

WORLD TRADE ORGANIZATION

RESTRICTED

G/LIC/M/4

9 December 1996

(96-5097)

Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 23 OCTOBER 1996

Chairman: Mr. Jan Michalek (Poland)¹

1. The Committee on Import Licensing held its fourth meeting on 23 October 1996.
2. The agenda proposed for the meeting, circulated in WTO/AIR/451, was adopted as follows:

	<u>Page</u>
A. Draft Understanding on Procedures for Review of Notifications	2
B. <u>Notifications:</u>	
(a) Invocation of footnote 5 to Article 2.2 by developing countries	3
(b) Notifications under Articles 1.4(a) and/or 8.2(b)	3
(c) Notifications under Article 7.3	3
(d) Notifications under Article 5	5
C. Simplification of data requirements and standardization of formats	5
D. Procedures for circulation and derestriction of Committee Documents	5
E. Report to Singapore Ministerial Conference	6
F. First Biennial Review of the Implementation and Operation of the Agreement under Article 7.1	8
G. Tentative dates for meetings in 1997	8

3. The Chairman noted that in accordance with the agreement reached at the third meeting held on 8 March 1996 (G/LIC/M/3, paragraph 1), the IMF, UNCTAD and the World Bank had been invited on an *ad hoc* basis to this meeting. He proposed that pending the finalization of the ongoing consultations by the Chairman of the General Council on the application of "Guidelines for Observer Status for International Intergovernmental Organizations in the WTO", the same organizations be invited as *ad hoc* observers to its next meeting.

¹Mr. Jan Michalek, Vice-chairman of the Committee, presided in place of the Chairman, Mr. Calson Mbegabolawe (Zimbabwe).

4. The Committee so agreed.

A. Draft Understanding on Procedures for Review of Notifications

5. The Chairman recalled that at its meeting on 8 March 1996, the Committee had a brief discussion on a proposal made by Mr. Mbegabolawe on how to deal with substantive issues arising from notifications submitted under the Agreement, and agreed to revert to this matter at the present meeting on the basis of a revised text (G/LIC/M/3, paragraphs 7-9). The matter was further discussed at an informal meeting of the Committee on 1 October 1996. Taking into account the comments made by delegations at both the formal and informal meetings, a revised text had been circulated for the consideration of the Committee in document G/LIC/W/6, which read as follows:

"The Committee discussed the matter of substantive issues arising from notifications of import licensing procedures which could be raised by Members and reached the following understanding: "On the basis of Article 4 of the Agreement, it was recognized that Members could express views on notifications of import licensing procedures as required under various Articles of the Agreement, and request clarifications, as may be necessary, from other Members on matters related to the Agreement on Import Licensing Procedures. It was, however, agreed that such views, and requests for clarification, should be communicated, in writing, to the delegations concerned with copies for information to the Secretariat preferably 21 days, but at least ten working days, in advance of the meeting at which they would be raised. Replies to the questions should also be forwarded to the delegations having raised the questions, in writing, with copies for information to the Secretariat. The questions and replies thus received would be circulated by the Secretariat. ""

6. The Committee agreed to the revised text contained in document G/LIC/W/6.²

7. The representative of Canada informed the Committee that the replies to questions posed by Australia, the European Communities and the United States at the last meeting on Canada's replies to the Questionnaire would be provided in writing to the delegations and to the Secretariat shortly.

8. The Chairman informed the Committee that subsequent to the clarifications sought at the last meeting by the United States on replies to the Questionnaire submitted by several Members (namely, Barbados, Canada, Cyprus, Costa Rica, Ecuador, India, Hong Kong, Norway and Mauritius), Australia and the European Communities had also requested clarifications on Article 7.3 notifications submitted by some Members. Australia's questions related to replies to the Questionnaire from Barbados, Canada, Costa Rica, India, Malta and Mauritius; the European Communities' questions were on the notifications submitted by Canada, Costa Rica, India and Norway. Copies of these requests for clarification had been sent for information to the Secretariat. Similarly, replies to these queries from India, Malta and Mauritius to Australia; from India and Norway to the European Communities; and from Malta and Norway to the United States had also been copied to the Secretariat for information. On the basis of the decision the Committee had just reached he suggested that the Secretariat be requested to circulate, as from this meeting, all questions and replies communicated to it for information of Members.

9. The representative of Japan requested the Secretariat to circulate the questions and replies which had already been submitted to the Secretariat since the last meeting.

10. The Committee so agreed.

²The agreed text was subsequently circulated as document G/LIC/4.

B. Notifications:**(a) Invocation of footnote 5 to Article 2.2 (delayed application of certain provisions by developing countries)**

11. The Chairman informed the Committee that since the last meeting, two more developing-country Members - Cameroon and the United Arab Emirates - had invoked the delayed application provisions of subparagraphs 2.2(a)(ii) and (a)(iii) of the Agreement thus bringing the number of developing countries invoking these provisions to 24 (G/LIC/1/Add.3).

12. The Committee took note of the invocation of delayed application provisions by Cameroon and the United Arab Emirates.

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

13. The Chairman said that since the last meeting, the Secretariat had received notifications under Articles 1.4(a) and/or 8.2(b) from the following 19 Members: Australia, Barbados, Chile, Cyprus, the European Communities, Hong Kong, Jamaica, Malta, Morocco, New Zealand, Nicaragua, Pakistan, Romania, Swaziland, Turkey, Uganda, United States, Uruguay and Zimbabwe. These notifications were circulated in the G/LIC/N/1/- series. In addition, the Secretariat had also received two more notifications under Articles 1.4(a) and/or 8.2(b) from Norway and the United States. Copies of publications and laws and regulations referred to in the notifications were available for consultation in the Secretariat. In addition, Hong Kong, Hungary and Singapore had recently notified publications and legislation. He suggested that the notifications submitted by Hong Kong, Hungary and Singapore be considered at the next meeting. Copies of publications and legislation submitted by these three Members were also available for consultation in the Secretariat.

14. The Chairman stated that the situation with respect to notifications under Articles 1.4(a) and 8.2(b) was not satisfactory. He noted that out of a Membership of 125, only 30 Members (European Communities and Member States counted as one) had submitted notifications of publications and laws and regulations. The remaining 80 Members had not made notifications under this provision. This was despite the deadline of 12 January 1995 established by the Committee for these notifications. In addition to this deadline, the Administrator of the Central Registry of Notifications had issued letters to Members reminding them of these notification requirements, and had provided details to each Member of the unfulfilled notification requirements for 1995 and notification requirements for 1996. He urged Members that had not yet provided any information concerning the laws and regulations and publications relevant to licensing to submit their notifications without any further delay.

15. The Committee took note of the notifications made.

(c) Notifications under Article 7.3 (Replies to Questionnaire on Import Licensing Procedures)

16. The Chairman informed the Committee that since the last meeting, the following 12 Members had submitted replies to the Questionnaire: Australia, Chile, Cyprus, Hong Kong, Hungary, Morocco, Nigeria, Norway, Peru, Romania, Turkey and Uruguay. The relevant notifications had been circulated in the G/LIC/N/3/- series. In addition, the Secretariat had received notifications from Japan and Singapore, which would be subject to review at the next meeting. As with the notifications relating to publications and legislation, the situation with respect to notifications under this provision was also disappointing. To date, out of a Membership of 125, only a total of 25 had submitted replies to the Questionnaire. The remaining 100 Members had not made notifications under this provision. This was despite the annual deadline of 30 September for notifications under this provision. In addition, the Administrator of the Central Registry of Notifications had issued letters to Members reminding

them of these notification requirements, and had provided details to each Member of the unfulfilled notification requirements for 1995 and notification obligations for 1996. He urged those Members which had not yet complied with this notification requirement to do so without further delay.

17. The representative of the European Communities informed the Committee that as her delegation was currently focusing all its work to prepare its notification under Article 7.3 of the Agreement, she wished to reserve the right to pose questions on notifications submitted so far under Article 7.3 at a later stage.

18. The representative of Japan informed the Committee that due to the fact that the official language of Japan was Japanese, all national laws and regulations existed only in Japanese. Therefore, a great deal of work was involved in the preparation of the Article 7.3 notification, particularly in translation of the text from the original Japanese language into English. The Japanese authorities were cautious regarding the interpretation of the legal terms in the notification. He questioned whether in case of a legal interpretation of the notification, which was presented in an official language of the WTO, the English terms used in the notification would be considered *a priori* valid, or whether his authorities could request that the original legislation in Japanese be interpreted.

19. The representative of the Secretariat explained that since this was an issue which had to be looked at in the context of the dispute settlement procedures, he would seek a clarification from the Legal Division. In this context, he recalled that in some cases submissions to dispute settlement panels had been made in the original language as an additional source of information, where the original language was not an official language of the Organization. However, the official procedures were carried out in the three official languages.

20. The representative of Japan, further clarifying his question, asked whether Japan might reserve its rights which would enable his delegation to correct any terminology used in the present notification, based on the original Japanese text.

21. The representative of the Secretariat clarified that the Secretariat would rely on the notification provided by the Japanese authorities in an official language of the WTO. In case of an error in the translation from Japanese into English of any of the provisions, clarifications could be sought by the Panel or provided by Japan. This would depend on the type of dispute that would come up. He wished to seek clarification from the Legal Division on this point.

22. The representative of Argentina said that the specific question raised by Japan was taken as a warning that the notification referred to could lead to a dispute settlement case. As regards the language used in the notification, he clarified that, in case of a dispute, a panel would look into the legislation. The notification was merely an initial element that helped other Members understand the legislation; as such, there was no reason for the Japanese delegation to be concerned about the language of the notification.

23. The representative of Chile agreed with the delegate of Argentina. He believed that the reply to the question requested by Japan had implications for all other Committees, and therefore this was a more general issue.

24. The representative of Korea explained that due to difficulties in translation, Korea too was unable to submit the notification in due time. Korea intended to submit the replies to the Questionnaire shortly.

25. The representative of the Philippines informed the Committee that her delegation would submit its notification that day.

26. The Committee took note of the notifications as well as the issues raised by the delegation of Japan and the comments made.

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

27. The Chairman informed the Committee that since the last meeting, notifications under Article 5 had been received from Argentina, the European Communities, Japan, Nigeria and Pakistan. The notifications had been circulated in the G/LIC/N/2/- series.

28. The Committee took note of the notifications.

29. The Chairman further informed the Committee that the Secretariat had also received a notification from Hong Kong, which would be considered at the next meeting of the Committee.

30. The Committee so agreed.

C. Simplification of data requirements and standardization of formats

31. The Chairman referred to document G/LIC/W/3 which contained a letter addressed to the Chairman of the Committee on Import Licensing by the Chairman of the Working Group on Notification Obligations and Procedures. The letter requested the identification of formats/questionnaires currently in use which sought information going beyond the specific requirements of this Agreement; and suggestions as to any additional areas where formats/questionnaires could be developed. This matter was discussed at the informal meeting of this Committee held on 1 October 1996. He recalled that, with a view to agreeing on the procedures for notification under the Agreement on Import Licensing Procedures, the Committee on Import Licensing, at its first and second meetings in 1995, had carried out a review of the provisions in the Agreement relating to notification. In this context, the Committee had examined the appropriateness of the Questionnaire on Import Licensing Procedures referred to in Article 7.3 of the Agreement and adopted minor revisions to it. As concerned the obligation to notify the institution of import licensing procedures or changes in these procedures under paragraphs 1 and 3 of Article 5, the elements to be included in such notifications were listed in paragraph 2 of that Article. As regards the requirements for notification contained in Article 1.4(a) (the obligation to notify publications) and Article 8.2(b) (the obligation to notify laws and regulations), the Committee did not consider that these were areas where formats or questionnaires appeared necessary to simplify the data requirements.

32. The Chairman recalled that since the formal meeting would take place after the final meeting of the Working Group on Notification Obligations and Procedures, the Committee, at its informal meeting on 1 October 1996, had authorized the Chairman to send a reply to the Chairman of the Working Group, to convey the above conclusions prior to the present meeting. He informed the Committee that the reply to the Chairman of the Working Group had been sent accordingly.

33. The Committee took note of the above information.

D. Procedures for Circulation and Derestriction of Committee Documents

34. The Chairman referred to the procedures for circulation and derestriction of WTO documents adopted by the General Council contained in document WT/L/160/Rev.1. Notifications submitted to this Committee circulated in the G/LIC/N/- series were now being circulated as unrestricted documents, subject to paragraph (g) of the Appendix of this Decision, which concerned the right of

a Member, when submitting a document, to request that it be issued as restricted. He suggested that the Committee take note of this Decision.

35. The Committee took note of the Decision of the General Council contained in WT/L/160/Rev.1.

E. Report to Singapore Ministerial Conference

36. The Chairman recalled that the Committee was under obligation to submit a report to the Council for Trade in Goods in connection with the Singapore Ministerial Meeting. He drew attention to document G/LIC/W/4 which contained a draft report prepared by the Secretariat in accordance with the statement by the Chairman of the General Council, at its meeting of 16 April 1996, concerning reporting procedures to the Singapore Ministerial Conference (WT/L/145). The draft report was subsequently revised to take into account comments made by delegations during informal consultations of the Committee held on 1 October 1996. He drew attention to the revised report circulated in document G/LIC/W/4/Rev.1 for consideration and adoption at the present meeting and said that the report would be updated to reflect the discussions at the present meeting and to incorporate notifications received so far.

37. The representative of Japan stated that his delegation could accept the revised draft report. However, with regard to paragraph 13, he wished to reiterate Japan's understanding on the question of the applicability of the Agreement on Import Licensing Procedures to tariff rate quotas. He recalled that there had been a discussion in the Committee on this issue and that there was no agreement reached. In addition, the issue was referred to the Working Group on Notification Obligations and Procedures, but no agreement had been reached in the Working Group either. Therefore, his delegation accepted the present draft on the understanding that there had not been an agreement on this subject in this Committee.

38. The representative of the United States, referring to paragraph 13 of the draft Report which stated that "all import licensing procedures that fall under this Agreement should be notified to the Committee on Import Licensing", said that the Japanese intervention in no way indicated that there was no agreement on that point. With respect to the administration of the tariff rate quotas for agricultural products, he said that the United States continued to maintain that these were import licensing procedures that required notification to this Committee. In his view, this issue had been fully discussed at the second meeting of the Committee as was reflected in the minutes of that meeting.

39. The representative of Switzerland stated that her delegation joined the consensus to adopt the revised paragraph 13 of the Report, as well as the new paragraph 5 of G/LIC/W/5/Rev.1, the Background Working Document for the First Biennial Review. She nevertheless wished to clarify the position of her delegation regarding this issue and said that the question of the applicability of the Agreement on Import Licensing Procedures to agricultural quotas was not yet clear either in this Committee or in certain capitals, including hers. Waiting for this important problem to be settled, Switzerland, for the sake of transparency, would notify its agricultural tariff quotas to the Committee through reference to its notification made to the Committee on Agriculture. She emphasized that this notification would be made for reasons of transparency and that it in no way prejudged the question of the actual applicability of the Agreement to agricultural tariff quotas. In her view, the Agreement contained useful provisions by way of guidelines for all import licensing procedures, including the administration of agricultural tariff quotas. Therefore, it would be essential to determine whether or not agricultural tariff quotas came under the coverage of the Agreement on Import Licensing Procedures. If necessary, the question would have to be addressed whether this Agreement required additional information to be notified as compared to the information already provided under the Agreement on Agriculture. She suggested that this Committee carry out a more detailed analysis of these issues in 1997 in order to find a definitive answer.

40. The representative of Argentina said that he agreed with the text of paragraph 13. As had been stated by him in the informal consultations on this issue, Argentina believed that this was a subject that was closed. It was his view that information on import licensing linked to agricultural quotas should be notified to both Committees. In response to the delegation of Switzerland, he said that the information contained in notifications on the administration of agricultural tariff quotas which were submitted to the Committee on Agriculture was different from the information which had to be provided to this Committee under Article 5.2. The information which was required to be notified to this Committee was more complete when compared with the requirements for notification to the Committee on Agriculture concerning the implementation of market access opportunities laid down in point (b) of Table MA:1 and other information with respect to quotas. He drew attention in this regard to paragraph 28 of the Report of the Working Group on Notification Obligations and Procedures.³ The Working Group had concluded that efforts to remove the possible duplication were not warranted. In his view, with the information presented to the Committee on Agriculture it would not be possible to verify whether or not Members fulfilled their obligations under the Licensing Agreement. The information submitted to the Committee on Agriculture was for the purpose of checking that the mechanisms in place for the administration of tariff quotas did not affect the market access commitments undertaken in the Uruguay Round. For these reasons, he stressed that it was unacceptable that certain Members still wished to exclude certain import licensing mechanisms from the obligations under the Import Licensing Agreement.

41. The representative of Australia supported the current draft of paragraph 13 and noted that as had been mentioned by other delegations, this was not an attempt to reopen what was an extensive debate in informal consultations. Paragraph 13 fully reflected her understanding that all import licensing procedures that fell within the scope of this Agreement must be notified. There was indeed agreement reached on this point. Australia maintained its position that import licensing procedures used under agricultural tariff rate quotas fell within the scope of this Agreement and fully supported the position outlined by Argentina. She noted particularly in this regard that notifications provided to the Committee on Agriculture did not make judgements about the conformity with the Import Licensing Agreement of import licensing procedures used.

42. The representative of Canada said that the language in paragraph 13, as mentioned by the delegate of Australia, recognized that all import licensing procedures that fell under this Agreement should be notified and that there was broad agreement on that fact in the Committee. There was disagreement with respect to the implications of that for agricultural tariff rate quotas. These views had been recorded in the Minutes of previous meetings of the Committee.

43. The representative of New Zealand said that his delegation too accepted paragraph 13 as it stood. New Zealand maintained its position as was stated in the Minutes of the second meeting, and supported the views expressed by Argentina, Australia, Canada and the United States that there was agreement that import licensing procedures, including those dealing with agricultural tariff quotas, should be notified to this Committee.

44. In response to several delegations, the Chairman said that the information contained in the document would be updated to take into account notifications received by the Secretariat up to 28 October 1996.

³G/L/112.

45. The Committee took note of the statements made. It agreed to adopt its Report to the Singapore Ministerial Conference and to submit it to the Council for Trade in Goods at its meeting on 1 November 1996.⁴

F. First Biennial Review of the Implementation and Operation of the Agreement under Article 7.1

46. The Chairman recalled that under Article 7.1 of the Agreement the Committee had agreed to biennially review the implementation and operation of the Agreement, taking into account the objectives of the Agreement and the rights and obligations contained therein, and to conduct the first such review at the present meeting. A draft background working document containing factual information had been prepared by the Secretariat and circulated as G/LIC/W/5. A revised version of the document had been subsequently issued in G/LIC/W/5/Rev.1 based on the comments made during an informal consultation held on 1 October. He said that the document would be updated in light of the discussion at the present meeting.

47. The representative of the United States suggested that a new paragraph be inserted in Section B, after paragraph 5, to state that the overall compliance with notification procedures had not been satisfactory and that the Committee recognized the importance of notifications for the effective implementation and functioning of the Agreement. The absence of notifications from many Members affected the work that was actually done by the Committee during the period covered by the review. He noted in this respect that out of the 24 developing country Members that had taken advantage of the delayed application provisions of the Agreement, only four had made any mandatory notifications so far. He pointed out that the invocation only permitted these countries to delay the application of some requirements for automatic import licensing procedures for a certain period and that it did not exempt them from the notification obligations.

48. The Committee took note of the comments made. It agreed to add a new paragraph as was proposed by the United States.

49. The Committee concluded the first biennial review under Article 7.1 of the Agreement based on G/LIC/W/5/Rev.1, the background working document prepared by the Secretariat.⁵

G. Tentative Dates for Meetings in 1997

50. The Chairman informed the Committee that in the context of a calendar of meetings for 1997, the Secretariat had proposed 22 April 1997 (10 a.m.) and 15 October 1997 (10 a.m.) as tentative dates for the next two meetings of the Committee on Import Licensing. This was on the understanding that additional meetings would be convened if necessary.

51. The Committee agreed to the two dates proposed.

⁴The Report as updated was circulated in document G/L/127.

⁵The document was updated in light of the discussion at the present meeting and was circulated in G/LIC/5 and Corr.1.