

# WORLD TRADE ORGANIZATION

RESTRICTED

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## Committee on Import Licensing

### MINUTES OF THE MEETING HELD ON 22 APRIL 1997

Chairman: Mr. Calson Mbegabolawe

1. The Committee on Import Licensing held its fifth meeting on 22 April 1997. The agenda proposed for the meeting, contained in WTO/AIR/571, was adopted as follows:

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A. Observer status of international intergovernmental organizations

2. The Chairman referred to document G/LIC/W/7 which listed the international intergovernmental organizations (IMF, UNCTAD and the World Bank) having observer status on an *ad hoc* basis in the Committee, and the African, Caribbean and Pacific Group (ACP Group) whose request for observer status was pending. In the case of the IMF and the World Bank, their observer status in the WTO and its various bodies, including the Committee on Import Licensing, was covered by virtue of the Agreements concluded between the WTO and the IMF and the World Bank (WT/L/195).

3. The Committee took note of this fact.

4. In the case of UNCTAD, given the fact that it already had observer status in the Committee on an *ad hoc* basis, the Chairman proposed that the Committee agree to accord it observer status on a regular basis.

5. It was so agreed.

6. The representative of the United States suggested that consideration of requests for observer status by the ACP Group be deferred to a future meeting pending guidance from the General Council on the overall issue of observer status.

7. It was so agreed.

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

8. 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 15 Members: Benin, Bulgaria, Burkina Faso, European Communities, Honduras, Hong Kong, Hungary, India, Japan, Korea, Mauritius, Singapore, Slovenia, Tunisia and the United Arab Emirates. These notifications were circulated in the G/LIC/N/1/- series. Copies of publications and laws and regulations referred to in the notifications were available for consultation in the Secretariat. In addition, Switzerland had recently notified publications and legislation relevant to import licensing which would be considered at the next meeting. Copies of publications and legislation submitted by Switzerland were also available for consultation in the Secretariat.

9. He said that as at the date of the present meeting, out of a Membership of 130 only a total of 40 Members (counting the European Communities as one) had submitted notifications relating to publications and/or laws and regulations. He urged Members that had not yet provided any information concerning laws and regulations and publications relevant to import licensing to submit their notifications without any further delay.

10. The representative of Japan said that according to the notification made by Korea circulated in document G/LIC/N/1/KOR/1, a copy of its Foreign Trade Act and its subordinate regulations which provided the basic framework of Korea's import licensing procedures had been submitted only in the Korean language. According to the procedures for notification and review agreed by the Committee at its second meeting (G/LIC/3), in cases where the legislation or publications were not in a WTO official language, Members were required to submit, together with such publications or legislation a summary of the notification in a WTO official language. The procedures agreed provided other Members with the possibility of asking for a full translation if they so wished or seek any additional information on a bilateral basis. Japan was interested in Korea's import licensing procedures and therefore would appreciate it if Korea could provide a full translation of its Foreign Trade Act and the subordinate regulations as soon as possible. Furthermore, it was reported by Korea that the Ministry of Trade, Industry and Energy of Korea had indicated on 31 March 1997 its intention to improve the current regulations on import licensing procedures. Japan appreciated the efforts made by Korea in this regard. Pursuant to Articles 1.4(a) and 8.2(b), Korea was required to notify the modification to this Committee after the improvements had been made.

11. The representative of Korea said that the question posed by the Japanese delegation would be conveyed to his authorities and that a reply would be given in writing as soon as possible. He further said that as the document indicated, Korea had provided a summary in English of some of the regulations notified in Korean language, which had not been attached to the document.

12. The Chairman said that in accordance with the procedures for notification agreed by the Committee, texts of laws and regulations notified by Members, as well as any translations provided, were kept in the Secretariat for consultation by interested Members.

13. The representative of the United States, recalling the discussions in the Committee which had led to the procedures that were agreed, wondered whether such information submitted should be circulated routinely for the benefit of all Members. He suggested that the Committee revert to this issue at a future meeting. Furthermore, in accordance with the Understanding reached by the Committee at its last meeting, his delegation would submit questions in writing on the notifications submitted recently under this agenda item.

14. The Committee took note of the notifications and statements.

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

15. The Chairman informed the Committee that since the last meeting, the following 14 Members had submitted replies to the Questionnaire: Bolivia, Brunei Darussalam, Bulgaria, Burkina Faso, Colombia, Fiji, Japan, Korea, Namibia, New Zealand, Philippines, Senegal, Singapore and Tunisia. The relevant notifications had been circulated in the G/LIC/N/3/- series. In addition, the Secretariat had recently received a notification from Switzerland, which would be subject to review at the next meeting. To date, out of a Membership of 130 only a total of 37 had submitted replies to the Questionnaire. He expressed concern that the number of Members that had not made any notifications under this provision since the WTO Agreement entered into force remained very high and he requested those Members which had not yet complied with the requirement to do so without further delay. He also reminded Members that notifications under Article 7.3 were required from every Member on an annual basis, by 30 September.

16. The representative of Japan said that his delegation had submitted to Korea questions in writing concerning the Korean notification well in advance of the present meeting. These questions were subsequently circulated in document G/LIC/Q/KOR/1. It would be appreciated if the Korean delegation could reply to the questions, at least orally, at the present meeting, as well as in writing at a later date. He noted that paragraph 27 of the Trade Policy Review report (WT/TPR/S/19) clearly stated that Korea prohibited import of specific Japanese products in the context of its Import Diversification Programme. The Programme, which appeared intended mainly to redress Korea's persistent bilateral trade deficit, involved 258 items at the 10-digit HS level in 1993. This seemed contrary to the reply provided by Korea (in document G/LIC/N/3/KOR/1) to Question 4 where it stated that the purpose of import licensing was "not to restrict the quantity or value of imports but to monitor foreign trade trends and maintain foreign trade statistics". Despite the intention and the restrictive nature of the measures taken under the Programme, Korea did not mention anything about the Programme in the notification under Article 7.3. Korea had announced that it would halve the number of products covered under the system over a period of five years, as from 1994. This action had reduced the coverage of restrictions to 127 items as of January 1997. In conjunction with its membership in the OECD, Korea had promised to eliminate the system entirely by the end of 1999. While Japan appreciated Korea's expression of intent to eliminate the measures, it was of the view that measures based on the Programme were inconsistent with the relevant GATT 1994 provisions and ought to be eliminated without delay.

17. The representative of Korea said that the questions posed by Japan were taken note of to be transmitted to his authorities. He informed the Committee that in accordance with the Agreement on Import Licensing Procedures, the Korean Government had already notified its Import Diversification Programme to the Committee on Import Licensing in document G/LIC/N/1/KOR/1. Although it was true that the Korean Foreign Trade Act and its subordinate regulations had been submitted in the Korean language, information on this Programme in English language may be obtained from the trade policy review report submitted by the Korean Government and from the report by the Secretariat. He said that Korea's Import Diversification Programme had been introduced in 1978 in an effort to redress the structural trade deficit with Japan. Korea had not experienced a trade surplus with Japan during the last 36 years and its trade deficit with Japan in 1996 was 76.2 per cent of the total deficit. However, the Korean Government had continuously reduced the scope of this Programme and it had been announced that this system would be phased out by the end of 1999. Furthermore, Korea's replies to the Questionnaire circulated in document G/LIC/N/3/KOR/1 referred only to its general import licensing system and not directly to the Import Diversification Programme.

18. The representative of the Philippines said that her delegation was also interested in seeing the replies of Korea to questions posed by Japan. The Philippines had been aware of Korea's Import Diversification Policy for some time now and were concerned about its effects. As third country exporters, especially those which engaged in joint ventures with Japanese companies, her country too

was similarly effected by Korea's Import Diversification Policy. Products affected by the Programme were those which were covered by the Information Technology Agreement.

19. The representative of Japan thanked the Korean delegation for providing the oral reply and said although the approval of an Association of Foreign Trading Agents of Korea was required for imports of products exported by a country that had the largest trade surplus with Korea for the last five years, this approval was normally not given, and this, therefore, functioned as a *de facto* import ban. Japan was of the view that this measure was clearly in violation of the GATT 1994. As the Korean representative said, this system had not been notified to this Committee. It had not been mentioned in the replies to the Questionnaire, hence the request to Korea to provide a reply with respect to the Programme.

20. The representative of Switzerland said that the notification of replies to the Questionnaire submitted by Switzerland corresponded also to the requirements for notification under Articles 1.4(a), 8.2(b) and 5.1-5.4 of the Agreement. He further stated that the notification was being made for purposes of transparency and without prejudice to the question of applicability of the Agreement on Import Licensing Procedures to agricultural tariff quotas.

21. The representative of New Zealand expressed concern over the lack of notifications submitted under the Agreement to date. In this regard, he commended Bulgaria, which had only recently acceded to the WTO, for submitting the required notifications within a relatively short period. He asked for further details and clarification concerning the procedures notified in the replies to the Questionnaire. According to Bulgaria's reply to Question 1, non-automatic licences were required for the importation of some products with a view to preventing shortages of foodstuffs and products essential to the economy in transition. However, Bulgaria had notified a number of food products as subject to automatic licensing for monitoring purposes (Part II of Annex I). His delegation wondered whether these products were in fact subject to non-automatic import licensing, and if so what the justification was for such a measure. He noted in this context that upon accession to the WTO Bulgaria had undertaken to eliminate, and not to introduce, non-tariff measures such as licensing. Further, he sought clarification of Bulgaria's reply to Question 12 which stated that there was a licensing fee depending on the value of goods. This was inconsistent with the statement in document WT/ACC/BGR/5, page 19 that "no fees are charged for the issuing of licences". Article VIII of GATT 1994 clearly stated that fees in connection with importation, including those relating to licensing, should be limited in amount to the approximate cost of services rendered and should not represent an indirect protection to domestic products or a taxation of imports. He requested the Bulgarian delegation to explain why it considered that a fee depending on the value of goods was consistent with Article VIII of GATT 1994. Finally, the licensing system applicable to tobacco and tobacco products was unclear. Document WT/ACC/BGR/5, page 19 stated that manufactured tobacco and tobacco products were subject to non-automatic import licensing, whereas document G/LIC/N/3/BGR/1 (Annex I, Part I) listed unmanufactured tobacco as subject to non-automatic import licensing and tobacco products as subject to automatic import licensing.<sup>1</sup>

22. The representative of Bulgaria said that the questions posed by New Zealand would be transmitted to his authorities once they were received in writing. As a preliminary response to the questions posed, he wished to state that the enumeration of reasons (in reply 4) for having an automatic licensing regime, including for the prevention of shortages of foodstuffs and products, was a general legislative requirement for both import and export licensing. The list of foodstuffs and products which the representative of New Zealand referred to was in Part II of Annex I of the notification related to automatic import licensing. As for the licensing fee, this was a fee for services rendered by the customs authorities, and in the Protocol of Accession, Bulgaria had undertaken to modify the licensing fee by the end of

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<sup>1</sup>The questions were subsequently submitted in writing and circulated in document G/LIC/Q/BGR/1.

1997. He further informed the Committee that the non-automatic licensing regime for tobacco and tobacco products had been abolished recently in accordance with the commitments Bulgaria had undertaken in the course of its accession to the WTO.

23. The representative of New Zealand asked Japan on what WTO-consistent basis Japan maintained quantitative import quotas on marine products. He further requested Japan to confirm that rice was the only agricultural product for which import licensing was applied. New Zealand was of the view that the Agreement on Import Licensing Procedures was applicable to products subject to tariff-quota access.<sup>2</sup>

24. The representative of Japan did not think that this was the forum to raise questions on the WTO-consistency of import quotas on any product. However, once the question from New Zealand was submitted in writing it would be sent to his capital for a reply. As for the question regarding rice, he understood that it was the only agricultural product which was subject to import licensing. Japan took the view that tariff-rate quotas were not subject to this Agreement as importers did not need prior approval to import products subject to tariff-rate quotas and could import as much as they wished outside the tariff-rate quota.

25. The representative of New Zealand said that he took a different view on the applicability of the Licensing Agreement to tariff-rate quotas. He wondered why the Japanese delegation considered that this was not the appropriate forum to address the issue relating to marine products and requested the reasons to be reiterated in the written reply. He requested the delegation of Korea to expand on its reply to Question 4 (G/LIC/N/3/KOR/1), which stated that the purpose of import licensing was "not to restrict the quantity or value of imports but to monitor foreign trade trends and maintain foreign trade statistics". His delegation queried whether a system of import licensing was necessary simply for the purpose of monitoring trade and whether Korea had considered alternative mechanisms for achieving this. He further requested Korea to clarify how it administered quotas for products subject to restrictions as to their quantity or value, in particular, the criteria and conditions by which import licences were allocated<sup>3</sup>.

26. The representative of the United States said that in accordance with the Understanding reached by the Committee at its last meeting, his delegation would submit questions in writing on the notifications submitted recently under this agenda item.

27. The representative of the European Communities said that her delegation would submit the relevant notification within the next few days. She wished to reserve the right to pose questions on the notifications listed in the airgram at a later stage.

28. The representatives of Australia and Canada said that they would submit their replies to the Questionnaire shortly.

29. The Committee took note of the notifications and statements.

D. Notifications under Article 5

30. The Committee took note of the notifications submitted by Argentina and Hong Kong circulated in the G/LIC/N/2/- series.

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<sup>2</sup>The questions were subsequently submitted in writing and circulated in document G/LIC/Q/JPN/1.

<sup>3</sup>The questions were subsequently submitted in writing and circulated in document G/LIC/Q/KOR/2.

E.     Other business  
          Date of next meeting

31.     The next meeting of the Committee will be held on 15 October 1997.

F.     Election of Officers

32.     The Chairman stated that, in line with the "Guidelines for the Appointment of Officers to WTO bodies" (WT/L/31), the Chairman of the Council for Trade in Goods (CTG) had conducted consultations on the appointment of chairpersons of the subsidiary bodies of the CTG, as a result of which consensus had been reached on the nomination of Mr. Tomasz Jodko (Poland) as Chairman of the Committee on Import Licensing (G/C/M/17, paragraph 5).

33.     The Committee elected Mr. Tomasz Jodko (Poland) as Chairman of the Committee by acclamation, to hold office until the end of the first meeting in 1998, under Rule 12 of the Committee's Rules of Procedure (G/L/147).

34.     The Committee elected Mr. Rossman Ithnain (Singapore) as the new Vice-Chairman.