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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 21 APRIL 2016

CHAIRPERSON: Ms. CARRIE I. J. WU (CHINESE TAIPEI)

The Committee on Import Licensing held its forty-fourth meeting on 21 April 2016 under the chairmanship of Ms Carrie I. J. WU (Chinese Taipei). The agenda proposed for the meeting, circulated in document WTO/AIR/LIC/3, was duly adopted.

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1 MEMBERS' COMPLIANCE WITH NOTIFICATION OBLIGATIONS – DEVELOPMENTS SINCE THE LAST MEETING

1.1. The Chairperson informed the Committee that a total of 34 notifications had been received since the last meeting, and that 33 of these had been listed for consideration, including: 7 notifications under Article 1.4(a) and/or 8.2(b); 6 under Article 5; and 20 notifications under Article 7.3. A notification under Article 7.3 (Lesotho) was under preparation and would be considered at the next formal Committee meeting.

1.2. She pointed out that, as of 21 April 2016, 16 Members (including two recently acceded Members) had not yet submitted any notification under any provision of the Agreement; 28 Members had not yet submitted any N/1 notifications concerning their laws and regulations as well as the sources of information under Articles 1.4(a) and 8.2(b); and 25 Members had as yet not submitted replies to the questionnaire under Article 7.3. For the sake of transparency, she urged these Members to submit their notifications as soon as possible.

1.3. On a separate note, she congratulated the Republic of Seychelles for submitting its first notification to this Committee since its WTO Accession on 26 April 2015 (document G/LIC/N/3/SYC/1). Furthermore, she noted that Tajikistan had submitted its first N/1 notification, based on its N/3 notification, with the technical assistance of the Secretariat (document G/LIC/N/1/TJK/1). In this regard, she encouraged Members in a similar situation (i.e. those who had completed the annual questionnaire but had not yet notified their domestic legislations under Article 8.2(b) and G/LIC/3) to approach the Secretariat for technical assistance.

1.4. In this context, she brought Members' attention to the following: (1) Members that did not apply import licensing procedures or had no laws or regulations relevant to the Agreement were nevertheless required to notify the Committee of this fact; (2) Article 5.1 required Members that instituted licensing procedures or changes in these procedures to notify the Committee of such within 60 days of publication; (3) Article 7.3 of the Agreement obliged all Members to complete the Questionnaire on Import Licensing Procedures on a yearly basis and to submit the completed questionnaire to the Committee by 30 September each year. She urged Members to respect these timelines in the fulfilment of their notification obligations.

1.5. She informed the Committee that, in order to improve transparency and streamline notification procedures under this Agreement, she had held two informal consultations since the last Committee meeting and she would report on these consultations under Agenda Item 10.

1.6. No comment was made. The Committee took note of the statement made.

2 WRITTEN QUESTIONS AND REPLIES FROM MEMBERS ON SPECIFIC TRADE CONCERNS

2.1 Questions from the European Union to Malaysia (G/LIC/Q/MYS/12)

2.1. The representative of the European Union thanked Malaysia for its notification circulated on 10 March and sought additional clarifications, as circulated in document G/LIC/Q/MYS/12, including: (1) with reference to the procedures applicable to the importation of 'Plant and Planting Material', where the EU wanted to understand what were the countries in the 'American Tropics' and whether there existed a detailed list of those countries. Furthermore, the EU asked Malaysia to provide further and detailed information as to the administrative body in charge of the Pest Risk Analysis (PRA); (2) with reference to the procedures applicable to the importations of animal and animal products, the EU also sought clarification as to who was authorized to issue the required halal certificates and why halal certificates were required for the import of animal products not for human consumption; (3) with reference to the procedures applicable to rice, the EU asked by whom the Approval Permit had been issued, and what were the conditions to be fulfilled for being a 'holder of the Rice Importers Licence; (4) the EU requested additional clarification with regard to procedures for the importation of round cabbage and unroasted green beans; (5) the EU questioned why the importers of logs and wood were requested to be domiciled in peninsular Malaysia and Sabah, what the purpose was behind the licensing requirement for importers of logs and timber, and how the import permit requirement would fulfil this purpose. The EU looked forward to receiving written replies to their questions.

2.2. In response, the representative of Malaysia thanked the EU delegation for its statement and for the written questions submitted in document G/LIC/Q/MYS/12. He explained that, because the questions were received only last week and covered a broad range of products, his capital would need some time for internal coordination among various ministries and government agencies in order to respond. He pointed out that prior to the meeting Malaysia had already shared with the EU its initial responses to some of the EU's questions. He undertook to keep the EU and other Members updated through a written response soon to be submitted to the Committee and encouraged interested Members to engage bilaterally with Malaysia on any issue regarding Malaysia's licensing regime.

2.3. The representative of Australia thanked Malaysia for its notification and expressed support for the questions raised by the EU given that Australia's own concerns were similar. He noted that Australia had particular concerns with regard to Malaysia's IL procedures for refined sugar. He requested clarification and confirmation from Malaysia of the following: (1) whether it was indeed the case that only domestic traders in Malaysia had been allocated IL for refined sugar in recent years; and (2) taking into account that sugar did not appear in Malaysia's recent IL notification, and that refined sugar had appeared as a product subject to automatic licensing, could Malaysia advise if this was indeed the case and whether refined sugar was no longer subject to automatic licensing. Australia would submit these questions in writing and discuss these issues with Malaysia bilaterally.

2.4. The Committee took note of the statements made.

2.2 Questions from the European Union to Morocco (G/LIC/Q/MAR/1)

2.5. The representative of the European Union drew attention to the fact that Morocco had not submitted a notification under this Agreement since 2009. She encouraged Morocco at least to submit, without further delay, the replies to the annual questionnaire in accordance with Article 7.3 of the Import Licensing Agreement.

2.6. She pointed out that the EU, in its written questions, had sought clarification on the Notes to Importers Nos. 3/2015 and No. 4/2015 regarding the importation of certain arms and gear wheels. The EU was disappointed that no information had been published in advance, nor notified to the incumbents, and asked Morocco to provide more information on the import procedure for these two products, clarifying in particular: (1) how long in advance the import licence applications could be lodged; (2) the administrative bodies which would examine these licences and those which would provide the final agreement; (3) under what circumstances these licences could be rejected; (4) whether the licences were subject to a licence or an administrative fee? If yes, what was the amount; (5) whether the period of validity of a licence was the same for all products, namely, 6 months, as described in the import procedure of the Ministry.

2.7. Furthermore, the EU requested additional clarification with regard to the provisions contained in chapters II and III of Morocco's new law on external trade, Law No. 91/2014. The representative of the EU argued that, since the new law introduced new conditions under which import operations were carried out, the EU wanted to know when Morocco would notify this law and the relevant implementing regulations to the WTO. Pending detailed clarification from Morocco, the EU would assess the compatibility of the provisions contained in chapters II and III of this law with Articles XI and XX of GATT and the Agreement on Import Licensing Procedures. She looked forward to receiving replies from Morocco soon.

2.8. The Committee took note of the statements made.

3 NOTIFICATIONS

3.1 Notifications under Articles 1.4(a)/8.2(b) of the Agreement

3.1. The following seven N/1 notifications were reviewed: Bolivia (G/LIC/N/1/BOL/2); the Russian Federation (G/LIC/N/1/RUS/7; G/LIC/N/1/RUS/8; G/LIC/N/1/RUS/9; G/LIC/N/1/RUS/10; and G/LIC/N/1/RUS/11) and Tajikistan (G/LIC/N/1/TJK/1).

3.2. The Committee took note of the submissions.

3.2 Notifications under Article 5 of the Agreement

3.3. The following six N/2 notifications were reviewed: Argentina (G/LIC/N/2/ARG/27); Indonesia (G/LIC/N/2/IDN/29; G/LIC/N/2/IDN/30; and G/LIC/N/2/IDN/31); Jamaica (G/LIC/N/2/JAM/3); and the Russian Federation (G/LIC/N/2/RUS/2).

3.4. On Indonesia's notification G/LIC/N/2/IDN/30, the representative of the European Union thanked Indonesia and requested additional clarification regarding *forestry products*. She noted that the notification referred to Regulation of the Minister of Trade No. 63/M-DAG/PER/8/2015, dated 18 August 2015, concerning the Second Amendment of the Regulation of the Minister of Trade No. 78/M-DAG/PER/2014, which entered into effect on 1 January 2016, and which Indonesia had declared an automatic procedure. She pointed out, however, that since the entry into force of the new procedures, the EU was aware of several containers of forestry products of EU companies stuck at customs due to clearing problems. In particular, in terms of the definition of products, there appeared to be some internal co-ordination issues between the Ministry of Trade, the Ministry of Forestry, the Ministry of Finance, and Customs. Furthermore, the period of validity of the certificates was limited and the online system introduced for uploading documents was reported not to work efficiently. In this context, she asked Indonesia: (1) to present the measures envisaged for resolving the problems described; (2) to clarify why, in the notification, the import scheme for forestry products had been declared an 'automatic procedure'; and (3) to demonstrate its compliance with Article 2 of the Import Licensing Agreement.

3.5. On notification G/LIC/N/2/IDN/31, the representative of the European Union noted that Indonesia had informed Members of certain changes to its licensing procedures for telecoms products, notifying the "Regulation of the Minister of Communication and Information Technology No. 27 of 7 July 2015 Concerning Technical Requirements for Equipment and/or any Telecommunication Devices Based on Long-Term Evolution Technology". She observed that, according to the notification, Regulation No. 27/2015, which entered into effect on 8 July 2015, qualified as a non-automatic import-licensing scheme. She asked Indonesia: (1) to clarify why this regulation had not been included in the annual notification submitted in accordance with Article 7.3 of the Import Licensing Agreement and referred to 2015; (2) to describe all provisions set out in the regulation, in addition to their import licensing aspects (see item on G/LIC/N/3/IDN/9); and (3) to clarify the linkages between Regulation No. 27 and Regulations Nos. 38 and 108 *[item 4 of the agenda]*, with reference in particular to the scope of each regulation.

3.6. On notification G/LIC/N/2/IDN/29, the representative of the European Union welcomed the notification concerning Regulation of the Minister of Trade No. 78/M-DAG/PER/9/2015 of 28 September 2015, which repealed Minister of Trade Regulation No. 45/M-DAG/PER/6/2015 on importation of tyres, and asked Indonesia to confirm that Regulation No. 40/2011 applied to the imports of tyres and that no additional import requirements also applied.

3.7. The representative of the Russian Federation asked Indonesia to clarify whether its procedure on the importation of tyres was automatic or non-automatic, as such information was not mentioned in notification G/LIC/N/2/IDN/29.

3.8. In response, the representative of Indonesia thanked the EU and the Russian Federation for their questions regarding Indonesia's import policies. He pointed out that, following the deregulation package of 9 September 2015, Indonesia had terminated/revoked the Ministry of Trade (MOT) Regulation No. 45 of 2015. In this regard, importation of tyres was being regulated under the previous regulation, which was MOT No. 40 of 2011 concerning technical verification before loading at port. The purpose of such regulation was to ensure that the quality of imported tyres corresponded to the safety regulation in force in Indonesia. He invited the European Union to address their concerns in writing so that he could convey them to Capital and subsequently provide proper responses.

3.9. The Committee took note of the statements made.

3.3 Notifications under Article 7.3 of the Agreement

3.10. The Chairperson thanked those Members who had explicitly indicated the year on their submissions to identify to which specific year the notification referred. On behalf of the Secretariat,

she noted that this significantly helped the Secretariat in its preparation of more accurate statistics. For instance, the Committee could now see that, among the 20 notifications under review: 13 were for 2015; three for 2014; one for 2013; one for 2016; one covered three consecutive years (2014, 2015 and 2016); and one notification did not specify the year. She encouraged all Members to submit their notifications as requested.

3.11. The following twenty N/3 notifications were reviewed at the meeting: Australia (G/LIC/N/3/AUS/8); Canada (G/LIC/N/3/CAN/14); Colombia (G/LIC/N/3/COL/11); Costa Rica (G/LIC/N/3/CRI/12); Dominican Republic (G/LIC/N/3/DOM/8); India (G/LIC/N/3/IND/15); Indonesia (G/LIC/N/3/IDN/8; G/LIC/N/3/IDN/9; G/LIC/N/3/IDN/10); Republic of Korea (G/LIC/N/3/KOR/11); Jamaica (G/LIC/N/3/JAM/5); the State of Kuwait (G/LIC/N/3/KWT/5); Malaysia (G/LIC/N/3/MYS/11); Mali (G/LIC/N/3/MLI/7); the Russian Federation (G/LIC/N/3/RUS/2/Rev.1); Seychelles (G/LIC/N/3/SYC/1); Singapore (G/LIC/N/3/SGP/11); Switzerland (G/LIC/N/3/CHE/11) and Uruguay (G/LIC/N/3/URY/8 and G/LIC/N/3/URY/9).

3.12. On Indonesia's notifications (G/LIC/N/3/IDN/8-10), the representative of the European Union acknowledged and appreciated Indonesia's efforts to catch up on its outstanding notifications. Nevertheless, the EU believed that additional efforts were still needed, in particular with reference to the annual notifications submitted in accordance with Article 7.3 of the Agreement. She noted that, according to the notification referring to 2015 (G/LIC/N/3/IDN/10), Indonesia declared that no changes had occurred compared to its previous notification, except that the changes in the import regulation of tyres, sodium tripolyphosphate (STP), cloves, and wheat flour had all been revoked; in addition, there had been an introduction of automatic import licensing of complementary goods, market testing goods, and after sales services, as well as an introduction of non-automatic import licensing of textile and textile products of batik and batik patterns.

3.13. In this context, and as already mentioned under the previous item, the EU wanted to understand why Indonesia had not included in the 2015 notification all information on the non-automatic scheme applicable to telecommunication devices. The EU urged Indonesia to complete the notification, including all elements set out in Regulation No. 27 of 7 July 2015, as well as other parts of the legislation applicable to imports of the same domain, notably Regulations Nos. 38 and 108. With regard to batik products, the EU did not share Indonesia's view but rather considered the relevant importation procedures as a non-automatic scheme. She highlighted that EU companies were experiencing difficulties as a result of Indonesia not yet having issued any clear measures or guidance on the coverage of the regulation. Furthermore, there still seemed to be a problem over the identification of the exact HS codes covered by the regulation. The EU invited Indonesia to issue clear regulations for the importation of batik products and to fulfil its notification obligations by submitting amended and complete replies to the Annual Questionnaire.

3.14. In response, the representative of Indonesia appreciated the concerns of the EU with regard to its import policy as notified in documents G/LIC/N/3/IDN/8, G/LIC/N/3/IDN/9, and G/LIC/N/3/IDN/10. He stated that they had not received any instruction from capital on this matter and requested the EU to address its questions in writing so as to receive a full and proper response.

3.15. The Secretariat made two technical observations: first, the Secretariat advised Members not to submit several years of N/3 notifications altogether in one submission, even if the contents were the same; and second, the Secretariat pointed out that it was not advisable for any newly acceded Member to use a document submitted for accession as an official notification under this Committee without proper adjustment. The Secretariat was ready to provide technical assistance to Members concerned in this regard.

3.16. The representative of Uruguay thanked the Secretariat for its technical support in preparing notifications G/LIC/N/3/URY/8 and G/LIC/N/3/URY/9.

3.17. The Committee took note of the statements made.

4 INDONESIA - IMPORT LICENSING REGIME FOR CELL PHONES, HANDHELD COMPUTERS AND TABLETS - STATEMENT BY THE UNITED STATES

4.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 8 April 2016.

4.2. The representative of the United States stated that the US continued to have serious concerns with Indonesia's import licensing regime and, in particular, with the import licensing requirements for cell phones, handheld computers, and tablets. His delegation continued to raise these concerns in this Committee in the hope that Indonesia would address them satisfactorily.

4.3. He recalled that, since the last meeting of the Committee, Indonesia's Ministry of Trade had issued a draft amendment to the import licensing requirements of the products in question, and the US had requested an update on its status. He indicated that when the US had heard that Indonesia was going to revise its import licensing requirements for these products, his government had hoped that Indonesia was going also to address many of the concerns that the US had raised in this Committee and elsewhere. Unfortunately this did not appear to be the case notwithstanding public statements, including from the most senior levels of government that Indonesia wanted to improve its business and investment climate so as to make it a more attractive place to do business. Unfortunately this did not appear to be the case. Indeed, his government regretted to see that the draft amendment appeared to maintain those elements not conducive to a welcoming business environment and of most concern to the US.

4.4. For example, the United States understood that the amendment would replace the current requirement, to "establish an industry within 3 years", with a requirement that applicants receive a recommendation from the Ministry of Industry and Ministry of Communication and Information Technology confirming that they had met the local content requirements as adopted last year. He argued that if this were the case it would be disappointing and disturbing in terms both of Indonesia's WTO commitments and the potential impact on trade. His delegation requested Indonesia to explain this specific aspect of the draft amendment.

4.5. He further pointed out that, while Indonesia maintained that these measures were for consumer protection, the US did not understand how regulations that appeared to have been designed to limit imports, and that required the use of local content, could protect consumers. He further noted that some companies had already been denied import licences on the basis of these localization requirements. He urged Indonesia to revise its regulations in a manner that addressed the US concerns, as well as those of the private sector.

4.6. The representative of the United States highlighted that the industry in question was very important to the United States and to the global economy. The issues were serious. The import licensing requirements at issue stood to distort trade and investment in an important and rapidly developing sector. In addition, they potentially undermined efforts to enhance market access opportunities for high technology products, as reflected in the WTO Information Technology Agreement and its promotion of the facilitation of trade in IT products.

4.7. The representative of Chinese Taipei noted that, as a major exporting Member of IT products, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu had great commercial interest in IT industries, especially in cell phones, handheld computers, and tablets, which were all subject to Indonesia's import licensing regime. His delegation shared the same concern as the United States in this regard.

4.8. He noticed that at the Committee's previous meeting the delegation of Indonesia had emphasized that there had been an increase in imports of cell phones to Indonesia from 2013 to 2014, and that Indonesia had used this information to defend its claim that its import licensing regime had had no negative impact on trade. However, his delegation was not convinced by the statement and believed that real negative impact would become apparent this year because the Indonesian government had now stopped issuing import licenses to those companies without factories or design houses in Indonesia. He further argued that, according to TPKM's customs export data, Indonesia's argument with regard to increases in imports to Indonesia, within the same period, were not valid in the case of handheld computers and tablets. He indicated that the Separate Customs Territory of TPKM had exported over 2000 sets of handheld computers to

Indonesia in 2012; however, fewer than 300 sets of handheld computers were exported last year. Exports of these goods to Indonesia had decreased by more than 80% over the 3-year period. Therefore, his delegation urged Indonesia to re-examine and ensure that its measures were fully consistent with the WTO non-discrimination principle and the Import Licensing Agreement.

4.9. In response, the representative of Indonesia took note of Members' interests in its policies regarding cellphones, handheld computers, and tablets. He argued that the policies that were being applied at the moment were solely intended to protect huge numbers of Indonesian consumers. The number of cellphone imports into Indonesia continued to increase steadily, and by up to 17.5%. The value of such imports was estimated at around 2,4 billion USD, including imports from the US, the EU, Chinese Taipei, Japan, Korea, and certain other Members, and the trend continued on a yearly basis. He assured Members that Indonesia's intention had never been to prohibit imports in this sector based on the high volume of imports, or outcome. However, he noted that, since there was a huge demand for cellphones within Indonesia, the Government needed to ensure the safety of users; it was in this context that such a regulation on importation of cellphones, handheld computers, and tablets, had been issued. Indonesia had also wanted to be sure of the commitments undertaken by producers of cellphones, handheld computers, and tablets, with regard to provision of after-sales service and security of data transfer. Finally, he expressed Indonesia's willingness to engage in further discussion with the US and Chinese Taipei and to this end requested written questions from these Members.

4.10. The Committee took note of the statements made.

5 BRAZIL - REGULATORY REQUIREMENTS FOR IMPORTS OF NITROCELLULOSE INTO BRAZIL - STATEMENT BY THE EUROPEAN UNION

5.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the European Union, in a communication dated 8 April 2016.

5.2. The representative of the European Union reiterated the EU position that the import licensing procedures for nitrocellulose for industrial purposes in Brazil represented a *de facto* ban and regretted that the situation for EU exporters of industrial nitrocellulose had not changed. In particular, the EU reiterated that, in its view, the non-automatic licensing regime established by Brazil was not a legitimate instrument by which to regulate the trade and use of this product for commercial purposes.

5.3. She noted that, as mentioned in previous meetings of this Committee, industrial nitrocellulose was used for commercial purposes only, such as 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%. Taking into account that Brazil was importing nitrocellulose for military purposes at a cost of about twice that of industrial nitrocellulose, she argued that consequently Brazil had already acknowledged that nitrocellulose for industrial and military purposes were different products.

5.4. She emphasized that, except for only limited import duties, the EU applied no restrictions on imports of industrial nitrocellulose. Therefore, the Brazilian producer of nitrocellulose benefitted as a monopolist supplier from the closed local market, as well as from the open EU market, and this resulted in discrimination against EU competitors.

5.5. The EU remained of the view that Brazil had failed to comply with the Agreement on Import Licensing. Therefore, her delegation once again urged Brazil immediately to allow importation of industrial nitrocellulose without restrictions and notably to remove the import licencing requirement so as to allow reciprocal market access, as per the EU's request at the Council for Trade in Goods (CTG) of 10 November 2015.

5.6. The representative of Brazil stated that his delegation had taken note of the EU statement. He pointed out that, since this was not the first time the issue had appeared before the Committee, Brazil would like to refer to its statements delivered at previous occasions and the information already provided both at plenary meetings and in writing on the subject, namely document G/LIC/Q/BRA/19 of 7 November 2014 in reply to questions submitted by the EU. He

argued that these replies clearly established that the measures adopted by Brazil on the import of nitrocellulose were in conformity with Brazil's WTO obligations, and specifically the WTO Agreement on Import Licensing Procedures. He further indicated that Brazil had engaged bilaterally with the EU on this issue in the context of the Brazil-EU Economic and Trade Sub-Commission, where similar information had been provided to the EU.

5.7. He noted that, regardless of its nitrogen content or final applications, nitrocellulose was a notoriously hazardous substance, and subject to controls all over the world, including Brazil. The risks posed by nitrocellulose to public safety and national security were uncontroversial. It was a highly inflammable material that could be ignited by flame, heat, friction, sparks, or static electricity. It could also be used in illegal activity in the absence of adequate controls. Incidents involving nitrocellulose were not unheard of, even where security precautions had been duly taken. Two examples that received media coverage were an explosion of nitrocellulose in a paint factory in Jordan in 2011 and, more recently, explosions in storage containers of nitrocellulose in China in 2015. Nitrocellulose was reportedly also employed in certain criminal activities, such as ATM robberies. He informed Members that, in Brazil, strict surveillance and monitoring measures on manufacturing, utilization, transport, acquisition, and storage of nitrocellulose, which included registration and inspection, were established in Executive Degree 3665/2000, and were applicable indiscriminately to both domestically manufactured and imported nitrocellulose.

5.8. The representative of Brazil emphasized that, in view of these safety and security concerns, and Brazil's rights under the WTO, his delegation reaffirmed that non-automatic import licensing procedures taken by Brazil were legitimate instruments to regulate the commerce and use of nitrocellulose regardless of its nitrogen concentration. Considering that, since 2014, Brazil had not received new or additional questions from either the EU or other Members on this issue, Brazil saw no reason for the item to be kept on the agenda of the Committee.

5.9. The Committee took note of the statements made.

6 INDIA – IMPORT LICENSING REQUIREMENT FOR BORIC ACID – STATEMENT BY THE UNITED STATES

6.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the United States, in a communication dated 8 April 2016.

6.2. The representative of the United States stated that for quite some time the US had been concerned with India's import licensing requirements for boric acid, particularly with respect to the burdensome end-use certificates necessary for importation. He noted that they had been raising this issue in the Committee since 2008, and that the issue had been on their bilateral agenda for much longer. He reiterated that India's requirements had the effect of limiting the importation of non-insecticidal boric acid by Indian traders by requiring the importer to provide details of the precise end use of the product prior to importation. This information was subject to a formal government review process, and only a specific quantity of boric acid could be approved for import under each transaction. He argued that most Indian traders did not know the end use when they imported the product as their business model was to maintain inventories to sell to end users; thus, the pool of importers of non-insecticidal boric acid in India was greatly reduced.

6.3. The US representative noted that the approval process, applied to imports of boric acid, was vigorously enforced. However, from what they had been told by India, there was no similar oversight for the sale of domestic boric acid. Domestic manufacturers of boric acid did not have to seek approval from a government ministry to sell their product, and producers did not have to determine the end use of the boric acid prior to its sale. Domestic producers could sell to any buyer and, further, face no quantitative limitations as to how much they sold.

6.4. He recalled that, during India's last TPR, his delegation had been informed by India that "[D]omestic manufacturers, who wish to manufacture and sell boric acid for non-insecticidal purposes are required to submit production and sale particulars to the Registration Committee in the prescribed [form]." The US had repeatedly requested to see data that demonstrated that domestic manufacturers were fulfilling this requirement and that the government was enforcing it. Again, the US requested India to submit data demonstrating that similar requirements were placed on domestic manufacturers of boric acid as were applied to imports.

6.5. If India did not place similar requirements on domestic manufacturers of boric acid, the US delegation requested that India eliminate its burdensome import licensing requirements on imports of boric acid. In addition, his delegation took note that, during India's TPR, India cited the Insecticides Act of 1968 as the legislative authority for its import licensing of boric acid. The US encouraged India to review and update its almost 50 year-old rules to provide clarity for boric acid importers and merchants, both Indian and foreign.

6.6. The representative of India thanked the US for its continued interest in India's import policy on boric acid. In this regard, he noted that there had been no further updates since the last meeting of this Committee. Interested Members could therefore refer to India's statement on this subject made at the previous meeting, held on 28 October 2015. His delegation believed that India had responded to all written questions received from Members and that a bilateral engagement between the two capitals had also been undertaken to address these concerns.

6.7. The Committee took note of the statements made.

7 BANGLADESH – IMPORT LICENSING PROCEDURES – STATEMENT BY THE UNITED STATES

7.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 8 April 2016.

7.2. The representative of the United States noted that their most recent questions to Bangladesh had been circulated in February 2014 in document G/LIC/Q/BGD/5, and that his delegation had not yet received any response from Bangladesh. He emphasized that they had been raising this issue for quite some time, in this Committee and in other fora, and that they looked forward to receiving a response as soon as possible.

7.3. The representative of the European Union associated themselves with the concerns and questions raised by the US. She pointed out that Bangladesh's last annual response to the "Questionnaire on Import Licensing Procedures" under Article 7.3 of the Agreement was circulated on 2 October 2007, over eight years ago. While Bangladesh's Import Policy Order 2015-18 was based on the principle that no import license was required, the EU considered that in fact there were a number of products requiring an import licence, and should therefore be notified under applicable notifications and reporting under the Agreement on Import Licensing. In this context, the EU asked Bangladesh to indicate when it would provide a new response to the questionnaire to this Committee, as required by Article 7.3 of the Agreement.

7.4. In addition, she noted that, with regard to pharmaceuticals, the Import Policy Order 2015-18 stated that specified medicines could only be imported if approved by the Drug Regulatory Authority. In that respect, it seemed to the EU that such approval was not issued when a similar product already existed on the market. Furthermore, where a product was not yet on the market in Bangladesh, in order to obtain approval it had to be made available through local manufacturing or through a local manufacturer. Thus, the EU considered that these import requirements for pharmaceuticals were not in compliance with Article 1.2 of the Import Licensing Agreement, and requested Bangladesh to take the necessary steps to remove them.

7.5. In response, the representative of Bangladesh acknowledged that there had been a delay in the submission of the notification, and informed the Committee that their Capital was now in the process of preparing the notification and would submit it upon receipt. At the same time, his delegation had requested the EU to submit their concern in writing so that they could transmit it to Capital.

7.6. The Committee took note of the statements made.

8 MEXICO – STEEL IMPORT LICENSING PROGRAM (G/LIC/Q/MEX/1) – STATEMENT BY THE UNITED STATES

8.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 8 April 2016.

8.2. The representative of the United States thanked Mexico for its continued cooperation in addressing US concerns relating to Mexico's import licensing requirements for steel products. The US continued to have concerns, in particular over the delays and additional costs that came as a result of needing to obtain a licence. He pointed out that most approvals still took longer than the time needed for transporting the goods themselves from the mill to the border. These delays had disrupted supply chains and imposed additional shipment/demurrage costs as shipments had to remain at the border until the relevant licences were issued. That said, he welcomed Mexico's efforts to establish an alternative scheme for steel import licensing and appreciated its continued cooperation to ensure that its licensing system was truly automatic and did not disrupt legitimate trade. He hoped to continue bilateral communications with Mexico to resolve the issue, and looked forward to Mexico's responses to their recently submitted questions.

8.3. As they had done at previous meetings, the representative of Canada echoed the concerns raised by the US. Canada welcomed the efforts that Mexico had so far undertaken to develop alternative import procedures; nevertheless, his delegation continued to have concerns and looked forward to working with Mexico to address them.

8.4. The representative of Mexico emphasized that his authorities were in communication with their counterparts and reiterated that there had been major improvements in the response time for automatic licensing within the scheme. Once again, he confirmed that this channel of communication would remain open in order to deal with the concerns raised by Members until a mutually satisfactory solution was found. He further pointed out that his capital was working on replies to the questions raised by the US, and that these would be circulated soon.

8.5. The Committee took note of the statements made.

9 VIET NAM – DISTILLED SPIRITS AND COMPLETENESS QUESTION (G/LIC/Q/VNM/5 AND G/LIC/Q/VNM/6) – STATEMENT BY THE UNITED STATES

9.1. The Chairperson informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 8 April 2016.

9.2. The representative of the United States thanked Viet Nam for its notification in April 2015 under Article 5. He stated that the US remained interested in receiving information regarding the broader product categories that appeared to be subject to import licensing requirements based on Viet Nam's Trade Policy Review. Specifically, the US continued to have concerns relating to the import licensing requirements for distilled spirits, and looked forward to receiving a complete written response to the questions raised in documents G/LIC/Q/VNM/5 and G/LIC/Q/VNM/6. He further noted that the US had had a productive bilateral discussion with Viet Nam on this topic, and recognized the capacity issues that Viet Nam was facing; nevertheless, they continued to encourage Viet Nam to devote the time and resources necessary to meet these important obligations.

9.3. The representative of Viet Nam indicated that his delegation had taken note of the US concerns and would send them to the capital for a reply as soon as possible.

9.4. The Committee took note of the statements made.

10 IMPROVING TRANSPARENCY IN NOTIFICATION PROCEDURES OF THE AGREEMENT – REPORT OF THE CHAIR ON THE INFORMAL CONSULTATIONS HELD ON 16 FEBRUARY AND 5 APRIL 2016

10.1. The Chairperson reported to the Committee on the informal consultations that she had held on 16 February and 5 April respectively. She noted that, at the February meeting, the Secretariat had given a presentation on "Notifications under the Agreement on Import Licensing Procedures", which was circulated as Room Document RD/LIC/6. In that presentation, the Secretariat gave an introduction to the history of the Agreement, to Members' notification obligations, as well as to the current status of notifications to the Committee. In particular, the Secretariat highlighted six issues encountered in the processing of notifications, namely: (1) low compliance rate; (2) delays in submission of notifications; (3) overlapping of notification requirements in different provisions; (4) unclear terms; (5) incomplete submissions; and (6) discrepancies between

information in the relevant part of a Member's TPR report and its submission in the Committee. The Secretariat also listed some possible options with regard to how best to address these issues, and sought Members' guidance.

10.2. She highlighted that the Secretariat's presentation was welcomed by Members and, as a follow-up, another informal meeting was held on 5 April to hear Members' feedback on the issues outlined. The discussion and main points expressed were summarized as follows.

10.3. On Low Compliance Rate, there was a shared view that this was an important issue which should be addressed with concrete action. Several Members mentioned targeted technical assistance from the Secretariat and were open to the idea of organizing regional workshops for those Members in need of such assistance; they believed that such workshops would be beneficial. One Member cautioned that the workshop should only serve as a capacity-building exercise and be technical in nature and without prejudice to the existing policies and practices of individual Members; nor should it be fed into the formal Committee meeting. Another Member suggested that Members participating in these workshops should work closely with the Secretariat on their pending notifications, and be ready to provide updates on relevant import licensing information. Another Member questioned the value of having a workshop before the notification templates themselves had been updated, revised, and improved.

10.4. Regarding the issues of overlapping notification requirements in different provisions and delays in submission, most Members were open to discuss notification requirements that were duplicative. Several Members highlighted the importance of reviewing the current three types of notifications, and to re-organizing the existing notification templates in a more systematic and logical way. One Member argued that the current templates should first be tried and tested to the fullest extent possible, and did not see merit in re-designing the template format. One Member suggested that the Secretariat prepare a note on all such overlapping areas for further action by Members.

10.5. On the issue of whether or not the frequency of N/3 notifications should be reduced, some Members were in favour of reducing the frequency provided that the notification forms were rationalized and re-organized in a more systematic way; others remained unconvinced by the argument that reducing notification frequency would improve compliance rate. It was clearly an issue to be further discussed.

10.6. On how to address the issue of different interpretations of certain "terms", one Member suggested that a notification guide, i.e. an update of the Technical Cooperation Handbook on Notification Requirements could be envisaged. Another Member requested the Secretariat to make a list of all such terms and to elaborate on the various different ways in which they were interpreted.

10.7. On the discrepancy between TPR reports and import licensing notifications, some Members viewed this as a systemic issue. Ideas were put forward as possible ways to resolve this problem, including enhancing internal coordination in the Secretariat and the cross-referencing of notifications.

10.8. On the issue of on-line submission of notifications, most Members were in favour and open to further discussion of the issue. Among them, several Members believed that it could be given consideration over a longer timescale, further to having reviewed the current notification forms. One Member questioned whether it was feasible or desirable to do an electronic submission of N/3 notifications given the comprehensive character of this particular notification.

10.9. The Chairperson took note that an increasing number of Members were now engaged in the process and that there existed a general recognition that low compliance level of notifications was an issue that needed to be addressed by the Committee, and with concrete follow-up actions. She also sensed an emerging consensus to explore possible ways of streamlining current notification procedures and re-organizing notification formats. In this regard, she also recognized that the matter needed to be discussed by the Committee in greater detail in the coming months. With such good momentum, she hoped that technical discussions of the above-mentioned issues would continue under the able leadership of the incoming Chairperson, and with the full support of the Secretariat. She also found it useful to have another informal meeting of the Committee in May,

and invited the Secretariat to present at that meeting a technical note regarding the issues raised by some Members.

10.10. The representative of Australia supported more informal discussions on the issue during and beyond the month of May. He indicated that these discussions had been very productive, and that the options outlined by the Chair were real options that Members should explore further.

10.11. The representative of Canada echoed the comments made by Australia. He pointed out that they had had some good discussions and that he endorsed the Chair's assessment that there was a growing momentum around some actions that could be taken to improve the notification process. He believed that at the meeting in May it would be good to go from the talking to the action stage, and that it would also be a good occasion to see how Members could move forward on some of these ideas.

10.12. The representative of the European Union supported previous speakers and thanked the Secretariat for all the efforts made to improve the situation with regard to notifications. The EU looked forward to participating in any discussion that would take place either informally or formally. The EU hoped to provide some extra ideas as to how to improve the situation. She thanked the Chair for the detailed report, which reflected the discussion that had taken place so far.

10.13. The representative of Chinese Taipei thanked the Chair for convening informal consultations and for providing a detailed report. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu shared the views of previous speakers on the importance of transparency. He emphasized the importance of establishing streamlined and simplified templates for notifications under this Agreement. He pointed out that the Secretariat had, in their presentations, identified certain issues with regard to notification processes, including low compliance rate, delays in submissions of notifications, confusion with regard to similar notification requirements, and incomplete submissions. His delegation believed that these issues were all relevant and could be improved by establishing more streamlined and simplified notification templates. Furthermore, streamlined templates would be very useful for on-line submission, as well as for creating a notification database in the long run. He encouraged Members to consider the discussion of new notification templates as the first step of the Committee's work towards improving transparency in notification procedures.

10.14. The representative of the United States appreciated and expressed full support for the Secretariat's continued efforts to enhance the timeliness and completeness of the notifications. He supported many of the statements previously made. He reiterated the position, expressed in prior informal consultations, that the US felt very strongly about streamlining the notification process but that this should not come at the expense of providing the necessary substantive information, which remained a clear priority for his delegation.

10.15. The representative of Singapore reiterated that Singapore remained very much interested in continuing discussion on this front and looked forward to engaging with interested Members both formally and informally to enhance transparency in the Committee.

10.16. The representative of India reaffirmed India's commitments to improving transparency of import licensing procedures and increasing notification compliance. They looked forward to participating in informal consultations in the future.

10.17. The representative of Chile gave its full support to the Chair's efforts to move the process forward.

10.18. The representative of China expressed willingness to engage with informal and formal sessions on this issue.

10.19. The representative of Botswana expressed support for the initiative to improve the compliance rate of notifications under this Agreement. His delegation echoed the statements that had been made in support of the Chair's report. Considering Botswana's capacity constraints, his delegation was of the view that technical training would be very useful in their endeavours to meet

notification obligations. He pointed out that there was a willingness in his capital to fulfil notification obligations but that they were still struggling with capacity constraints.

10.20. The representative of Korea extended its full support to the Chair and looked forward to working closely with interested Members.

10.21. The representative of Indonesia expressed full support for a continuation of the discussion in this regard.

10.22. The Committee took note of the Chair's report and statements made.

11 DATE OF THE NEXT MEETING

11.1. The Chairperson informed Members that the Secretariat had tentatively reserved Tuesday, 1 November 2016, for the next formal meeting of the Committee, on the understanding that additional meetings may be convened as necessary.

11.2. The Committee took note.

12 ELECTION OF OFFICERS

12.1. The Chairperson noted that the Rules of Procedure for meetings of the Committee on Import Licensing established that the Committee on Import Licensing shall elect a Chairperson and a Vice-Chairperson from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. The Chairperson and Vice-Chairperson shall hold office until the end of the first meeting of the following year.

12.2. She pointed out that the Council for Trade in Goods (CTG) had not yet reached consensus on the list of officers for the subsidiary bodies of the CTG on 15 April. Taking into account that the consultations were still ongoing she proposed that, once the CTG had resolved the deadlock, she would inform all delegations regarding the proposed candidate for Chairperson of this Committee via fax. If no objection were signalled within 24 hours, the proposed Chair would be deemed to be elected by this Committee.[1]

12.3. The Committee so agreed.

[1] On 12 May, Mr Tapio Pyysalo (Finland) was nominated as the Chairperson of the Committee and was elected by acclamation. On 22 July, based on the nomination of the Chairperson, Mr Marcial Espinola (Paraguay) was elected as the Vice-Chairperson by the Committee by acclamation, following a similar procedure.