WORLD TRADE ORGANIZATION

RESTRICTED

G/LIC/M/34
5 December 2011

(11-6305)

Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 14 OCTOBER 2011

Chairperson: Mr. Flavio SOARES DAMICO (Brazil)

The Committee on Import Licensing held its thirty-fourth meeting on 14 October 2011. The agenda proposed for the meeting, contained in WTO/AIR/3817, 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, 55 notifications had been received under various provisions of the Agreement on Import Licensing Procedures (eleven notifications under Articles 1.4(a) and/or 8.2(b), seven under Article 5.1-5.4 and thirty-seven under Article 7.3). He recalled that at the April 2011 meeting, his predecessor reported that out of a total membership of 153 counting the European Union as one Member (EU-27), there remained 17 Members[1] who had not submitted any notification under the Agreement since joining the WTO. In

[1] Belize, Botswana, Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Mauritania, Mozambique, Myanmar, Nepal, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, Tanzania.

this regard, he announced that, two Members had submitted their first notifications: Angola under Articles 1.4 (a) and 8.2 (b); and, Viet Nam under Article 7.3 of the Agreement.

1.2 Up-to-date, a total of 100 Members (counting the EU-27 as one) had submitted notifications of laws and regulations (under Articles 1.4(a) and/or 8.2(b)). Thus, 26 Members were yet to submit their notifications under these provisions. Only 36 Members (counting the EU-27 as one) had notified new licensing procedures or changes in the existing procedures (under Paragraphs 1-4 of Article 5); of this total one Member (Papua New Guinea) had notified changes to import licensing procedures without submitting the initial notifications of legislation or replies to the Questionnaire.

1.3 He urged those Members who had not yet provided any information on their new licensing procedures or changes to the existing procedures, to submit, without further delay, their notifications under Article 5 of the Agreement and to make use of the notification forms adopted by the Committee at its meeting in April 2011.

1.4 He also reminded the Committee that, while Article 5.5 of the Agreement allowed Members to submit counter-notifications (where a Member considers that another Member has 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.

1.5 As to the replies to the Questionnaire[2], notifications under Article 7.3, a cumulative total of 102 Members (counting the EU-27 as one) had submitted their replies since the entry into force of the WTO Agreement. Thus, 24 Members have yet to submit their notifications under this provision. As for Article 7.3 notifications, he highlighted that 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 in order for Members to obtain a complete overview of the licensing regimes of all Members and that responses to the Annual Questionnaire should be submitted to the Committee before 30 September of each year, as established in document G/LIC/3. This year, the Committee received notifications from 38 Members only, thus, the deadline of 30 September had not been respected by many Members. He thanked Tonga and Viet Nam for submitting their first responses to the Questionnaire.

1.6 He also indicated that, as had previously been done by his predecessors, he sent out letters to Members reminding them of their transparency obligations and highlighting the date of the last notification received from their authorities. These letters also contained an invitation to review the status of their notifications in general and update them whenever necessary. The letters also included samples of statements to be used by those Members when no changes or few changes had been introduced to their import licensing regimes already notified to the Committee. The latter had proved to be acceptable and easily applicable and in fact, some Members had used such statements to notify.[3]

1.7 He also recalled that at the last meeting the erstwhile Chair indicated that as a result of two years of discussions, there was wide support for the use of, on a voluntary basis, two notification forms for notifying under Articles 1.4 (a) and/or 8.2(b) and under Article 5 of the Agreement. Consequently, the Committee agreed that the forms be circulated in the G/LIC document series and made available on the Members' website to facilitate use thereof. In this regard, the Chair informed delegations that these forms were circulated in document G/LIC/22 and that the templates were also available on the Members' website under: WTO Resources/Market Access - Import Licensing/Template G/LIC/N/1 and G/LIC/N/2, respectively. The Chair then informed the

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

[3] Burkina Faso, Cape Verde, Colombia, Former Yugoslav Republic of Macedonia, Honduras, Kingdom of Saudi Arabia, Kuwait, Nicaragua, Norway, Peru, Qatar, Senegal, Chinese Taipei, Thailand, Tunisia, and Ukraine.

Committee that since the release of these forms, Colombia, Jamaica, Kuwait and the Former Yugoslav Republic of Macedonia have used them. He encouraged other delegations to do the same to facilitate their task of complying with their notification obligations under the Agreement. He was confident that these efforts would result in an increased and enhanced transparency, help governments and traders acquaint themselves with the rules and administrative ILPs currently applied by Members and consequently, would allow for smooth flow of international trade. He said that this was only a first step and therefore, encouraged Members to continue with this informal process of consultations in order to enhance transparency.

1.8 He also invited Members to submit their notifications in Microsoft Word in order to help the Secretariat promptly format and edit these notifications into the WTO formats and/or provide suggestions or comments thereon through the respective delegation in Geneva. This would also help eliminate errors that might occur when retyping the notifications especially considering that they are submitted in different WTO official languages and that some copies and attachments are long and unclear. Any additional information (legal texts, summaries of the legislation and publications, samples of application forms, lists and tables indicating the goods to which ILPs apply to, etc.) should be submitted in an electronic format compatible with WTO software (Microsoft Word and/or PDF). He recommended that in all cases, the Secretary of the Committee, as well as the respective delegation in Geneva, be copied in the correspondence. He encouraged Members to consult the Secretariat whenever they have questions on notification requirements and in the case of developing and least developed countries, to request for technical assistance for their national authorities who enact and administer import licensing procedures.

1.9 The Committee took note of the statement made.

1.10 Moving to the questions and replies circulated under the procedures agreed to by the Committee for the review of notifications (document G/LIC/4), the Chairperson indicated that there were two documents (G/LIC/Q/IDN/17 and G/LIC/Q/IND/17) for consideration by the Committee. First, he drew the Committee's attention to document G/LIC/Q/IDN/17 containing questions from the United States to Indonesia on its Regulation 57/12/2010 which renewed Decree 56 of 2008 and on Indonesia's responses to the Annual Questionnaire contained in document G/LIC/N/3/IDN/4. He indicated that Indonesia had, on the day before the meeting, submitted its written responses to questions by the United States and these were in document G/LIC/Q/IDN/18 and would be considered at the next meeting.

1.11 The delegate of the United States thanked Indonesia for its responses; his authorities would review and come back to them at the next meeting. Concerns remained as Indonesia had not fully notified its import licensing regime to the WTO; also Indonesia's licensing procedures appeared to be administrative procedures used for the operation of import licensing regimes that fitted within the meanings defined by the Agreement of Import Licensing Procedures. He urged Indonesia to notify the Committee of its import licensing system and provide the pertinent legislation, as prescribed by the Agreement.

1.12 The delegate of Indonesia confirmed that his delegation had submitted its written responses to the US questions just before the meeting and indicated that it was ready to consult with all interested Members.

1.13 The delegate of the European Union recalled that at the meeting in April 2011 her delegation had requested clarification from Indonesia on its responses to the questions posed by the EU and contained in document G/LIC/IDN/15. The EU requested for more information as to the procedures and conditions of obtaining an importer identity number and whether these procedures were automatic or not. She also recalled that Decree 56 which specified the inspection procedures prior to shipment for iron and steel had been extended in December 2010 for a two year period; these procedures were

questionable under the GATT and particularly under the Agreement on Import Licensing and had systemic implications and importance. Her delegation supported the US in recalling Indonesia's obligation to comply with its transparency obligations, particularly to notify under Article 5 of the Agreement.

1.14 In response, the delegate of Indonesia confirmed that Decree 56 had expired on 31 December 2010 and was/had been substituted by Ministry of Trade Regulation 57/2010 of 29 December 2010 which entered into force on 1 January 2011. The Ministry of Trade Regulation 45/2009 which regulated Importer Identity Number (API) was amended by the Ministry of Trade Regulation 17/2010 that divided the Importer Identity Number (API) into General Importer Identity Number (API - U) and Producer Importer Identity Number (API - P). Ministry of Trade Regulation 39/2010 provided detailed information regarding the Importer Identity Number for Producers (API - P) and complemented Ministry of Trade Regulations 45/2009 and 17/2010. His delegation would notify the Ministry of Trade 57 Decree as soon as possible.

1.15 The Committee took note of the statements made.

1.16 The Chair then moved to document G/LIC/Q/IND/17 containing questions from Turkey to India on the import licensing regime applied to marble and similar stones, as referred to in India's response to the Annual Questionnaire (G/LIC/N/3/IND/12). He also informed the Committee that India had submitted, on the day before the meeting, its written responses to Turkey, in document G/LIC/Q/IND/18 and they would be considered at the next meeting.

1.17 The delegate of Turkey indicated that as a country endowed with 40 per cent of the world's natural stone reserves and 3.8 million cubic meters of extractible marble, Turkey had substantial interest in the exports of natural stones, particularly to India, with its share of 2.8 per cent in Turkey's exports, this made India its major trading partner in this sector. Thus, Turkey carefully monitored India's import quota and licensing regime for marble and similar stones since Turkey's share of the Indian market in these products was 35 per cent. Turkey's questions on India's responses to the Annual Questionnaire (27 September 2011) and related policy legislation considered both, the rationale of the system and its procedural aspects. Bilateral attempts with specific questions fell short of reaching a common understanding therefore, Turkey brought the issue to the Committee. The responses recently provided by India would be assessed in his capital and some follow-up questions could also be necessary.

1.18 The delegate of the United States said that his delegation had systemic concerns about India's import licensing regime and that many of the underlying concerns raised by Turkey were similar to those which the US had with regard to other product subject to India's ILPs. His authorities were also interested in receiving from India, an explanation on the specific concerns it had regarding "safety, security or the environment," and on how the restrictions of these goods would, specifically, alleviate those concerns. He also requested India to explain what measures, if any, it imposed in respect to domestic sandalwood, marble and stones, with respect to the "safety, security, or environment" concerns that justified India's import licensing measures.

1.19 The Committee took note of the statements made.

2. Import Licensing Measures and Procedures by Argentina

2.1 The Chairperson informed the Committee that in a communication dated 26 September 2011, the Secretariat was requested to include in the Agenda of this meeting an item titled "Argentina - Import Licensing Measures and Procedures by Argentina. - Statements by EU, the US and Japan" and, that in a communication dated 3 October 2011 Turkey and Switzerland requested to be included on the list of speakers.

2.2 The delegate of the European Union noted that this agenda item had been requested by a number of delegations in order to express serious concerns over the Argentinean import licensing measures and the implementation of a general import substitutions policy by the Argentinean Government as referred to in public statements frequently echoed in the press. She also noted that at the beginning of 2011, Argentina extended the scope of its non-automatic import licensing scheme (NALs) to around 200 new products, including high-end cars with big engines, certain car parts and mobile phones. The 600 products now covered by the NALs amounted to nearly 16 per cent of EU exports to Argentina (worth over a billion Euros). The EU authorities believed that NALs were just one of the measures used by Argentinean authorities to restrict imports. Other additional requirements to those included in the legislation such as commitments on trade balancing requirements with a view to reduce imports; increase production in Argentinean facilities; compensate imports with exports; were also being imposed on importers by Argentinean authorities.

2.3 The autos sector was particularly targeted and at the end of 2010, the Argentinean Ministry of Industry requested that car importers - mainly informally, reduce imports by 20 per cent and balance their imports and exports (one dollar of imports for one dollar of exports) compared with the previous year and buy or export more locally produced goods. Many importers had reported cases where the absence of an agreement on plans for export-import rebalancing and using local goods instead, had resulted in undue delays of import licences and even subsequent blockages of goods at customs. As a consequence, she added, most of the car manufacturers were forced to accept the deals to be able to export to Argentina.

2.4 Other restrictions, never published, included new information requirements at customs level or undue delays of homologations of imported products or recent cases of books and printed products blocked at customs. This intervention by Argentinean authorities had had a noticeable trade distortive effect, was not acceptable and raised serious concerns in terms of Argentina's compliance with WTO obligations. In addition, Argentinean NAL practices, including the most recent extension of the NAL scheme, contradicted Argentina's political commitments undertaken in the G-20 context to not introduce new trade-restrictive measures. She also noted that this issue had now developed into a significant trade barrier for exports from many countries and needed to be addressed quickly.

2.5 Furthermore, the Argentinean import licensing measures were not in line with the spirit and letter of WTO obligations and the Import Licensing scheme was part of a deliberate import substitution policy which, not only was openly and strongly supported by public statements of the Argentinean government but also used to improve the trade balance and systematically discriminate a number of import products. To date, despite repeated requests at WTO level and bilaterally, Argentina had failed to provide any convincing evidence to the contrary. There was no need to reiterate that non-automatic import licensing was only justified where necessary to implement a WTO compatible measure and that Article 3(2) of the Agreement on ILPs stated that "non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure". This was confirmed by Article 5(g) of the Agreement by requiring that notifications of non-automatic import licensing regimes to this Committee include an indication of "the measure being implemented through the licensing procedure". A different interpretation of these articles would render Article XI of GATT/94 meaningless, since it would allow WTO Members to arbitrarily use IL regimes as a means to restrict imports for protectionist purposes. She also indicated that the examination procedures of the applications for import licences in Argentina lacked transparency and that some elements of these procedures were not regulated in Argentinean legislation, such as the change from first-come-first-served method of consideration of applications to the simultaneous consideration; all of these practices increased the concerns of her delegation.

2.6 When concluding, she urged Argentina to bring its regime in compliance with its WTO obligations as soon as possible. The EU had tried both in this Committee and also in the Goods

Council to obtain Argentina's reply to the EU concerns over the Argentinean NALs, as well as to address its restrictive effect on trade. No satisfactory replies had yet been received; therefore, she asked Argentina to indicate how it planned to address these concerns that were seriously affecting EU imports, and already raised both bilaterally and multilaterally in the WTO since 2009.

2.7 The delegate of the United States stated that the US continued to be troubled by Argentina's use of import licence procedures, which appeared to be intended to restrict imports into Argentina. The US was frustrated with Argentina's unwillingness to address the problems extensively raised by its delegation and other WTO Members in a number of venues. Based upon the reports the US had received, and the statements made by other WTO Members, it seemed that Argentina was using import licensing as a trade balancing measure to discourage imports. Many delegations had repeatedly requested a clear and precise explanation on what measures were being implemented through Argentina's extensive reliance on import license requirements. He also noted that under the Agreement on ILPs, non-automatic licensing procedures shall be no more administratively burdensome than absolutely necessary to administer the underlying measures. As of the date of this meeting, the US still had not received a clear explanation on the justified measures that necessitated Argentina's use of import licensing. He requested Argentina to provide an explanation of what WTO provision justified each of its expansive licensing requirements.

2.8 He also recalled that, according to the minutes of the meeting held in April 2011, Argentina indicated that it had not rejected any import license applications; in this regard, he clarified that the US concern related to the lengthy delays and unofficial requirements that must be met in order to obtain a licence. Reports indicated that applications were left pending indefinitely, until a company made some commitment to the Ministry of Industry to either invest domestically in Argentina, or increase its exports from Argentina; and only when such commitments were reportedly made, companies were able to import their goods.

2.9 He also requested more specific information regarding the online system that Argentina mentioned during the April 2011 meeting. As noted in the official minutes from that meeting, Argentina claimed to have established an online system to consider import licensing applications. He requested detailed explanation regarding how this system was being used, and the extent to which it was publicly available for example: what information would be available on this online system and how could interested parties access the information contained in this system?

2.10 He concluded by stating that it appeared that the majority of US exports to Argentina were now subject to NALs for purposes that were obscure and appeared to be intended to restrict imports and import licensing procedures, by themselves, were not supposed to be used to restrict trade. The US was troubled not only by Argentina's procedures, but also by its apparent unwillingness to respond to questions and concerns raised by WTO Members on this issue. He therefore urged Argentina to address these concerns.

2.11 The delegate of Japan stated that despite the concerns raised by Members in this Committee and in the Council for Trade in Goods, Japan had not seen any improvements in relation to the delay of issuing import licences in Argentina and the required timeframe to issue import licences had continued to exceed the period stipulated in the Agreement on ILPs. Resolution 45/2011 had expanded the scope of the products covered by NALs and created significant adverse effects on Japanese companies which operated in Argentina. In the case of those manufacturing companies, at least one third of intermediate materials needed for production were being covered by the NAL; this would seriously affect the whole process of production in Argentina.

2.12 With respect to auto imports in particular, Japan recalled that Argentina announced at the end of 2010 that, in the current year, import licences would be reduced by 20 per cent of the actual importation during 2010 and, stated its deep concern that this measure would significantly cause

negative effects to car importers. Japan urged Argentina to respond satisfactorily to the concerns raised by Members in this Committee and in the Goods Council, and also asked Argentina to explain how the measure was consistent with the Agreement. Furthermore, Japan requested Argentina to ensure the smooth issuance of import licenses within the timeframe stipulated in the Agreement and improve the transparency in the issuance procedure.

2.13 The delegate of Turkey stated his delegation continued to have concerns over the import licensing system of Argentina, an issue that had been brought up in the WTO on many occasions, the last one being in the CTG meeting in May 2011. His authorities regretfully observed that in the course of time, Argentina's import licensing system distanced even further from the WTO rules and principles. He recalled that Argentina had progressively extended the scope of its non-automatic import licensing regime from originally 38 products to more than 400 products, and then in February and March this year to a total of 609 products. The Argentine NALs now covered a wider range of products in electronics, steel and textiles that further added to Turkey's worries about this system since almost 35 per cent of its exports were affected by this extension. Moreover, Turkish exporters had reported that issuing a licence could take from four to twelve months; this contradicted the rules of the Agreement. It was well known that NALs were just one of the means used by Argentinian authorities to restrict imports. He also noted that in scope of the so-called "trade-balancing regime" firms were required to export in order to import the "one to one" policy, and were even required to be net exporters. In the view of his authorities, it would not be wrong to state that together with the lack of transparency and predictability, the NAL system turned into a prohibition in practice, as buyers switched from imported products to local products due to lengthy delays and burdensome procedures.

2.14 Turkish electrical household appliances, in particular white goods, had been the sectors most heavily hit by the Argentinean policies since 2009; Turkish exports to Argentina in washing machines, air-conditioners, refrigerators and other white line products had almost come to a halt. His authorities found the rationale stipulated by Argentina for the NALs requirement far from convincing; evaluating trade flows did not justify the resort to NALs, as this could be achieved as well through automatic import licensing. The reference to the need for verification of compliance with technical standards was also problematic; technical regulations had been there for many years before the sudden switch to non-automatic licenses. Argentina's responses about the underlying purpose of the NAL regime led the concerned countries to the conclusion that these measures were, in fact, taken to substitute imports and improve trade balance.

2.15 Even under the assumption that the underlying purpose was WTO consistent, Turkey reminded Argentina that Article 3(2) of the Agreement stated that "non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement and shall be no more administratively burdensome than absolutely necessary to administer the measure". Argentina's intense use of protectionist measures contradicted not only GATT Article XI and the Agreement on ILPs but also the TRIMs Agreement; the NAL system measures violated the basic WTO "*raison d'être*": achieving free and fair trade. Turkey invited Argentina to bring its measures into conformity with its WTO obligations and address Members' concerns.

2.16 The delegate of Switzerland recalled that her delegation had raised concern on Argentina's ILPs several times in various WTO bodies since July 2010. She indicated that the market access problems that previously existed could be solved bilaterally during the second half of 2010 but unfortunately, the situation worsened again this year; this explained Switzerland's request to be added to the list of speakers on this issue for the first time.

2.17 The Swiss industry was of the opinion that Argentina's rules to obtain an import licence were applied in a discretionary way and that the scope of products subject to NAL in Resolution 45/2011had been approximately extended to 600 products. The Swiss industry had also been affected by excessive delays in the issuance of those licences. She stated that unofficial requirements, aimed

at improving Argentina's trade balance, had to be met in order to import products into Argentina; thus, either the importer proved that its exports exceeded its imports or that there was no Argentinean equivalent to the goods in question. Reports also indicated that Argentina applied this requirement to products outside the scope of the NAL regime; this resulted in long delays in imports. Additionally, the recent establishment of an electronic system to request licences, introduced by Resolution 52/2011 had not improved the situation for Swiss importers in Argentina; there remained a lack of transparency and predictability creating uncertainty among importers.

2.18 Switzerland continued to worry over these measures and recalled that Argentina had failed, up to now, to address the concerns raised by Members in different WTO bodies. She requested Argentina provide information on specific steps to bring its IL regime in conformity with its WTO obligations.

2.19 The delegate of Korea echoed the concerns raised by the previous speakers. He recalled that at the April meeting his delegation expressed concern regarding Resolution 45/2011 and noted that, although Korea had discussed the issue bilaterally with Argentinean authorities, these procedures still remain and their application had even been strengthened; this created trade threatening effects rather than address Members' concerns. Based on Resolution 45/2011 Argentina had approved *de facto* conditions over importers to submit a plan stipulating their willingness to export the same amount they were to import. His delegation was of the view that these conditions violated the WTO national treatment principle. Korea invited Argentina to bring its import licensing regime in line with its WTO obligations and implement it in a transparent and practicable manner.

2.20 The delegate of Peru voiced support for the statements made by previous speakers and reiterated Peru's concern over the approval by Argentina of Resolution 45/2011. The NAL system had serious implications for Peruvian enterprises and particularly affected the garments and textile sector which involved a number of small-medium size enterprise (SMEs) which generated a large number of jobs in Peruvian areas where resources were limited. Peru's concern also related to the legitimacy of Argentina's licensing system and the delays in issuing licences which vastly exceed those allowed by the Agreement.

2.21 Peru stated that although 50 licences were granted as a result of bilateral discussions, there remained an important number of pending ones which resulted in negative effects for Peruvian exporters. Peru drew attention to the notifications by Argentina in documents G/LIC/N/2/ARG/7/Add.4; G/LIC/N/2/ARG/10/Add.1; G/LIC/N/2/ARG/15/Add.1; G/LIC/N/2/ARG/16/Add.1; G/LIC/N/2/ARG/20/Add.1; G/LIC/N/2/ARG/22/Add.1; G/LIC/N/2/ARG/23 and G/LIC/N/2/ARG/24 concerning regulations to be applied in relation to the licensing system. She recalled that in its responses, Argentina indicated that this was a transitional mechanism to monitor the imports of certain goods; nevertheless, in the view of her delegation monitoring trade was an acceptable reason for implementing automatic licensing but not for NAL. Article 3.2 of the Agreement provided that non-automatic licensing should not have trade restrictive or distortive effects, it should be applied to administering other measures which might be in accordance with WTO provisions. Argentina had not indicated the rationale for its NALs particularly, with regard to garments and textile products. Peru was of the view that according to Article XI of GATT 1994, the import licensing scheme was a trade restriction and was not compatible with the WTO obligations; therefore, Peru sought information on the measures that would justify Argentina's NALs for certifying textile and garment products.

2.22 The delegate of Canada echoed the concerns raised by the previous speakers and emphasized the need for consistency of the Argentine measures with obligations contained in the Agreement and on the need for transparency in the Committee.

2.23 The delegate of Argentina, in response to the previous speakers, indicated that the implementation of automatic import licensing in his country was the result of changes in international trade flows in recent years. Resolution 45/2011 which, as many delegations indicated, was notified by Argentina on 21 March 2011, extended the coverage of products subject to licensing to 581; however, tariff lines subject to non-automatic licensing only represented 7 per cent of the total number of tariff lines in Argentina's Schedule of Concessions.

2.24 With regard to the concern voiced by the EU, he stated that the application of non-automatic licensing did not, in any way, lead to incompatibility with Argentina's commitments in the G-20 and in the WTO since this was a valid trade policy measure as provided for in Article 3.3 of the Agreement. Additionally, importation of products subject to NAL indicated that the system was not ultimately intended to protect national domestic industry by controlling imports; if the imports trends of products subject to NAL were compared to those which are not subject to such licences the following conclusions could be drawn: (i) in 2009, as a result of the international economic crisis, there was a decrease in imports both in terms of total numbers and for those subject to NAL; (ii) in 2010, the total increase in imports also saw an increase in the number of imports subject to NAL as a result of the recovery of the world economic activity and; (iii) imports subject to NAL increased by 110 per cent in 2010 in comparison with 2006, whilst there was a 65 per cent increase of total imports over the same period. Therefore, NALs did not operate as a protective trade measure to favour domestic industry.

2.25 With regard to the concerns voiced previously by Peru, Japan and Turkey, he stated that the predictability and transparency of the NAL system had enabled normal trading flows to continue.

2.26 Regarding the concern already voiced by Korea on the exclusion of national treatment, Argentina pointed out that all imports subject to NAL, regardless of their origin, received the same treatment when applying the measures; the same requirements and processing time were also applied for requests and renewals thereof.

2.27 As to the concerns expressed by Switzerland and Australia in previous occasions concerning the functioning of NAL, he indicated that processing of applications did not exceed 60 days according to the period set for in Article. 3.5(g) and (h) of the Agreement. As already conveyed to Members, since March 2011 the "Sistema Integrado de Comercio Exterior" (SISCO) had been implemented through various resolutions of the Ministry of Trade in order to increase transparency and predictability. SISCO's objective was to ensure fair and equitable administration of import licensing through an on-line management system for applications. In conclusion, he stated that the NAL system had been set up on the basis of the provisions of, and in compliance with the WTO Agreement on ILPs.

2.28 The Committee took note of the statements made.

3. Notifications

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

3.1 The Chairperson recalled that Articles 1.4(a) and 8.2(b) and notification procedures, as had been agreed by the Committee[4], required all Members to publish their laws, regulations and administrative procedures, and notify these to the Committee upon becoming a WTO Member, 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. He informed the Committee that under

[4] G/LIC/3.

these provisions there were eleven notifications received from eleven countries since the last meeting.[5]

3.2 The Committee took note of the notifications.

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

3.3 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. He informed the Committee that there were seven notifications listed in the airgram submitted by six Members[6] under this provision. He also recalled that at the last meeting the delegation of the United States requested that notifications G/LIC/N/2/ARG/7/Add.4; G/LIC/N/2/ARG/10/Add.1; G/LIC/N/2/ARG/14/Add.1; G/LIC/N/2/ARG/15/Add.1; G/LIC/N/2/ARG/16/Add.2; G/LIC/N/2/ARG/20/Add.1 and G/LIC/N/2/ARG/22/Add.1 be considered at this meeting since the translations were made available in the other two official languages only a few days prior to that meeting and would be considered at this meeting.

3.4 The Committee took note of the notifications.

(iii) Notifications under Article 7.3 of the Agreement (Replies to the questionnaire on Import Licensing Procedures)

3.5 The Chairperson informed the Committee that there were thirty-seven notifications received under Article 7.3 of the Agreement from 36 Members listed in the airgram.[7] He informed the Committee that three notifications, received from Croatia; Switzerland and the United States (G/LIC/N/3/HRV/6; G/LIC/N/3/CHE/7; G/LIC/N/3/USA/8), as well as the notification from Malaysia (G/LIC/N/3/MYS/7), received after the airgram was issued, were not available in the three WTO official languages and thus, would be discussed at the next meeting. He then opened the floor for delegations to comment on the notifications.

3.6 The delegate of the United States stated thanked India for its notification in document G/LIC/N/3/IND/12; however, the US remained concerned about the limited detail provided in India's notifications. He recalled that his delegation, along with several other Members requested, during

[5]Documents G/LIC/N/1/AGO/1; G/LIC/N/1/ARG/4; G/LIC/N/1/MKD/4; G/LIC/N/1/IND/13; G/LIC/N/1/KWT/2; G/LIC/N/1/MYS/1; G/LIC/N/1/MAR/3 and G/LIC/N/1/MAR/3/Corr.1; G/LIC/N/1/TGO/2; G/LIC/N/1/TON/1, G/LIC/N/1/TUR/9 and G/LIC/N/1/USA/6/Add.1.

[6]Documents (G/LIC/N/2/COL/1); (G/LIC/N/2/IND/11); (G/LIC/N/2/JAM/2); (G/LIC/N/2/PRY/1); (G/LIC/N/2/THA/2); (G/LIC/N/2/UKR/1) and (G/LIC/N/2/UKR/2).

[7] (G/LIC/N/3/AUS/4); (G/LIC/N/3/BRA/9); (G/LIC/N/3/BFA/4); (G/LIC/N/3/CPV/2); (G/LIC/N/3/CHL/6); (G/LIC/N/3/COL/9); (G/LIC/N/3/HRV/6); (G/LIC/N/3/DOM/5); (G/LIC/N/3/EEC/14); (G/LIC/N/3/EEC/14/Add.1); (G/LIC/N/3/MKD/3); (G/LIC/N/3/HND/6); (G/LIC/N/3/HKG/15); (G/LIC/N/3/IND/12); (G/LIC/N/3/JPN/10); (G/LIC/N/3/SAU/2); (G/LIC/N/3/KOR/10); (G/LIC/N/3/KWT/2); (G/LIC/N/3/MAC/14); (G/LIC/N/3/MDG/6); (G/LIC/N/3/MYS/6); (G/LIC/N/3/NIC/3); (G/LIC/N/3/NOR/6); (G/LIC/N/3/PER/7); (G/LIC/N/3/QAT/8); (G/LIC/N/3/SEN/4); (G/LIC/N/3/CHE/7); (G/LIC/N/3/TPKM/2/Rev.2); (G/LIC/N/3/THA/4); (G/LIC/N/3/TGO/2); (G/LIC/N/3/TON/1); (G/LIC/N/3/TUN/6); (G/LIC/N/3/TUR/11); (G/LIC/N/3/UKR/4); (G/LIC/N/3/USA/8); (G/LIC/N/3/URY/5); (G/LIC/N/3/VNM/1).

India's recent Trade Policy Review (TPR), detailed information regarding products subject to automatic licensing requirements and a list of products subject to non-automatic requirements. India had indicated that it would be shortly notifying such information to the WTO; therefore, the US, as follow-up to India's response during its TPR, reiterated its request that, rather than referring Members to its general DGFT website, India provide to this Committee a list of products subject to automatic licensing requirements and a list of products subject to non-automatic licensing requirements.

3.7 The delegate of India indicated that he would request a list from the capital and would get back to the US.

3.8 With regard to document G/LIC/N/3/VNM/1, the delegate of the United States thanked Viet Nam for its recent and updated responses to the Annual Questionnaire; however, the US remained concerned that, to date, Viet Nam had not dully notified its import licensing legislation since its accession to the WTO in 2007. His delegation knew that there had been several changes to Viet Nam's import licensing regime since its accession, such as Circulars Number 17/2008, 22/2010 TT-BCT and 24/2010/TT-BCT dated May 2010, Circular Number 31/2010/TT-BCT dated July 2010, and Circular 42/2010 dated December 2010, which appeared to have not been notified to the Committee.

3.9 The US was especially concerned about Viet Nam's procedures published in Circular 24, which significantly extended the scope of products subject to ILPs and requested an explanation from Viet Nam as to how the products, including food, agricultural products and textiles and apparel were selected for inclusion in Circular 24. He also requested Viet Nam to explain what measure this requirement was being used to implement. He urged Viet Nam to promptly notify Circular 24 and asked whether there had been any other changes to Viet Nam's import licensing regime since its accession. He also urged Viet Nam to acknowledge its responsibility in this area and provide the requested information as soon as possible given that this was a basic requirement of WTO membership and of this Committee.

3.10 The delegate of Viet Nam thanked the United States for raising these concerns and requested its statement in writing for conveyance to his capital for further consideration and response.

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

4. Final Transitional Review under Paragraph 18 of the Protocol on the Accession of the People's Republic of China (WT/L/432).

4.1 The Chairperson recalled that the eighth transitional review of the implementation by China of the WTO Agreement and of the related provisions of the Protocol, under paragraph 18 of the Protocol of Accession of China (WT/L/432), had been carried out in 2009 by the subsidiary bodies of the WTO, including the Committee on Import Licensing, which had a mandate covering China's commitments under the WTO Agreement or China's Protocol of Accession. The Committee's report to the Council for Trade in Goods on that review was circulated in document G/LIC/20. The Committee would conduct the Ninth and Final Transitional Review at this meeting. He also informed the Committee that, since the last meeting, the Secretariat had received, after the airgram convening this meeting had been issued, a communication from China containing information required by paragraph IV:3 of Annex 1A of the Protocol of Accession which had been circulated in document G/LIC/W/39.

4.2 In G/LIC/W/39, China indicated that its current import licensing procedures included import licences administration, automatic import licensing and tariff rate quota administration. It also explained that, pursuant to the *Law on Foreign Trade* and the *Regulations on Administration of Import and Export of Goods*, the Ministry of Commerce (MOFCOM) issued the *Measures for the*

Administration of Import License for Goods, and the *Measures for the Administration of Automatic Import Licensing for Goods*. Based on the latter, MOFCOM and the General Administration of Customs (GAC) annually issued the *Catalogue of Goods Subject to Automatic Import Licensing Administration* and the *Catalogue of Goods Subject to Import License Administration*. These two catalogues, circulated as a MOFCOM Announcement and issued in the second semester of each calendar year but implemented only in the following year, listed all the products subject to import licensing procedures, except those under Tariff Rate Quota (TRQ) administration.

4.3 Regarding the ILPs to administer TRQs, China's submission indicated that the current applicable rules were the *Interim Measures on the Administration of Tariff Rate Quota for Importation of Agricultural Products* and the *Interim Measures on the Administration of Tariff Rate Quota for Importation of Fertilizers*. Based on these rules, MOFCOM and the National Development and Reform Commission (NDRC) issued annually the *Implementing Rules on the Administration of Tariff Rate Quota for Importation of Wool and Wool Tops*, the *Application and Allocation Methods of Tariff Rate Quota for Importation of Sugar*, the *Quantities, Allocation Principles and Application Procedures of Tariff Rate Quota for Importation of Fertilizers*, and the *Quantities, Application Conditions and Allocation Methods of Tariff Rate Quota for Importation of Grain and Cotton*. These rules circulated as MOFCOM and NDCR announcements, were issued in the second half of the year but implemented in the following year. Pursuant to MOFCOM Announcement No. 93 in 2005, TRQ administration for importation of soybean oil, palm oil and rapeseed oil was eliminated on 1 January 2006 and replaced by automatic import licensing administration.

4.4 China's submission also stated that the aforementioned basic laws, regulations, rules and announcements concerning its import licensing procedures, as well as other supplementary ones, were WTO consistent. China's aforementioned legislation was available in China Foreign Trade and Economic Cooperation Gazette and accessible from the websites of the Central Government of China (http://www.gov.cn) and/or MOFCOM (http://www.mofcom.gov.cn).

4.5 China was currently working on adjustments to its notifications under the various transparency provisions in the Agreement in order to better fulfil its notification obligations and put them in accordance with the new notification formats adopted by the Committee.

4.6 The delegate of the United States recalled that when acceding to the WTO, China agreed to an annual transitional review mechanism (TRM) to be conducted before the 16 WTO Committees and Councils during eight years with a final review in year 10. The TRM was established because China was admitted as a WTO Member before it had revised all of its trade-related laws and regulations to become WTO-compatible. The annual TRM had provided an opportunity to review multilaterally with China, the efforts it had taken to implement specific commitments in its Protocol of Accession and to comply with its obligations regarding the WTO Agreements and its Annexes. The US highlighted steps China had undertaken in reforming its economy and legal regime to comply with WTO obligations. Nevertheless, in the area of ILPs there remained several concerns pertaining specifically to iron ore and agricultural products.

4.7 With regard to iron ore, a key steel input for which Chinese steel producers had become increasingly dependent on foreign suppliers, he indicated that in 2005, China began imposing new ILPs which restricted licences to a limited number of traders and steel producers without making a public list of qualified enterprises or qualifying criteria, and setting a goal to import at least 50 per cent of its iron ore from Chinese-invested enterprises located abroad. Directing iron ore imports toward certain producers or sources distorted trade significantly, particularly as China was the largest iron ore importer in the world, and global prices for iron ore have reached high levels, led by Chinese demand. The overall licensing system seemed to be part of a programme to control raw material prices in favour of unfair advantages to China's downstream steel producers. Despite several requests, China still maintained restrictive ILPs for iron ore.

4.8 Concerning the IL requirements for agricultural products, the US considered that for several years, China's regulatory authorities had administered inspection-related requirements for issuing Quarantine Inspection Permits (QIP) and Automatic Registration Forms (ARF) in an arbitrary manner. For nearly all traded agricultural commodities, China's State administration of Quality Supervision, Inspection and Quarantine not only required importers to obtain a QIP prior to signing purchase contracts but also slowed down or suspended its issuance in a discretionary manner, without notifying traders in advance nor providing any explanation. China had been urged to eliminate such QIPs as there appeared to be no scientific basis and served as an unjust and restrictive barrier to trade which affected imports of poultry, pork and beef.

4.9 Based on China's ARFs regime applied to poultry, soybeans, pork and dairy products, MOFCOM allocated to an importer, yearly volumes of imports of particular commodities. Nevertheless, in administering ARFs, MOFCOM exercised its discretion to slow down imports from selected Members. The US also urged China to eliminate ARFs entirely.

4.10 In response, the delegate of China drew the US' attention to document G/LIC/W/39 indicated that most of the issues on iron ore had been clarified in previous TRM opportunities; and that the measure had statistical purposes.

4.11. The Committee took note of the communication circulated by China and of the statements made.

4.12 The Chairperson suggested that, to conclude the Final Transitional Review under Paragraph 18 of the Protocol of Accession of the People's Republic of China, a factual report on China's transitional review be submitted to the Council for Trade in Goods (CTG). As had been done previously, this factual report would refer to the relevant paragraphs of the minutes of this meeting as well as to the information received from China. The relevant paragraphs of the minutes which reflected the discussion would be annexed to this report.

4.13 The Committee so agreed. The report to the CTG on the Final Transitional Review was circulated in document G/LIC/23.

5. Draft report (2011) of the Committee to the Council for Trade in Goods.

5.1 The Chairperson said that the Committee was required to submit an annual report on its activities to the Council for Trade in Goods, (CTG). A draft report to the CTG (G/LIC/W/38) covering the activities of the Committee in 2011 had been circulated 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; China's submission on its transitional review; as well as the discussion at this meeting.

5.2 There were no comments on the draft report. The Committee agreed to adopt the report, subject to the updating. The report as revised and adopted was circulated as document G/L/968.

6. Other business

(i) Dates of the next meetings

6.1 The Chairman informed the Committee that the Secretariat had tentatively reserved Friday, 27 April 2012 and Monday, 22 October 2012 for the next meetings of the Committee, on the understanding that additional meetings will be convened if necessary.

6.2 The Committee took note of the information.

(ii) Election of Vice-Chair

6.3 The Chairman recalled that at the last meeting the Committee elected him as its Chair and Mr. Gustavo BOSIO from Israel, as Vice-Chair. He informed the Committee that Mr. Bosio had left the Geneva delegation in summer this year and, in order to fulfil the mandate in Article 4 of the Agreement which provides for the election of a Vice-Chair, he carried out informal consultations with group coordinators and various delegations. The result of these consultations indicated that there was agreement among delegations that Mr. Shai MOSES, also from Israel, be elected as Vice-Chairperson for this year.

6.4 The Committee so agreed.