



Committee on Import Licensing

**MINUTES OF THE MEETING HELD ON 20 OCTOBER 2014**

CHAIRPERSON: MR. TSOTETSI MAKONG (LESOTHO)

The Committee on Import Licensing held its forty-second meeting on 20 October 2014, under the chairmanship of Mr Tsotetsi Makong (Lesotho). The agenda proposed for the meeting, contained in document WTO/AIR/4369, was duly adopted.

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## **1 MEMBERS' COMPLIANCE WITH NOTIFICATION OBLIGATIONS – DEVELOPMENT SINCE THE LAST MEETING**

1.1 The Chairman informed the Committee that, since the last meeting and up to 10 October 2014, a total of around 50 notifications had been received under various provisions of the Agreement, including 14 notifications under Article 1.4(a) and/or 8.2(b); 7 under Article 5; and 28 notifications under Article 7.3. In addition, the meeting also considered 4 notifications that were pending from the last Committee meeting. The Chairman noted new notifications from the European Union under Article 7.3; Nigeria's preliminary response to Norway, Iceland, and Uruguay regarding its policy on importation of fish and fish products; as well as new notifications from Brazil and written replies to EU Questions, which were received after the airgram was issued and will be considered at the Committee's next meeting.

1.2 The Chairman gave an overall picture of Members' compliance with notification requirements under this Agreement. As of 20 October 2014, there were still **16** Members which had not submitted any notification under any provision of the Agreement since joining the WTO; **28** Members which had not submitted notifications concerning their laws and regulations, as well as sources of information under Articles 1.4(a) and/or 8.2(b). Since the Committee's last meeting, **7** notifications from **3** Members under paragraph 1-4 of Article 5 had been received and **28** N/3 notifications had been received from 25 Members.

1.3 The Chairman congratulated Samoa for submitting its notification under Article 1.4(a) for the first time, and Tajikistan and the Russian Federation for submitting their first N/3 notifications, which were ready for consideration today. At the same time, the Chairman reminded the Committee that (1) those Members not applying import licensing procedures or which had no laws or regulations relevant to the Agreement were still required to notify the Committee of this fact; (2) the time-line requirement of 60 days should be respected under Article 5.1; (3) Members were requested to complete the Questionnaire on Import Licensing Procedures before 30 September each year.

1.4 The Chairman observed that, from a historical perspective, out of a membership of 132 (with the EU-28 counted as one), **25** Members had never submitted replies to the Questionnaire under Article 7.3. The Chairman highlighted that transparency was one of the key pillars of this Agreement and encouraged Members experiencing difficulty in fulfilling their notification obligations to consult the Secretariat for technical assistance and to request capacity-building activities.

1.5 The representative of Brazil took the floor to inform the Committee of new notifications submitted by Brazil that morning. The representative of the United States thanked the Chairman for the report, at the same time expressing disappointment with the poor notification record. He supported the Secretariat's continued efforts to enhance the timeliness and completeness of the notifications and questionnaire.

1.6 The Committee took note of the statements made.

## **2 QUESTIONS AND REPLIES FROM MEMBERS ON SPECIFIC TRADE CONCERNS**

2.1 Moving to the questions and replies circulated under the G/LIC/Q document series, the Chairperson informed the Committee of the three documents containing questions on the licensing regimes maintained by other Members, and the 11 documents containing responses to the written questions, which were in due course to be considered by the Committee, following the order of the airgram.

### **G/LIC/Q/BRA/18**

2.2 The representative of the European Union indicated that she would refer to this issue under agenda item 5.

### **G/LIC/Q/MNG/1**

2.3 The representative of the European Union pointed out that the European Union had submitted a set of questions to Mongolia seeking clarification on the import licensing procedures currently in

place in Mongolia, and that the European Union would welcome Mongolia's replies. She underlined the importance of having a clear picture of the procedures in force and, as her delegation had already indicated in the context of Mongolia's recent Trade Policy Review, the European Union remained willing to cooperate with Mongolia to prepare such documentations for its importers.

2.4 The Committee took note of the statement made.

#### **G/LIC/Q/ARG/15**

2.5 The representative of the European Union thanked Argentina for its replies as circulated in document G/LIC/Q/ARG/15 in May 2014, and raised the following questions regarding some aspects of Argentina's replies, indicating that the European Union stood ready to provide these questions in writing.

- Introduction of the reply ("Modifying these errors leads to the submission of a new form, which will be automatically approved and as a result the importation can take place."): Can Argentina explain how errors have been communicated in such a way that they can be easily understood and corrected? How many new resubmitted forms, in which an error has been corrected, have not been automatically approved in 2013 and 2014? What percentage is this? How long did it take for the new, amended forms to be approved?
- Reply to Question 3: The reply includes "Observations are only made on applications when the form contains mistakes." However, the WTO Agreement on Import Licensing Procedures, Article 1(7) says "No application shall be refused for minor documentation errors which do not alter basic data contained". Can Argentina inform how many DJCP (sworn declaration of product composition) applications have been "observed" in 2013 and 2014? Which rule does Argentina apply to distinguish between minor errors and those that require observation? Where is that rule published?
- Reply to Questions 5 and 6: "The DJCP procedure does not take longer than ten working days." This is indeed the limit stipulated in the ILA. But is it specified in either Resolution 248/13 or 99/13 or any other relevant text? Q6 asks specifically "what is the relevant legal provision" but Argentina doesn't say in its replies.
- Reply to Question 10 ("The DJCP was established by Resolution 850/1996 in order to comply with the National Fair Trade Law, No. 22.802, so that importers fulfil the same requirements as domestic producers): There is a discrimination of imported products with regard to the obligations of local producers, as the latter do not report electronically to a database the information like importers have to do, which imposes a delay and administrative burden. Local producers indicate composition through labelling, without forms being submitted. What other requirements on domestic producers are enforced on imports by DJCP that could not be enforced through labelling?

2.6 The representative of Argentina thanked the European Union for these questions and requested the EU to provide the questions in writing so as to transmit them back to capital and then come back with further replies.

2.7 The Committee took note of the statements made.

#### **G/LIC/Q/COL/3**

2.8 The representative of the United States thanked Colombia for its responses, which were under careful review back in Capital.

The Committee took note of the statement made.

#### **G/LIC/Q/ECU/7**

2.9 The representative of the European Union pointed out that the EU had recently submitted a set of questions to Ecuador seeking additional clarifications and written replies on the following aspects of the notification submitted as document G/LIC/N/1/ECU/5:

- Regarding COMEX Resolution No. 98 providing for the allocation of annual import quotas for hydrochlorofluorocarbons (HCFCs) the EU would be grateful to receive further clarifications about the annual quota volume attributed to imports, as well as the criteria for pre-import controls pursuant to COMEX Resolutions No. 45 and 73.
- Regarding COMEX Resolution Nos. 81, 89 and 95 the EU would like to be informed about the criteria applied to qualify for an import licence for the products concerned or that automatic licensing procedures are envisaged.

2.10 The representative of Canada appreciated Ecuador's responses, and noted that they were being reviewed in Capital. He pointed out that Canada remained concerned that Ecuador's non-automatic import licences could negatively impact Canadian exports of certain agricultural and food products and certainly would continue to monitor this issue.

2.11 The representative of the United States also noted that Ecuador's responses were under careful review back in capital, and that the US might submit follow-up written questions if necessary. He expressed disappointment that Ecuador did not attend this meeting.

2.12 The Committee took note of the statements made.

#### **G/LIC/Q/IDN/32**

2.13 The representative of Indonesia thanked Canada, the European Union, Japan, New Zealand, and the United States for their interest regarding Indonesian import licensing on animal and animal products in MOT regulation No. 46/2013 and MOA regulation No. 84/2014 and indicated that Indonesia had replied to the questions in document G/LIC/Q/IDN/21 (21 May 2014).

2.14 She clarified that, in general, any import licensing requirement in Indonesia was imposed with justified reasons so as to ensure that all imported goods complied with the rules and regulations issued by the Government, including with regard to requirements on the protection of human health, animal protection, environment protection, and consumer protection from deceptive practices, and to discourage the importation of goods with very low standards. The licences were issued on a non-discriminatory basis. The application could also be submitted via an online system so as to expedite the licensing process. Indonesia believed that its import licensing procedure was not an obstacle to trade and that it was in accordance with the WTO Agreement.

2.15 The representative of the United States thanked Indonesia for its responses. He indicated that they were under careful review back in Capital and that his government might submit follow-up written questions if necessary.

2.16 The representative of Canada shared the points raised by the United States. He observed that Canada remained interested and concerned with these measures and reserved the right to come back with new questions.

2.17 The representative of the European Union echoed the views of the United States and Canada and indicated that they might come back to the issue after careful review.

2.18 The representative of New Zealand thanked Indonesia for the responses and appreciated the opportunity to see the data in writing. He looked forward to continuing to work with Indonesia on some of the concerns.

2.19 The representative of Chinese Taipei thanked Indonesia for providing detailed answers regarding their laws and regulations and expressed continued interest in those measures on horticultural products.

2.20 The Committee took note of the statements made.

#### **G/LIC/Q/IDN/33**

2.21 The representative of Indonesia expressed appreciation to the delegation from the United States for their interest in Indonesian policy relating to import licensing of cellular phones and handheld and computer tablets in MOT regulation No. 82/2012. In this regard, she apologized for

providing an incorrect reply, contained in document G/LIC/Q/IDN/33, and undertook to provide a reply to the United States in due course.

2.22 The representative of the United States deferred his statement until agenda item 7.

#### **G/LIC/Q/MYS/9**

2.23 The representative of Malaysia noted that they had circulated replies, through the Secretariat, on 2 May 2014, and looked forward to discussing any issue with interested Members on a bilateral basis.

2.24 The representative of the United States highlighted that the replies were under careful review in his capital, and that his government might submit follow-up written questions if necessary.

2.25 The representative of Canada expressed interest in this issue and would continue to monitor it.

2.26 The Committee took note of the statements made.

#### **G/LIC/Q/MYS/10 and G/LIC/Q/MYS/11**

2.27 The representative of Malaysia thanked the European Union for both sets of questions and pointed out that they had replied to the questions in May and August respectively, and reaffirmed their commitment to further bilateral discussion of these issues.

2.28 In response, the representative of the European Union thanked Malaysia for its replies and confirmed that the European Union did not have any further questions at this time, but reserved the right to revert with follow-up questions once they had examined the replies in more detail.

2.29 The Committee took note of the statements made.

#### **G/LIC/Q/LCA/3**

2.30 The representative of the United States thanked St. Lucia for their written answers. He pointed out that, while understanding that St. Lucia's rationale for its domestic purchase requirements for poultry, pork, and pork products, was to increase food production and nutritional security and to promote rural employment and development, the United States deemed that domestic purchase requirements might raise concerns under the GATT 1994 and the Agreement on Agriculture. He questioned whether St Lucia had considered other policies to achieve the cited objectives, i.e. adopting quality standards for poultry and pork to ensure that all producers develop the necessary technical knowledge to ensure sustainability and achieve their economic goals? More specifically, he asked (1) whether St Lucia had established an order obliging an importer to purchase domestic products in order to receive an import license for chicken or pork and, if so, where that document could be found? (2) how domestic purchases were verified? He appreciated St Lucia's engagement and looked forward to continuing a productive dialogue.

2.31 The representative of Saint Lucia thanked the United States for their continued interest and requested that the United States provide written questions which could then be submitted back to capital.

2.32 The Committee took note of the statements made.

#### **G/LIC/Q/RUS/3**

2.33 The representative of the United States thanked the Russian Federation for its responses, which were under careful review back in capital. The United States might submit follow-up written questions if necessary.

2.34 The Committee took note of the statement made.

### 3 NOTIFICATIONS

#### 3.1 Notifications under Article 1.4(1) and/or Article 8.2(b) of the Agreement

3.1 The Chairman reiterated that Article 1.4(a), Article 8.2(b), and procedures agreed to by the Committee, required all Members to notify to the Committee their laws, regulations, and administrative procedures, and to notify the sources of these laws and regulations upon accession to the WTO. Any subsequent changes to these laws and regulations should also be notified. Copies of these laws and regulations, as well as the sources containing these laws, shall be submitted to the Secretariat for consultation by interested Members. He informed Members that 15 notifications from 10 Members were listed for the Committee's consideration at this meeting (see WTO/AIR/4369).

3.2 On document [G/LIC/N1/TUR/11](#), the representative of the [European Union](#) highlighted that they had just received some informal replies from Turkey to their previous questions, and that these replies might have a link to this notification, and thus that the European Union would study the document and perhaps revert to it in the future.

3.3 No comments were made with regard to the remaining notifications.

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

#### 3.2 Notifications under Article 5 of the Agreement

3.5 The Chairman indicated that seven notifications from 3 Members (Indonesia, Mexico, and the Russian Federation) were listed for review at this meeting.

3.6 No delegation took the floor.

3.7 The Committee took note of the notifications.

#### 3.3 Notifications under Article 7.3 of the Agreement

3.8 The Chairman reiterated that 28 notifications were to be considered at this meeting.

3.9 On document [G/LIC/N/3/VNM/2](#), the representative of the [European Union](#) welcomed Viet Nam's notification and appreciated the efforts undertaken by Viet Nam's government to comply with this obligation. She noted that the European Union was currently assessing the notification and might revert with written questions at a later stage.

3.10 The representative of the [United States](#) took the floor and thanked Viet Nam for its submission, which was being reviewed back in Washington. The United States indicated that it might revert to Viet Nam with questions if necessary.

3.11 The representative of [Viet Nam](#) took note of the interventions of the European Union and the United States.

3.12 With regard to document [G/LIC/N/3/IND/14](#), the representative of the [European Union](#) commented that, according to India's notification, India maintained certain licensing procedures imposing restrictions on the import of live animals. The European Union reiterated its interest in knowing the rationale for maintaining import licensing on live animal, fish and plant material. She recalled that, at the last meeting, India indicated that a detailed response would be submitted to this Committee after the completion of their internal consultations with the SPS authorities, wildlife authorities, and other Ministries concerned. However, India had failed to provide such a response at this meeting, and the European Union would like to know when a reply could be expected.

3.13 In response, the representative of [India](#) thanked the European Union for the interest shown on certain aspects of his country's import licensing policy. He reiterated that they were still engaged in a process of internal consultations which was referred to at the last meeting, and confirmed that when the internal process was over, India would submit a written reply to the questions raised by the European Union.

3.14 No comments were made on any of the remaining notifications.

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

#### **4 INDIA – IMPORT OF MARBLE AND MARBLE PRODUCTS - REQUEST BY THE EUROPEAN UNION**

4.1 The representative of the European Union stated that this was an issue that had been raised along with other trading partners for quite some time. She recalled that the European Union had addressed several rounds of questions to India on this matter, the last being on 10 December 2013, further to India's last notification to the Committee.

4.2 Reiterating their interest in receiving these replies she recalled that, at the previous meeting, the representative of India had informed the Committee that its internal consultations would take some more time, but that it expected to be in a position to table a written response within one month.

4.3 The European Union requested India to clarify the following issues: (1) how the import of marble and marble products would pose safety issues, and how such issues were handled with regard to India's domestic natural stone and stone-processing industry; (2) how the quantitative restrictions on importing marble related to security concerns, and how such concerns were being handled with regard to India's domestic industry; (3) the basis and process of fixing the quota amount; (4) India stated in the past the minimum import price was justified for quality reasons and to put in place internal measures ensuring that domestic miners were complying with these same quality standards; in this regard, the EU asked India to provide the references to the state level measures that allegedly provided for internal measures specifically targeting the quality of marble in the same way as minimum import price.

4.4 She argued that a lack of these elements might point to the unsubstantiated character of the Indian scheme as regarded safety, security, and environmental grounds.

4.5 On implementation, the European Union noted that apparently the last licensing notification for marble was issued on 26 August 2013, for licenses to be distributed for the financial year 2013/14 (ref. Notification Nos. 36 and 37). Could India confirm that there was no notification issued in 2014, and therefore that no import licenses had been distributed so far for the financial year 2014/15? If so, could India provide an explanation and an indication as to when such notifications would be issued so as to allow the issuance of new licenses?

4.6 In conclusion, she reiterated that the European Union had received complaints from its industry with regard to the current licensing regime, setting allocation of quotas, an annual import ceiling below the potential imports, as well as a minimum import price.

4.7 The representative of India thanked the European Union for the interest shown in India's import policy on marble. He recalled that his delegation had responded to some of the questions that the EU had raised at the last meeting and indicated that he would attempt to answer the remaining questions on the EU's list. He also indicated that his delegation intended to submit written replies to all these questions in due course.

4.8 The representative of the United States expressed interest in India's reply to the EU's questions. He asked India to confirm that, in pointing to Article XX as a justification for its import licensing scheme, India was seeking to conserve natural resources that were found in other countries but not within India itself.

4.9 The representative of India gave answers to those questions still outstanding from the EU's list (G/LIC/Q/IND/23, dated 10 December 2013). Regarding the EU's questions 3(b) and 3(c), he explained that marble and similar stones were restricted for import to India due to reasons of "conserving exhaustible natural resources", which was covered under Article XX(g) of GATT 1994. India allowed imports of these goods through specific import licences in accordance with policies notified for this purpose. On the issue of "how such concerns are handled with regard to India's domestic industry", he noted that domestic marble mining was also subject to licensing and production control due to concerns on environmental safety as well as judicial pronouncements by Indian Courts in this regard.

4.10 With regard to question 3(d), he elaborated that marble mining in India was subject to licensing and production controls due to concerns over the safety of the environment and on grounds of related judicial pronouncement. Apart from the mining of stones, the cutting and further processing of marble blocks also had an additional adverse impact on the environment, thus requiring such activities to be regulated. He indicated that there were various judicial pronouncements forbidding mining activity in reserve forests. These pronouncements were basically aimed at preserving ecologically sensitive areas as well as to ensure that there was no displacement of vulnerable populations from mining project areas. In other words, the domestic industry was also subject to comparable environmental norms.

4.11 In response to question 3(e), the representative of India said that the policy related to imports of rough marble blocs for the financial year 2013-14, and had been revised and notified by Notification No. 37, dated 26 August 2014, a copy of which was available on <http://www.dfgt.gov.in>.

4.12 The representative of the European Union thanked India for the replies and requested to receive his comments in writing.

4.13 The representative of the United States thanked India for its more detailed responses and looked forward to seeing them in writing in due course. He raised a follow-up question regarding India's argument that import licensing registrations on marble were due to the need to conserve exhaustible natural resources under Article XX. He questioned whether India's import licensing procedures were trying to conserve exhaustible natural resources in other countries, and not just in India.

4.14 The Committee took note of the statements made.

## **5 BRAZIL - REGULATORY REQUIREMENTS FOR IMPORTS OF NITROCELLULOSE INTO BRAZIL - REQUEST BY THE EUROPEAN UNION**

5.1 The representative of the European Union raised her delegation's concern over Brazil's blockage of imports of nitrocellulose for industrial purposes, a situation which had not changed since April 2014. She outlined the European Union's questions to Brazil, contained in its written submission and circulated as document G/LIC/Q/BRA/18 on 16 May 2014, and including detailed statistics for the last five years on the operation of the nitrocellulose import licensing scheme (e.g. licence application number, licence approval number, domestic production of nitrocellulose with nitrogen content below and above 12.5%), justification for rejecting issuing licences for industrial nitrocellulose and the rationales for such a scheme, as well as procedural details as to the role played by the Ministry of Defence.

5.2 The representative of the European Union highlighted that the European Union had on a number of occasions since 2010 sought to resolve the issue, including in bilateral meetings and in the context of Brazil's Trade Policy Review. However, the European Union was not satisfied with the progress made. She emphasized that the operation of such a licensing scheme had benefited Brazilian producers while creating discrimination against Brazil's European Union competitors.

5.3 She further clarified that industrial nitrocellulose was only used for commercial purposes such as for applications like printing inks, wood lacquer, or nail varnish. Industrial nitrocellulose with a content of less than 12.5% of nitrogen was a different product than nitrocellulose used for military purposes, which generally had a nitrogen content of above 12.5%.

5.4 The representative of the European Union argued that Brazil's licensing scheme on nitrocellulose was inconsistent with Brazil's commitment under the Import Licensing Agreement, and that it was Brazil's responsibility to ensure that its non-automatic import licensing policies did not have trade-restrictive or trade-distortive effects on imports. She urged Brazil to comply with its commitments and immediately remove its import licencing requirement on the foresaid product. In this regard, Brazil already acknowledged that nitrocellulose for industrial and military purposes were different products.

5.5 In response, the representative of Brazil thanked the European Union for its interest in the subject. He acknowledged that questions by the European Union in document G/LIC/Q/BRA/18 had been forwarded to the competent authority in Brazil. The answers were sent today to the



Secretariat to be made available to Members. He argued that the Brazilian government considered the questions raised by the European Union as having been fully addressed in today's submission. Nevertheless, his delegation remained available for bilateral talks and for any clarification, if necessary. He underlined that Brazil did not share the European Union's view that "industrial and military nitrocellulose are substantially and chemically different products", except for the nitrogen concentration. He argued that, regardless of its use, the product poses risks. In this sense, the non-automatic licensing regime was a legitimate instrument to regulate the trade and use in Brazil of nitrocellulose in view of the characteristics of the product and in order to prevent the use of such hazardous substances in ways incompatible with security standards.

5.6 The Committee took note of the statements made.

## **6 NIGERIA - REGULATORY REQUIREMENTS FOR IMPORTS OF FISHERY PRODUCTS - REQUEST BY THE EUROPEAN UNION, ICELAND, NORWAY AND URUGUAY**

6.1 The representative of the European Union raised a concern regarding the Guidelines and Policy Directives currently applied by the Nigerian Government with regard to imports of frozen fish, which appeared to be clearly restrictive insofar as they were intended to reduce authorized imports by 25%.

6.2 She observed that the current situation was not transparent and nor was it clear on what grounds importers were selected and which importers were actually receiving licences. Therefore, the representative of the European Union invited Nigeria to submit detailed clarifications of the licensing procedures in place and, in particular, on where (and on the basis of which source of information) other governments and traders could find all the information relating to the application of these licensing measures, including the procedures for the submission of applications, the eligibility of applicants, the administrative body to be approached, the basis for granting the license, and the period for processing applications.

6.3 The representative of Iceland shared the concerns raised by other Members on possible restrictions by Nigeria to its imports of fishery products. He pointed out that Iceland had raised this issue bilaterally, as well as several times in the Council for Trade in Goods.

6.4 Iceland appreciated Nigeria's willingness to engage in further discussion and welcomed the statement of the Nigerian Ambassador on 19 June 2014, that "Nigeria ... is not introducing an import licence regime or planning to increase the import duties of fish and fish products so as to reduce imports".

6.5 However, he pointed out that the official explanations received from Nigeria so far had been incomplete and inconsistent with the information provided by their exporters. He expressed particular concern with regard to new reports that Nigeria was considering or had already begun to implement new guidelines on fish importation and licensing procedures that appeared to impose strict restrictions on the importation of a number of seafood.

6.6 Iceland respectfully called on Nigeria to show full transparency and to inform the Committee of any changes to its import regime, including detailed information on the licensing procedures in place, the fisheries products affected, and the necessity of such measures to achieving stated policy objectives and their compliance with Nigeria's WTO obligations.

6.7 The representative of Norway emphasized that exports of fish and fish products were of great importance to Norway. Norwegian exports of fish to Nigeria had dropped significantly since 2012 and this was in large part due to uncertainty regarding the conditions for imports.

6.8 He recalled that his delegation had been registering concerns in this regard for a long time, and at least since the October 2013 meeting of the Council for Trade in Goods. He expressed appreciation for the efforts of the Ambassador of Nigeria here in Geneva and for the good bilateral contacts in Abuja. On the other hand, he expressed disappointment and concern with regard to the continued lack of transparency and predictability of the present import regime on fish and, in particular, as to how Nigeria's import licensing regime was applied and how licences were distributed.

6.9 He invited Nigeria to disclose all relevant information on their current practices regarding imports of fish and urged Nigeria to publish promptly detailed information on their import licensing regime in line with its WTO obligations

6.10 The representative of Uruguay supported the statements made by the European Union, Iceland, and Norway. Highlighting the importance of getting predictable information in advance for Uruguayan traders, he requested Nigeria to provide further information and clarity with regard to its import regime on fish and fish products.

6.11 The representative of the United States supported the European Union, Iceland, Norway, and Uruguay, in requesting Nigeria to clarify and provide further information on its import licensing restrictions which were already in place and those which were to be implemented with regard to fish products.

6.12 The representative of Chile shared the concerns raised by the European Union, Iceland, Norway, and Uruguay, concerning the measures imposed by Nigeria on fisheries imports. Chile's concerns were not merely systemic but were also and principally of a commercial nature. Nigeria was the main market for Chilean exports of frozen mackerel for human consumption. She noted that Chilean fish exports to Nigeria had been decreasing since 2012 and that the prospect for 2015 was uncertain. She therefore urged Nigeria to provide promptly full transparency with regard to the functioning of its fish import licensing regime.

6.13 In response, the representative of Nigeria thanked the delegations of Iceland, Norway, Uruguay, the European Union, Chile, and others which spoke on the issue of Nigeria's policy on Fish and Fish Products. She recalled that this issue was first raised in the Council for Trade in Goods when Nigeria provided responses and promised to continue consulting with those delegations concerned.

6.14 She informed the Committee that national consultations had been held in Nigeria, among stakeholders in particular, with the Ministry of Industry, Trade and Investment, the Ministry of Agriculture and Rural Development, and other relevant Agencies, and that these consultations were still ongoing.

6.15 She indicated that Nigeria had submitted responses with regard to the issues raised by the delegations of Iceland, Norway, Uruguay, Chile, and the European Union, and clarified that the fish import policy was still at the formulation stage. Nigeria recognized that the draft policy should follow the required processes, including notifications to the WTO on the measures. She therefore urged those delegations concerned to allow some time for the consultations to continue in order to ensure that the draft policy received input from all the concerned parties in Nigeria. She undertook to continue consultations with those delegations concerned so as to ensure an amicable solution to the issue.

6.16 The Committee took note of the statements made.

## **7 INDONESIA'S IMPORT LICENSING REGIME FOR CELLPHONES, HANDHELD COMPUTERS AND TABLETS - STATEMENT BY THE UNITED STATES**

7.1 The delegate of the United States argued that they had previously raised the issue of import licensing requirements for cell phones, handheld computers, and tablets. He explained that the United States asked for this agenda item in the hope that the new government of Indonesia would address this important issue, as it was having a significant impact on business in Indonesia at the present time.

7.2 While welcoming the fact that Indonesia had responded to previous sets of questions, he pointed out that the United States still had outstanding concerns, and that some of their critical questions were essentially unanswered.

7.3 In his view, the regulations in question might raise serious concerns under the Import Licensing Agreement. Under the relevant regulations, the products at issue might not be imported without an approval from the Ministry of Trade, and must be imported by a registered importer. Further, Indonesia's regulations required such importers to commit to establishing local

manufacturing of these products within three years. This requirement—specifically, Article 8A of Ministry of Trade Regulation No. 38/2013—was of particular concern.

7.4 He argued that if import licenses were withheld because an importer had not established a domestic industry, or had not promised to establish a domestic industry, this could effectively be import substitution or a quantitative restriction on importation. The United States Government had heard reports from the private sector saying that the Government of Indonesia had met with their members informally to press compliance with this requirement.

7.5 He further noted that Indonesia's regulations also required that a registered importer of these goods must be certified as having experience as an importer and distributor, and to transfer these products to distributors, but should not itself be a distributor. In other words, the importer must have experience as a distributor, but it could not be a distributor. Nor were importers permitted to sell directly to consumers or retailers. The registered importer must be appointed by the principal brand owner, through a letter of appointment, which must be consularized by Indonesia's Embassy, and the brand owner must endorse the importer's annual import plan. If a registered importer intended to import from a foreign distributor, it must also have three years' experience as an importer of these products and must have at least 25 service centres in Indonesia. In his view, the requirements appeared to create a barrier to imported goods and new entrants into the market.

7.6 In addition, he expressed some transparency concerns on more general terms. While appreciating Indonesia's notification of the two Ministry of Trade regulations relating to these import licensing procedures, the United States requested Indonesia to notify its Ministry of Industry Regulation No. 108 of 2012, which contained relevant requirements. Highlighting the importance and seriousness of the situation to the United States and to the global economy, he stressed that the measures mentioned above already had a distorting effect on trade in the region and urged the new government in Indonesia to take a close look at these regulations as soon as possible.

7.7 The representative of Japan shared the concern raised by United States and looked forward to hearing Indonesia's explanation, mainly from the systemic point of view. He emphasized the importance of making these measures consistent with the WTO Agreements. In particular, he questioned why and how these measures could be understood as being for consumer protection purposes.

7.8 In response, the representative of Indonesia reiterated that, as she already mentioned under agenda item 2, the reply provided by Indonesia as contained in document G/LIC/Q/IDN/33 was incorrect and may have caused confusion to the United States. She clarified that Indonesia had made an addendum response that would be submitted to the Committee in due course, and hoped that it would be reviewed by the United States and other Members soon. With regard to the further concerns raised by the United States and Japan today, she expected to receive these in written form so as to convey them back to capital. As for the Ministry of Trade Regulation No. 108/2012, she responded that Indonesia had already notified it in document G/LIC/N/2/IDN/13.

7.9 The Committee took note of the statements made.

## **8 INDIA - IMPORT LICENSING REQUIREMENTS FOR BORIC ACID - STATEMENTS BY THE UNITED STATES**

8.1 The representative of the United States took the floor and highlighted that the United States had for quite some time been concerned with India's import licensing requirements for boric acid, particularly with respect to the burdensome end-use certificates necessary to obtain the license for importation.

8.2 He appreciated the additional information provided with regard to which central government entities could issue the end-use certificate necessary for import, and acknowledged that both sides were finally able to discuss the issue bilaterally. The United States government would continue reviewing the information with a view, in particular, to better understanding the scope of state entities with authority to issue end-use certificates under India's licensing regime. He argued that while the United States still had issues with this trade barrier, it hoped to continue bilateral communications with India to resolve the issue.

8.3 The representative of India thanked the United States for its interest in India's import policy on boric acid. He confirmed that both sides were able to have a bilateral dialogue in August during which India responded to most of the queries that the United States had raised at that stage. He noted that, upon request, his government had provided the United States with some documents. He confirmed that India was willing to further engage with the United States on this matter, and was ready to respond to any further queries in this regard.

8.4 The Committee took note of the statements made.

## **9 BANGLADESH - IMPORT LICENSING PROCEDURES - STATEMENTS BY THE UNITED STATES**

9.1 The representative of the United States highlighted that the Secretariat had circulated their most recent questions to Bangladesh on 21 February 2014 in document G/LIC/Q/BGD/5. However, they had not yet received a written response, and thus requested Bangladesh for an update on when they could receive it. He reiterated the concerns of the United States in view of the fact that Bangladesh's last N/3 notification under Article 7.3 was circulated on 2 October 2007 and asked when Bangladesh would provide a new Questionnaire response to this Committee.

9.2 The representative of Bangladesh took note of the statement of the United States and promised to convey the message back to capital. He informed the Committee that his capital was working on the new notifications and would submit them in the near future.

9.3 The Committee took note of the statements made.

## **10 VIET NAM - IMPORT LICENSING PROCEDURES - STATEMENTS BY THE UNITED STATES**

10.1 The representative of the United States called Viet Nam's attention to documents G/LIC/Q/VNM/4 and G/LIC/Q/VNM/4/Corr.1, and expressed disappointment that, to date, his government had not yet received any response from Viet Nam. He urged Viet Nam to provide an update on when it would respond to the questions from the United States in writing.

10.2 The representative of Viet Nam took note of the statement made and agreed to send it back to capital, in the hope of submitting written replies before the next meeting.

10.3 The Committee took note of the statements made.

## **11 DRAFT REPORT (2014) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (G/LIC/W/43)**

11.1 The Committee went through the draft Report paragraph by paragraph. With regard to paragraph 7, the representative of the United States wondered if the pie chart in the report was helpful in conveying a message about the notification numbers. Nevertheless, he indicated that the United States would join in a consensus to approve this report.

11.2 In response, the Secretariat took note of the comments from the United States and agreed to take this point on board in future reports.

11.3 The Committee adopted the draft Report.

## **12 TENTH BIENNIAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT UNDER ARTICLE 7.1 (G/LIC/W/44)**

12.1 The Chairman recalled that the Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement under Article 7.1. He further noted that the Secretariat had drafted a factual report under its own responsibility for consideration by the Committee, which was distributed in document G/LIC/W/44, covering the period from 30 October 2012 to 20 October 2014, and had proposed that the draft report be adopted.

12.2 The Committee so agreed.

12.3 The Chairman further elaborated on the Biennial Review. He observed that, so far, the review was limited to the approval of the factual report prepared by the Secretariat and adopted by the membership. Unfortunately, there had been no substantive discussions among Members to express their views on the operation of the Agreement, or on what challenges they were facing in fulfilling the notification obligations under this Agreement, or on how existing notification methodologies could be improved in the future.

12.4 He recalled that, since 2012, his predecessors had held a number of informal consultations with Members in this regard so as to make the process more dynamic and "Member Driven". However, the feedback from Members had been rather limited.

12.5 He informed the Committee that it was his intention to begin informal consultations with delegations on how best to move forward. As a first step, he suggested to focus on outlining the main issues and challenges encountered by Members (as well as the Secretariat) when preparing and processing notifications, with a view to determining the fundamental issues that lead to such a low level of compliance, as at present (noting that either it was due to the complexity of the import licensing procedures themselves, or a lack of awareness of notification obligations, or a result of capacity constraints among capital officials). Based on the results of these consultations, he proposed that the Committee could then discuss means to address these issues accordingly, including organizing workshops in Geneva or providing technical assistance in different regions for capital officials.

12.6 The representative of the United States took the floor and indicated that the United States would participate in the Chair's informal consultations, but emphasized that discussions on these issues should be Member-led. On the workshop issue, the United States reiterated its call for any interested Members to come forward with a proposal, so that his authorities could consider and engage with these.

12.7 The Committee took note of the statements made.

### **13 DATE OF THE NEXT MEETING**

13.1 The Chairman informed Members that the Secretariat has tentatively reserved Friday, 10 April 2015, for the next meeting of the Committee, on the understanding that additional meetings may be convened if necessary.

13.2 The Committee so agreed.

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