

WORLD TRADE ORGANIZATION

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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 20 OCTOBER 1998

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

The Committee on Import Licensing held its eighth meeting on 20 October 1998. The agenda proposed for the meeting, contained in WTO/AIR/921, 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 Brazil; Chad; Hong Kong, China; St. Kitts and Nevis; Mauritius; Panama; and Turkey. These notifications were circulated in the G/LIC/N/1-series. In addition, two notifications received from Korea and the Philippines prior to the last meeting were also before the Committee for review. The Secretariat had also received a notification from Zimbabwe which the Chairperson suggested be reviewed at the next meeting.

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 54 Members (the European Communities and its member States counted as one Member), 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 and agreed to review the notification from Zimbabwe at its next meeting.

(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 seven Members had submitted replies to the Questionnaire: Brazil, Costa Rica, Cyprus, Iceland, Jamaica, Malta and Turkey. The relevant notifications had been circulated in the G/LIC/N/3/- series. Three notifications received from Bolivia, Korea and the Philippines prior to the last meeting were also before the Committee for review. In addition, the Secretariat had received three notifications since the Airgram convening this meeting had been issued: from Hong Kong, China; the United States; and Zimbabwe. She suggested that the Committee examine these three notifications as well as the notifications from Bolivia, Iceland, Korea, Malta and the Philippines which had not yet been circulated in the three working languages at its 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, only a total of 53 Members (the European Communities and its member States counted as one Member) had thus far submitted notifications under this provision. This included notifications from 11 Members in 1995, 22 in 1996, 25 in 1997, and only 19 in 1998 up to the date of this meeting. 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.

1.6 The representative of the United States wished to reserve the right to raise questions on the notification from Brazil at a later date.

1.7 The Committee took note of the notifications made by Brazil, Costa Rica, Cyprus, Jamaica, and Turkey and the statements made. It agreed to postpone the review of the notifications from Bolivia, Iceland, Korea, Malta and the Philippines to its next meeting.

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

1.8 The Chairperson informed the Committee that since the last meeting, notifications under Article 5 had been received from Brazil, India, Japan and Panama. The notifications had been circulated in the G/LIC/N/2/- series. She suggested that the review of the notification from India which had so far been circulated only in English be postponed to the next meeting.

1.9 The representative of the European Communities, expressing concern over the current status of notifications in general, requested those Members which had not yet submitted notifications under Articles 1.4(a), 8.2(b), 7.3 or 5 to do so within a reasonable period of time for the sake of transparency of their licensing systems as well as to enhance the efficiency of the work of this Committee.

1.10 The representative of Japan shared the views of the European Communities on this point and deemed it important for the purpose of transparency that remaining Members made their notifications as required under the provisions of the Agreement.

1.11 The Committee took note of the statements made as well as the notifications from Brazil, Japan and Panama and agreed to postpone the review of the notification made by India to its next meeting.

(iv) Situation with respect to the invocation of the delayed application provisions of the Agreement by developing country Members

1.12 The Chairperson referred to footnote 5 to Article 2.2 of the Agreement which allowed developing country Members which were not Parties to the Tokyo Round Licensing Agreement some flexibility with respect to the application of certain provisions of Article 2.2(a). Upon notification to the Committee, they were allowed a maximum period of two years from the date of WTO Membership to bring their automatic import licensing procedures in line with the requirements of subparagraphs 2.2(a)(ii) and (a)(iii). Subparagraph 2.2(a)(ii) provided for the submission of applications for automatic licences on any working day prior to customs clearance of the goods; and subparagraph 2.2(a)(iii) required the applications for automatic import licences, when submitted in appropriate and complete form, to be approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days.

1.13 She recalled that since the entry into force of the WTO Agreement, the following 24 developing country Members had invoked the above provisions thus delaying the application of the two requirements for a period of up to two years: Bangladesh, Bolivia, Brazil, Burkina Faso, Cameroon, Colombia, Costa Rica, Côte d'Ivoire, Dominican Republic, El Salvador, Gabon, Guatemala, Honduras, Indonesia, Kenya, Malaysia, Myanmar, Sri Lanka, Thailand, Tunisia, Turkey, United Arab Emirates, Uruguay and Venezuela. Members that had invoked the above provisions as well as the dates on which they became WTO Members were listed in the Annex of the draft Annual Report of the Committee (G/LIC/W/11 and G/L/264), as well as in Section II. C of the background document for the second biennial review (G/LIC/W/10 and G/LIC/6). She noted in this respect that the two-year period of delay allowed under the Agreement had expired for all the above-mentioned Members and presumed, therefore, that the requirements of the two provisions were now being complied with by them. She recalled in this connection that the invocation of the above provisions did not exempt the Members concerned from the obligation to notify under the Agreement; the mandatory notifications of the Agreement included publications and legislation relevant to licensing, and replies to the Questionnaire by 30 September each year. She therefore urged those Members that had not yet made the necessary notifications under the Agreement to do so without any further delay.

1.14 The representative of the United States requested that the above statement be reflected in the Committee's annual report to the Council for Trade in Goods (CTG) as well as in the background document for the second biennial review.

1.15 The Committee took note of the statements made.

2. Trade facilitation

2.1 The Chairperson drew the attention of the Committee to the exploratory work carried out by the CTG on the issue of "trade facilitation", which included a symposium on the subject held in March 1998 (G/C/W/113 and G/C/W/115). As Members were aware, subsequent consultations in the CTG had led to an agreement on a work programme on trade facilitation as a result of which several sub-committees of the CTG, including the Committee on Import Licensing, had been requested to

consider this issue and address those aspects of trade facilitation which it regarded as being related to this Agreement. The results of the discussions in this Committee on this subject were required to be conveyed to the CTG for its informal discussions in March 1999 (G/C/M/34, paragraphs 6.6-6.9). The CTG had considered that the information on work being done relating to trade facilitation in other WTO bodies would be a necessary input to the CTG's own work.

2.2 The representative of the European Communities welcomed the opportunity to examine the implications of simplified trade procedures on import licensing procedures in this Committee. In the context of the work on trade facilitation, her delegation had made a number of proposals in the CTG intended to simplify trade procedures which had a direct relevance to import licensing procedures. Details of the EC proposals were contained in document G/C/W/122, in which her delegation had stressed *inter alia* the importance of reducing and harmonizing data and documents required from importers and exporters and modernizing and streamlining customs procedures. The proposals made by the European Communities included the introduction in a WTO framework measures to reduce and harmonize the data and documentation requirements for imports and exports. Traders around the world were increasingly concerned about the burden of these requirements and had called for their reduction and streamlining. This was particularly important for small and medium enterprises and companies in developing countries. The EC had furthermore proposed to move from transaction-based customs controls to selective controls based on modern customs techniques of pre-arrival processing, auditing, post-clearance payments of duties, risk management and green-channel clearance for authorized traders; to concentrate all official controls in the hands of one agency, normally customs; and the progressive automation of customs and other trade controls to enable import and export administration to be carried out by electronic means, thus speeding up the process of clearing goods and improving levels of customs management and control.

2.3 The European Communities had argued that it would benefit all traders if a framework of WTO rules could be developed to simplify procedures on the lines described. As far as import licensing procedures were concerned, they should also be subject to the proposed measures of simplification, for example in the following ways: progressive use of information technology to process licences, in order to increase efficiency and speed and reduce errors in processing; ensuring that data and documentation requirements for traders were the minimum necessary for effective controls, and were harmonized with international standards, codes, etc.; ensuring that import licensing data was aligned to requirements for other forms of import or export clearance, so that traders did not need to generate different data sets for each control purpose; ensuring that licences could be applied for and obtained in a way that did not require submission of data to multiple agencies in the importing country; and ensuring, where possible, that controls of licences were carried out by the importing country in the same framework as controls for other purposes to minimize delays in goods clearance.

2.4 While these were some preliminary comments, her delegation believed that the work on trade facilitation in the context of the CTG would have beneficial implications for import licensing procedures. Simplification of import licensing procedures was in the interest of all exporters as well as importers. Her delegation would make a contribution on the links between import licensing and trade facilitation at the next meeting of this Committee. Noting that the CTG should study all these proposals and the reports from its subsidiary bodies at its meeting in March 1999, her delegation thought it would be useful if a meeting of this Committee were held in early February 1999 with a view to having a serious debate and hearing the views of other delegations thus enabling the Committee to report to the CTG for its meeting in March 1999.

2.5 The representative of the United States believed that transparency and rapid release of goods, the objectives of trade facilitation, could be better accomplished within this Committee if Members of the Committee were more diligent with respect to implementing the obligations of the Agreement itself.

2.6 The representative of Hong Kong, China, supporting the statement made by the United States, said that import licensing was an important element in trade facilitation, as reflected in the discussions in the Trade Facilitation Symposium and in subsequent discussions in the CTG. Her delegation also urged Members to abide by the provisions of the Import Licensing Agreement, especially bearing in mind that trade facilitation was an important objective. In Hong Kong, China, import licensing procedures were maintained only for health- and enforcement-related purposes and to the extent necessary to fulfil its bilateral and multilateral obligations. Hong Kong, China was continuing its efforts to simplify and rationalize its import licensing procedures, as reflected in its latest notification of replies to the Questionnaire. In the trade facilitation area, her delegation believed that Members had much to contribute and that this contribution would be important to the furtherance of the objective of trade facilitation. Noting that other organizations and fora such as the WCO and APEC were also involved in the area of trade facilitation, she believed that the WTO should not, however, duplicate its work with such organizations. She hoped that Members would submit as many proposals as they could for discussion in this Committee at its future meetings. Hong Kong, China would also make an active contribution to the discussions.

2.7 The representative of Malaysia supported the statements made by the United States and Hong Kong, China and said that he too looked forward to a more substantive discussion on this topic at the next meeting of the Committee. Referring to the statement made by the European Communities, he sought clarification as to what was meant by "risk management and green-channel clearance for authorized traders" and as to how to distinguish an "authorized trader".

2.8 The representative of Egypt, noting that the statement made by the European Communities included a number of suggestions relating to automation of customs and other trade controls, pre-arrival processing, auditing and modern customs techniques, questioned whether the European Communities envisaged anything in the field of cooperation with developing countries or technical assistance within its proposal.

2.9 The representative of the European Communities responded that technical assistance, in fact, was a priority for the European Communities, hence one aspect of their proposals would be devoted to this issue. Her delegation took due note of the statements made by Egypt and Malaysia in this respect.

2.10 The Chairperson, recalling that the Committee was required to report to the CTG on this subject by March 1999, proposed that the Committee hold a half-day informal meeting on 9 February 1999 to continue the discussion on trade facilitation, and another half-day special meeting on 23 February 1999 in order to agree on a report to the CTG. She encouraged Members to submit to the Committee any ideas and proposals they might have on this issue as early as possible.

2.11 The Committee took note of the statements and agreed to the dates proposed.

3. Report (1998) to the Council for Trade in Goods (G/LIC/W/11)

3.1 The Chairperson referred to the draft Report of the Committee covering its activities in 1998 which had been circulated as document G/LIC/W/11 for consideration and adoption at the present meeting, and said that the Report would be updated to reflect the notifications received up to the present meeting as well as the discussions at this meeting.

3.2 The representative of Hong Kong, China, referring to paragraph 9 of the draft Report, noted that the mandatory notification requirements under Articles 1.4(a), 8.2(b) and 7.3 had been complied with by only about half of the WTO Members. This being a situation similar to the one in 1997, she wondered whether a sentence similar to the final sentence of the 1997 Annual Report should be added to this year's Report.

3.3 The representative of the European Communities shared the views of Hong Kong, China.

3.4 The representative of Egypt requested the Secretariat to circulate the revised Report for comments by delegations before circulating it as the Report of the Committee to the CTG.

3.5 The Committee took note of the comments made. The Report as updated and adopted was circulated as document G/L/264.

4. Second biennial review of the implementation and operation of the Agreement (G/LIC/W/10)

4.1 The Chairperson referred to the background document by the Secretariat containing factual information and circulated as document G/LIC/W/10 in preparation for the Second Biennial Review of the Agreement foreseen under Article 7.1. The information contained in the document would be updated to take into account the discussion at the present meeting as well as notifications received up to this meeting.

4.2 The representative of the United States requested that Section II.C of the document be updated to reflect the statement made by the Chairperson regarding the invocation of delayed application provisions of the Agreement, and that the tables relating to notifications in Sections II.D and II.E be updated to include all notifications received up to the present meeting as well as those Members that had not yet notified.

4.3 The representative of the European Communities supported the request made by the United States for a full synoptic table which reflected both Members that had notified and those that had not in order to ensure transparency.

4.4 The Committee took note of the comments. The document was updated in light of the discussion at the meeting and was circulated as document G/LIC/6.

5. Other Business

(i) Malaysia's approval permit requirement

5.1 The representative of the United States expressed concern over the approval permit requirement introduced by Malaysia in October 1997 on imports of heavy machinery and construction equipment. This was essentially a form of import licencing on all imports of new or used heavy machinery and construction equipment in order to promote the reconditioning of existing equipment, conserve foreign exchange reserves and address its balance of trade. His delegation was concerned that the purpose and application of this licensing regime of which certain aspects appeared to be non-automatic in nature might not be compatible with Malaysia's obligations under the Agreement. For example, they understood that the Malaysian authorities gave priority to processing those import approval permit requests which involved state enterprises or projects or those which were, at the discretion of the authorities, otherwise important to national priorities. The Malaysian authorities also warned importers not to proceed with shipments of the products covered to Malaysia without first having an approval permit granted. In accordance with the procedures established at the Committee, his delegation had submitted questions on this measure to the Malaysian delegation in writing, with copies to the Secretariat¹, and they looked forward to receiving Malaysia's answers.

5.2 The representative of Malaysia said that answers to the questions posed by the United States would be provided in writing in due course well before the next meeting. He further reiterated that

¹ Circulated as document G/LIC/Q/MYS/1.

the implementation of automatic licensing with effect from October 1997 was in full compliance with the provisions of the Agreement on Import Licensing Procedures as well as all other provisions of GATT 1994.

(ii) Mexico's new import licensing procedures

5.3 The representative of Korea expressed concern over Mexico's new import licensing procedures, called the Automatic Import Advice System or the Prior-to-import Notification System. He referred in this respect to the preamble and Article 2.2(a) of the Agreement which stipulated that import licensing procedures shall not be utilized in a manner contrary to the principles and obligations of GATT 1994, and that automatic import licensing shall not be administered in such a manner as to have restricting effects on imports subject to automatic licensing. Under Mexico's new import licensing system, importers of certain products originating in certain countries, including Korea, were required to declare the import price and submit a price verification report if the price was lower than the reference price. This system currently applied to 12 items, including textiles, clothing and steel, and would soon be extended to an additional 62 items. Even if Mexico argued that this system was designed for statistical purposes, Korea believed that the system might violate the MFN principle of Article I of GATT 1994 and had an import-restricting effect on certain products originating in the countries subject to the system. Korea hoped that the system would not be operated in a manner restricting imports or discriminating against imports from certain countries.

5.4 The representative of Hong Kong, China, sharing the views expressed by Korea regarding the Mexican Automatic Import Advice System, said that her delegation was concerned that the import licensing procedures had not been notified by Mexico to the Committee, although it should have been notified, according to Article 5 of the Agreement, within 60 days of its publication. While she did not want to discuss the rationale of the import licensing system which was based on the concept of reference prices at this meeting, she had doubts as to whether this was a pure automatic licensing system. She was disappointed that Mexico had not provided clarifications regarding the operation of the licensing procedures, in particular as to what happened after the exporter submitted the necessary proof of the unit price of the product by means of a price verification report. She wondered what criteria the Mexican officials used to judge whether or not imports of a certain merchandise should be allowed. Her delegation urged Mexico to notify details of these procedures as soon as possible.

5.5 The representative of Thailand, speaking on behalf of ASEAN, said that he shared the concerns expressed by Korea and Hong Kong, China over the Mexican procedures. The system which required importers to declare the price of the goods might impose an additional administrative burden. Much information regarding the Mexican procedures was yet to be known in a transparent manner. The so-called Automatic Price-Monitoring System or Import Advice System was designed and being applied to a certain group of products from a certain group of countries. ASEAN was concerned that the procedures were not being applied in a manner consistent with the principles and obligations of GATT 1994. Given the fact that the Mexican authorities had made it known that the procedures would be applied on a temporary basis, it was the expectation of ASEAN that Mexico would do away with the measures in the shortest time possible. ASEAN requested this issue to be inscribed in the agenda of the next meeting and hoped that the Mexican authorities would provide additional information on the procedures for the next meeting.

5.6 The representative of Mexico informed the Committee that a communication on the new scheme addressed to the Chairman of the CTG had, in fact, been sent on 19 October 1998 by Mexico a copy of which was also sent to this Committee². He took due note of the statements made by delegations in this respect in order to refer them back to his capital for consideration.

² Circulated as document G/LIC/N/2/MEX/1.

5.7 The Committee took note of the statements.

(iii) Tentative dates for meetings of the Committee in 1999

5.8 The Committee agreed to the following tentative dates for the meetings of the Committee on the understanding that additional meetings would be convened if necessary:

9 February 1999: Informal meeting to continue the discussion on trade facilitation;

23 February 1999: Special meeting to agree on a report to the CTG on trade facilitation;

29 April 1999: Regular meeting; and

21 October 1999: Regular meeting.
