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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 5 MAY 2017

CHAIRPERSON: MR. TAPIO PYYSALO (FINLAND)

The Committee on Import Licensing held its forty-sixth meeting on 5 May 2017 under the chairmanship of Mr Tapio Pyysalo (Finland). The agenda proposed for the meeting was circulated in document WTO/AIR/LIC/5.

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

1.1. The Chairman informed the Committee that a total of 39 notifications had been received and listed for consideration since the last meeting. He congratulated Brunei Darussalam, Kazakhstan, and South Africa for having submitted their first notifications under Article 1.4(a) and 8.2(b); and the Philippines and Togo for submitting their first N/2 notifications under Article 5. In addition, he reported that Gabon had submitted its first reply to the annual questionnaire.

1.2. On the other hand, the Chairman pointed out that, as of 5 May 2017, **16** Members had not yet submitted any notification under any provision of the Agreement since joining the WTO. With regard to the N/1 notification concerning Members' laws and regulations, as well as the sources of information, to date, **26** Members had not submitted any such notifications. In addition, **24** Members had not yet submitted any Replies to the Questionnaire under Article 7.3. For the sake of transparency, he urged all those Members to notify as soon as possible.

1.3. In this context, the Chairman 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 import licensing procedures or changes in these procedures to notify the Committee of such procedures or changes 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. He urged Members to respect these timelines in the fulfilment of their notification obligations.

1.4. The Chairman informed the Committee that the overall notification compliance rate was still not encouraging. In the past few years, efforts had been made to improve notification compliance under this Agreement. Some issues regarding the notification process had been identified and more Members were actively involved in the Committee's exercise on improving transparency and streamlining notification procedures under the Agreement. In this endeavour, two informal consultations had been held since the last meeting, on which he would report under agenda item 10.

1.5. The Committee took note of the Chairman's statement.

2 WRITTEN QUESTIONS AND REPLIES FROM MEMBERS ON SPECIFIC TRADE CONCERNS

2.1. The Chairman informed the Committee that written questions from the European Union to Bolivia, Brazil, Indonesia, Malaysia, Morocco, and Thailand, had been included in the agenda at the request of the European Union in a communication dated 18 April 2017.

2.1 Document G/LIC/Q/BOL/3 (written questions from the EU to Bolivia)

2.2. The representative of the European Union reiterated the EU's request to Bolivia to provide replies to their questions circulated in document G/LIC/Q/BOL/3 on 22 November 2016. The EU sought further clarification of the notifications submitted by Bolivia last year. She encouraged Bolivia to submit its annual notification so as to understand the difficulties their authorities were encountering, and that had prevented the Bolivian authorities from respecting their notification obligations.

2.3. The representative of the Plurinational State of Bolivia thanked the EU for their interest in its notification. He pointed out that Bolivia had notified the Committee of its Decree No. 2865 of 3 July 2017 for dry cleaning machines in document G/LIC/N/1/BOL/4. In document G/LIC/Q/BOL/3, Bolivia had notified the Committee with regard to the import regime on certain products, such as textiles products. And in document G/LIC/N/2/BOL/1, Bolivia had notified the Committee of prime Decree No. 2800, of 18 November 2015, for the importation of gaming machines.

2.4. He explained that procedures for the application of import licences in Bolivia were established in accordance with the WTO's Agreement on Import Licensing Procedures. The website, indicated in Bolivia's notifications mentioned above, provided specific and clear regulations, information concerning procedural requirements, and models of forms to be filled out so as to clear customs procedures. The purpose of these measures was primarily better control of smuggling, protection of public health and morals, and the curtailing of illicit trade.

2.5. He noted that Bolivia was a landlocked developing country that shared its borders with five other countries, and that one of the biggest problems it faced was smuggling. The measures were useful to verify that economic agents had fully complied with the relevant legal requirements for importing goods. He emphasized that the problem of smuggling was a global problem although in many cases Bolivia did not benefit from appropriate levels of cooperation from neighbouring countries, and that this created great difficulty for their customs procedures. He highlighted that all the relevant information could be obtained on the webpage indicated in the notification, or through email contact addresses established for that purpose. His delegation was ready to provide further detail to the EU bilaterally and had certainly taken note of EU's comments.

2.6. The Committee took note of the statements made.

2.2 Document G/LIC/Q/BRA/20 (written questions from the EU to Brazil)

2.7. The representative of the European Union reiterated the EU's interest in receiving detailed answers to the questions it had formulated in document G/LIC/Q/BRA/20, dated 22 November 2016. She emphasized some points raised concerning which her delegation was expecting to receive replies from Brazil, namely: (1) the request that Brazil provide a complete description of the procedures established for each product subject to the requirements of import licences; (2) the request that Brazil provide a list of tariff schedules for non-automatic systems and a list of products given automatic licensing; and (3) that Brazil clarify its reasons for having a time-limit in place for both non-automatic and automatic measures.

2.8. She appreciated the fact that on 18 November 2016 Brazil had responded to the EU in an informal note. Nevertheless, the EU expected and continued to wait for written replies to its questions.

2.9. In addition, she underlined that her delegation was expecting further clarification from Brazil with regard to the import procedures for nitrocellulose under classification NCM3912.20. All these products were listed as subject to non-automatic licenses on the website of the Ministry of Industry and the Ministry of Treatment of Imports. The EU asked for reciprocal application of the import licensing regime for nitrocellulose products for industrial purposes that had a maximum nitrogen content of 12.5%. In this aspect, the EU had no restriction on identical products exported from Brazil to the EU.

2.10. In response, the representative of Brazil stated that Brazil was strongly committed to transparency. Brazil observed with interest the extensive debates over how each WTO Member understood its obligations stemming from the Agreement on Import Licensing Procedures. Brazil took note of the Secretariat's remarks and also followed the discussion on possible modifications to the format of notifications. He noted that Brazil had provided links to website pages where the Brazilian government had displayed detailed information on every product which required licensing, be they automatic or non-automatic. There was also an on-line simulator to present all the necessary administrative steps on an individual product basis.

2.11. He added that, notwithstanding the discussion in this Committee, Brazil was had engaged in a revision of the number of products subject to licensing. It was a complex process, which involved the Brazilian Congress and a great number of agencies that enjoyed administrative independence; it included modifications of laws and procedures, as well as procedural adjustments such as those in progress on the Brazilian Single Window. He pointed out that, although Brazil could not speculate on the deadline for this revision, his delegation believed that Members would see further improvements in the coming months.

2.12. Regarding Brazil's more detailed responses to the EU's questions, the written intervention of the Brazilian delegate is copied below:

2.13. "Questions 1a and 1b: the Brazilian notification presents a general overview of import licensing in Brazil and it indicates, whenever necessary, the specific legislation of every agency involved. The website indicated in the notification displays the lists of products subject to administrative procedures. We are taking into consideration the Secretariat remarks and Members' questions to analyse different models to present the data, so we can make the system even more transparent.

2.14. Question 2a: the general proceedings are included in the "Portaria SECEX No. 23/11, which can be downloaded at <http://portal.siscomex.gov.br/legislacao/biblioteca-de-arquivos/secex/protaria-no-23-de-14-de-julho-de-2011>. In order to obtain specific proceedings by each product, it is also important to consult the legislation of the concerning agency. All ordinances related to foreign trade can be downloaded at: <http://portal.siscomex.gov.br/legislacao>.

2.15. Question 2b: the complete lists of tariff lines requiring automatic or non-automatic licences can be downloaded at <http://www.mdic.gov.br/index.php/comerci-exterior/importacao/tratamento-administrative-de-importacao>.

2.16. Question 2c: the information is correct. There are more than five thousand products requiring import licensing, as was indicated in Brazil's Trade Policy Review.

2.17. Question 2d: With the expressive evolution of Brazilian foreign trade in recent decades, the governmental entities need different controls in order to enforce important public policies in areas such as human health, food safety, environment, public safety and consumers' rights. This broad use of import licensing is partially due to the lack of proper systems and tools such that each agency concerned could be properly informed of the necessary data on each import process. To resolve these occurrences, the Brazilian government is revising the procedures and building one system to meet the needs of all agencies in the area of foreign trade. The Brazilian Single Window is being gradually implemented and will integrate new tools and all the systems of the agencies concerned.

2.18. Question 2e: Yes, as a rule, the Brazilian import regime does not require licensing, as stated in the Portaria SECEX No. 23/2011. Nevertheless, there are cases in which governmental entities require specific information, so they were grouped in the lists mentioned in the website <http://www.mdic.gov.br/index.php/comerci-exterior/importacao/tratamento-administrative-de-importacao>.

2.19. Question 2f: The new import proceeding in the Brazilian Single Window will be fully operational by the end of 2018.

2.20. Question 2g: The correct information was delivered during the meeting (non-automatic import licences). The actual table which reflects the Brazilian proceeding regarding nitrocellulose can be downloaded at <http://www.mdic.gov.br/index.php/comerci-exterior/importacao/tratamento-administrative-de-importacao>.

2.21. Question 2h: The Brazilian government is engaged in amending the notification. We have studies in advanced stages to update both this document and the notification of quantitative restrictions (G/MA/QR/N/BRA/1)."

2.3 Document G/LIC/Q/IDN/37 (written questions from the EU to Indonesia)

2.22. The representative of the European Union expressed concern about the import procedures for tyres introduced by Regulation No. 77/M-DAG/PER/11/2016. She pointed out that the EU had submitted written questions as follows:

- To request Indonesia to clarify why this regulation had not been notified to the WTO in accordance with Articles 1.4 and 5 of the Import Licensing Agreement, and to ask if Indonesia planned to submit the due notification in the near future;
- To request Indonesia to clarify the rationale of Article 2 of Regulation No. 77/2016, that read: "Import of tyres is restricted". In particular, the EU would like to ask Indonesia to clarify what "restricted" meant, and what form "restrictions" could take

pursuant to Article 2. The EU would appreciate receiving from Indonesia a description as to how and on the basis of which specific measures imports of tyres were restricted;

- To request Indonesia to present, in writing, each step to be followed by the importers for importing tyres into Indonesia, clarifying in particular the procedures for submission of an application, the eligibility criteria applied to importers wishing to apply for a licence, and the time taken to process applications.

2.23. The EU looked forward to receiving Indonesia's written response.

2.24. In response, the representative of Indonesia indicated that her delegation had submitted their written answers to the Secretariat that day, but since they had received these from capital only the previous day, she apologized for their delayed submission. Her delegation remained open to future communication on this matter.

2.4 Document G/LIC/Q/MYS/13 (written questions from the EU to Malaysia)

2.25. The representative of the European Union noted that, after the last Committee meeting, the EU had submitted questions to Malaysia, circulated as document G/LIC/Q/MYS/13, on 22 November 2016. The EU thanked Malaysia for its replies, which they had received two days before. She stated that the replies were currently being reviewed and asked Malaysia to clarify: (1) whether the abolishment was permanent; and (2) whether they envisaged abolishing the import licensing requirement for other products.

2.26. In response, the representative of Malaysia pointed out that Malaysia had responded to the EU's question in document G/LIC/Q/MYS/13, and also in their replies dated 1 May 2017, circulated in document G/LIC/Q/MYS/14. He noted that the questions concerned Malaysia's notification under Article 5.1 of the abolition of import licensing requirements for certain products, including motorhomes, used pneumatic tyres, and safety helmets. Regarding the EU questions concerning whether or not this was a permanent abolition, and if Malaysia also planned to abolish import licensing requirements on other products, he pointed out that the exercise undertaken by Malaysia was part of an ongoing process to review and gradually liberalize Malaysia's import licensing requirements consistent with its overall development objectives and WTO obligations. He emphasized that Malaysia had progressively reduced import licensing requirements over the years, citing the licensing requirements on 1,218 tariff lines that had been abolished in 2013/2014. He noted that his delegation might not yet be able to clarify the exact products under current review as the review process was ongoing.

2.5 Document G/LIC/Q/MAR/1 (written questions from the EU to Morocco)

2.27. The representative of the European Union recalled that, in April 2016, the EU had submitted detailed questions to Morocco seeking clarification on the following issues: (1) Notes to Importers No. 3/2015 and No. 4/2015, on importation of certain arms and gear wheels; (2) provisions contained in Chapters II and III of the new Law No. 91/2014, on external trade, given that the new law introduced new conditions for import operations.

2.28. She stated that the EU did not intend to enter into the detail of its questions at the meeting itself, but reiterated its interest in receiving Morocco's replies. Furthermore, noting that Morocco had not submitted any notifications since 2009, the EU also called upon Morocco to submit its outstanding notifications.

2.29. The representative of Morocco thanked the EU for its interest in Morocco's notifications. He pointed out that he had just received a lengthy and detailed response from Capital in an email that he would make available to the Committee in writing. The delegation of Morocco was willing to consider these questions in greater detail with the EU.

2.6 Document G/LIC/Q/THA/3 (written questions from the EU to Thailand)

2.30. The representative of the European Union expressed concern regarding the import procedures for feed wheat recently introduced by Thailand. She pointed out that this issue had

also been raised at the last Committee on Agriculture, and the EU thanked Thailand for its reply, submitted in that Committee, informing Members that the measure in question was temporary and put in place to relieve a market oversupply of corn.

2.31. She stated that: (1) the EU wished to understand on what basis the measure was maintained, and for what duration; (2) referring to the EU's written questions, her delegation also wished to understand whether the measure in question was an automatic or a non-automatic import licence. In addition, the EU wanted to have a clear picture of the applicable import procedures in accordance with Article 3 of the Import Licensing Procedures Agreement, including with regard to the timeline for the procedures; and (3) as Thailand justified the measure on the basis of an oversupply of corn, the EU wanted to receive relevant data about this market oversupply of corn.

2.32. In addition to the written questions, she asked Thailand to share the number of applications received under the new license regime and the number of import licenses granted, as well as the total import quantity of feed wheat allowed under the new license regime.

2.33. In conclusion, she emphasized that the EU was looking forward to receiving replies from Thailand to its written questions, circulated in document G/LIC/Q/THA/3, as well as to the questions raised at the meeting itself. The EU also wanted to know if Thailand intended to notify these import licensing procedures in accordance with Articles 1.4 and 5 of the Import Licensing Agreement.

2.34. The representative of Australia echoed the EU's questions. He noted that Australia had also asked questions recently in the Committee on Agriculture, and that his delegation had some queries still outstanding. Australia noted that, to date, Thailand had not notified any of the changes in question to any Committee in the WTO, and that these measures had already been in place for over three months. His delegation wished, first, to understand why Thailand had not notified any of these changes and, second, to receive further information regarding the terms of the measures, the period of time that they would be in force, further detail as to implementation of the measures in question, including how feed wheat would be differentiated from wheat for milling, and additional information on the mechanisms and processes for issuing import permits. He indicated that his delegation might follow up with written questions but that in the first instance looked forward to reviewing Thailand's answers to the EU.

2.35. The representative of Canada expressed support for the lines of enquiry pursued by Australia and shared the concerns of the EU as outlined in its questions and comments addressed to Thailand. His delegation encouraged Members to submit their notifications in a timely manner. In this regard, Canada considered that Thailand should notify its measures to the WTO as soon as possible, in accordance with Article 1.4 and 5 of the Agreement on Import Licensing Procedures. His delegation looked forward to receiving more information from Thailand in response to the EU's questions, including those concerning the conformity of Thailand's measures with GATT Article XI.

2.36. The representative of Ukraine stated that Ukraine shared the concerns expressed by the EU, Australia, and Canada, and recalled that his delegation had also raised the issue at the recent meeting of the Committee on Agriculture.

2.37. In response, the representative of Thailand thanked the EU, Australia, Canada, and Ukraine for their questions regarding the newly introduced import procedures for feed wheat under document G/LIC/Q/THA/3. She stated that her Capital was currently gathering relevant information to answer the questions posed by Australia and the EU. Once they had received those clarifications from Capital, her delegation would provide written replies to the EU and Australia.

2.7 Document G/LIC/Q/EU/1 (written questions from the Russia to the EU)

2.38. The Chairman pointed out that the European Union had provided written answers to the Russian Federation in document G/LIC/Q/EU/2. In addition, Agenda item 9, which was on the same issue, had been included on the agenda at the request of the Russian Federation. In this case, with the agreement of those Members concerned, he suggested that the Committee consider them together under this agenda item, agenda item 2.

2.39. The representative of the Russian Federation thanked the Chairman for the suggestion and indicated that his delegation would prefer to revert to this topic under agenda item 9.

2.40. The representative of the European Union thanked Russia for the written questions submitted as a follow-up to the previous meeting. She indicated that the EU had replied to those questions in February and, without entering into the detail, once again underlined the main characteristics of the system:

2.41. The requirements of the prior Union surveillance scheme concerning certain steel products allowed the EU to provide early and advanced statistical information permitting rapid analysis of import trends from all non-EU Member countries, already at the level of intention to import.

2.42. As overcapacity in the steel sector was unlikely to be resolved in the short term, the EU considered that the application of the system should remain in place for a period of four years. The EU would examine, before the expiration date, whether a prolongation would be necessary on the basis of the global steel overcapacity situation at that time.

2.43. This procedure was fully automatic and it ensured that all customs declarations lodged within the EU customs territory were treated in the same manner if they referred to the same product.

2.44. Surveillance documents were issued within five working days of presentation of an application, which was in conformity with the requirements stipulated in Article 2.2(a)(iii) of the Import Licensing Agreement.

2.45. She hoped that the EU had responded adequately to the Russian Federation's concerns and invited the Russian authorities to submit written questions should they need additional clarification.

2.8 Document G/LIC/Q/IDN /36 (written questions from the US to Indonesia)

2.46. The representative of the United States indicated that, since there was already an agenda item covering this issue, he would not make a lengthy intervention. He wished only to note that the questions that had been posed by the US were still outstanding, and that his delegation was still looking forward to receiving Indonesia's written replies.

2.47. In response, the representative of Indonesia thanked the US for its questions on Indonesia's import licensing requirements for cellphones, handheld computers, and tablets. She pointed out that her delegation had submitted their written answers to the Secretariat at the start of that week and apologized for the delay in their submission. Her delegation was open to future communication on this issue.

2.48. 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 N/1 notifications were reviewed: Brunei Darussalam (G/LIC/N/1/BRN/1 and G/LIC/N/1/BRN/1/Rev. 1); European Union (G/LIC/N/1/EU/10); Kazakhstan (G/LIC/N/1/KAZ/1); South Africa (G/LIC/N/1/ZAF/1); Ukraine (G/LIC/N/1/UKR/6); and the United States (G/LIC/N/1/USA/7).

3.2. The Committee took note of the notifications made.

3.2 Notifications under Article 5 of the Agreement

3.3. The following N/2 notifications were reviewed at the meeting: Argentina (G/LIC/N/2/ARG/27/Add.4, G/LIC/N/2/ARG/27/Add.5 and G/LIC/N/2/ARG/27/Add.6); the European Union (G/LIC/N/2/EU/10); Indonesia (G/LIC/N/2/IDN/32, G/LIC/N/2/IDN/33, G/LIC/N/2/IDN/34, G/LIC/N/2/IDN/35 and G/LIC/N/2/IDN/6); Korea (G/LIC/N/2/KOR/2); Malawi

(G/LIC/N/2/MWI/4); Philippines (G/LIC/N/2/PHL/1 and G/LIC/N/2/PHL/2); Togo (G/LIC/N/2/TGO/1); Ukraine (G/LIC/N/2/UKR/6).

3.4. The Committee took note of the notifications made.

3.3 Notifications under Article 7.3 of the Agreement

3.5. The following N/3 notifications were reviewed at the meeting: Argentina (G/LIC/N/3/ARG/12); Australia (G/LIC/N/3/AUS/9); Burundi (G/LIC/N/3/BDI/3); Cameroun (G/LIC/N/3/CMR/7); China (G/LIC/N/3/CHN/14); Gabon (G/LIC/N/3/GAB/1); Georgia (G/LIC/N/3/GEO/6); Malawi (G/LIC/N/3/MWI/5); Malaysia (G/LIC/N/3/MYS/12); Mali (G/LIC/N/3/MLI/8); Nicaragua (G/LIC/N/3/NIC/8); Qatar (G/LIC/N/3/QAT/12); Saint Lucia (G/LIC/N/3/LCA/7); Singapore (G/LIC/N/3/SGP/12); South Africa (G/LIC/N/3/ZAF/6); the former Yugoslav Republic of Macedonia (G/LIC/N/3/MKD/5); Togo (G/LIC/N/3/TGO/3); the United States (G/LIC/N/3/USA/13).

3.6. With regard to document G/LIC/N/3/MYS/12, the representative of Australia thanked Malaysia for demonstrating good compliance with the requirements on completing the annual questionnaire. He noted that Malaysia was a regular contributor. Nevertheless, he raised the issue of refined sugar, which Australia had raised previously in the Committee. His delegation had noticed, in Malaysia's most recent notification, that sugar did not appear in the annual import licensing notification and wished to ask Malaysia if import licensing arrangements for sugar, and for refined sugar in particular, had now been terminated.

3.7. He noted that reports from Australian industry had indicated that the procedures and eligibility criteria for licensing arrangements for refined sugar were complex. Australia's understanding was that only Malaysian domestic refiners had been allocated import licensing for refined sugar in recent years, which led to poor domestic competition in the sector concerned. Australia noticed that, on the official portal of the Ministry, Malaysia had begun to freeze import licensing for refined sugar on 1 March 2016. This effectively amounted to a ban on refined sugar imported into Malaysia. Thus, Australia wished to know if Malaysia intended to notify this cessation of trade in refined sugar, and also if the ban on imports was still in force. His delegation would follow up with written questions.

3.8. In response, the representative of Malaysia thanked the Australian delegation for the question. He took note of the concerns raised but was not yet in a position to respond concretely. He would request that the questions from Australia be taken up for consideration by his Capital.

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

4 INDONESIA – IMPORT LICENSING REGIME FOR TYRES – STATEMENT BY THAILAND

4.1. The Chairman informed the Committee that this item had been included on the agenda of this Committee meeting at the request of the delegation of Thailand, in a communication dated 20 April 2017.

4.2. The representative of Thailand raised concerns over Indonesia's new import licensing regime for tyres, as set out in Indonesia's Regulation No. 77/M-DAG/PER/11/2016 ("Regulation No. 77"), which entered into force on 1 January 2017. Thailand was concerned that Regulation No. 77 imposed complex, burdensome, and unnecessary requirements on the importation of tyres, and would disrupt the supply chain for tyres in the region.

4.3. The Preamble to Regulation No. 77 described the purpose of the law, including to "support the availability and supply of domestic tyres", to "support national industries engaged in tyres", and "to increase the national competitiveness". She pointed out that such objectives should only be pursued in a manner that remained consistent with Indonesia's WTO obligations.

4.4. Thailand was of the view that Regulation No. 77 might fail to comply with Indonesia's WTO commitments, including under Article XI:1 of the GATT 1994, and the Agreement on Import Licensing Procedures.

4.5. She listed some key features of Regulation No. 77, including:

- An express restriction on the importation of tyres, with a list of the tyres subject to this restriction;
- A discretionary or non-automatic import licensing system;
- Difficult import approval procedures;
- End-use restrictions for producer importers;
- Time-limited approval to import tyres;
- Pre-shipment inspection with technical verification; and
- Reporting requirements.

4.6. In this respect, Thailand was concerned that Regulation No. 77 would have a distorting effect on tyre imports. The procedural obligations to be met by importers were onerous. Regulation No. 77 appeared to be "more administratively burdensome than absolutely necessary to administer the measure" within the meaning of Article 3.2 of the Licensing Agreement.

4.7. Importantly, Regulation No. 77 provided no information with respect to the criteria to be used by the Indonesian government when deciding if to accept or reject a request to import tyres, and, if granted, the quantities allowed. The law appeared to grant unlimited discretion to the Director-General. Article 3.3 required Members to "publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences", but Regulation No. 77 seemed to fall short of this standard.

4.8. She noted that Regulation No. 77 bore some similarity to the measures found to be WTO-inconsistent in the December 2016 panel ruling in *Indonesia – Import Licensing Regimes*.

4.9. Furthermore, she pointed out that Thailand had reviewed the questions raised by the EU in its communication circulated in document G/LIC/Q/IDN/37, and considered those questions to have been useful and looked forward to Indonesia's responses to them. In addition, Thailand respectfully requested Indonesia to clarify the following issues:

- (i) Could Indonesia explain how the restrictions on the importation of tyres under Regulation No. 77 were consistent with Article XI:1 of the GATT 1994, under which import restrictions are impermissible?
- (ii) Could Indonesia explain the criteria that would be applied by the Director-General when considering whether to approve importation, and at what quantities?
- (iii) Could Indonesia explain why a request to import tyres required applicants to provide such extensive documentation, including a Master List of products, a notarized letter of appointment from the brand owner, warehouse and transportation possession receipts for producer-importers, and a recommendation certificate?
- (iv) Why had Indonesia also considered it necessary to add a requirement for preshipment inspection?

4.10. To this end, Thailand urged Indonesia to ensure that all of its import licensing measures, particularly Regulation No. 77, complied fully with Indonesia's WTO obligations. She informed the Committee that they had had a bilateral consultation with Indonesia on 2 February 2017 to address Thailand's concerns and had requested that Regulation No. 77 be reconsidered and amended. However, her delegation had yet to receive a positive response from Indonesia. Thailand stood ready to continue to discuss this important issue with Indonesia with a view to achieving a satisfactory mutual solution.

4.11. The representative of the European Union observed that, following Thailand's statement, she had wished to refer to the intervention of the EU under item 2, as well as the EU's written questions on the same topic.

4.12. In response, the representative of Indonesia thanked Thailand for raising this issue, and the EU for sharing the same concern about the recent MOT Regulation No. 77/M-DAG/PER/11/2016, and provided the following response:

4.13. She explained that this regulation was in principal regulating the importation of all kinds of tyres under HS code 4011, and tyres as described under HS code 8708 to the annex of this regulation. The main purpose of the enactment of this regulation was to ensure the safety of tyre products in Indonesia, in accordance with the mandatory Indonesian National Standard. A mandatory term was meant to ensure that the application of the standard applied equally to Indonesian domestically produced tyres and to imported ones. She recalled, based on Indonesian National Police records, that the third most common reason for accidents in Indonesia was tyre problems. Therefore, Indonesia needed to ensure that tyre products distributed in the Indonesian customs territory were safe.

4.14. Regarding the questions raised by Thailand, she replied that her delegation still needed to clarify that Indonesia was not restricting any imports of the products concerned. Instead, Indonesia was limiting the import of such products to only those considered fully in compliance with Indonesian national standards. Again, Indonesia wished to emphasize that the purpose of this limitation was to ensure that products distributed in the Indonesian Customs Territory fully complied with the Mandatory Indonesian National Standard, as applied also to Indonesian domestically produced tyres.

4.15. She clarified that the Director General of Foreign Trade in the Ministry of Trade, Indonesia, required applicants to submit their application in accordance with Article 6 of the regulation. She further highlighted that, among the requirements of Article 6(b), the applicant needed to attach a Certificate of Indonesian National Standard, and in conformity with Article 6(c), the product registration number. Those two requirements were an important indication that the products concerned were in conformity with the standard applied in Indonesia and could therefore be considered as safe.

4.16. She argued that Indonesia had never limited the amount of products to be imported. The quantity of the goods to be imported was given as a self-assessment made by the importer to ensure that the import was in accordance with the needs of their own business practice. Indonesia emphasized that there was no quota linked to this regulation, and nor in practice. Master List products were meant to ensure that importers would import according to their needs. It was intended to create predictability in the supply of products to the Indonesian market, as well as to avoid any act of speculation on the part of importers. Notarized legalization or legalization from a Trade Attaché was meant to reaffirm the legality of the business practice of Indonesian importers. This legality was important to allow the goods to be traced back to their producers in case of accident due to poor product quality. Warehouse control was meant to ensure that products were safely and properly stored so as to maintain their high quality prior to distribution. It was also to ensure that some products were not combined with others such as to result in a lower quality compared to the original. Similar measures were applied to transportation control to ensure that products were distributed using proper transportation vehicles. In many past Indonesian cases, the products concerned were often stored in improper facilities and distributed using improper transportation equipment.

4.17. In addition, preshipment inspection, as required in Article 10 of the regulation, was meant to ensure that all inspections were conducted at the port of origin. Indonesian custom officers would then only conduct a visual inspection when necessary. This would reduce the time of port processing at the Indonesian port of destination.

4.18. In conclusion, she reaffirmed that, according to Article 10 of the regulation, the application of an import permit for tyre products was conducted through an online application at <https://inatrade.kemendag.go.id>. The purpose of the online application was to minimize human interference in the application and permit issuance process. The regulation was not meant to create unnecessary burden nor to limit importation of such products into Indonesia.

4.19. She emphasized that Indonesia was not applying any import quota or limiting the number of products entering its customs territory. As a WTO Member, Indonesia ensured that its regulations were in compliance with its WTO commitments.

4.20. The representative of Thailand thanked Indonesia for these detailed responses and indicated that her delegation would convey this information to Capital.

4.21. The Committee took note of the statements made.

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

5.1. The Chairman informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 20 April 2017.

5.2. The representative of the United States indicated 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. In fact, his delegation had been raising this issue in the Committee since 2008, and the issue had been on their bilateral agenda even longer.

5.3. He recalled that the US concerns had begun in 2006, when India's Ministry of Commerce and Industry had issued a new rule stating that "imports of boric acid for non-insecticidal purposes will be subject to an import permit issued by the Central Insecticide Board & Registration Committee under the Ministry of Agriculture".

5.4. Prior to this change, there was no import permit required for boric acid. However, India's implementation of this change had had the effect of limiting the importation of non-insecticidal boric acid for Indian importers by requiring the importer to provide the precise end-use of the product prior to importation. This information was subject to a formal government review process. Ultimately, only a specific quantity of boric acid could be approved for import under each transaction.

5.5. The Central Insecticide Board and Registration Committee only met monthly, and often did not have the opportunity to review import requests. This completely impeded the ability of importers in India to meet "just in time" supply chain requirements for non-insecticidal boric acid. No such restrictions were placed on domestic suppliers of non-insecticidal boric acid.

5.6. In addition to the lengthy time-frame for obtaining an approval, quantities were also restricted. Indian importers had expressed their frustration to US counterparts about having to supply information on their past consumption of boric acid, broken out by imports and domestic sources, when seeking approval to import. New approvals for imported boric acid were only based on past import levels, not on total consumption. This appeared to be an arbitrary quantitative restriction.

5.7. He noted that the US had received varying responses from the Indian Government when presented with these facts. During its TPR, India cited the Insecticides Act of 1968 as the legislative authority for import licensing of boric acid. However, import permits were not required on boric acid until 2006. Then, in 2011, India's Central Board of Excise and Customs (CBEC) stated that Section 38 of the Insecticide Act 1968 exempted insecticides with a non-insecticidal use from import permit requirements. However, CBEC later clarified that import permits were still required for non-insecticidal boric acid.

5.8. His delegation continued to request that India explain why boric acid, which had a toxicity level roughly equivalent to that of table salt, was the only insecticide that required an import permit for non-insecticidal use, considering its low toxicity level compared to other insecticides that did not require an import permit.

5.9. His delegation also requested that India explain why boric acid was the only insecticide for which there were import quantity restrictions.

5.10. Further, the approval process, applied only to imports of boric acid, was vigorously enforced; however, there was no similar oversight for the sale of domestic boric acid according to government officials and Indian importers. 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, faced no quantitative limitation on how much they sold.

5.11. In this context, the US continued to request that India amend Schedule I (imports) of the ITC (HS) classifications of export and import items to eliminate the requirement that imports of boric acid for non-insecticidal purposes be subject to an import permit.

5.12. In response, the representative of India thanked the delegation of the US for its continued interest in India's licensing policy for boric acid. He noted that it was on record that India had already responded to all the written questions asked by interested delegations, and that these replies properly explained the policy objectives of the measure as well as issues relating to its implementation.

5.13. He informed the Committee that the issue was under discussion at bilateral level between the two capitals. There was no further update since the previous meeting, held on 3 November 2016. Therefore, his delegation requested that the US delegation refer to the detailed statement made by India at the previous meeting, which could be found at paragraph 6.11 and 6.12 of document G/LIC/M/44.

5.14. The Committee took note of the statements made.

6 MEXICO – STEEL IMPORT LICENSING PROGRAM – STATEMENT BY THE UNITED STATES

6.1. The Chairman informed the Committee that this item had been included in the agenda at the request of the United States, in a communication dated 20 April 2017.

6.2. The representative of the United States thanked Mexico for its continued cooperation with a view to addressing US concerns relating to Mexico's import licensing requirement for steel products. However, the US continued to be concerned, and in particular with regard to reports of unpublished documentation requirements, protection of proprietary information from disclosure to industry technical advisers, and new steel sector importer registration requirements.

6.3. With regard to the 27 July 2016 agreement between the National Iron and Steel Industry Chamber (CANACERO) and the Government of Mexico, the US appreciated the information that Mexico had supplied on the role of CANACERO observers. However, he indicated that the response did not address how the Government of Mexico would ensure that the proprietary information on licences was protected from unauthorized disclosure to CANACERO technical observers. What safeguards and protections were in place to ensure that no proprietary information from US exporters' licences or other documents was disclosed to Mexican industry observers? When Mexico stated that the industry observers were accredited by the Government of Mexico, the US would like to know what precisely they were accredited to do.

6.4. He pointed out that the US had understood that SAT established the Steel Sector Import Registration in January 2017. The US industry reported that the deadline to register had been 15 May and that SAT was still in the process of reviewing several outstanding applications. His delegation would be interested to know how the 15 May deadline would impact US steel exports to Mexican importers whose registration had not been completed. Would SAT extend the deadline if applications were not reviewed by that date?

6.5. He hoped to continue bilateral communications with Mexico so as to resolve these issues.

6.6. The representative of Canada shared the same concern with regard to Mexico's import licensing requirements for steel products and would continue to monitor the requirements closely. He looked forward to hearing Mexico's response and to further cooperation with Mexico on the matter as necessary.

6.7. In response, the representative of Mexico pointed out that they had taken note of the statements made by the US and Canada. He indicated that they were surprised that, prior to the inclusion of the item on the meeting's agenda, or before the meeting itself, there had been no attempt to consult with delegations with a view to resolving the matter. He argued that Mexico had already provided a full response to the questions posed by the US in the framework of this committee (document G/LIC/Q/MEX/2), and as reflected in the minutes of the last Committee meeting (document G/LIC/M/44, paragraph 8.5). The replies had also been communicated at the last TPR of Mexico, which had taken place the previous April. He pointed out that an explanation

had also been provided to the US in a bilateral, or rather, trilateral framework in the North American Steel Committee, in which both delegations had been provided with written replies. He invited both delegations to approach his delegation so as to organize follow-up bilateral consultation where these concerns be apprised in detail as Mexico believed that all questions had already been answered.

6.8. The representative of the United States indicated that his delegation would be very much interested to follow-up with Mexico's delegation in Geneva on this issue, although he understood that there had already been a significant amount of bilateral engagement between the relevant officials at capital level.

6.9. The Committee took note of the statements made.

7 INDONESIA – IMPORT LICENSING REGIME FOR CELLPHONES, HANDHELD COMPUTERS AND TABLETS - STATEMENT BY THE UNITED STATES

7.1. The Chairman informed the Committee that this item had been included on the agenda at the request of the United States in a communication dated 20 April 2017.

7.2. The representative of the United States pointed out that, as the Committee was well aware, the United States held long-standing and serious concerns over Indonesia's import licensing regimes and, in particular, the import licensing requirements for cellphones, handheld computers, and tablets.

7.3. He informed the Committee that, immediately prior to its previous meeting, the US had submitted formal questions to Indonesia regarding the changes made to import licensing requirements for the products in question, which, according to US understanding, were intended to ensure that the measures were consistent with Indonesia's local content requirements for 4G LTE products. In those questions, the US had sought responses from Indonesia with regard to certain requirements for obtaining an import license for these products, as well as the rationale for distinguishing between various types of technology.

7.4. His delegation also questioned how companies might import finished 4G devices for sale into Indonesia, noting that, as they understood the import licensing measures, companies could only obtain an import license for finished 4G devices if they were importing the device for further processing, even if they had already fulfilled the local content requirement. Moreover, the US continued to question the purpose of the requirements and procedures for importation of cellphones, handheld computers, and tablets.

7.5. He recalled that Indonesia had issued additional regulations – Ministry of Industry Regulation No. 65/2016, and Ministry of Communication and Information Technology Regulation No. 23/2016 – which had contained additional procedures for obtaining the necessary certification prior to obtaining an import licence.

7.6. He reiterated that the industry concerned was very important to the US and to the wider global economy. As previously stated, the issues his delegation had raised now on multiple occasions were serious. In the view of the US, the import licensing requirements at issue had the potential to distort trade and investment in this important and dynamic sector, and to undermine efforts to enhance market access opportunities for high technology products, as in the ITA Agreement.

7.7. His delegation had appreciated Indonesia's notification to the Committee of some of these measures, including Ministry of Trade Regulation No. 41/2016, in March 2017. However, he continued to urge Indonesia to notify not only some but all of the associated measures, including Ministry of Industry Regulations No. 108/2012 and No. 68/2016, as well as the aforementioned new measures from the Ministry of Industry and the Ministry of Communication, including IT Regulation No. 65/2015 and Regulation No. 23/2016, respectively.

7.8. Given the importance of this industry to the global economy, and the seriousness of US concerns, his delegation encouraged Indonesia to again respond expeditiously to their questions contained in document G/LIC/Q/IDN/36. In addition, the US continued to urge Indonesia

to reconsider its use of these import licensing requirements for cellphones, handheld computers, and tablets.

7.9. The representative of the European Union echoed US concerns and would be interested to read Indonesia's replies to the detailed questions submitted by the US. She mentioned that this issue was not only an import licensing issue but also a much broader systemic issue that would also be raised at the next meeting of the TRIMS Committee. As asked already at the previous meeting of the Import Licensing Committee, the EU wished also to know why Indonesia had not included this regulation in its annual notification submitted in accordance with Article 7.3 of the import licensing agreement for 2015.

7.10. In response, the representative of Indonesia stated that, as mentioned earlier in the meeting, her delegation had already submitted its written replies and looked forward to future communications regarding this issue.

7.11. The Committee took note of the statements made.

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

8.1. The Chairman informed the Committee that this item had been included in the agenda at the request of the United States in a communication dated 20 April 2017.

8.2. The representative of the United States reiterated that the US remained interested to receive information regarding the broader product categories that appeared to be subject to import licensing requirements based on Viet Nam's TPR. More specifically, his delegation continued to be concerned by import licensing requirements for distilled spirits as provided for by Decree No. 94, and as revised in the draft Decree of 28 August 2016.

8.3. His delegation was interested in knowing when Viet Nam planned to issue a revised decree. The US also encouraged Viet Nam to provide adequate time for stakeholder comments before issuing the final decree and, when appropriate, to notify the decree to the WTO Import Licensing Committee.

8.4. He noted that it appeared that the draft decree issued in August 2016 was an improvement for traders over Decree No. 94, in that the new draft decree removed quotas for distribution, wholesale, and retail licences based on number of inhabitants, and also removed certain restrictions on licences.

8.5. However, the US understood that the new decree still contained requirements for distribution licence holders, and that this was a significant concern to US industry. Specifically, a burdensome application process appeared to require substantial detailed information from importers for new and updated distribution licences; such detailed information was not required when applying for licences to be granted to domestic alcohol producers.

8.6. While the US thanked Viet Nam for responding to US questions on the draft decree in the context of the TBT Committee (document G/TBT/N/VNM/86), his delegation would nevertheless also appreciate an opportunity for continued dialogue on this issue in the context of the Import Licensing Committee, and looked forward to receiving a timely and complete written response to US questions circulated in documents G/LIC/Q/VNM/6 and G/LIC/Q/VNM/5, in April 2015.

8.7. He informed the Committee that the US had held productive bilateral discussions on these topics with Viet Nam and recognized the capacity issues that Viet Nam faced. However, the US continued to encourage Viet Nam to devote the necessary time and resources to these important obligations.

8.8. The representative of Australia thanked the US for raising this issue. Australia, like the US, had asked questions of Viet Nam in the context of the TBT Committee; nevertheless, in their view, this was predominantly an import licensing issue. Australia shared US concerns over the burdensome requirements placed on importers of distilled spirits to amend their trading licences prior to any business expansion in Viet Nam, including requirements to provide significant details

about distribution partners, and Australia noted that these requirements appeared not to be obligations faced by domestic producers in Viet Nam. Australia would be very interested in receiving Viet Nam's answers to the questions asked by the US. He also noted that Australia had provided a comment to Viet Nam's TBT enquiry point on 25 October 2016 but was still awaiting a response. His delegation would be appreciative of a response to those questions.

8.9. In response, the representative of Viet Nam thanked the US and Australia for the statements made regarding the import licensing regime in Viet Nam and indicated that he would report to his Capital.

8.10. The Committee took note of the statements made.

9 EUROPEAN UNION – STEEL IMPORT LICENSING SYSTEM – STATEMENT BY THE RUSSIAN FEDERATION

9.1. The Chairman informed the Committee that this item had been included in the agenda of this meeting at the request of the delegation of the Russian Federation, in a communication dated 18 April 2017.

9.2. The representative of the Russian Federation thanked the European Union for their detailed answers to the Russian Federation's questions regarding import licensing procedures for iron and steel products, referred to under item 2 of the meeting's agenda.

9.3. He recalled that, as the European Union had already mentioned in its answers, the list of examples of commercial evidence of intention to import provided in the final paragraph of Article 2(6) of Regulation (EU) No. 2016/670 was not exhaustive. Russia was therefore concerned that this lack of legislation at supranational level allowed for unjustified actions and requests from the competent authorities of EU member States that could lead to disruptions in the ordinary course of trade.

9.4. He believed that WTO Members should enjoy a common understanding of the rules applied by a Member at its borders. Thus, the discretion of EU member States to decide what constituted sufficient grounds to demonstrate an intention to import led to confusion among importers, as they could not be sure that their documents, once submitted to the competent authority of one EU member State, would be sufficient to cover also future imports to the same or another EU member State.

9.5. His delegation thereby appealed to the European Union to harmonize the requirements of the competent authorities of the EU member States regarding documents to be submitted by importers to prove "commercial evidence of the intention to import".

9.6. In addition, Russia found that, taking into account a significant degree of discretion among the EU member States in this matter, eventually all national implementing acts constituted separate import licensing procedures. For this reason, his delegation wished to ask EU member States to notify this Committee of all measures applied at national level so as to implement the overall steel import licensing system of the European Union.

9.7. The representative of Brazil repeated Brazil's concerns with regard to this measure, especially given the possible negative impact on bilateral trade in a particularly challenging sectoral context. His delegation reiterated that, although steel oversupply was a global problem, Brazilian exports to the EU had not grown in previous years and should not be subject to any trade restrictive measure.

9.8. The representative of China encouraged the EU to provide written responses to the Russian Federation. Meanwhile her delegation shared Russia's concerns with regard to the unnecessary burden faced by traders wishing to export steel products to EU markets. China would continue to engage in discussions with the EU and other Members on this issue.

9.9. The representative of Switzerland thanked the EU for the replies contained in its notification of 22 February 2017. Her delegation also shared the concerns expressed by Russia and others over the EU steel import licensing system. She noted that Swiss producers of certain iron and steel

products had been substantially affected by the application of the Prior Surveillance Mechanism. Since the introduction of these measures, in June 2016, exports to the EU of these iron and steel products had faced a downturn compared to exports of other iron and steel products not covered by the measure. Her delegation believed that Swiss exports to the EU had been disproportionately affected due to the close integration of Swiss supplies in cross-border supply chains operating under the "just-in-time" model.

9.10. She pointed out that Switzerland had shared its concerns with the EU on the Prior Surveillance Mechanism on several occasions. These concerns included both the trade-restrictive effects of the EU measure as well as difficulties relating to its implementation by EU member States. Thus, Switzerland strongly encouraged the EU to eliminate any trade-limiting effect resulting from the Prior Surveillance Mechanism.

9.11. In response, the representative of the European Union thanked the Russian Federation, Brazil, China, and Switzerland, for their interest in these procedures. The EU took note of the statements made and invited the four delegations to submit written questions should they need additional clarification.

9.12. 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 DECEMBER 2016 AND 16 FEBRUARY 2017

10.1. The Chairman reported on the two informal consultations held on improving transparency in notification procedures, on 16 December 2016 and 16 February 2017. The Chair's report is reproduced below:

10.2. "On 16 December 2016, an informal meeting was convened and the Secretariat introduced a room document RD/LIC/10. This document was drafted by the Secretariat, upon the request of some Members to test the possibility of combining various notification requirements under different provisions of the Agreement in one "Super Form", so that those Members who wish to do so could submit all required information in such a comprehensive manner.

10.3. Only a few Members took the floor and provided some preliminary comments, indicating that the paper was under review in Capitals and would come back with more details later. Among the views expressed, several Members gave their general support to the approach. One Member gave detailed technical comments on Form A. One Member reiterated opposition to merging of the notification forms and indicated that redesigning the notification templates would not be a solution to the problem of lack of compliance. This delegation also noted that Members' rights to notify under separate articles should be preserved and cautioned of the legal implications of mixing ad hoc notifications with annual obligations. Another delegation expressed concerns on whether the new template would simplify the notification workload and sought clarification on the links between this form with future database and electronic submission of notifications.

10.4. Taking into account that several delegations had reserved their comments for capital instructions and as a follow-up to the December meeting, another informal meeting was convened on 16 February 2017 with a view to hearing Members' further comments and to undertake a line-by-line discussion on items 1 to 18 of the "Super Form" as contained in document RD/LIC/10.

10.5. At the outset of the meeting, one delegation strongly objected to proceeding with the meeting, on the ground that the proposed line-by-line discussion went beyond the mandate of this Committee and the discussions on the notification templates amounted to renegotiating different articles of the agreement and introducing any new template would change the very character of the agreement. This delegation argued that despite their repeated opposition, the process had been pushed through by the Chair without consensus among Members. So due to lack of consensus, they insisted that there should not be any further discussion on revising the notification template. Another delegation [Ecuador] was opposed to revising the notification template, arguing that the proposal was leading to obligations too restrictive for the Members.

10.6. On the other hand, many delegations took the floor in support of revising the notification templates and appreciated the work done by the Secretariat so far. Without going into too much detail, I attempted to summarize the main points expressed by these Members: (1) they gave full support to the exercise of reviewing existing notification procedures and exploring possible approaches to simplify and streamline them, towards which the Committee has been working in the past two years; (2) they did not see such discussions in the Committee as an attempt to renegotiate provisions of the Agreement or alter/create new obligations for any Member; (3) most Members did not see a need for consensus to continue the technical discussions which had been ongoing for quite some time and looked forward to a line-by-line discussion on the draft notification template; (4) many Members reiterated that they foresaw that any possible new form would be used by Members on a voluntary basis; (5) one Member rejected the accusation that this process was pushed through by the Chair and another Member highlighted that there was no consensus to stop the process either.

10.7. At the suggestion of some Members, the informal meeting was suspended for immediate consultation. Taking into account that there was no change of position of a particular Member after the consultation, the informal meeting had to be adjourned and I announced to continue with the Chair's informal consultation on the same issue with Members who wished to participate. By doing so, I provided a chance for any interested Members to introduce their technical comments on the notification form as requested in the convening note of the informal meeting.

10.8. As the Chair, I am here to serve the Committee and facilitate discussion on any topic of interest to Members. I would like to reiterate that I do not have any personal not to mention national agenda on this topic. Clearly, on this issue, I have heard different views from the Members. Since this will be the last Committee meeting I chair, I would like to take the opportunity to give you my own thoughts on the issue, for what it is worth.

10.9. First, in the capacity as the Chair of this Committee, I myself learned a lot about import licensing issues in the past year. The more I learned, the more I realized the complexity of the topic and the more I was convinced that there was room for improvement, particularly in the area of notifications.

10.10. Second, the factors leading to a low notification compliance rate in this area were complex, as identified by the Secretariat, and they should be addressed in a comprehensive manner. Here, I would like to stress that strong political will of Members to fulfil their contractual obligations and improve their own transparency is the fundamental pre-condition of success to any similar efforts in the WTO.

10.11. Third, many Members and the Secretariat have spent a great amount of time and effort in exploring possible ways to simplify and streamline notification procedures and templates in the past few years, on the understanding that nothing in any of the outcomes of discussions should create additional obligations on Members beyond the Agreement. As the outgoing Chair, I sincerely hope that all these efforts will not be wasted.

10.12. Lastly, from a systemic point of view, the Agreement does provide the mandate to the Committee to "review, as necessary, the implementation and operation of the Agreement." This is contained in Article 7.1 of the agreement. Though Members have legitimate rights to accept or reject the final result of any discussion, I do hope the basic function of the Committee will be maintained and any relevant issue can be raised and discussed in a frank and open manner among Members. This concludes my report and the floor is now open."

10.13. The representative of the United States thanked the Chair and the Secretariat for all their work in seeking to improve notification procedures. The US was disappointed with the difficulties that had arisen in the process of trying to further advance that work. He noted that, clearly, the notification requirements of the Import Licensing Agreement were complex, and that the US understood that compliance with those requirements could be challenging, especially for less developed countries facing capacity constraints. He also noted the seemingly very low level of compliance of Members with their import licensing notification obligations.

10.14. In this context, his government welcomed a re-examination of the notification procedures provided that the substantive obligations remained the same and that any changes under

consideration were realistically designed to increase the level of compliance with import licensing notification obligations. He also took this opportunity to continue to advocate that legislation be provided to the Secretariat in an electronic format that was easily transmittable and accessible.

10.15. The representative of Canada stated that they were very grateful for all the efforts of the Chair and the Secretariat dedicated to the development of new templates for notification of ILPs. Canada welcomed the significant progress that had been made. He confessed to some disappointment and frustration that the Committee had not been able to finalize new templates despite the fact that these notifications would be made on a voluntary basis only. He emphasized that the work already carried out should not go to waste. And he continued to feel strongly that the operation of the Committee could be improved by streamlining notification procedures, particularly in view of the fact that these procedures would not in any way modify Members' obligations under the agreement on ILPs. His delegation would continue to reflect on how this work could be advanced and looked forward to continuing to collaborate with other Members so as to achieve a positive outcome.

10.16. The representative of the European Union thanked the Chair and the Secretariat for their hard work in attempting to address transparency and improve notification compliance. The EU again expressed its willingness to continue working on this issue. In the EU's view, the revision of the notification templates, to be applied on a voluntary basis, seemed to be a step in the right direction in terms of rationalizing and reorganizing notifications in a more systematic and logical way. The EU, like others, was considering going ahead with a new form on a voluntary basis.

10.17. The representative of Hong Kong, China stated that, although there was not yet a conclusion to the discussion of a new template, she could see that there was also no disagreement among Members as to the importance of transparency and the need to improve notification performance in the area of import licensing. She pointed out that enhancing transparency was a cross-cutting issue; it was a topic that had also been attracting attention in recent meetings of other WTO committees. Members all understood that easy access to information was a crucial component in enabling SME business to begin operating their business at an international level. She suggested that the Committee's future discussions on this matter take into account the transparency obligations established under the newly enforced TFA, which could also affect the notification of import licensing operations. She thanked the Chair and the Secretariat for their great efforts during the past year in facilitating a discussion of this issue and in deepening Members' understanding with regard to the notification system. Her delegation looked forward to working with Members on ways to improve transparency in the area of import licensing.

10.18. The representative of Singapore thanked the Chair and the Secretariat for all the work that had been done so far. Singapore was supportive of continuing work on how to streamline notification requirements without duplicating existing obligations or creating new notification obligations; his delegation remained interested in continuing to work on this issue in the context of the Import Licensing Committee.

10.19. The representative of Australia reiterated the importance of import licensing and the work of the Import Licensing Committee, to all Members, of course, but particularly to Australia. He highlighted that Australia's export profile was dominated by products that were often subject to import licensing requirements, such as minerals, metals, agricultural commodities, and processed food products. These products were of importance to Australia but most of them faced stinging import licensing requirements. He noted that this was a trade profile shared by many other WTO Members. Thus, transparency and notification of changes to any import licensing regimes was important to Australia as indeed it was to many other Members. It was for this reason that Australia had been very supportive of the work undertaken by the Secretariat and by the Chair in examining options to streamline the notification process and to look for ways to make notification work more efficient and easier to use and to understand while remaining fully in compliance with the obligations of the Import Licensing Agreement, without duplication. His delegation had said on numerous occasions that their ultimate interest was to establish a database that would be readily available for use by both government officials and the trading community. Australia therefore hoped that the work would both continue and move forward.

10.20. The representative of Thailand expressed sincere appreciation to the Chair and the Secretariat for all the work that had been carried out with a view to streamlining the notification

procedures. Thailand fully supported continuing the discussion on how to improve notification procedures and practices by developing a new form by means of which to fulfil negotiation requirements under the Agreement and to reduce duplications in existing templates. She emphasized that it was essential that the new form should be able to facilitate notification procedures and enhance transparency without resulting in any additional burden on Members.

10.21. The representative of the Republic of Moldova expressed support for the Secretariat's previous proposals relating to the improvement of notification procedures and the idea of merging of the N1 and N2 notification templates. She believed that simplified templates would be very useful for online submissions and for the establishment of a database.

10.22. The representative of China joined others in thanking the Chair and the Secretariat for their hard work and efforts to improve transparency. China was open to further discussion of the issue. Meanwhile, she emphasized that new notification procedures should not result in any unnecessary additional burden on Members.

10.23. The representative of Chinese Taipei joined previous speakers in thanking the Chair for his leadership, and also reiterated their support for the work of simplifying and streamlining notification procedures.

10.24. The representative of India thanked the Chair for the report and the Secretariat for its contribution to the review of notification obligations.

10.25. He reiterated the importance of transparency, a central pillar of the WTO, and its particular importance in relation to the Import Licensing Agreement. The system of notifications was a means to observe and ensure transparency. However, his delegation noted with concern the less than satisfactory performance level of the Membership on the matter of compliance with the import licensing notification requirements. India was of the view that this situation required improvement.

10.26. He acknowledged that this was an issue upon which the Committee had been deliberating intensively for the last few years. Several ideas had been discussed, such as how to assist those Members that were lagging behind, how to improve capacity, whether or not to organize workshops, how to sensitize Geneva-based delegates, and so on.

10.27. He stated that his delegation had been surprised to note a sudden change in the course in the later phase of discussions when an attempt was made to impose a pre-conceived solution on the Membership. India did not endorse such an attempt, and argued that it was in effect complicating the notification process instead of simplifying it. It sought to redesign and expand the existing notification obligations and, in this way, it pushed the Membership into *de facto* negotiations. He was of the view that the Committee had no mandate to renegotiate the existing provisions of the Agreement or expand its notification requirements unless all Members agreed to do so by consensus.

10.28. He recalled that, in the discussions held in informal meetings, his delegation had already expressed its concerns with regard to the process, and had also several times explicitly opposed the so-called merging or re-designing of notification requirements. He emphasized that there had been no change in India's position, and that there were several reasons for this.

10.29. First, the Agreement did not specify templates for notifications, except for a format provided under Article 5. Article 1.4(a) merely asked that the source of publication should be notified to the Committee. Likewise, under Article 8.2(b), a Member should inform the Committee of any changes in its laws and regulations and in the administration of such laws and regulations. There were no formats prescribed either under Article 1.4(a) or under Article 8.2(b). Thus, the Agreement provided flexibility to Members concerning how to notify their laws, regulations, and publications, in a manner they deemed most appropriate. This was how the Agreement was negotiated, and Members should not seek to introduce templates that would override the simple requirements of the Agreement. He argued that introducing a template would change the very character of the Agreement, and the fact that any proposed template would be voluntary or mandatory was immaterial, as still the character of the Agreement would have been changed.

10.30. Second, India believed that the question of how to notify had already been discussed and settled by this Committee way back in 1995. The Committee had already clarified the processes involved and had adopted a Decision, circulated as document G/LIC/3, on how notifications should be made. Accordingly, the Secretariat had also published a Technical Cooperation Handbook in October 1996. Subsequently, in 2011, the Committee had adopted a few voluntary formats, as set out in document G/LIC/22, which were aligned to the notification requirements of the corresponding articles of the Agreement. Thus, he argued that the Committee had already considered and decided all that was required to fulfil the notification obligation, and India believed that there was no need to reinvent. If some delegations were still facing difficulty, a more effective way to address their needs would be to provide technical assistance and build capacity.

10.31. He observed that one delegation had earlier proposed adopting an electronic system of submission of notifications, and India would support this suggestion. It could be tried even in the existing system, as set out in document G/LIC/22.

10.32. In response, the Chairman voiced his disagreement with the suggestion that a preconceived solution had been imposed on Members. He pointed out that the draft that had been discussed in the informal committee in February had in fact been before Members for several informal committee meetings prior to that, so he did not agree with India's interpretation in that regard. In addition, the Chair did not agree that Members were holding *de facto* negotiations; the informal meetings had been held simply to gather Members' comments on a line-by-line basis, as was clearly indicated in each convening note.

10.33. The representative of India noted that what he had stated at the meeting had been the view of his delegation. He further elaborated that the templates circulated by the Secretariat in documents RD/LIC/9 and RD/LIC/10 had sought to add new elements to the existing notification provisions and hence had extended the discussion beyond the scope of the Import Licensing Agreement. He was of the view that a discussion of those templates amounted to a renegotiation of the notification requirements of the Agreement, for which the Committee had no mandate.

10.34. The representative of the Plurinational State of Bolivia thanked the Chair for the efforts made on this issue since last year. His delegation associated itself with the comments made by India. He observed that an initiative to improve transparency or compliance would slowly but surely develop into a negotiation of new commitments in terms of notifications, which he considered to be an erroneous way of proceeding. Bolivia considered that the level of notification compliance was not necessarily linked to the format of the notifications. He believed that the solution and a better approach would be capacity-building. His delegation did not support moving in the direction proposed and was not going to endorse such a move; Bolivia's was a small delegation and they did not have the capacity to attend all informal meetings. He also believed that there were other ways of improving notifications within the Organization, such as electronic notification, and using electronic means to enable countries to notify in a simpler and more straightforward way, but without seeking to increase or create obligations that were not in the current format.

10.35. The representative of Mali thanked the Chair for his efforts during his term of office, and also the Secretariat for its excellent work, from which they had benefitted now for some years. Mali wished to underscore the importance of notifications, which represented an obligation for each Member of this Organization. His delegation noted, with great regret, that Members had not yet designed a simple formula for notification, and especially taking into account small delegations that did not enjoy the means to attend all WTO meetings. He reiterated that a simplified formula would have been greatly beneficial for Mali and his delegation wished to appeal to all Members to move forward through consultations so that the Committee could achieve a simpler notification procedure that would then be in the interests of everyone. Mali entirely supported this process of simplification and strengthening transparency and urged all countries to pursue this as quickly as possible, and perhaps even by the next session.

10.36. The representative of South Africa thanked the Chair for his leadership and report. She noted that South Africa had supported the work of the Secretariat in streamlining notifications to the extent that this work would not result in an unnecessary additional burden on Members, and bearing in mind that duplication and overlap in the notification process should be eliminated. She emphasized that, more importantly, Members should not in any way deviate from or alter their rights and obligations.

10.37. The representative of Bolivarian Republic of Venezuela associated himself with other delegations that had spoken of the need for enhanced technical assistance and greater capacity-building.

10.38. In response, the Chair indicated that, as mentioned at the beginning of the meeting, the Committee was joined by 29 participants of the 1st WTO Workshop on Import Licensing Notifications, organized by the Secretariat and held in the WTO that week. This was certainly a good step towards capacity-building technical assistance for Members.

10.39. The representative of Switzerland expressed its strong support for this process. He emphasized that, even though improving and simplifying notifications was not the only way to improve compliance in this Committee, his delegation failed to see how the discussion in the Committee on simplifying and merging the two templates into one could be perceived as something either close to negotiation or adding elements that did not fall under the mandate of this Committee.

10.40. The representative of the United States said that he had listened carefully to the interventions of India and others that had supported India's comments. However, he failed to understand how having a discussion in the Committee about how to satisfy notification obligations under the Agreement constituted a renegotiation of those obligations. On that point, he did not understand the logic.

10.41. In response to the views expressed by the United States, the representative of India stated that his delegation had repeatedly explained, in several informal meetings, that the Agreement provided flexibility with regard to notification obligations. There was only one provision, Article 5, that prescribed a template, and which Members were required to use. For the remaining provisions, namely, Article 1.4(a) and Article 8.2(b), there was no such requirement. Moreover, these two Articles did not ask for elaborate information. In Article 1.4(a), Members were supposed to inform only the source of publication without giving further details. At the same time, a copy of the publication was to be made available to the Secretariat. Likewise, Article 8.2(b) asked Members to inform the Committee of any changes in laws and regulations. It did not prescribe how that information should be notified. He argued that a Member was free to notify in the way that the Member found most appropriate. Some Members wanted these flexibilities to be preserved, and this view had to be respected.

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

11 ELECTION OF OFFICERS

11.1. The Chairman informed the Committee that in April 2017 the Council for Trade in Goods (CTG) had selected Ambassador Choi of Korea as the new CTG Chair. The CTG Chair had been consulting with Members regarding chairpersons for the CTG subsidiary bodies, including the Committee on Import Licensing. To date, the process was still ongoing.

11.2. He proposed that as soon as there was consensus on a slate of names, the Secretariat would send a fax with the name of the proposed Chairperson for the Import Licensing Committee. If no objection were received within the time-frame indicated in the fax, the candidate would be deemed to have been elected by the Committee by acclamation.¹

11.3. The Committee so agreed.

12 DATE OF THE NEXT MEETING

12.1. The Chairman informed the Committee that the next formal meeting would be held in October, on the understanding that additional meetings might be convened as necessary. Members would be informed well in advance of the timing of the formal meeting.

¹ Mr. Fawaz Almuballi (Saudi Arabia) was nominated as the new Chair of the Import Licensing Committee by the CTG and the Secretariat informed Members through a fax dated 11 May. The Committee elected him as the Chair by acclamation on 12 May 2017. The Chairman nominated Mr Richard Emerson-Elliott of Australia as Vice-Chairperson of the Committee and the nomination was sent to Members for consideration through a fax on 14 June. The Committee elected him accordingly.

12.2. The Committee took note.

12.3. Before the meeting was adjourned, the Chairman, as outgoing Chair of the Committee, thanked Members and the Secretariat for their support.
