

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/NOP/W/5**

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## **Working Party on Notification Obligations and Procedures**

### TIMING ASPECTS FOR THE NOTIFICATION REQUIREMENTS IN THE AGREEMENTS IN ANNEX 1A OF THE WTO AGREEMENT

Note by the Secretariat

#### Introduction

1. At the meeting of the Working Group held on 19 October 1995, the Secretariat was requested, in the context of the discussion of possible improvements in the timing of the reporting process for notifications, to prepare a brief, factual note on the timing aspects of the notification requirements in the agreements in Annex 1A, to assist the Group in its examination of this topic.

#### General Overview of Notification Procedures

2. Document G/NOP/W/2/Rev.1 sets out the notification requirements in the agreements under Annex 1A of the WTO Agreement. There are 165 items in this list containing 175 notification requirements. Some items contain two notification requirements, (e.g. some agreements require a one-time notification of regulations or laws in place at the entry into force of the WTO, to be followed on an ad hoc basis by notification of changes in these regulations and laws).

3. Within this overall total, there are 106 ad hoc notification requirements, whereby, a Member is obliged to submit a notification only if a specific action is taken. There are also 43 "one-time only" notification requirements, most of which relate to the implementation of the Agreements and are due in 1995 or on a Member's accession. There are a further 26 regular, periodic notification requirements, some with and some without specific reporting dates. These consist of 17 annual notifications, three semi-annual, three biennial and three triennial notification requirements. Details of these 26 regular notifications are set out below.

#### The Twenty-six Regular Notification Requirements

##### 4.(a) Agreement on Agriculture: Annual Notifications

There are seven annual notification requirements under the coverage of this Agreement, none of which have pre-set dates for submissions. Rather, the notifications can be made each year by the concerned Members according to that Member's use of a calendar (or marketing, fiscal etc.) year for the measure concerned. These annual notifications relate to (a) tariff and other quota commitments, (b) special safeguard provisions, (c) total aggregate measurement of support, (d) export subsidy budgetary outlay and quantity reduction commitments, (e) total exports in the context of export subsidy commitments, (f) total food aid in the context of export subsidy commitments, (g) actions taken under the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net-Food Importing Developing Countries.

(b) Agreement on Subsidies and Countervailing Measures: Semi-annual, Annual and Triennial Notifications

- (i) Semi-annual reports are required of countervailing duty actions taken pursuant to Article 25.11. The usual practice is for invitations to be sent to Members by the Subsidies Committee stipulating the date for submission, which is usually a date soon after the beginning and at the mid-point of each year (e.g. on 17 July 1995 the Committee requested notifications for the January-June 1995 period to be submitted by 31 August 1995). This process will be repeated after six months for the next period.
- (ii) Annual updates are required of any subsidy programme for which Article 8:2 (i.e. non-actionable subsidies) has been invoked. No time-frames are specified.
- (iii) Triennial full notification of specific subsidies as defined in Articles 1.1 and 2 is required, with the first under the WTO being due on 30 June 1995 and then every three years, i.e. 30 June 1998, 2001, etc.
- (iv) Annual updates of the triennial notifications of specific subsidies as defined in Articles 1.1 and 2 are required in intervening years (1996 and 1997 and then 1999 and 2000, etc.) on each occasion due on 30 June.

(c) Agreement on Implementation of Article VI of GATT 1994 (Anti-Dumping Agreement): Semi-annual Reports

Semi-annual reports are required of anti-dumping actions taken pursuant to Article 16.4. The usual practice is for invitations to be sent to Members by the Committee on Anti-Dumping Practices stipulating the date for submission, which is usually a date soon after the beginning of the year and at the mid-point of each year (e.g. on 18 July 1995 the Committee requested notifications for the January-June 1995 period to be submitted by 31 August 1995). This process will be repeated after six months for the next period.

(d) Agreement on Technical Barriers to Trade: Semi-annual Notification

Annex 3, paragraph (j) of the TBT Agreement requires "At least once every six months, the standardizing body shall publish a work programme containing its name and address, the standards it is currently preparing and the standards which it has adopted in the preceding period ... no later than at the time of publication of its work programme, the standardizing body shall notify the existence thereof to the ISO/IEC Information Centre in Geneva."

(e) GATT 1994 Article XVII(4)(a) and the Understanding on the Interpretation of Article XVII of GATT 1994 (State Trading): Triennial Reports and Annual Updates

- (i) Triennial reports are required on state trading activities, the first being due on 30 June 1995 and then 30 June 1998 and so on.
- (ii) Annual update of the triennial notification is required in intervening years (1996 and 1997 and then 1999 and 2000) at all times due on 30 June.

Notifications shall be made in accordance with the questionnaire on state trading adopted on 24 May 1960 (BISD 9S/184-185), it being understood that: (i) Members shall notify the enterprises referred to in paragraph 1 of that article whether or not imports or exports have in fact taken place; and (ii) Members shall make a notification even if they do not maintain state trading enterprises.

The Working Party on State Trading Enterprises decided that new and full notifications should be submitted not later than 30 June every third year after 1995 and that the updating notifications due in each of the two intervening years would be submitted not later than 30 June of the respective year (G/STR/M/1, paragraph 16).

(f) Understanding on the Interpretation of Article XXIV of GATT 1994 and Decision of the CONTRACTING PARTIES (BISD 18S/37-38): Biennial Notifications

Biennial reports are required on the operation of customs unions and other regional arrangements. Paragraph 11 of the Understanding requires "Customs unions and constituents of free-trade areas shall report periodically to the Council for Trade in Goods, as envisaged by the CONTRACTING PARTIES to GATT 1947 in their instruction to the GATT 1947 Council concerning reports on regional agreements (BISD 18S/38) (i.e. every two years), on the operation of the relevant agreement."

(g) Understanding on Balance-of-Payments Provisions of GATT 1994: Annual Notifications

Paragraph 9 of the Understanding requires "On a yearly basis, each Member shall make available to the Secretariat a consolidated notification, including all changes in laws, regulations, policy statements or public notices, for examination by Members."

(h) Article XXVIII of the GATT 1994: Triennial Modification of Schedules

In Paragraph 5 of GATT Article XXVIII, the procedures for modifying schedules of concessions provide that "a contracting party may elect by notifying the CONTRACTING PARTIES to reserve the right, for the duration of the next period, to modify the appropriate Schedule in accordance with the procedures in paragraphs 1 to 3". Paragraph 1 refers to "each three year period, the first beginning on 1 January 1958..." and also giving the possibility to Members to modify their Schedules "not earlier than six months, nor later than three months prior to each three-year period" (Annex 1 to GATT). The current three-year period began on 1 January 1994.

(i) Decision on Quantitative Restrictions (G/MA/NTM/W/1/Rev.1, to be issued, BISD 32S/92-93) and Committee on Market Access Decision: Biennial Notification

The CONTRACTING PARTIES adopted the recommendation of the Group on Quantitative Restrictions and other Non-tariff Measures in 1985, whereby contracting parties should be invited biennially to send complete notifications of the quantitative restrictions that they maintain. The terms of reference (paragraph (d) of WT/L/47) of the Committee on Market Access provide that it shall "conduct the updating and analysis of the documentation on quantitative restrictions and other non-tariff measures, in accordance with the timetable and procedures agreed by the CONTRACTING PARTIES in 1984 and 1985 (BISD 31S/227 and 228, and BISD 32S/92 and 93)". At its meeting in October 1995, the Committee on Market Access adopted a Decision (subject to approval of the Council for Trade in Goods) on Notification Procedures for Quantitative Restrictions. The Decision establishes a new database and requires Members to make complete notifications of the quantitative restrictions which they maintain by 31 January 1996 and at two-yearly intervals thereafter.

(j) Decision of CONTRACTING PARTIES on Marks of Origin: Annual Notification

At its Session in 1958, the CONTRACTING PARTIES adopted the following notification procedure relating to marks of origin: "Invite all countries to report to the GATT Secretariat all changes in their legislation, rules and regulations concerning marks of origin in order to be permanently available for consultation. These reports, including the original texts, should be transmitted as early as possible

and at any rate before 1 September each year" (BISD 75/30-33). (According to the 1995 Guide to Gatt Law and Practice, "... since 1961 no further submissions have been received" (page 288).)

(k) Agreement on Import Licensing Procedures and Decision of CONTRACTING PARTIES on Import Licensing Procedures: Annual Notification

At its 28th Session in 1972, the CONTRACTING PARTIES decided that any changes which had been made concerning the information on licensing systems of the contracting parties should be notified annually, by 30 September, to bring up-to-date their individual country data. The most recent questionnaire for this purpose was circulated in April 1995 (L/5640/Rev.11).

The WTO Agreement on Import Licensing Procedures provides in Article 7.3 that "Members undertake to complete the annual questionnaire on import licensing procedures promptly and in full." The questionnaire used for this purpose (originally circulated as GATT 1947 document, and subsequently revised by the WTO Committee on Import Licensing) was circulated in October 1995 (G/LIC/2). The Committee agreed to retain the time-limit of 30 September for this notification.

(l) Decision of CONTRACTING PARTIES on the Integrated Database: Annual Notification

At its meeting of 10 November 1987, the Council decided to begin setting up an integrated database in the context of which it agreed "for the purpose of the integrated database, contracting parties should also submit annually to the secretariat, by tariff line, tariff data for unbound items and import data for all bound and unbound tariff items" and it noted that initially the information would also be requested for quantitative restrictions. (BISD 34S/66).

(m) GATT 1994: Exemption from Part II of GATT 1994: Annual Notification

Paragraph 3(c) of GATT 1994 states "A Member whose measures are covered by this exemption (i.e. paragraph 3(a)) shall annually submit a detailed statistical notification consisting of a five-year moving average of actual and expected deliveries of relevant vessels as well as additional information on the use, sale, lease or repair of relevant vessels covered by this exemption."