Committee on Import Licensing

MINUTES OF THE MEETING
HELD ON 11 MARCH 1986

Chairperson: Ms. D. Dwoskin

1. The Committee on Import Licensing held its fifteenth meeting on 11 March 1986.

2. The agenda of the meeting was as follows:

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A. Election of Officers

3. The Committee elected Ms. D. Dwoskin (United States) as Chairperson and Mr. F. Morales (Chile) as Vice-Chairman of the Committee for 1986.

B. Information Available on Import Licensing Procedures

4. The Chairperson drew the attention of the Committee to the following documents which had appeared since the last meeting of the Committee in October 1985: LIC/3/Add.14 and Corr.1; L/5640/Rev.2; L/5640/Add.6/Corr.1; L/5640/Add.7/Rev.1; L/5640/Add.9/Corr.1; L/5640/Add.10/Rev.1; L/5640/Add.13/Corr.1; L/5640/Add.14/Corr.1; L/5640/Add.21/Rev.1 and Suppl. 1; L/5640/Add.25; L/5640/Add.26/Rev.1; L/5640/Add.27 and Add.28; L/5640/Add.29/Corr.1 and Suppl. 1 and L/5640/Add.30. The addenda to the L/5640 series constituted the replies to the Questionnaire on Import Licensing Procedures.

5. The representative of Egypt informed the Committee that Egypt's reply to the Questionnaire on Import Licensing Procedures was in the process of being finalized and would be submitted to the secretariat as soon as possible.

6. The representative of Norway informed the Committee that as of 1 January 1986, Norway had abolished automatic and non-automatic import licence...
requirements on seven sub-items for all countries and on 32 sub-items for individual countries. This had been notified to the GATT in Annex 3 to NTM/W/6/Rev.2/Add.5.

7. The representative of New Zealand announced that his government had decided to accelerate its programme to phase out import licensing, which had been referred to in the Committee on previous occasions (LIC/M/10, para.8, LIC/M/9, para.9, LIC/M/12, para.6 and LIC/M/14/Rev.1, para.5). Effective 1 July 1986, 340 categories of products would be removed from import licensing control and would be subject to licensing on demand for 12 months without restrictions on volume or value. After this time, these goods would be completely exempt from any licensing. He could make the list available to the Committee if desired. Further decisions to expand that list of products would be communicated at future meetings.

8. The Committee took note of the statements made under this agenda item.

C. Implementation and Operation of the Agreement

9. The Chairperson recalled that, while the issue of Japan's compliance with certain provisions of the Agreement concerning the publication of quotas had been more or less settled at the last meeting, some delegations had raised certain questions on other aspects of Japan's import licensing system (LIC/M/14/Rev.1, para.16). Members were invited to take the floor on this and any other relevant matter under this item.

10. While recognizing that Japan had already provided the Committee with a great deal of information, the representative of the United States asked the following questions: how many import licences had been granted on leather and leather footwear over a recent period, as specified under Article 3(b)(ii) of the Agreement; had Japan published the current quota amounts for the 13 agricultural product categories; and had the quota amounts for the miscellaneous import items for the second half of fiscal year 1985 (October 1985-April 1986) been published, as required in the Agreement? Regarding India's import licensing system for almonds, she recalled her government's previous concern, including changes made in April 1985 which made the system more restrictive (LIC/M/7, para.7; LIC/M/8, paras.5-6; LIC/M/9, para.15, LIC/M/10, para.20 and LIC/M/14/Rev.1, para.22). Her delegation would be submitting a list of questions under Article 3(b) of the Agreement and hoped that India would respond as quickly as possible.

11. The representative of Japan said he would convey the question covering leather footwear to his authorities in Tokyo and would provide an answer. Regarding the 13 agricultural categories, there were independent quotas for each item which were already published in each quota period. The quota amount for the miscellaneous import items for the second half of fiscal year 1985 was US$ 45 million and had been published in the MITI Official Bulletin and the International Trade Bulletin. His delegation had thus complied with the Agreement regarding publication of quotas subject to import licensing. He also announced that his government had decided to eliminate import restrictions on leather and to introduce new domestic measures on which information would be furnished once they were put in place. In the light of these changes, his delegation considered that it was no longer appropriate to discuss Japan's imports of leather in this Committee.
12. The representative of India took note of the United States' statement and said his government would endeavour to answer the questions, when submitted, to the extent possible. He explained that India did not have a specific licensing policy for almonds as such, which were subject to licensing procedures for all dried fruit.

13. The representative of Hungary expressed his government's concern regarding the import licensing procedures used by the member States of the European Economic Community (as notified in L/5640/Add.21/Rev.1 and Suppl.1) to administer prohibitions or quantitative restrictions inconsistent with Article XIII of the GATT, on goods from Hungary. He considered that the import licensing procedures used to administer them were equally inconsistent with the GATT, and therefore affected the balance of rights and obligations both under the GATT and under the Agreement. His government consequently reserved its position with respect to the conformity of the relevant import licensing procedures under the GATT.

14. The representative of Canada said that the European Economic Community practice of allocating global import quotas to individual member States according to a "burden sharing" formula did not reflect historical import performance. This hindered the full utilization of import quotas and thus was not in keeping with Articles 3(i), (k) or (l), or the rationale of the Agreement itself. He requested information concerning the utilization rate of different quotas subject to this practice, and especially in fish, newsprint and plywood, versus quotas allocated on a different basis.

15. The representative of the European Economic Community informed the Committee that, as new member States, Spain and Portugal were now subject to the Agreement on Import Licensing Procedures and would be making the appropriate notifications with respect to Article 5.4. Regarding the replies to the Questionnaire on Import Licensing Procedures, he noted that Portugal's submission (L/5640/Add.9/Corr.1) was already outdated and that in the near future an additional supplement to the Community reply (L/5640/Add.21) would be presented. He also informed the Committee that the specific bilateral problem with the United States concerning specialty steel (LIC/M/10, paras.22-23; LIC/M/11, paras.19-21; LIC/M/12, paras.15-17; LIC/M/13, paras.18-19 and LIC/M/14/Rev.1, paras.17-20) had been resolved in the context of a broader solution which was notified to the GATT and appeared as L/5524/Add.74. Although the specific bilateral problem had been solved, his delegation wanted to pursue the broader problem it had exposed in the context of a discussion of Article 1.1. While taking note of the statement made by the representative of Hungary, he said that the purpose of the Agreement was to ensure that procedures to administer import restrictions did not themselves restrict imports, and this purpose could be fulfilled without reference to the legal status under the GATT of the restrictions themselves. Therefore, if the means by which restrictions were administered were correct in terms of the Agreement, the balance of rights and obligations under it was safeguarded. Concerning the Canadian request for information, his delegation would provide the information requested as appropriate, in accordance with Article 3(b) of the Agreement, on a bilateral basis.

16. The Committee took note of all of the statements made, including the requests for information made by the United States and Canada.
D. Work Programme

17. The Committee discussed a set of draft guidelines for the application of Articles 1.4, 1.6, 3(c), 3(d), 3(e) and 3(g) prepared by the secretariat on the basis of the informal meetings held in February. The delegations of Japan, the Philippines and Yugoslavia noted that their governments were still reviewing the paper and hoped to be able to report at the next meeting of the Committee. The representatives of Australia, Canada, New Zealand, the United Kingdom on behalf of Hong Kong and the United States indicated that their governments could go along with the 21-day thrust of the draft guidelines. The representative of the Philippines informed the Committee that in his country rules, regulations and guidelines were normally issued at the earliest 30 days following the promulgation of the relevant laws.

18. Several delegations pointed to the need to clarify the relationship between Articles 1.4 and 3(e). The representative of the European Economic Community noted that the "opening date" for the submission of applications was specified only in Article 3(e) of the Agreement. With respect to a specific closing date for the submission of applications considered simultaneously, his delegation felt that the draft text would need further clarification to provide that applications could be submitted on a first-come, first-served basis after the end of the original application and processing period in the eventuality that the entire quota had not been utilized by that time.

19. The representative of the United States circulated a text detailing his delegation's interpretation of Article 3(e). In his government's view, the "immediately after" in Article 3(e) provided for emergency situations in which it would not be possible to announce the quota 21 days prior to the opening date for the submission of applications. Therefore the suggested seven days for this eventuality should be a firm deadline.

20. The representative of New Zealand agreed with this interpretation of Article 3(e). However, his delegation felt that the 21-day period specified in points (i), (ii) and (iii) of the draft guidelines should be applied consistently throughout the Agreement, whether in a standard quota situation or in one of emergency as provided for in 3(e). Therefore, in the latter case, the 21-day period should commence as from the date of publication of the rules and procedures pertaining to the quota. There was also a need to distinguish between certain technical terminologies used in the Agreement, e.g. the "announcement of the quota" (Article 3(e)) versus the publication of the "overall amount of the quota" (Article 3(c)).

21. The representative of the United Kingdom on behalf of Hong Kong felt that in all cases the publication of the quotas should precede the opening date for the submission of applications. In addition, in the event that a closing date were to fall on a non-working day or during a national emergency, the effective date should be the following working day.

22. The representative of Canada was concerned that the 60-day limit for processing applications considered simultaneously might be insufficient in situations in which past usage and fulfilment of quotas were monitored closely in allocating new quotas.
23. The Committee agreed to hold additional informal meetings to further consider the draft guidelines in the light of the present discussion and on the basis of a document to be prepared by the secretariat reflecting that discussion.

24. Concerning Article 1.1, the representative of the European Economic Community said that his delegation's specific problem with one party had exposed a substantive problem concerning the definition of what constituted a licence, and thus the coverage of the Agreement. In referring to views expressed concerning his delegation's previous suggestion of a definition of "licences" to be agreed within the Work Programme, his delegation now felt that it might be justified to split the problem into the following two approaches: (1) for automatic licences, an illustrative, though non-exhaustive, list of procedures could be drawn up; (2) regarding non-automatic licences, his delegation still believed that a descriptive definition rather than an illustrative list should be agreed upon.

25. The representative of Japan said his delegation favoured drawing up an illustrative list rather than general criteria and would participate positively on this basis.

26. The representative of the United States recalled that at the last informal meeting, questions were raised as to whether the Committee should spend its time trying to agree on an interpretation of Article 1.1 as the immediate problem had been resolved. His delegation could not at this time agree to any interpretation along the lines just suggested by the European Economic Community, although it might be prepared to discuss this in the future.

27. While appreciating the fact that the European Economic Community's proposal had taken into account the views previously expressed by delegations, the representative of Australia said that the Committee should not engage itself in an exercise to rewrite the Agreement and therefore she would not make a commitment to discuss the proposal at this time. She saw some value in attempts to resolve differences of interpretation bilaterally.

28. The United Kingdom on behalf of Hong Kong said this subject merited further attention and should be discussed in the forthcoming informal sessions.

29. The representative of Canada said that while his delegation believed that both licensing systems to administer quotas and import monitoring measures fell within the Agreement's jurisdiction, informal bilateral arrangements were not necessarily included. His delegation therefore favoured taking up the matter in informal meetings of the Committee.

30. The Committee agreed to discuss this item at informal sessions to be scheduled.
E. Date and Agenda of the Next Meeting

31. The Committee agreed to hold its next regular meeting on 16 October 1986. The tentative agenda for that meeting included the following items:

1. Information Available on Import Licensing Procedures
2. Implementation and Operation of the Agreement
3. Work Programme
4. Report (1986) to the CONTRACTING PARTIES
5. Other business
6. Date and Agenda of the next meeting.