
Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 29 APRIL 1999

Chairperson: Mrs. Marie Gosset (Côte d'Ivoire)

The Committee on Import Licensing held its ninth meeting on 29 April 1999. The agenda proposed for the meeting, contained in WTO/AIR/1070, was adopted as follows:

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1. Notifications

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

1.1 The Chairperson said that since the last meeting, the Secretariat had received notifications under Articles 1.4(a) and/or 8.2(b) from the Czech Republic, European Communities, Iceland, Indonesia, Panama, Romania, Singapore, Trinidad and Tobago and Tunisia. In addition, a notification received from Zimbabwe prior to the last meeting was also before the Committee for review. These notifications were circulated in the G/LIC/N/1-series.

1.2 With respect to the current status of notifications, she informed the Committee that since the entry into force of the WTO Agreement, the Committee had received notifications under the above two provisions from only 74 Members, and requested Members that had not yet provided any information concerning their laws and regulations and publications relevant to import licensing to submit their notifications without further delay.

1.3 The Committee took note of the notifications and the statement made by the Chairperson.

(ii) Notifications under Article 7.3 (replies to the Questionnaire on Import Licensing Procedures)

1.4 The Chairperson informed the Committee that since the last meeting, the following 14 Members had submitted replies to the Questionnaire: Chile, the European Communities, India, Indonesia, Liechtenstein, Macau, Morocco, Norway, Panama, Peru, Switzerland, Trinidad and Tobago, Tunisia and Uruguay. In addition, eight notifications received from Bolivia; Hong Kong, China; Iceland; Korea; Malta; the Philippines; the United States and Zimbabwe were also before the Committee for review. The relevant notifications had been circulated in the G/LIC/N/3/- series. She suggested that the review of the notification from India which had so far been circulated only in English and Spanish be postponed to the next meeting.

1.5 With respect to the current status of notifications, the Chairperson informed the Committee that since the entry into force of the WTO Agreement, a total of only 71 Members had thus far submitted notifications under this provision. This included notifications from 11 Members in 1995, 22 in 1996, 25 in 1997, 26 in 1998, and so far from only seven Members in 1999. Recalling that, pursuant to Article 7.3 of the Agreement and the procedures agreed in the Committee, all Members were required to submit replies to the Questionnaire on an annual basis by 30 September, and noting that notifications were overdue from many Members, she requested those Members that had not yet complied with the requirement to submit their notifications without any further delay. She also recalled that even those Members which had not made any changes to their import licensing procedures since their previous notification were required to notify this fact to the Committee.

1.6 The representative of the United States wished to reserve the right to raise questions, if necessary, on the notification from India.

1.7 The Committee took note of the notifications and the statement made by the Chairperson. It agreed to postpone the review of the notification from India to its next meeting.

(iii) Notifications under Article 5 (new import licensing procedures or changes)

1.8 The Committee took note of the notifications submitted since the last meeting by Argentina, India, Mexico and Singapore circulated in the G/LIC/N/2/- series.

2. Other Business

(i) Brazil's import licensing procedures

2.1 The representative of the European Communities sought clarification on the Brazilian system of import licensing, in particular as concerns the "Comunicado 23" of 24 August 1998. This communiqué modified "Comunicado 37/17" insofar that the products subject to non-automatic import licensing were not listed any more in its Annex II, but were encoded in the "Tabela Administrativa" of the SISCOMEX. This "Tabela Administrativa" was a field in the Brazilian informatic system for the handling of import/export operations. Access to the SISCOMEX system was limited to authorized and registered users, mostly Brazilian customs brokers. In practical terms, this meant that the EC exporters became aware of the requirement of an import licence only when they or their agents in Brazil accessed the SISCOMEX in order to initiate the import/export procedure. As this system did not allow an *a priori* knowledge of the requirement for a licence, it seemed doubtful whether it could be considered as a publication within the meaning of Article 1.4(a) of the Agreement on Import Licensing Procedures, or compatible with Article X.1 of the GATT 1994. This system had not yet been notified to WTO. In addition, there were licence applications indefinitely pending. At least in all cases where minimum prices were implemented,

the Brazilian authorities did not explicitly refuse the issuing of the licence, but left it indefinitely pending. Thus *de facto* the licence was refused but the applicant did not have any official decision to appeal against, or any official reason for the non-issuing of the licence. In this respect, the Brazilian system appeared to be in breach of Article 3.5(e) of the Agreement. Her authorities were also concerned with "Portaria No. 772" of the Ministry of Health and "Portaria No. 182" of the Ministry of Agriculture. During a recent visit of experts to Brazil, made within the framework of the Trade Barrier Regulation investigation of Sorbitol and Carboxymethylcellulose (the CERESTAR case), the Brazilian authorities had explained that these Portarias were to be considered as simply explanatory of the previous more general pieces of legislation that still remained in force. The link between these measures and licensing was important in terms of assessment of their compatibility with WTO rules, in particular with the Agreements on Import Licensing Procedures, Agriculture, and Sanitary and Phytosanitary Measures. Her authorities were also concerned that these had not yet been notified to the WTO. Another point of concern to the EC was the imposition of minimum prices and payment terms as conditions for the issuing of non-automatic import licences, which had been contested by the European industry. According to recent information received from textile exporters, it appeared that in certain cases minimum prices were imposed later in the importing process, i.e. at the time of the import declaration. These administrative regulations were apparently applied in the general framework of import licensing requirements by Brazil but were not published. Therefore, her authorities and importers/exporters had no knowledge of this, and consequently there were no means of appealing against such regulations. She also wished to point out that following the "FEBELTEX" Trade Barrier Regulation investigation on textile products which the EC had carried out, the Brazilian authorities had assured the EC through the Ministry of Foreign Affairs that several textile products would be removed from the list of products subject to non-automatic import licensing by the end of March this year (as had happened with respect to some steel products subsequent to the Eurofer TBR complaint). The EC had not yet received any official confirmation that these products had been removed from the list. She wished to know the situation with respect to this as well.

2.2 The representative of Switzerland stated that a letter had been sent to the Brazilian Mission by his authorities seeking some information on the Brazilian import licensing system. As was the case for the EC exporters, the non-automatic import licensing system applied by Brazil created trade problems for Swiss exporters. One major difficulty was linked to the uncertainty and the lack of transparency regarding the functioning of the system and to the unknown scope of products coming under this system. Another problem lay in the fact that minimum price requirements must be fulfilled to be able to export to Brazil. His delegation, therefore, requested Brazil to inform Switzerland of the detailed functioning of the non-automatic import licensing system, as well as the objectives of the measure, *inter alia*, in relation to the Agreement on Import Licensing Procedures. Switzerland would also appreciate if Brazil could answer the following questions: Did Brazil notify the system to the Committee on Import Licensing? If so, under which document code had this notification been circulated? Could Brazil indicate on which legal basis the requirement for minimum prices was based internally? What was its justification under GATT 1994? The same questions applied to the seemingly compulsory payment terms. Could Brazil explain how it justified the current non-automatic import licensing system with respect to Articles 1, 3, 5 and 8 of the Agreement on Import Licensing Procedures? In view of the fact that the questions posed by his delegation had been transmitted to the Brazilian delegation rather late, he could understand that it was difficult for Brazil to provide responses at the current meeting. His delegation wished to have replies to the questions in writing in order to define further steps to be taken to find a solution.

2.3 The representative of the United States said that his delegation associated itself with the position taken by the EC on this issue as well as with the questions raised by the EC and by Switzerland.

2.4 The representative of Brazil took note of the concerns raised by the delegations of the EC, Switzerland and the United States. He confirmed having received the questions in writing from Switzerland and said that the information requested would be provided shortly. As regarded the points raised by the EC, it was his understanding that his authorities would provide the answers to the specific questions through the Brazilian Mission in Brussels. The non-automatic licensing system in Brazil had revealed itself to be extremely useful for customs purposes, in terms of better control of imports into Brazil. This procedure had not been used to impede entry into Brazil of any specific product. In cases where there had been justified complaints regarding a more expedite entry into Brazil for specific products, customs authorities had examined those allegations and had tried to solve the specific problems. In response to a request made by the delegation of Mexico, he agreed, for reasons of transparency, to submit to the Committee copies of his replies to the EC and Switzerland.

(ii) Trade Facilitation

2.5 The Committee took note of the response of the Chairperson to the Chairman of the Council for Trade in Goods summarizing the discussion held in this Committee, at informal and formal level, on the subject of trade facilitation (G/C/W/149, paragraph 7 and G/LIC/M/8, paragraph 2).

(iii) Date of the next meeting

2.6 The next meeting of the Committee will be held on 21 October 1999.

3. Election of officers

3.1 The Committee re-elected Mrs. Marie Gosset (Côte d'Ivoire) as Chairperson of the Committee by acclamation, to hold office until the end of the first meeting in 2000, under Rule 12 of the Committee's Rules of Procedure (G/L/147).

3.2 The Committee elected Mr. Lars Andersen (Norway) as the new Vice-Chairperson.
