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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 21 JUNE 2006

Chairperson: Ms. Pamela Cooper (Canada)

The Committee on Import Licensing held its twenty-third meeting on 21 June 2006. The agenda proposed for the meeting, contained in WTO/AIR/2842, was adopted as follows:

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1. Members' compliance with notification obligations – Developments since the last meeting

1.1 The Chairperson informed the Committee that since the last meeting only 15 notifications had been received under various provisions of the Agreement on Import Licensing Procedures (two notifications under Articles 1.4(a) and/or 8.2(b), eleven under Article 7.3 and two under Article 5.1-5.4). As of the date of the meeting, out of a total Membership of 149 (counting each of the EC

member States individually), there remained 24 Members[1] who had not submitted any notification under the Agreement since joining the WTO. Only a cumulative total of 92 Members, counting the European Communities as one, had submitted notifications of laws and regulations (under Articles 1.4(a) and/or 8.2(b)); thus 57 Members have yet to submit their notifications. As to the replies to the Questionnaire[2] (notifications under Article 7.3), only a cumulative total of 85 Members, counting the European communities as one, had submitted their replies since the entry into force of the WTO Agreement. For Article 7.3 notifications, the annual deadline of 30 September was not often respected by many Members. Concerning notifications of new licensing procedures or changes in existing procedures (under Paragraphs 1-4 of Article 5), only 26 Members, counting the European Communities as one, had notified new licensing procedures or changes in the existing procedures; of this, one Member (Papua New Guinea) had notified changes to import licensing procedures without submitting the initial notifications of legislation or replies to the Questionnaire. In addition, the Chairperson informed the Committee that while Article 5.5 of the Agreement allowed Members to submit counter-notifications where a Member considered that another Member had not notified the institution of a licensing procedure or changes in the procedures no such counter-notifications had been received up to the date of this meeting. She also reminded the Committee that, at the end of each year, the Central Registry of Notifications sent to each Member a list of notifications that should be made under all WTO Agreements in the following year and that this was followed up with periodic reminders, twice a year, to those Members who had not fulfilled their notification obligations. In spite of this the compliance with the notification obligations under this Agreement continued to remain low. She therefore urged all those Members who had not yet provided information of their laws and regulations relevant to import licensing, not replied to the annual Questionnaire, or not notified the institution of new import licensing procedures or changes since their previous notifications, to do so without further delay. Members who did not apply import licensing procedures or had no laws or regulations relevant to the Agreement were also required to notify the Committee of this fact so that Members could obtain a complete overview of the licensing regimes of all Members. Members who had questions about the notification requirements or who would like assistance were requested to consult the Secretariat.

1.2 The representative of the United States thanked the Chair and the Secretariat for the reminders that had been sent to Members and delegations on the need to notify and to respond to the questions raised by other Members; this was a continuing encouragement for compliance. His delegation appreciated the notifications submitted since the last Committee meeting but considered that compliance with the notification requirements were still low; a number of countries had never submitted any notifications under this agreement since joining the WTO. This was a concern to the U.S.; for instance, Belize had not notified any import licensing procedure, even though this had been requested by his delegation at the last meeting of the Committee. The U.S. appreciated Belize's provision of information on the licensing issue raised with them, but would be more appreciative if Belize would submit a formal notification to the Committee to cover products requiring import licences, specifically beverages. The U.S. recognized that there could be many good reasons for a country to set up a licensing regime but was only requesting from Members: procedures that were simple and not controversial; to be transparent about import licensing; and to notify the provisions currently in force in their trade regimes. In some cases it was known that import licensing requirements did exist, but the governments in question seemed reluctant to acknowledge them or to answer questions in the Committee. He recalled that all Members had agreed to make licensing provisions simple, transparent and predictable and to publish sufficient information about import licensing procedures, so that traders could understand how and why licences were granted. Transparency provided in the Committee was an essential aspect of that effort; some of the issues that

[1] Angola, Belize, Botswana, Central African Republic, Congo, Congo, Dem. Republic, Djibouti, Egypt, Guinea, Guinea Bissau, Israel, Kuwait, Lesotho, Mauritania, Mozambique, Myanmar, Nepal, Rwanda, St. Vincent & the Grenadines, Saudi Arabia, Sierra Leone, Solomon Islands, Tanzania and Thailand.

[2] The Questionnaire is annexed to document G/LIC/3.

his delegation would raise at this Committee meeting had been raised before in previous meetings, but his delegation was compelled to repeat its requests since in a few cases the U.S. had not received complete responses. He hoped to receive full answers this time since U.S. had provided updates of its questions to a number of delegations prior to the meeting. He said that in those cases where responses were not forthcoming, his delegation reserved all its rights, including the right to transparently make available information about the import licensing procedures encountered by the U.S. exporters in foreign markets and in consistency with all of the agreed procedures by the Committee.

1.3 The Committee took note of the statements made.

1.4 The Chairperson informed the Committee that since the last meeting two documents containing questions concerning licensing systems maintained by Members or replies thereto had been circulated. Documents G/LIC/Q/BRA/3/Add.1 and G/LIC/Q/MYS/3, contained questions from the U.S. to Brazil and to Malaysia, respectively. She also informed the Committee that the Secretariat had reminded the delegations of Belize, Brazil, Guatemala, Indonesia and Malaysia of pending replies to the questions put to them regarding their licensing systems at previous meetings. She requested delegations that were in a position to provide replies to the questions posed since the last meeting, or prior to it, to do so at this meeting, keeping in mind that under the procedures adopted in this Committee they were required to provide replies in writing to those delegations that had posed questions, with copies to the Secretariat (G/LIC/4). Copies of replies received by the Secretariat would be issued in the same document series.

1.5 The representative of the United States recalled that for almost three years his delegation had been requesting information on Brazil's import licensing requirements on lithium products. The information requested had been largely technical and clearly related directly to restrictions whose procedures were covered by the Agreements and the reviewed mandate of the Committee. Additionally, the U.S. had approached the Brazilian government bilaterally on a number of occasions on the same issue, but without much success; the most recent approach to the Ministry of External Relations was in April 2006. He asked Brazil to respond to the written questions as circulated in G/LIC/Q/BRA/3/Add.1 and to report to the Committee and to his authorities on the results of the interim Ministerial Group that had been studying the issue of lithium compound legislation since the beginning of 2005. This request to Brazil was to provide information on its import licensing requirements on certain lithium products and to ensure that the Brazilian import licensing regime for these products was fully consistent with WTO requirements.

1.6 In response, the representative of Brazil said that Brazil had provided a written answer to the U.S. in document G/LIC/Q/BRA/1 and that, as registered in the Minutes of the meeting in July 2005, the Brazilian delegation had also provided information regarding the requested import statistics and the number of licences granted in the period. With regard to the latest communications from the U.S., his delegation had not received precise instructions. All Brazilian decisions regarding imports of lithium compounds were determined by the Brazilian Policy of National Security and Nuclear Energy, thus any change in the policy involved a decision by several Ministries; Brazil had not yet defined any changes on that policy. Nevertheless, he had taken note of the U.S. concern and would request from his capital a written answer to the most recent questions so as to abide by the rules of the Committee.

1.7 The representative of the United States took note of Brazil's pledge to provide written responses to the questions posed before the meeting of the Committee. He noted that some contextual information had been provided by Brazil in document G/LIC/Q/BRA/1, that it was a start in answering the questions that his authorities had put forward; and he also looked forward to receiving much more specific information, specifically on what his authorities considered to be the key issues, such as the procedures for applying for import licences; the criteria for granting import licences on lithium products; and, the basis for denying applications for these licences. He recalled that this

information was requested several years ago, but his delegation continued to wait for it. With regard to the reference to national security and from the vantage point of his delegation, it seemed clear that none of the requests for information that the U.S. was making, involved the national security provisions of Article XXI of the GATT 1994, since the information was requested for commercial purposes.

1.8 The representative of Malaysia, in response to the questions posed by the United States in document G/LIC/Q/MYS/3, informed the Committee that the procedures for applying and obtaining import licences had been made publicly available through the publication of legislation. Currently, his authorities were finalizing the responses to the import licensing questionnaire, under Article 7.3, to reflect Malaysia's import licensing regime; this would be submitted to the WTO Members by July 2006 once the internal approval process for official clearance was completed. Responses to the specific questions posed by the U.S. delegation would be reflected in the notification.

1.9 The representative of Guatemala informed the Committee that in document G/LIC/Q/GTM/1 his delegation had responded to the questions raised by Mexico at the last meeting of the Committee concerning the importations of eggs. He understood that Mexico had requested that this issue be discussed as an SPS matter.

1.10 The representative of Mexico thanked Guatemala for its written responses. Concerning the consideration of the issue under the SPS Agreement, he informed the Committee that his authorities were still studying the answers presented by Guatemala, and therefore, requested that this issue be included in the Agenda of the next meeting of this Committee.

1.11 The Committee took note of the statements made.

2. Notifications

(i) Notifications under Articles 1.4(a) and/or 8.2(b) of the Agreement (publications and/or legislation)

2.1 The Chairperson recalled that Articles 1.4(a) and 8.2(b) and procedures, as had been agreed to by the Committee, required all Members to publish their laws, regulations and administrative procedures and notify these to the Committee upon becoming a Member of the WTO, together with copies of any relevant publications or laws and regulations. Any subsequent changes to these laws and regulations were also required to be notified. She informed the Committee that there were notifications from three Members for review at the present meeting: China, (G/LIC/N/1/CHN/5); Romania (G/LIC/N/1/ROU/3 & ADD.1); and, the United States (G/LIC/N/1/USA/3). Concerning the notification from Romania, the Chairperson recalled that it was received after the issuance of the airgram convening the last meeting, thus it would be reviewed at this meeting.

2.2 The Committee took note of the notifications.

(ii) Notifications under Article 7.3 of the Agreement (Replies to the Questionnaire on Import Licensing Procedures)

2.3 The Chairperson informed the Committee that there were notifications from twelve Members listed in the airgram, from Armenia (G/LIC/N/3/ARM/2), Barbados (G/LIC/N/3/BRB/3), Colombia (G/LIC/N/3/COL/3), the European Communities (G/LIC/N/3/EEC/7 and 8), Hong Kong China (G/LIC/N/3/HKG/9), Japan (G/LIC/N/3/JPN/4), Macao China (G/LIC/N/3/MAC/8), Morocco (G/LIC/N/3/MAR/4/Add.1), the People's Republic of China (G/LIC/N/3/CHN/4), Tunisia (G/LIC/N/3/TUN/3/Add.5), Uganda (G/LIC/N/3/UGA/1/Add.2) and the United States (G/LIC/N/3/USA/4). She recalled that at the last meeting of the Committee she had announced that

notifications from Armenia, Hong Kong China, Morocco and the People's Republic of China had been received after the issuance of the airgram convening that meeting, and that these would be considered at the present meeting. She also informed the Committee that after the issuance of the airgram convening the present meeting, an addendum to each of the EC notifications had been received and that these addenda would be considered at the next meeting of the Committee.

2.4 The delegate from Australia thanked China for its response to the Questionnaire on Import Licensing Procedures circulated as document G/LIC/N/3/CHN/4; he recalled that on previous occasions his delegation had expressed its interest in the import licensing regime for iron ore in China. Australia wanted to ensure that there were no regulatory obstacles to the continued strong trade in this product, and thus it would continue to monitor closely the impact of newly introduced licensing provisions in iron ore, including to ensure their consistency with the WTO Agreement on Import Licensing and with other WTO agreements. His delegation was interested in any update that China might be able to provide on the status of its notifications concerning this commodity. He also referred to Australia's interest in possible regulatory arrangements for the importation of copper ore into China, so as to ascertain the precise nature of the regulatory arrangements on import licensing for copper ore. This was a concern already registered by his authorities in Beijing since Australia had understood that, from 1 January 2006, MOTCOM had added copper ores to the list of commodities that were subject to import licensing. His delegation would also appreciate it if China could inform Members about the notification of these new import licensing arrangements. In connection with the latter, his delegation also requested information on the 2005 quantitative restriction notification to which paragraph 2 of document G/LIC/N/3/CHN/4 referred, as it had not been possible for Australia to locate that particular notification.

2.5 The representative of China thanked Australia for its comments and for the written copy of comments and questions received immediately before the Committee's meeting. In his view Australia's intervention could be divided into three parts: (a) on iron ore, he had taken note of the continuing interest of Australia in China's import licensing regime; (b) on copper ore, since this was the first time that this issue was raised, he would convey the comments and questions to his authorities; and (c) on China's 2005 QR notification he explained to the Committee that the delay in submitting the notification was due to an internal coordination problem, but he assured the Committee, and through it the Market Access Committee, that this notification would be submitted quite soon.

2.6 The representative of the United States underscored the interest of his delegation on the issues raised by Australia. His delegation would be very interested in seeing China's responses, as well as the 2005 QR notification once submitted by Beijing.

2.7 The representative of Australia said that he would refer the issue to Canberra so as to make clear the precise nature of the questions to facilitate the responses from the Chinese authorities in due course. He also encouraged as much transparency as possible on this issue.

2.8 The representative of the People's Republic of China said that the U.S. notification under Article 5 (G/LIC/N/2/USA/2) referred to the U.S. intention to issue a final rule, before 30 September 2005, on the United States' Steel Import Monitoring and Analysis System. Additionally, in the notification G/LIC/N/3/USA/4, under Article 7.3, it was noted that until 5 December 2005 the U.S. did not publish the final rule and that it had declared that there were no changes from the interim final rule. In this regard, his delegation requested from the U.S. an explanation of the following: (a) the reasons for the delays; (b) if there were qualification requirements for being registered as an importing company, its brokers or its agents, in order to apply for a steel import license which, accordingly to the notifications, was automatic; (c) the reason to apply for a steel import licence 60 days prior to the expected date of importation, as stated in both notifications; (d) the rationale of the validity of 75 days for a licence, as stated also in both

notifications. In this regard, his delegation would like to know what the situation would be if an importer failed to make the importation within the 75 days of the issuance of the licence; (e) the legal status of a licence which had been issued for more than 60 days, but less than 75 days, in other words, if it was still possible for an importer to make importations under such a licence within this period; and, (f) why the U.S. deemed it necessary that a license could only be used once, as indicated in notification G/LIC/N/3/USA/4. He hoped to receive answers from the United States and reserved China's rights to follow up this issue, if necessary.

2.9 The representative of the United States thanked China for its questions and said that since his delegation had not received the questions in advance of the meeting, written responses would be provided as soon as possible. Regarding the licensing process in question, he noted that the licensing system was automatic, internet-based and in compliance with the WTO rules. It was designed solely to provide fast and reliable statistical information on steel imports to both the Government and the public. The licensing requirement applied equally to steel imports from all countries. There was no restriction on either the quality or the value of imports. Registered importing companies, their brokers or their agents, might apply for a steel import licence, even electronically, through the website. Licences could also be obtained via fax. On-line applications for a license generally took a few minutes and licences were issued immediately upon completion of the electronic application form. No fees were charged for registering via the system, applying for and obtaining a licence, or making corrections to the application if needed. The system was available 24 hours a day, 7 days a week, except for a periodic maintenance on Sundays.

2.10 The Committee took note of the notifications, statements and questions.

(iii) Notifications under Article 5 of the Agreement (new import licensing procedures, changes to existing licensing procedures and reverse notifications)

2.11 The Chairperson recalled that under paragraphs 1 to 4 of Article 5, Members who instituted licensing procedures or changes in these procedures were required to notify the Committee within 60 days of the publication of these procedures. Paragraph 2 of Article 5 listed the information that should be included in such notifications. Members also had to submit copies of the publications in which this information was published. Furthermore, paragraph 5 of Article 5 provided the possibility of making counter-notifications where a Member considered that another Member had not notified a licensing procedure or changes therein, in accordance with paragraphs 1-3 of Article 5. She informed the Committee that under this provision there were three notifications, submitted by Argentina (G/LIC/N/2/ARG/8 and 9) and Romania (G/LIC/N/2/ROU/4).

2.12 The representative of the United States thanked Argentina for the notification of its new non-automatic import licensing procedures on toys and footwear (G/LIC/N/2/ARG/8 and 9). While noting that the U.S. authorities were in the process of reviewing the notifications and regulations and might request further information in the near future, he said that the preliminary review raised some questions as to the WTO consistency of the notified measures: notification on the import licensing procedure for goods (G/LIC/2/ARG/9) was aimed at establishing a pre-release verification mechanism to monitor and control imports of, among other goods, the footwear sector; also to verify importer declarations with regard to product composition. On the other hand, notification on the import licensing procedure for goods (G/LIC/2/ARG/8), among them the toy sector, aimed at establishing a pre-release verification mechanism to monitor and control imports of such goods and to verify compliance with toy safety standards. Nonetheless, the U.S. delegation was not aware of similar verification mechanisms established for Argentinean toys, nor about any reason why the verification of importer declarations for footwear required a new licensing system; an explanation in this regard would be appreciated. The U.S. was also not aware of any safeguard, nor of other quantity restrictions applied in conformity with WTO rules, that would justify Argentina's efforts to control these imports. The information provided by Argentina in its notifications had omitted to fully explain

the nature and operation of the system. Thus, his delegation was seeking from Argentina a revised response to the import licensing questionnaire reporting on these new import licensing requirements to clarify their operation. In addition, U.S. exporters had reported that these licensing requirements act as a quantitative restriction for their products; more information was required to address their concerns. His delegation would appreciate it if Argentina could provide as much information as possible on these systems, as well as a written submission for the Committee's review at its next meeting. In this regard the question would be put in written form.

2.13 The representative of Argentina thanked the U.S. delegate for these questions; he took note of them and his delegation would reply as soon as possible.

2.14 The representative of the United Sates thanked Romania for its notifications (G/LIC/N/1/ROM/3 and Add.1; and G/LIC/N/2/ROM/4), the second set of submissions on the new licensing systems that Romania had notified since its last response to the import licensing questionnaire in February 2001 (G/LIC/N/3/ROM/Add.1). He looked forward to reviewing the revised questionnaire at the next meeting.

2.14 The delegate from Romania thanked the U.S. for their appreciation and, with regard to replies to the questionnaire, informed the Committee that the responsible authorities in Bucharest were working on it.

2.15 The Committee took note of the notifications and the statement made.

3. Other business

(i) Questions posed by the United States to Indonesia (on textiles)

3.1 The representative of the United States expressed the deep concern of his authorities that, for almost three years, the U.S. had been requesting information on Indonesia's import licensing requirements on certain textiles. Some responses had been received by the U.S. but no resolution of the problem had been provided on an issue raised bilaterally at various opportunities, without much success. In April 2006 the issue had been raised again in the context of the discussions concerning the Trade and Investment Framework Agreement. Once again, his delegation requested the Government of Indonesia, either to eliminate or modify the existing licensing regime under Decree No. 732/2002, to remove provisions that restrict or distort trade, and to bring its import licensing regime into conformity with WTO requirements. He urged Indonesia to report to the Committee on the results of the Government of Indonesia's examination of studies on this issue.

3.2 The representative of Indonesia thanked the U.S. for having raised this issue and for having provided his delegation with the written questions contained in document G/LIC/Q/IDN/7 dated 16 June 2006. He also thanked the Secretariat for the reminder sent to his mission on 12 June 2006 and informed the Committee that his delegation had provided, on 20 June 2006, additional written replies[3] to the questions posed by the U.S.

3.3 The representative of the United States thanked Indonesia for its response to the questions and, since his delegation had not had the opportunity to review them, reserved its right to follow-up the issue bilaterally and at the next Committee meeting.

3.4 The Committee took note of the notifications and the statements made.

[3] See document G/LIC/Q/IDN/8, dated 11 July 2006

(ii) Questions posed by Egypt

(a) Turkey (on rice)

3.5 The representative of Egypt said that his country was an important exporter of rice, currently ranked the eighth most important exporter in the world. Recently Egyptian rice exporters had been confronted with the Turkish import licensing scheme. From previous discussions, Egypt had understood that Turkey maintained a Tariff Rate Quota and that the current regime would remain in force until 31 July 2006. Therefore, he requested that Turkey clarify the following: (a) if this understanding was correct and whether or not Turkey intended to extend its current regime after 31 July 2006: (b) to specify, in the event that Turkey maintained a TRQ, the conditions and procedure for importing rice under the TRQ, the discretion granted to the administrative authorities as well as the appeal procedures available to importers whose applications were rejected; (c) if applications concerning different types of rice such as paddy rice, brown and semi or fully milled rice, had been considered differently; (d) if this was correct, to clarify the reasons for making such a distinction; and (f) if imports of rice into Turkey made outside TRQ were subjected to any import licensing requirements; if yes, to provide the legal basis for such requirements and Egypt looked forward to receiving Turkey's response to its questions and was keen to address this issue bilaterally.

3.6 The representative of Turkey took note of the questions posed to his delegation and said that contact had taken place with the Egyptian delegation on this issue. He informed the Committee that Turkey's import licensing system on rice imports had been abolished with the application of the tariff quota regime almost two months ago, but from the questions he noted that there might still be some problems. His delegation would provide more clarification if these questions could be posed in written form. Turkey would continue its bilateral contacts with Egypt to remove any uncertainties that remain in this regard.

(b) India (on marble)

3.7 The representative of Egypt said that imports of rough marble, block and slabs to India were subject to licensing requirements that had greatly affected Egyptian marble producers and exporters since Egypt was traditionally one of the main exporters of these products. Egypt requested from India clarification on the following: (a) the aim of the import licensing system that India maintained on imports of certain types of marble (Egypt was particularly interested in receiving a confirmation that different types of marble received a different treatment when imported to India); (b) the rationale and basis for floor prices imposed by Indian Policy Circular No. 24 (RE05)/2004-2009, dated 30 August 2005, on imports of certain types of marble; (c) the reason why the application for import licence was restricted to those applicants who had established manufacturing processing units in India and had made imports of these items in the preceding years; (d) the basis for the ceiling of 130,000 metric tonnes per licensing year for total imports of rough marble blocks classified under HS code 25151100, 2515121210 and 25151220 and established by Policy Circular No. 24 (RE05)/2004-2009; and also how the ceiling was allocated to individual firms using the turnover of the preceding year. He also informed the Committee that Egypt had previously indicated to India its desire to discuss this matter bilaterally and that the main purpose of having raised this issue at the Committee meeting was to register Egypt's significant interest in this matter.

3.8 The Committee took note of the statements made.

4. Date of the next meeting

4.1 The Chairperson informed Members that the Secretariat had tentatively reserved Monday, 30 October 2006 for the next meeting of the Committee, on the understanding that additional meetings would be convened if necessary. She also reminded Members that the fifth transitional

review of China under Paragraph 18 of its Protocol of Accession would be carried out at that meeting, and encouraged Members to send their questions to China as soon as possible so as to allow China to prepare its responses well in advance.

4.2 The Committee took note of the above.

5. Election of officers

5.1 The Committee elected by acclamation Mr. Evelio Alvarado Romero (from Guatemala) as Chairperson of the Committee, to hold office until end of the first meeting of 2007, under Rule 12 of the Committee's Rules of Procedure (G/L/147). It also elected by acclamation Mr. Peter Govindasamy (from Singapore) as Vice-Chairman.