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Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 22 OCTOBER 2018

CHAIRPERSON: MS. LORENA RIVERA ORJUELA (COLOMBIA)

The Committee on Import Licensing held its forty-ninth meeting on 22 October 2018 under the chairpersonship of Ms Lorena Rivera Orjuela (Colombia). The agenda proposed for the meeting was circulated in document WTO/AIR/LIC/8.

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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 50 notifications had been received since the last meeting, of which 48 were listed for consideration. The following new notifications would be reviewed at the Committee's subsequent meeting: new N/3 notifications from Kazakhstan and Nicaragua; and a new N/2 notification from Angola.

1.2. The Chair pointed out that, as of 22 October 2018, 15 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 where to find sources of relevant information, 25 Members had still not submitted any such notification. In addition, 24 Members had not yet submitted any replies to the Questionnaire under Article 7.3. The list of Members mentioned above had been reflected in the draft biennial report (document G/LIC/W/49).

1.3. She also pointed out that only 15 Members had submitted their replies to the Questionnaire for 2018. Among these, only twelve Members had submitted their replies either before or immediately after 30 September 2018, namely: Argentina; Burundi; Cuba; the European Union; Hong Kong, China; Israel; Macao, China; Montenegro; New Zealand; Switzerland; Chinese Taipei; and the United States. Other Members had submitted their N/3 notifications for 2017 and 2016. For the sake of transparency, she urged other Members to submit their replies to the 2018 Questionnaire as soon as possible.

1.4. The representative of the United States (US) thanked the Chair for continuing to call the Committee's attention to the discouragingly low levels of compliance among Members with their notification obligations. The United States understood that to comply with the Agreement's notification requirements could be challenging. However, she emphasized that transparency required timely and accurate notifications. In this regard, she urged all Members to fulfil their notification requirements as prescribed in the Agreement on Import Licensing Procedures, and called on those Members that had not yet submitted their replies to the Questionnaire for 2018 do so as soon as possible.

1.5. The representatives of the European Union (EU) and Japan echoed the US statement. The EU representative expressed concerns similar to those of the US over inadequate notification to this Committee, and invited Members experiencing difficulty in this regard because of capacity constraints to contact the Secretariat for assistance.

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

2 WRITTEN QUESTIONS AND REPLIES FROM MEMBERS ON SPECIFIC TRADE CONCERNS

2.1 Document G/LIC/Q/ARG/17 and G/LIC/Q/ARG/17/Add.1

2.1. The representative of Argentina recalled that, at the Committee's previous meeting, in April 2018, his delegation had replied to all of the European Union's written questions.

2.2. In response, the representative of the European Union thanked Argentina for its written replies, and confirmed that the information provided had been sufficient.

2.2 Document G/LIC/Q/BRA/23

2.3. The representative of the European Union thanked Brazil for its replies to the EU's written questions. However, the EU continued to be concerned by Brazil's import regime for nitrocellulose for industrial use.

2.4. The EU failed to see how their nitrocellulose would undermine Brazil's security, considering that a stability test for industrial nitrocellulose had declared that the EU products had achieved the highest safety standard worldwide, and that these products were stable and would not show a dangerous decomposition, even if dry. Therefore, national security in Brazil would not be affected negatively.

2.5. The EU wondered about the criteria applied by Brazil to assess the risk of the goods in question, and invited Brazil to comment.

2.6. She noted that the EU would submit a new set of questions relative to this issue. In particular, on 5 September 2018, Brazil had published Decree No. 9.438/2018, establishing a new regulation for the Supervision of Controlled Products, superseding Decree No. 3.665/2000. Section 4 of Article 25 of the Decree established that the Controlled Products classified as defence products that were manufactured by a company registered as a defence company, could only be imported if a special authorization to do so were granted by the President. The EU sought clarity from Brazil regarding the importation of Industrial Nitrocellulose, and if it would require special authorization from the President pursuant to section 4 of Article 25 of Decree No. 9.438/2018. If this were the case, the EU would like to know the criteria for granting such special authorization, and how to obtain it.

2.7. In response, the representative of Brazil thanked the EU for its additional questions and continued interest. He asked the EU to submit its questions in writing so that they could be forwarded to Capital. He emphasized that Brazil appreciated the importance of transparency obligations, that they had provided answers to the EU's questions until now, and that they would continue, in a transparent way, to do so.

2.3 Document G/LIC/Q/RUS/4

2.8. The representative of the European Union indicated that, focusing on the advance questions on today's agenda, her delegation wished to receive further clarification on the procedures to be followed for importation into the Russian Federation of specified medicines and pharmaceutical products.

2.9. The EU noted that, since the introduction of the Good Manufacturing Practice (GMP) certificate requirements, in January 2016, imports into the Russian Federation of the pharmaceutical products at issue had been subject to complicated, burdensome, and discriminatory procedures.

2.10. She pointed out that GMP certification as currently implemented in the Russian Federation not only raised concerns over its adherence to the WTO National Treatment principle; it also raised concerns over its import licensing dimension, which could not be denied.

2.11. The EU wished to understand the different procedures applied to importers for obtaining GMP certifications, and what the justifications were for applying procedures to importers that were different from those applied to domestic producers. In particular, she invited Russia to explain why a domestic applicant could obtain a GMP certificate together with its marketing authorization, while an importer had first to obtain the GMP certificate, and then, as a separate and subsequent step, the marketing authorization.

2.12. In addition, the EU sought clarification as to the average time required to obtain a GMP certificate for a domestic as compared to a foreign applicant.

2.13. She noted that the EU had elected to raise these questions in the Import Licensing Committee because the procedures for obtaining GMP certificates for an importer could be understood as "licensing" procedures falling within the scope of Article 1.1 of the Import Licensing Agreement.

2.14. The EU asked the Russian Federation if it had already envisaged introducing amendments to the current procedures. The EU also sought confirmation from the Russian Federation that a bill of law had been sent to the Duma in early 2018, and asked about how far it had advanced and what was its current status. In addition, the EU requested information on rules and options for operators wishing to rectify formal errors in their GMP certification applications once these had been submitted to the Russian authorities.

2.15. In response, the representative of the Russian Federation thanked the EU for its ongoing interest in GMP regulation; she also indicated that the EU questions were still under consideration in Capital, and that formal replies would be provided once internal consultations had been completed.

2.4 Document G/LIC/Q/THA/4

2.16. The representative of the European Union noted with regret that Thailand had not submitted any annual notification of its import licensing procedures since 2013. The EU strongly encouraged Thailand to comply with its notification' requirements and requested clarification from Thailand of the reasons for this delay.

2.17. The EU also reiterated its concern over Thailand's import procedures for feed wheat. She pointed out that, in April 2018, following Thailand's request, the EU had submitted an additional set of advance questions; however, to date Thailand had not submitted any written response.

2.18. The EU reiterated its interest in understanding on what basis the measure could be justified and maintained, and for how long. The EU also wished to receive a detailed description of the import licensing procedures to be applied. In addition, the EU repeated its request to receive from Thailand the relevant data concerning the actual situation of the corn market in order to evaluate Thailand's justification of the measure on the grounds of corn oversupply.

2.19. Furthermore, the EU understood that, as indicated in its written questions, corn imports from ASEAN members was permitted from February to August, and that this period might then be extended until October, thus indicating a potential increase in import volumes of corn. The EU considered that this appeared to run contrary to the alleged market oversupply of domestic corn, and requested Thailand to clarify how such a possible extension could be reconciled with alleged market oversupply of domestic corn.

2.20. She emphasized that the EU looked forward to receiving detailed written replies to its questions circulated as documents G/LIC/Q/THA/3 and G/LIC/Q/THA/4. She also asked if Thailand intended to notify its import procedures for feed wheat in accordance with Articles 1.4 and 1.5 of the Import Licensing Agreement.

2.21. In response, the representative of Thailand stated that the import permit requirement for feed wheat was a temporary measure that had been put in place to relieve the situation of corn price depression and to stabilize the domestic price of corn. Thailand's relevant authorities were currently in active consultation with regard to the measure, which included a review of the possibility of applying appropriate and updated tariffs.

2.5 Document G/LIC/Q/IDN/40

2.22. The representative of the European Union noted that her delegation had submitted to Indonesia a set of detailed questions in order to receive further clarification from Indonesia in response to their original follow-up question on the importation of tyres. To date, the EU had not received from Indonesia any written reply to this question.

2.23. In response, the representative of Indonesia stated that, in addition to their statement delivered at the Committee's previous meeting, his delegation wished to convey the following message from Capital. The Minister of Trade Regulation No. 77 of 2016 had been amended by Minister of Trade Regulation No. 6 of 2018. The main changes in the regulation concerned import licensing requirements and inspection for compliance. More specifically, the changes in the regulation were as follows: a change in the supervision system from at-the-border to post-border; a change of sanctions for non-compliance; a change of subjects from whom import approval was required, and a change in the department responsible for monitoring and inspection at the post-border.

2.6 Document G/LIC/Q/CHN/27

2.24. The representative of the European Union indicated that they had submitted to China a set of detailed questions seeking further clarification of the annual notification (2016) submitted by China, but to date had received no written response from China.

2.25. She indicated that the main aspects of the EU's questions were as follows: (1) the EU wished to receive a complete list of those products subject to non-automatic import licences, as well as a complete list of products subject to automatic import licences; (2) the EU wished to receive a detailed description of the procedures applicable to waste products, and also wanted to know if China envisaged making any amendments to its current procedures. She noted that this issue would also be addressed under Agenda Item 9.

2.26. The EU reiterated its concerns regarding the lack of notification from China on the procedures applicable to waste products, and sought further clarity on a number of points, namely: (1) detailed information on the products subject to a ban from 1 January 2018; (2) changes on the list of products subject to non-automatic import licences (restricted solid waste), and automatic import licences (non-restricted solid waste), from 1 January 2018; (3) changes on the conditions for the issuance of import licences–that is, import licences no longer issued to traders but only to processors in China.

2.27. In response, the representative of China thanked the EU for its questions on China's import licensing system. Regarding the notification of procedures for the importation of solid waste, he stated that China had notified the updated Catalogue for the Administration of the Import of Solid Wastes to the TBT Committee in 2017, and that in China's next notification to the Committee on Import Licensing, the "Catalogue of Solid Wastes that Can Be Used as Raw Materials under Import Restrictions" would be included.

2.28. Regarding China's automatic import licensing regime, he explained that it applied to certain freely-imported commodities, and had been introduced in order to monitor the market and to collect trade statistics. Its content and implementing methods complied with the Agreement on Import Licensing Procedures, and no restriction was imposed on either the quantity or the value of imports.

2.29. With regard to the procedures under automatic import licensing, he explained that applicants could file applications to the Ministry of Commerce or its approved institutions. In the case of applications that were complete and correct, the issuing authority would, to the extent possible, approve them immediately. In special cases, issuance would be within 10 working days. The validity of an automatic import licence was six months, effective in the calendar year. For an extension, the licence holders were required to undergo certain additional formalities.

2.30. For products subject to non-automatic import licensing, applicants should file their applications to the relevant competent authorities, depending on the type of product, and then obtain import licences from the Ministry of Commerce or its entrusted institutions upon approval. Eligible applicants could obtain import licences in no more than three working days, and in no more than ten working days under special circumstances. The time required to obtain pre-approval documents for imported ozone-depleting substances and key used mechanical and electronic products was excluded from the overall processing time. The validity of an import licence was one year, effective within the calendar year, which could be extended once and for no more than three months.

2.31. He further explained that, in the event that the government decided to take interim prohibitive measures or interim quantitative restrictions on imports of goods subject to automatic import licensing and non-automatic import licensing, issuance of automatic import licences would cease from the effective date of such interim measures.

2.32. The representative of the European Union thanked China for its detailed oral reply and looked forward to receiving China's comparably detailed written replies.

2.33. 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 by the Committee: Ecuador (G/LIC/N/1/ECU/7); the European Union (G/LIC/N/1/EU/12); India (G/LIC/N/1/IND/14 and G/LIC/N/IND/14/Add.1); Israel (G/LIC/N/1/ISR/4); and Macao, China (G/LIC/N/1/MAC/8).

3.2 Notifications under Article 5 of the Agreement

3.2. The following N/2 notifications were reviewed at the meeting: Argentina (G/LIC/N/2/ARG/28/Add.3 and G/LIC/N/2/ARG/28/Add.4); Canada (G/LIC/N/2/CAN/1); European Union (G/LIC/N/2/EU/12); Indonesia (G/LIC/N/2/IDN/37, G/LIC/N/2/IDN/38, G/LIC/N/2/IDN/39, G/LIC/N/2/IDN/40, G/LIC/N/2/IDN/41 and G/LIC/N/2/IDN/42); Israel (G/LIC/N/2/ISR/4); Japan (G/LIC/N/2/JPN/4); Chinese Taipei (G/LIC/N/2/TPKM/5, G/LIC/N/2/TPKM/6 and G/LIC/N/2/TPKM/7).

3.3 Notifications under Article 7.3 of the Agreement

3.3. The following N/3 notifications were reviewed at the meeting: Argentina (2018) (G/LIC/N/3/ARG/14 and G/LIC/N/3/ARG/14/Corr.1); Australia (2017)(G/LIC/N/3/AUS/10); Burundi (2018) (G/LIC/N/3/BDI/4); Canada (2017) (G/LIC/N/3/CAN/17); Cuba (2018) (G/LIC/N/3/CUB/9); El Salvador (2017) (G/LIC/N/3/SLV/2); European Union (2018) (G/LIC/N/3/EU/7); Hong Kong, China (2018) (G/LIC/N/3/HKG/22); India (2017) (G/LIC/N/3/IND/17); Israel (2017) (G/LIC/N/3/ISR/4); Japan (2018) (G/LIC/N/3/JPN/17); Macao, China (2018) (G/LIC/N/3/MAC/21 and G/LIC/N/3/MAC/21/Rev.1); Mali (2017) (G/LIC/N/3/MLI/9/Add.1); Mauritius (2018) (G/LIC/N/3/MUS/8); Montenegro (2018) (G/LIC/N/3/MNE/2); New Zealand (2018) (G/LIC/N/3/NZL/5); Peru (2016 & 2017) (G/LIC/N/3/PER/12 and G/LIC/N/3/PER/13); Russian Federation (2017) (G/LIC/N/3/RUS/4); Switzerland (2018) (G/LIC/N/3/CHE/14); Chinese Taipei (2018) (G/LIC/N/3/TPKM/9); Ukraine (2018) (G/LIC/N/3/UKR/11); the United States (2018) (G/LIC/N/3/USA/15); and Uruguay (2016 and 2017) (G/LIC/N/3/URY/10 and G/LIC/N/3/URY/11).

3.4. The Committee took note of the notifications.

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

4.1. The representative of the United States noted that US concerns over Indonesia's import licensing regimes and, in particular, the import licensing requirements for cell phones, handheld computers, and tablets, were both serious and of long standing. In its questions to Indonesia, the US had sought clarity regarding the specific requirements for Indonesia's import licensing regime, and also an understanding of the rationale for the requirements overall.

4.2. The US acknowledged the responses that Indonesia had provided in May 2017. However, these responses had not resolved its concerns over the import licensing requirements in question; indeed, in certain instances, Indonesia's responses had not sufficiently addressed the questions that had been asked.

4.3. The US continued to seek Indonesia's explanation for why its import licensing requirements treated 3G and 4G technology differently. He noted that Indonesia had confirmed in its responses that the two types of products were indeed treated differently; however, Indonesia had not explained the rationale for this difference in treatment. Thus, the US again requested Indonesia to clarify its rationale.

4.4. Furthermore, the US continued to seek to understand why Indonesia had required both a licence to import generally – which divided companies into those that import for further processing ("API-P") and those that import finished products ("API-U") – as well as a separate licence for specific products, in this case for 4G LT products, including a requirement to obtain a recommendation from the specific ministry with regulatory responsibility.

4.5. He observed that it remained unclear if domestic companies were subject to equivalent requirements to those imposed upon importers. For example, there appeared to be a different requirement for domestic companies with regard to the use of distributors. And when asked to identify similar requirements for domestic producers, Indonesia had stated that these requirements applied to registered importers.

4.6. The US understood that Indonesia's regulations had imposed a number of additional requirements for obtaining certifications prior to issuance of an import licence. Based on Indonesia's responses to date, it appeared that Indonesia's system favoured imports meant for further processing over imports of finished products.

4.7. In this context, he emphasized that the US continued to question whether this import licensing regime was consistent with WTO principles, as a general matter, as well as how such requirements could be understood to be no more administratively burdensome than necessary.

4.8. The US representative pointed out that the issues that his delegation had raised, on this and multiple previous occasions, were serious. In the view of the US, these import licensing requirements had distorted trade and investment in an important and dynamic sector that was of significance both to the US and to the global economy.

4.9. He appreciated that Indonesia had indeed notified some of these measures to the Committee. Nevertheless, the US continued to urge Indonesia to notify all of the associated measures, including Ministry of Industry Regulations Nos. 108/2012, 68/2016, 29/2017, KOMINFO Regulation No. 23/2016, and KOMINFO circular letter No. 518/2017. He also continued to urge Indonesia to reconsider its import licensing requirements for cell phones, handheld computers, and tablets.

4.10. The representative of the European Union echoed the statement made by the US and looked forward to receiving Indonesia's replies to the US questions.

4.11. In response, the representative of Indonesia thanked the United States and the European Union for their continued interest in the import licensing regime of the products concerned, and referred to Indonesia's responses provided at previous meetings.

4.12. The Committee took note of the statements made.

5 INDONESIA – IMPORT LICENSING REQUIREMENTS RELATED TO MILK SUPPLY AND CIRCULATION – STATEMENT BY THE UNITED STATES

5.1. The representative of the United States appreciated Indonesia's recent amendments to its dairy import measures, namely Ministry of Agriculture Regulation No. 33/2018 ("Regulation 33"). The US understood that Regulation 33 appeared to remove the requirement that dairy product importers enter into "partnership agreements" in order to acquire import licences.

5.2. That said, the US remained concerned by industry reports that Indonesia might still be requiring partnership agreements as a precondition for import, notwithstanding the apparent changes to Regulation 33.

5.3. In this context, the US questioned if the amendments contained in Regulation 33 were meaningful, if the Ministry of Trade ("MOT") had at the same time been continuing to encourage importers to enter into partnerships in practice. He noted that, according to the US' understanding, given that no partnership requirements currently existed in the text of the regulations, such requirements should be neither enforced nor encouraged. The US wished Indonesia to clarify how the MOT intended to "encourage" partnership agreements. Would importers' participation in partnership agreements affect their ability to obtain import permits?

5.4. Given the long-standing nature of US trade concerns over Indonesia's domestic partnership requirements for dairy products, the US requested Indonesia also to clarify to all importers, in writing, that partnerships were not mandatory nor linked to import permits, and that any "encouragement" of such partnerships did not mean that partnerships would affect the issuance of import licences.

5.5. He understood that dairy importers would soon be submitting applications for 2019 first semester import permits. His delegation trusted that, if Indonesia had in fact removed its partnership requirements, importers that had not entered into partnership agreements would be able, nevertheless, to obtain import permits in a timely manner. The US looked forward to a continued and constructive engagement with Indonesia on this issue.

5.6. The representative of the European Union expressed the EU's ongoing concern over Indonesia's import licensing regime, as raised already several times in this Committee. The EU reiterated its interest in receiving detailed information on the rules and standards for milk regulating the production of processed milk and relevant investments.

5.7. In particular, the EU requested Indonesia to present in detail its licensing rules applicable on the basis of the draft Ministry of Agriculture Regulation concerning the Importation and Exportation of Food Products of Animal Origin into and from the territory of the Republic of Indonesia, which had included provisions on milk and milk products.

5.8. She welcomed the fact that Indonesia had notified the above-mentioned draft legal text to the SPS Committee (document G/SPS/N/IDN/121), and invited Indonesia to further notify the Committee on Import Licensing of any import licensing-related issues in this regulation or in the related MOA Regulation No. 13/2017 on Partnership with Local Dairy Producers/Farmers.

5.9. In addition, the EU invited Indonesia to further elaborate on the licensing-related aspects of MOA Regulation No. 13/2017, which had made dairy imports conditional upon establishing partnerships with local farmers.

5.10. The EU also requested an overview of the dates of application foreseen for the three regulations mentioned above, as well as any other rules foreseen with regard to milk supply, distribution, and import.

5.11. In response, the representative of Indonesia thanked the US and the EU for their continued interest in this matter. He referred to Indonesia's statement given at the Committee's previous meeting, pointing out that the regulation concerned did not regulate licensing procedures for imports of milk and milk products. He informed the Committee that the regulation at issue had recently been amended by Minister of Agriculture Regulations Nos. 30 and 33 of 2018. Under these regulations, the local partnership agreement, or partnership plan, would not affect the issuance of recommendation for import from the Ministry of Agriculture, and the partnership was no longer mandatory.

5.12. The Committee took note of the statements made.

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

6.1. The representative of the United States pointed out that the US had been concerned for some time over India's import licensing requirements for boric acid, particularly with regard to the burdensome end-use certificates necessary for importation, and he underscored that his delegation had now been raising this issue in the Committee for nearly a decade.

6.2. He recalled that US concerns had begun in 2006, when India's Ministry of Commerce and Industry had issued a ruling stating that "Imports of Boric Acid for non-insecticidal purposes would be subject to an import permit issued by the Central Insecticide Board and Registration Committee under the Ministry of Agriculture". Prior to this change, no import permit had been required for boric acid.

6.3. However, he noted that India did now require importers of non-insecticidal boric acid to specify the precise end-use of the product prior to importation, and that such information was subject to a formal government review process. In addition, these import requests were not being promptly reviewed. The Central Insecticide Board and Registration Committee (CIBRC) only met monthly, and the extent of its opportunity to review import requests was unclear. Recently, there had been a gap of more than six months, during which the CIBRC had not approved a single import permit for non-insecticidal boric acid, despite repeated applications.

6.4. While import approvals appeared to be limited to past imports, as opposed to consumption, Indian importers had expressed to the US their frustration at being required to supply information also on their past consumption of boric acid, broken down by imports and domestic sources, when seeking approval to import.

6.5. In this context, the US continued to seek India's explanation of why boric acid, which had a toxicity level roughly equivalent to table salt, was the only insecticide that required an import permit for non-insecticidal use.

6.6. Furthermore, he questioned why imports were subject to these requirements, given that domestic manufacturers of boric acid did not have to seek approval from a government Ministry to sell their product, and that domestic producers did not have to determine the end-use of the boric acid prior to its sale, but could sell to any buyer, and faced no quantity restriction.

6.7. The US requested India to amend Schedule–I (imports) of the ITC (HS) Classifications of Export and Import Items, to eliminate the import permit requirement on imports of boric acid for non-insecticidal purposes.

6.8. In response, the representative of India thanked the US for their interest. He pointed out that, regarding the import licensing requirement on boric acid, India had already submitted its detailed written replies in documents G/LIC/Q/IND/12, G/LIC/Q/IND/14, G/LIC/Q/IND/16 and G/LIC/Q/IND/22.

6.9. The Committee took note of the statements made.

7 INDIA – IMPORT REQUIREMENTS FOR BEANS OF THE SPECIES VIGNA MUNGO HEPPER OR VIGNA RADIATA WILCZEK AND PIGEON PEAS (CAJANUS CAJAN) – STATEMENT BY AUSTRALIA, CANADA, AND THE EUROPEAN UNION

7.1. The representative of Australia noted that, in August 2017, India had imposed quantitative restrictions on imports of black lentils, mung beans, and pigeon peas, which had imposed an absolute quota on the importation of these products into India. An additional quantitative restriction on peas, including yellow, green, dun, and kaspa peas, had also been imposed in April 2018.

7.2. In the case of black lentils and mung beans, imports had been restricted to an annual quota of 300,000 tonnes. For pigeon peas, imports had been restricted to an annual quota of 200,000 tonnes. Imports above these amounts were prohibited.

7.3. In the case of peas, imports had been restricted to 100,000 tonnes in the period from 1 April until 30 June 2018, and this restricted quantity had been fully utilized within that period. The restriction had then been extended until 30 September 2018, and then extended for a second time in late September, with both extensions having no associated additional volume. He argued that India would, in effect, have in place an import ban on peas for six months, until 31 December 2018.

7.4. He explained that Australia had tried to engage with India, both bilaterally and plurilaterally, and in both Geneva and New Delhi, to understand the reasoning behind these restrictions. His delegation had made it clear, in this and every other relevant WTO Committee, that Australia wished to understand India's reasoning and, most importantly, the WTO-basis of these quantitative restrictions. Based on the information currently available, Australia believed that the quantitative restrictions in question were not consistent with India's WTO obligations.

7.5. He continued that Australia had made it clear that these *ad hoc* measures, implemented with no forewarning (and applied retrospectively), had had and continued to have a significant impact on the global pulses market, and created uncertainty for all stakeholders, from farmers to consumers.

7.6. The unpredictable nature of the administration of these measures was cause for concern. He argued that this was best exemplified by the fact that India had been unable to provide any response to Australia's questions relating to their pulses measures at the 25-26 September 2018 meeting of the Committee on Agriculture, when India then extended its quantitative restrictions on peas without any additional volume just two days later. This was in addition to a day of particular confusion for

the industry, on 29 August 2018, when India withdrew its restrictions on peas, only to re-introduce them the following day.

7.7. On 12 April 2018, India's notification to the Import Licensing Committee (G/LIC/N/3/IND/17) had stated that India's import restrictions were "maintained only on grounds of protection of human health or safety; animal or plant life or health; security and the environment." Regrettably, Australia had still not received a fulsome explanation of the legal basis of India's quantitative restrictions.

7.8. He noted that, at each and every relevant Committee, India had failed to provide answers to questions from Australia and other Members. Australia had raised serious and well-founded concerns with India's measures on pulses and, in the interests of transparency, his delegation again requested India to respond expeditiously and fulsomely to Australia's questions, which included the following questions:

(a) Could India explicitly state which of the four grounds outlined in India's import licensing notification was the basis for maintaining quantitative restrictions on a range of pulses?

(b) If India was relying on GATT Article XX (General Exceptions) for its quantitative restrictions, could India explicitly state which paragraph in Article XX it was relying on for its quantitative restrictions?

(c) How were these measures 'temporary', given that some had now been in place for more than a year and two months?

(d) Was India planning on continuing or renewing its quantitative restrictions on pulses already affected?

(e) Was India planning to introduce new quantitative restrictions on other pulse varieties?

(f) When would India fully notify these quantitative restrictions, including for peas, and their WTO legal basis, to the WTO Committee on Market Access, pursuant to the Decision on Notification Procedures for Quantitative Restrictions?

Australia believed that this issue was of relevance to the Import Licensing Committee, since India was relying on its response to the 2017 Annual Questionnaire on Import Licensing to notify Members of quantitative restrictions that were imposed currently (India also cross-referenced its annual questionnaire in its market access notification G/MA/QR/N/IND/2, to notify that quantitative restrictions had been imposed).

(g) Australia noted that India had submitted its notification G/LIC/N/1/IND/14 on 15 May 2018, and addendum G/LIC/N/1/IND/14/Add.1 on 20 June 2018, notifying Members of the Directorate General of Foreign Trade's notifications relating to products subject to import restrictions. However, pursuant to Article 1.4(a) of the Agreement on Import Licensing Procedures, Members should notify these restrictions "whenever practicable, 21 days prior to the effective date".

Australia noted that, in the case of peas, the restriction had been published **25 days after the effective date** of the measure. Was Australia therefore to understand that it was 'impractical' for India to publish information on the pea restriction 21 days prior to its implementation?

(a) Could India please explain in detail why it was unable to publish the information on the pea restriction until 25 days after it came into effect; and

(b) Why was it not included in India's notification on 15 May and 20 June 2018?

7.9. Australia also requested India to provide written responses to the questions that Australia had asked at the last Import Licensing Committee meeting, which had been held on 20 April 2018. In conclusion, Australia expected all WTO Members to take their obligations seriously, and his delegation would watch any developments in India on the issue of pulses very closely.

7.10. The representative of Canada stated that, as India's largest supplier of pulses, Canada had been most negatively affected by India's recent measures to limit imports of pulses. Pulses were an important source of protein for many Indian consumers and Canada had been a high quality and reliable supplier.

7.11. Canada was disappointed that India had introduced quantitative restrictions on the import of dry peas on 25 April 2018, and then that these restrictions had been extended to 31 December 2018. Canada noted that, to date, India had not yet provided any clear information regarding the GATT or WTO basis for this quantitative restriction. During the June 2018 meeting of the WTO Committee on Agriculture, India had indicated that the rationale for this quantitative restriction on dried peas had recently been submitted to the Committee on Import Licensing and the Committee on Market Access.

7.12. He observed that, in its response to the questionnaire on import licensing (G/LIC/N/3/IND/17, dated 6 April 2018), India had specified, in paragraph 4, that the restrictions on imports were maintained only on the grounds of protection of human health or safety, animal or plant life or health, and security and the environment. However, India's response had not included any specificity with regard to the GATT or WTO rationale underlying India's decision to impose import restrictions on dry peas and other pulses.

7.13. He emphasized that the elimination of quantitative restrictions was a fundamental principle of both the GATT and the WTO (and, more specifically, the WTO Agreement on Agriculture). Canada was extremely disappointed that India had decided to continue to apply quantitative restrictions on dried peas, and again requested India to specify the GATT or WTO legal basis upon which India justified this measure.

7.14. The representative of the European Union invited India to clarify the legal basis for its quantitative restrictions on certain pulses, including mung beans. Moreover, the EU was concerned by the increase in import duties on dried peas, a measure taken as part of India's policy on pulses. The EU was of the view that, even if the duties on dried peas were within India's bound rates, the way in which they were suddenly introduced had been extremely harmful to pulse producers globally, in developing and developed countries. Such sudden measures had led to enormous price fluctuations and had reduced stability on the global pulse market, which had also affected production levels. Clearly, this was not in the long-term interests of pulse producers.

7.15. The representative of the United States supported the joint statements by Australia, Canada, and the EU, concerning India's import requirements for select varieties of pulses. The US had asked India, at various Committees, to provide clarification of its QRs including with regard to time-frames, and any plans India might have to institute additional QRs on agricultural imports. To date, the US had received no response from India to its questions. The US also supported the request for India to provide more detail with regard to its import requirements for mung beans and pigeon peas already at this Committee meeting, and requested, too, that India formally notify the WTO of any related import licensing measure. In addition, the US requested India to provide further detail regarding its import requirements for yellow and green peas.

7.16. In response, the representative of India reiterated that India had replied to questions regarding its import requirements for certain pulses at meetings of the Committee on Market Access and the Committee on Agriculture. He asked Members to provide their questions in writing so that they could more easily be sent to Capital for response.

7.17. The Committee took note of the statements made.

8 VIET NAM – IMPORT LICENSING FOR CYBER SECURITY PRODUCTS – STATEMENT BY THE UNITED STATES

8.1. The representative of the United States expressed US concern over Viet Nam's implementation of Decree No. 58 on the import of civil cryptography products, which mandated that import licences were required for certain products utilizing encryption (cryptography). According to Decree No. 58, and the Decree's supplemental Appendices, and guidance issued by the Government Cipher Committee, import licences appeared to be required only for certain products where encryption is a

"primary" or "core" function. However, he noted that Viet Nam appeared to be requiring import licenses also for products where encryption was not the core function.

8.2. The US had significant concerns over the apparent manner in which this import licence requirement had been applied, as follows:

- Why had the requirement been broadened to cover products where encryption was an "important" function, rather than the narrower "core" function requirement, as provided in the decree?
- What criteria were used to determine which products required an import licence?
- If there were a list used by Customs to determine which products needed an import licence, how was the list compiled? How could companies request to remove a product from this list if it did not meet the encryption level threshold?
- Why did Viet Nam require additional (business) licensing for IT companies, including with regard to when specific prerequisite conditions were needed to demonstrate appropriate expertise?

8.3. He pointed out that these were just a few of the US' many questions about Viet Nam's import licensing regime. He also noted that the uncertain operating environment in Viet Nam could stifle trade unnecessarily, and without providing any clear benefits.

8.4. In terms of procedure, he observed that the process for acquiring import licences also appeared to be unnecessarily burdensome as an importer had first to be licensed as an "Information Technology (IT) company" in order to be able to apply for an import licence. The US industry had reported that this process alone could take 60 days, with an additional 60 days required for a product to be licensed for import.

8.5. The US urged Viet Nam to remove the conditions that it had put in place for companies wishing to apply for an import licence. He also urged Viet Nam to consider a less trade-restrictive method of implementation, and to suspend implementation of the requirements at issue, while addressing stakeholder questions and concerns. Finally, the US requested Viet Nam to notify all of its measures to each relevant WTO Committee, including this Committee.

8.6. The representative of Japan expressed Japan's significant interest in the situation surrounding Viet Nam's Cybersecurity Law. Japan had concerns with regard to the law, and requested Viet Nam to provide details of the "cybersecurity condition", and to clarify its requirements and procedures in general, but especially with regard to its import licensing measures. He noted that Japan would monitor the situation closely and make further comment if necessary.

8.7. In response, the representative of Viet Nam agreed to send US' questions to Capital, and hoped to receive a response before the Committee's next meeting.

8.8. The Committee took note of the statements made.

9 CHINA – CHANGES TO IMPORT LICENSING FOR CERTAIN RECOVERABLE MATERIALS – STATEMENT BY THE UNITED STATES

9.1. The representative of the United States observed that the US was significantly concerned by the uncertainty, transparency, and trade restrictiveness, of China's changes to its import licensing regime in the context of China's implementation of an existing import ban on certain plastic and paper scrap, and plans to extend this ban to other products.

9.2. He noted that these sudden restrictions and bans had left US recyclers without viable alternative processing capacity, resulting in the storage or landfill disposal of otherwise saleable commodities. The global shortfall in processing capacity had also caused the decline, and in some cases, collapse, in prices for certain recycling materials, which had also put US municipal recycling programmes at risk of closure.

9.3. He argued that these restrictions were causing global environmental harm. Lacking a supply of recyclable materials, Chinese manufacturers were forced to use more virgin materials, with higher environmental cost. The sudden increase in recycles trade to alternative markets, which did not have the regulatory or processing capacity properly to manage them, had resulted in oversupply that could lead to an increase in landfill material, or worse, marine litter.

9.4. The US representative recalled that the US had raised the issue of certain recyclable materials at the previous two meetings of the Committee, and had asked China to notify any changes to its import licensing to the Committee. However, China had still to provide sufficient information about its current licensing procedures and any planned changes to alleviate US concerns.

9.5. He noted that, since the Committee's last meeting, China had announced further planned bans on the import of 32 additional recyclable materials; it had also released a draft law that would ban the import of solid waste, which China appeared to define to include all recyclable material. None of these changes had been notified to the WTO.

9.6. He requested China to explain its new import licensing requirements under this policy, and to state when it would notify these changes to the Committee. He also asked if China planned to extend the import ban to all recyclable materials? If so, when might these changes occur? What procedures would be followed when adopting such an extension?

9.7. The US respectfully asked that China adhere to its notification obligations under the Agreement on Import Licensing, with regard to any new import measures, in a timely manner. He pointed out that China was a multi-billion-dollar market for US stakeholders, and requested that China halt its implementation of the existing and planned measures and consider less trade-restrictive alternatives instead.

9.8. The representative of the European Union referred to her intervention under Agenda item 2, and looked forward to receiving replies to its questions to China contained in document G/LIC/Q/CHN/27.

9.9. The representative of Canada supported the EU's questions seeking clarity on the applicable import licensing procedures, and specific products, subject to import licensing requirements in light of China's recent changes for goods listed in China's Catalogue of Solid Waste. He encouraged China to clarify the specific goods (at HS-8 or HS-10-digit level) that were subject to automatic and non-automatic import licensing requirements, as well as the procedures applicable to goods in the Catalogues of Solid Waste.

9.10. Canada also encouraged China to notify all of its import licensing measures to the WTO as soon as possible, in accordance with Article 7.3 of the Agreement on Import Licensing Procedures. He looked forward to reviewing China's responses to the Annual Questionnaire covering year 2017.

9.11. The representative of the Republic of Korea thanked the US for raising this important issue. He focused on two areas: (1) the importance of transparency; and (2) the importance of cooperation. He noted that transparency in trade policy had played a constructive role in making the process of doing trade clearer and more predictable. In this regard, Korea would like to ask China to enhance its transparency with regard to the import processes for recoverable materials.

9.12. In addition, he emphasized the importance of close cooperation among Members. He recalled that, at the Committee's April 2018 meeting, China had indicated that it was preparing its reply to the Annual Questionnaire, and Korea believed that further explanation from China would help to reduce uncertainty over this issue.

9.13. The representative of Australia appreciated China's efforts to reduce pollution and pursue sustainable development through a broad range of measures in its economy. However, the Australian Government would wish to reiterate its concerns over China's revised standards for the import of certain recoverable materials, and supported the comments raised by other Members. Australia remained concerned that the measures were more trade restrictive than necessary to achieve the desired objectives, and welcomed further information from China about changes to its regime.

9.14. The representative of China thanked the US and other Members for raising this issue. He explained that the import of products in the Catalogue of "Catalogue of Solid Wastes that Can Be Used as Raw Materials under Import Restrictions" would be subject to the examination and approval of the competent authorities. "Measures for the Administration of the Import of Solid Wastes" and the "Regulations on the Environmental Protection of Solid Wastes that Can Be Used as Raw Materials under Import Restrictions" regulated the qualifications of enterprises applying for import of solid waste, as well as the documents, procedures, and time requirements of the applications.

9.15. He emphasized that an enterprise applying for an import licence should be a solid waste processing enterprise, that is, a "legal person". Such companies should not entrust the import of solid waste to other companies. The import licence was effective in the current year and should be used within its validity. Details of licensing procedures and requirements could be found in the documents referenced above. He clarified that imports of solid waste listed in the "Catalogue of Solid Wastes that Can Be Used as Raw Materials Not under Import Restrictions" did not require an import licence.

9.16. The Committee took note of the statements made.

10 CONSOLIDATED PAPER ON WRITTEN QUESTIONS AND REPLIES SUBMITTED TO THE COMMITTEE ON IMPORT LICENSING SINCE 1995 (G/LIC/W/51)

10.1. The Chairperson noted that the Secretariat had prepared a consolidated document of written questions and replies submitted to the Committee since 1995 (G/LIC/W/51), with a view to providing Members with an easy and up-to-date reference document containing all written questions and replies submitted so far. She indicated that it was a factual report and proposed that it be updated twice a year and circulated before each formal meeting of the Committee.

10.2. The Committee so agreed.

11 NEW IMPORT LICENSING WEBSITE (HTTPS://IMPORTLICENSING.WTO.ORG) – FEEDBACK BY MEMBERS (RD/LIC/11)

11.1. The Chairperson recalled that the Secretariat had been invited to introduce the new WTO import licensing website/database at the informal Committee meeting that had been held on 9 July, and that the Secretariat presentation had been circulated in room document RD/LIC/11. The username and password to access the website had been distributed to Members in an e-mail dated 14 August 2018. In this context, she opened the floor for Members' feedback.

11.2. The representative of Chinese Taipei thanked the Secretariat for its excellent work on establishing the new WTO import licensing website. She indicated that clearly listing Members' relevant laws and regulations, products subject to licensing, and detailed administrative procedures in force would greatly facilitate the activities of traders wishing to obtain specific information, as well as enhancing transparency in Members' licensing regimes. She pointed out that her delegation had provided some initial response to the Secretariat, and looked forward to the official public launch of the website.

11.3. The representative of Japan appreciated the dedicated work that had been undertaken by the Secretariat in developing this new website. Japan believed that the structure and content of the new website were clear and well-organized; Japan also strongly believed that this initiative would contribute to further improving transparency and to re-vitalizing the activities of the Committee. Japan looked forward to the website's official launch.

11.4. The representative of the European Union first congratulated the Secretariat for its tremendous efforts in establishing this website. The EU considered the new website to be a very useful tool to enhance transparency. At the same time, the EU believed that it facilitated the activities of their importers and exporters, including SMEs. They looked forward to receiving a regular update concerning this website.

11.5. The representative of the United States first thanked the Secretariat for all its work in seeking to improve transparency in the Import Licensing Committee. He understood that compliance in the area of Import Licensing Agreement notification requirements could be challenging. The US strongly

supported the efforts of the Secretariat in the creation of the import licensing website. He emphasized that the US would continue to fill in gaps in the information pertaining to their own profile page, and encouraged other Members of the Committee to do the same. He also took the opportunity to further advocate that the streamlined website included a section for providing legislation to the Secretariat in an electronic format that would be easily transmittable and accessible.

11.6. The representative of Hong Kong, China joined others in commending the Secretariat for having produced this very useful website. She sought clarification with regard to the plan for its official launch, and on how Members could contribute or update their profile page on the website.

11.7. The Secretariat provided updates on the ongoing work on the website, and replied to the questions raised. To date, the Secretariat had uploaded 76 Members' profiles onto the website, including 16 EU Members. Another 73 profile pages were still to be uploaded. The profile pages of 15 Members, which had never notified to the Committee, could not be prepared due to a lack of information. The Secretariat invited all Members to review and verify the accuracy of the information available on their own profile pages, and to give feedback.

11.8. The Secretariat indicated that 12 new notifications had been received from Members whose profile pages had already been uploaded. In this regard, it was important for Members and the Secretariat to discuss how best to reflect these new notifications, and any other change resulting from the verification process, on the profile pages. The Secretariat suggested that the Committee could meet in informal mode to discuss these technical issues.

11.9. Regarding the date of the official launch of the website, the Secretariat indicated that it was subject to the verification process; the specific date could be discussed at the upcoming informal meeting.

11.10. In her summary, the Chairperson congratulated the Secretariat for its excellent work in this regard. She echoed the comments made by Members and emphasized that the new website was well designed and should significantly facilitate access to the information contained in import licensing notifications. She noted that the website provided a platform for better use of notifications, and hoped that it would be open to all to access and, in particular, the business community. She indicated that informal sessions would be organized in due course to continue the various technical discussions.

11.11. The Committee took note of the statements made.

12 IMPROVING TRANSPARENCY IN NOTIFICATION PROCEDURES OF THE AGREEMENT – REPORT OF THE CHAIRPERSON

12.1. The Chairperson reported that, in the past few years, a lot of work and effort had gone into improving transparency and notification compliance in the Committee. At the last Committee meeting, all Members that had taken the floor had expressed support for re-examining and simplifying the notification procedures, and most Members had expressed a willingness to continue the discussions and consultations in this regard. Unfortunately, no informal meeting had been held on this issue since April 2017, and no proposal had yet been tabled by any Member on how to move the work forward.

12.2. In the meantime, the Secretariat had undertaken a number of technical assistance activities, including two Geneva-based workshops for experts coming from Capital, and national workshops in Paraguay and Egypt. She announced that, in the following year, there would again be a Geneva-based workshop for capital-based experts. In addition, the new website had been created, as discussed earlier.

12.3. She highlighted that the WTO was a Member-driven Organization, and called upon Members, in particular those that had indicated their support for a streamlining of the notification procedures, to show initiative by tabling ideas or written proposals on how to move the process forward. In this context, she was willing to set up informal meetings for discussions of a technical nature.

12.4. The representative of the European Union confirmed that the EU stood ready to participate in any kind of initiative if Members joined the consensus to work on the revision of the notification templates. In the EU's view, and as expressed on several previous occasions in recent years, there was scope to improve the current rules in order to streamline the process and make the preparation of annual notifications less burdensome for Members. At the same time, the EU also considered that it was necessary that Members first agreed on the process. She therefore encouraged those Members that had raised objections in the past to re-consider their position and to engage constructively in this process that was intended to improve transparency.

12.5. The representative of Japan thanked the Chairperson for her report, as well as the Secretariat for its efforts. Japan believed that notifications were the foundation of regular Committee activities. With a view to improving transparency, Japan believed that it would be beneficial to all Members to reduce the cost of notification by streamlining the relevant procedures. Japan stood ready to engage in discussions on how best to streamline the relevant notification procedures.

12.6. The representative of the United States agreed with the views expressed in the statements made by the EU and Japan. The US understood that achieving compliance with the Import Licensing Agreement's notification requirements could be challenging. The US was thus an advocate of further streamlining the notification process, including by having Members provide their legislation to the Secretariat in an electronic format so as to make them more easily transmittable and accessible.

12.7. The representative of Chinese Taipei shared the views of the EU, Japan, and the US and reaffirmed its full support for improving transparency and streamlining the notification formats and procedures. She indicated that Chinese Taipei was willing to cooperate with other Members and the Secretariat in order to make the work of the Committee a good example of how to strengthen the WTO's monitoring function.

12.8. The representative of Hong Kong, China stated that nobody at the WTO doubted the importance of transparency. One key element in the process was for each Committee to consider which approach best suited its specific Agreement and addressed the special needs of the Members in its Committee. In the area of import licensing, the notifications provided important information for the business community. She supported an ongoing discussion in this regard to explore ways to improve notification performance and enhance transparency that were not necessarily limited to the notification template itself.

12.9. The representative of Canada agreed with the statements that had been made by other Members, and stood ready to engage in further discussions on how to increase transparency and streamline the Committee's notification procedures.

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

13 TWELFTH BIENNIAL REVIEW OF THE IMPLEMENTATION AND OPERATION OF THE AGREEMENT (G/LIC/W/49)

13.1. The Chairperson recalled that Article 7.1 of the Agreement provided that the Committee shall review, as necessary, but at least once every two years, the implementation and operation of the Agreement, and that the last biennial review had been held in November 2016. He referred to the draft biennial report for 2017-2018, prepared by the Secretariat under its own responsibility (document G/LIC/W/49), and sought Members' views and comments.

13.2. The Committee adopted the report (G/LIC/W/49).

14 DRAFT REPORT (2018) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (G/LIC/W/50)

14.1. The Chairperson informed the Committee that a draft report to the Council for Trade in Goods (CTG), covering the activities of the Committee in 2018, had been circulated in

document G/LIC/W/50 for the Committee's consideration. He noted that new notifications and documents received since the issuing of the draft report would be included in the final report.[1]

14.2. The Committee adopted the report.

15 DATE OF THE NEXT MEETING

15.1. The Chairperson informed the Committee that the Secretariat had tentatively reserved the date of Thursday, 4 April 2019, for the Committee's next formal meeting, on the understanding that additional meetings might also be convened, as necessary.

15.2. The Committee took note.

[1] The final report was circulated in document G/L/1269.