

GENERAL AGREEMENT ON

RESTRICTED

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16 April 1987

TARIFFS AND TRADE

Special Distribution

Committee on Import Licensing

MINUTES OF THE MEETING HELD ON 19 MARCH 1987

Chairman: Mr. A.-H. Mamdouh

1. The Committee on Import Licensing held its seventeenth meeting on 19 March 1987.

2. The agenda of the meeting was as follows:

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A. Election of Officers

3. The Committee elected Mr. Abdel-Hamid Mamdouh (Egypt) as Chairman and Mr. Karl Liefeland (Sweden) as Vice-Chairman.

B. Status of signatories and observers

4. The Chairman drew attention to communications received from Poland and Mexico. The Council of Ministers of Poland had approved Poland's accession to the Agreement (see paragraph 12 below). Poland had previously accepted the Agreement, subject to approval, in April 1986. Mexico had circulated a communication (LIC/11) confirming its undertaking to sign the Agreement in May 1987. The Committee took note of these communications and welcomed the steps taken by Poland and Mexico.

5. The Chairman then drew attention to the communication received from the People's Republic of China requesting to be represented as observer in the Committee. He recalled that in this communication, dated 27 October 1986, it was stated:

"China has formally requested for resuming its membership in GATT and is ready to engage in negotiations on this subject. Thereafter China was also invited to participate in the New Round of Multilateral Trade Negotiations. As the Codes on Non-Tariff Measures reached during the Tokyo Round will be inevitably touched upon during the negotiations there is a need for China to keep herself better informed of the on-going discussions on these Codes, so as to facilitate her to formulate her position on them in the course of negotiations. Therefore, China wishes to be represented in the meetings of the Committee on Technical Barriers to Trade, the Committee on Import Licensing, the Committee on Subsidies and Countervailing Measures, the Committee on Anti-Dumping Practices, the Committee on Customs Valuation and the Committee on Government Procurement. The Director-General is kindly requested to refer the matter to the Chairmen of the above-mentioned Committees respectively for their consideration and their positive response in this respect will be highly appreciated."

6. As Chairman, he suggested that in view of the fact that the People's Republic of China had formally informed the CONTRACTING PARTIES of its intention to negotiate the terms of its status as a contracting party, the Committee agree to grant observer status to the People's Republic of China on the same conditions as those granted to other observers (ref. the relevant parts of the Committee's decision on participation of observers, taken on 29 April 1980 (LIC/M/2, Annex)).

7. The representative of the United States expressed her delegation's pleasure at China's interest in acquiring observer status in the Agreement. The United States believed that the Agreement could be of use in increasing the transparency of China's administrative practices. She noted that observership in GATT committees should be linked to the willingness of a country to adhere to the Agreement in question and hoped that China would give every consideration to the benefits to be gained from accession to the Code for its efforts to open further its trading system.

8. The representative of Canada recognized the importance of China's participation in GATT and looked forward to China being an observer in the Committee. She shared the United States' hope that China would soon be able to accede to the Agreement as a full member. The representative of Norway, speaking for the Nordic countries, in welcoming China's request also recalled the understanding that observership should normally lead to subsequent adherence to the Agreement.

9. The representatives of Chile, Japan, New Zealand, Switzerland, Hong Kong, the European Communities, Yugoslavia, Australia and Romania

also supported China's request to participate in the Committee as an observer. The representative of the European Communities referred to China's participation in the Uruguay Round and its intention to negotiate the terms of its GATT status. The representative of Yugoslavia emphasized the relevance for China's participation in the Agreement of provisions relating to differential and more favourable treatment for developing countries.

10. The Committee took note of the statements and agreed to welcome the People's Republic of China as an observer.

C. Information available on import licensing procedures

11. The Chairman drew the Committee's attention to the following documents:

(a) LIC/3/Add.16 - Publications received by the secretariat. Following the circulation of this document, the secretariat had received from New Zealand the December 1986 edition of its Customs and Import Licensing bulletins, containing information relating to footwear, tyres and the provisional timetable for 1987 import licence tenders.

(b) L/5640/Rev.3 and Corr.1 - Status of notifications under GATT procedures. Since the previous meeting, the following replies to the GATT Questionnaire had been received: L/5640/Add.5/Rev.2 (India), Add.10/Rev.2 (Canada), Add.13/Rev.1 (Australia), Add.17/Rev.2 (South Africa), Add.21/Rev.1/Suppl.2 (EEC and member States), Add.25/Suppl.1 (Pakistan), Add.36/Suppl.1 (Hong Kong), Add.37/Corr.1 (Egypt) and Add.38 (Czechoslovakia).

12. The representative of Poland stated that the Agreement would enter into force and become part of Polish legislation on 27 March 1987. He made a statement outlining Poland's import licensing procedures. The Tariff Law of 26 March 1975 applied to imports of all goods and governed the application of the import licence régime, which could not be amended or abolished without the approval of the legislature. Order Number 55 of the Ministry of External Trade, dated 31 December 1984, set out the rules concerning import licensing procedures and presentation of requests; the Ministry was authorized to designate the organizations which could deliver import licences. One single system of import licences applied to imports from all countries. Licences were issued by the Ministry of External Trade or by authorized persons employed by importing companies. No specific form was generally prescribed for requesting import licences. Importers were required to submit their requests for licences before the import of goods, and at latest seven days after the signature of a contract. Non-delivery of licences was not provided for in the Order, but in practice lack of foreign exchange to cover an obligation was the principal reason for licences not being accorded.

13. The representative of Poland said that the following details were required in making an import licence application: names and addresses of supplier and purchaser, price and conditions of transport and delivery, form of payment, delivery dates, FOB and CIF value of goods. For statistical purposes, import and export licences were also issued for provision of services. Licences were valid for the same period as import contracts; in exceptional cases the validity of a licence could be extended for 18 months for machinery and 9 months for other goods. No sanctions were applied in the case of non-utilization or partial utilization of a licence, but in this case the importer was obliged to declare the total or partial cancellation of the licence within 14 days. There were no restrictions relating to persons eligible to apply for import licences. Names of importers were published in an official bulletin of the Ministry of External Trade. The import licence régime served to control imports and keep statistics up to date. Licences were granted 10 days at most after receipt of requests; in urgent cases, import licences could be granted immediately. Full notification of the Polish import licensing régime would be made shortly. Poland looked forward to participating actively in the work of the Committee.

14. The representative of New Zealand drew attention to the decision taken by his government to terminate import licensing on all goods, except those covered by specific industry plans, on 1 July 1988. Particular industry plans had already been notified to this Committee and elsewhere. He noted that in the context of the tyre industry plan, import licensing for all tyres and tubes would end on 31 March 1989. Details were contained in publications held in the secretariat.

15. The Committee took note of the information provided and statements made.

D. Implementation and operation of the Agreement

16. The Chairman recalled the minutes of the sixteenth meeting (LIC/M/16, paragraphs 12-15). No statements were made under this item of the agenda.

E. Work Programme

17. The Chairman called attention to the text circulated in LIC/W/33/Rev.1 concerning guidelines or recommendations for the application of Articles 1.4, 1.6, 3(c), 3(d), 3(e) and 3(g). Following informal consultations, there seemed to the Chairman to be a broad measure of agreement on this text. He proposed to examine the two points remaining in brackets and then consider the text, first paragraph by paragraph and subsequently for adoption as a whole.

18. The representative of Hong Kong said his delegation could support the proposed phrase in recommendation (iv). The representative of Chile said his delegation could accept the whole text as it stood.

19. The introduction and paragraphs (i) and (ii) were accepted.

20. Referring to paragraph (iii), the representative of the European Communities said that, on reflection, there appeared to be a contradiction between the wording of this paragraph and the provisions of Article 3(a) of the Agreement which said that licensing procedures and practices should not have additional restrictive effects on imports. If, in a system of simultaneous examination of import licensing applications to administer a quota, insufficient applications were received by the closing date to fill the quota, there should be additional time provided for to allow the quota to be fully used. The text as it stood gave the possibility of not providing for such extra time and hence of creating an additional restriction. He circulated the following proposed revised text:

"Where there is a closing date for the submission of licensing applications, applicants should be allowed at least 21 days for making such submissions. However, if a quota is not filled by the closing date, a further period during which applications can be considered should be provided for."

21. The representative of Chile said that since his delegation had accepted the text of LIC/W/33/Rev.1 as a whole, he was forced to withdraw his acceptance of other paragraphs. Nevertheless he was convinced by the arguments advanced by the EC representative, and supported the proposed revision to paragraph (iii). He suggested that the last phrase should be "will be provided for".

22. The representative of Japan said that his delegation would have been able to support the text contained in LIC/W/33/Rev.1. He was not in a position to adopt an amendment to the text at this meeting.

23. The representative of New Zealand sympathized with the objectives of the Communities' proposal, which aimed to avoid quotas being underutilized because of lack of time to make applications. However, the draft proposed did not cover situations where quotas were not filled because of lack of suppliers' interest. In this case there should be no need to reopen a quota. He also expressed concern about the relationship between the time period of 21 days mentioned in paragraph (iii) and that of 60 days in paragraph (iv). In addition, situations similar to that of New Zealand's import licence tendering system in which, if insufficient tenders were received, goods became freely importable, were not covered by the draft. Further consultations on this point would be useful.

24. The representative of Hong Kong agreed with the spirit of the Communities' proposal. However, he also agreed with the representative of New Zealand that further consultation would be necessary: Hong Kong would wish to take part in such consultations.

25. The representative of Switzerland reserved his delegation's position relating to the "first come first served" criterion mentioned in paragraph (iv).

26. The Chairman proposed that all questions raised should be further considered in informal consultations open to all Parties to the Agreement. It was so agreed.

27. The Committee also agreed to consider in informal consultations the proposal made by the European Communities under Part II of the Work Programme, concerning the definition of the term "import licence" in Article 1.1.

F. Biennial review of the Agreement

28. The Committee agreed to undertake the fourth biennial review of the Agreement on the basis of the proposals put forward by the secretariat (LIC/W/34). All signatories were urged to ensure that their replies to the GATT licensing questionnaire were kept up to date.

G. Relationship between the Committee's work and the Uruguay Round

29. The Chairman recalled previous discussions and informal consultations held in the Committee on this question. He also referred to the written proposals recently circulated by the United States in the Negotiating Group on MTN Agreements and Arrangements (MTN/GNG/NG.8/W/1).

30. The representative of the United States noted that a number of other delegations had, in the same negotiating group, made suggestions for future work in the area covered by the Agreement. Her delegation's interest was in the use of non-automatic licensing and its relationship with quantitative restrictions. The United States would seek a more detailed discussion of this issue in this Committee as well as in the negotiating group. She suggested that the relationship with the Uruguay Round should become a standing item on the Committee's agenda.

31. The representative of New Zealand said that the negotiating group would be the appropriate place to raise issues which involved substantial renegotiation of provisions of the Agreement. His delegation was interested in areas such as the distinction between automatic and non-automatic import licensing provisions relating to eligibility to apply for import licences, and the extent to which the provisions and procedures of the Agreement were applied to differing systems of import licensing in an equivalent manner. He agreed that the subject should remain on the agenda of the Committee; there could be a useful interplay between the Committee and the Negotiating Group.

32. The representative of Australia agreed that the subject should remain on the Committee's agenda. He believed that signatories should not avoid the issue of amending the Agreement if this course was desirable or necessary. The question of which matters could be handled by the signatories to the Agreement and which matters should be referred for consideration in the Uruguay Round should be approached judiciously.

33. The representative of the European Communities, agreeing with New Zealand about the interplay between the Committee's ongoing work and the negotiating group, suggested that the Committee could provide technical input to the group when needed. Two possible themes considered by the Community for negotiations in this area were import licence tendering schemes and pre-shipment inspection.

34. The representative of Chile, supported by Yugoslavia, suggested that the secretariat should draw up a list of subjects on which the Committee could advise the negotiating group. If the secretariat could not undertake this it might be done as a technical cooperation exercise. The representative of Yugoslavia asked for information regarding special and differential treatment for developing countries and problems which developing countries had perceived as inhibiting accession to the Agreement.

35. The representative of the European Communities did not think it would be appropriate for the secretariat to draw up a list of the problems faced in implementing the Code. Economic operators should communicate these through their delegations in Geneva. The process should begin in the negotiating group: the expertise built up in the Committee on the operation of the Agreement could be used to provide technical advice.

36. Following further discussion, it was agreed that these questions could also be taken up in informal consultations.

H. Other Business

Date and agenda for next meeting

37. It was agreed that the next regular meeting of the Committee would be held on 6 October 1987. The agenda for this meeting would include the biennial review of the Agreement as well as the question of the relationship of the Committee's work with the Uruguay Round. It was understood that an earlier meeting could be convened to reconsider the draft recommendations on Part I of the Work Programme, following the informal consultations to be held.