures were published and to make copies of such publications available to the Secretariat. The Chairman proposed that Members which were Parties to the Tokyo Round Code decide for themselves whether the notifications they had made in this respect under the Tokyo Round Code should remain valid, and that only changes that had occurred since should be notified; or whether new full notifications should be made. Members which were not Parties to the Tokyo Round Code should make full notifications. Copies of publications received would be kept in the Secretariat for consultation by interested delegations. Members would be informed periodically by the Secretariat of the notifications received.

The second issue concerned the content of the first notification of laws and regulations under Article 8.2(b). He noted that Article 8.2 (b) required Members to inform the Committee only of any changes in their laws and regulations. However, since Members were in a new WTO environment with a much wider membership than in the past, and in order to provide a clear picture for all Members, the Chairman proposed that the Committee agree that the first notification under this provision by Members which were not Parties to the Tokyo Round Code should contain the full text of relevant laws and regulations in effect on entry into force of the WTO Agreement for the Members concerned. He further proposed that Members which were Parties to the Tokyo Round Code decide for themselves whether their full notifications of legislation made under the Tokyo Round Code should remain valid under the WTO

Agreement, and only changes that have occurred since should be notified; or whether new full notifications should be made. Copies of legislation so received would be kept in the Secretariat for consultation by interested delegations, and Members would be informed periodically by the Secretariat of the notifications received.

9. The Committee so agreed.

10. The Chairman noted that the Agreement was not specific as to the language in which notifications under Articles 1.4(a) (publications) and 8.2(b) (laws and regulations) should be made. On the basis of informal consultations that he had conducted, he proposed that, in cases where the national publications and legislation were not in a WTO official language, Members provide, together with copies of publications and legislation, a summary of the notification in one of the WTO languages. Other Members could ask for a full translation if they so wished, or seek any additional information on a bilateral basis. Any issues that could not be solved on a bilateral basis could be brought to the attention of the Committee. He hoped that the Committee would agree to this as this seemed to be the most practical solution.

11. The representative of the United States stated that the proposal was acceptable on the understanding that this could be revisited if it did not work well.

12. The representative of New Zealand said that the Chairman's proposal was acceptable, particularly given his understanding that responses to the Questionnaire on Import Licensing Procedures would be in a WTO language and that these responses provided extensive information on Members' import licensing regimes.

13. The Committee agreed to the Chairman's proposal. It took note of the comments made by the United States and New Zealand.

14. The Chairman further proposed that the Committee establish a time-limit for notifications under Articles 1.4 and 8.2, e.g. for current WTO Members: within three months from the date of this meeting, i.e. by 12 January 1996, and for future Members: within three months from the date of entry into force of the WTO Agreement for the Member concerned.

15. The representative of the United States stated that she agreed to the time-limit proposed for current Members. However, the time-limit proposed for new Members was inconsistent with the positions taken in the accession negotiations where, for example, the information on import licensing systems was necessary to evaluate concessions. For this reason, the United States could not agree to the proposal that new Members be given a period of three months from the date of entry into force of the WTO Agreement for the Member concerned to comply with the notifications required under Articles 1.4(a) and 8.2(b). She suggested that the Chairman undertake further consultations in this context.

16. The Committee agreed that notifications by current WTO Members should be made by 12 January 1996. It was also agreed that informal consultations be conducted by the Chairman with a view to establishing a time-limit for notifications for future Members.

17. As concerns notifications required under Article 7.3, the Chairman recalled the agreement reached in informal consultations to replace "GATT" with "GATT 1994" in the first sentence of the first paragraph of the Questionnaire on Import Licensing Procedures, and to add the question "How to request any exceptions or derogations from a licensing requirement" at the end of question 6.I (relating to publication of information for products under restriction) in order to reflect the new provision in Article 3.4 of the Agreement. As regards the time-limit for submission of replies to the Questionnaire,

he proposed that the time-limit of 30 September which had been used before be retained. He further proposed that Members decide for themselves whether their previous notifications made under the GATT 1947 procedures should remain valid under the WTO Agreement, and only changes that had occurred since should be notified or whether to make new full notifications. The Questionnaire with the revisions adopted by the Committee would be circulated as a Committee document (G/LIC/2).

18. The Committee so agreed.

19. The representative of the United States proposed that replies to the Questionnaire on Import Licensing Procedures be issued as unrestricted documents in order to make them available to the public as well as to importers and exporters.

20. The representative of Mexico, supported by the representatives of Switzerland and the European Communities, stated that the restriction/derestriction of WTO documents was a horizontal issue which was being considered elsewhere in the WTO and required a consistent approach.

21. On the question of possible duplication or overlapping of notifications, i.e. whether import licensing aspects associated with the administration of tariff quotas resulting from "tariffication" in agriculture should be notified to the Committee on Import Licensing or to the Committee on Agriculture, the Chairman recalled that at the informal meeting of the Committee, some delegations had preferred that separate notifications be made, one to the Import Licensing Committee, and one to the Agriculture Committee. In their view, the two notifications had different purposes and the details to be provided to the two Committees were not identical. Some other Members had felt that cross-references could be used in cases where the information notified to the Agricultural Committee was sufficient to fulfil the requirements of the Agreement on Import Licensing Procedures. Having regard to the requirements of this Agreement and to provide the necessary clarity, the Chairman proposed that all import licensing procedures, including those dealing with the administration of tariff quotas in agriculture, should be notified to the Committee on Import Licensing. Any problem that might arise relating to duplication or overlapping of notifications, as well as related questions of simplification, could be taken up as necessary, at the appropriate body, i.e. the Working Group on Notification Obligations and Procedures.

22. The Chairman confirmed to the representative of Hungary that the import licensing procedures to be notified to the Committee were as defined in Article 1.1 of the Agreement.

23. The Committee agreed to the Chairman's proposal. The representative of Switzerland reserved his final position pending an in-depth discussion on similar issues in the Working Group on Notification Obligations and Procedures.

D. Notifications

(i) Invocation of footnote 5 to Article 2.2 (delayed application of certain provisions) by developing-country Members

24. The Chairman drew attention to footnote 5 to Article 2.2 of the Agreement which provided for delayed application of certain requirements linked to automatic import licensing by developing-country Members which were not Parties to the Tokyo Round Code, for a period of two years from the date of entry into force of the WTO Agreement for the Members concerned. Document G/LIC/1/Add.1 listed two more developing-country Members - Burkina Faso and Guatemala - which had invoked the relevant provisions.

25. The Committee took note of these invocations.

(ii) **Replies to the Questionnaire on Import Licensing Procedures**

Cyprus

26. The Committee took note of the information provided by Cyprus in document G/LIC/N/3/CYP/1.

Ecuador

27. The Chairman referred to the replies to the Questionnaire (G/LIC/N/3/ECU/1) received from Ecuador, which was not yet a WTO Member. He informed the Members in this context that Ecuador's Protocol of Accession to the WTO had been adopted by the General Council on 31 July 1995, and that Ecuador had signed the Protocol subject to ratification on 27 September 1995.

28. The representative of New Zealand said that he had a number of comments and queries concerning the notification from Ecuador. Among other things, it was not clear to him as to how the replies related to specific questions set out in the Questionnaire on Import Licensing Procedures. In view of the fact that Ecuador had signed its Protocol of Accession subject to ratification and that it was not yet a WTO Member, he wondered whether more detailed consideration of this notification should be deferred until Ecuador was a WTO Member.

29. The Committee so agreed.

(iii) **Notification by Romania**

30. The Chairman informed the Committee that Romania had notified, under Article 5 of the Agreement, an automatic licensing system on imports and exports of oil and oil products; the licensing system on imports was effective as from 1 October 1995 (G/LIC/N/2/ROM/1).

31. The Committee took note of the information provided.

(iv) **Other notifications**

32. The Chairman further informed the Committee that replies to the Questionnaire had also been received from the United States, but too late for inclusion in the agenda for this meeting. The United States had also submitted a copy each of the Code of Federal Regulations on Food and Drugs, Title 21 Part 1300 to End, revised as of 1 April 1995; and Federal Register Vol. 60, No. 140, dated 21 July 1995, containing the Nuclear Regulatory Commission Regulations governing the Import and Export of Radioactive Waste. These two publications were available in the Secretariat for consultation by interested delegations. The Secretariat had also received replies to the Questionnaire from Barbados, Hong Kong, Malta, Mauritius and Norway; Mauritius had also notified existing rules and procedures relevant to import licensing. These notifications had not yet been circulated to Members either because they had been received after the agenda for this meeting was issued, or because the Secretariat was awaiting further clarification or information. The relevant documents would be issued shortly for consideration at the next meeting of the Committee.

33. The Committee took note of the above information.

E. Procedures for review under Article 7.1

34. The Chairman said that, in accordance with Article 7.1 of the Agreement on Import Licensing Procedures, "the Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement, taking into account the objectives thereof, and the

rights and obligations contained therein." Article 7.2 stated that, "as a basis for the review, the Secretariat shall prepare a factual report based on information provided in Article 5, responses to the annual Questionnaire on Import Licensing Procedures, and other relevant reliable information which is available to it," and that "this report shall provide a synopsis of the aforementioned information, in particular indicating any changes or developments during the period under review, and including any other information as agreed by the Committee." In view of the agreement reached on notification time-frames at the present meeting, he proposed that a review be carried out at the meeting of the Committee in autumn 1996 by which time the Committee would have had sufficient time and experience with the notification process to make a meaningful review of the implementation and operation of the Agreement.

35. The Committee so agreed.

F. Draft Report (1995) to the Council for Trade in Goods

36. The Chairman drew attention to Article 7.4 of the Agreement which stated that the Committee shall inform the Council for Trade in Goods of developments during the period covered by reviews. In the light of the decision to carry out the review foreseen under Article 7.1 at the meeting in autumn 1996, and also as the draft Report for 1995 circulated in G/LIC/W/2 did not contain much information, it seemed more appropriate to submit such a report to the Council for Trade in Goods after this review had been carried out, i.e. towards the end of 1996. He proposed, therefore, that the Committee should not submit a report on its activities for 1995 to the Council for Trade in Goods.

37. The Committee so agreed.¹

G. Other Business

(i) EC regime for the importation, sale and distribution of bananas: request for consultations by Guatemala, Honduras, Mexico and the United States

38. The representative of the United States informed the Committee that on 28 September 1995 the United States had requested consultations with the European Communities concerning its regime for the importation, sale and distribution of bananas. The request for consultations was made under, *inter alia*, Articles 1 and 3 of the Agreement on Import Licensing Procedures. The United States had been joined in this request by Guatemala, Honduras and Mexico.

39. The Committee took note of this information.

(ii) Procedure for Decisions having financial implications which may be taken by WTO bodies

40. The Chairman drew the attention of the Committee to a recommendation of the Committee on Budget, Finance and Administration, approved by the General Council and contained in document WT/L/76.

41. The Committee took note of this recommendation.

¹It was subsequently agreed, in informal consultations in the broader context of reporting procedures for subsidiary bodies of Sectoral Councils, that such bodies should submit reports on their activities annually to the relevant Councils. Accordingly, a revised draft Report of the Committee for 1995 was prepared by the Secretariat and was submitted for approval by Members (G/LIC/W/2/Rev.1). The Report approved by Members was circulated as document G/L/29.

(iii) **Notifications submitted for circulation as documents**

42. The Chairman noted that numerous texts were regularly received by the Secretariat with the request that they be issued as WTO documents. As regards notifications made to this Committee, it would greatly facilitate the Secretariat's task if delegations, where at all possible, could also provide copies of their notifications on diskettes, preferably in Wordperfect 5.2. As regards replies to the Questionnaire on Import Licensing Procedures, it would be helpful, in addition, if delegations could indicate where changes had been made to their previous notifications.

43. The Committee took note of this information.

(iv) **Dates of the next two meetings of the Committee**

44. The Chairman informed the Committee that in the context of a calendar of formal meetings for 1996, the Secretariat had proposed 8 March 1996 (10 a.m.) and 20 September 1996 (10 a.m.) as tentative dates for the next two meetings of the Committee on Import Licensing. This would be on the understanding that additional meetings would be convened if necessary.

45. The Committee agreed to the two dates proposed.²

²In view of the time-limit of 30 September agreed for notifications under Article 7.3 (paragraph 17), the autumn meeting of the Committee is proposed for 23 October 1996.