

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

LIC/M/5

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## Committee on Import Licensing

### MINUTES OF THE MEETING HELD ON 9-10 NOVEMBER 1981

Chairman: Mr. R. Trioli

1. The Committee on Import Licensing held its fifth meeting on 9-10 November 1981.

2. The agenda for the meeting was as follows:

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3. In opening the meeting, the Chairman, on behalf of the Committee, welcomed Pakistan as a new signatory to the Agreement.

4. The status of acceptances of the Agreement on Import Licensing Procedures was circulated in document LIC/W/3/Rev.2.

A. Procedures for Accession of Non-Contracting Parties

5. The Chairman stated that no non-contracting party had expressed a specific request to accede to the Agreement. The Committee took note of the fact that there were no new developments on this matter.

B. Information available on Licensing Procedures

6. The Committee examined the information available on import licensing procedures supplied by delegations as called for in the Agreement, i.e.

(a) Notifications made to the Committee under Article 5, paragraph 4 on implementation and administration of the Agreement were reproduced in document LIC/1 and Addenda 1 to 27.

(b) Names of national publications containing information on licensing procedures of individual signatories and a checklist of copies of publications available for consultation in the secretariat were listed in documents LIC/3, LIC/3/Corr.1, LIC/3/Addenda 1 to 3.

(c) Information on the way in which public notice was given by signatories in accordance with Article 3, sub-paragraph (d) of the Agreement was contained in LIC/4/Rev.1 and LIC/4/Rev.1/Suppl.1.

7. In accordance with the GATT notification procedures, most signatories had also brought up-to-date their individual responses to the GATT Questionnaire on Import Licensing Procedures reproduced in the Annex to the document L/5106.

8. The representative of Pakistan made a statement informing the Committee on the regulations and administrative procedures relating to the import licensing system presently existing in Pakistan. Over the past several years, his government had been engaged in a major effort to liberalize its import regime. Import trade in Pakistan was governed by Import and Export Control Act, 1950. The Import Policy Order, 1981 issued under this Act and published in the Gazette of Pakistan, Extraordinary covered the regulations in force for the financial year 1 July 1981 to 30 June 1982.

9. In the context of the general discussion on information, the representative of the United States drew attention to areas where the signatories generally had the responsibility to provide appropriate information. He recalled that all signatories to the Agreement on Import Licensing Procedures had signed the Single Convention on Narcotic Drugs, 1954 which had entered into force in 1964. Several of the signatories had also signed the Convention on Psychotropic Substances. His delegation believed that signatories should submit appropriate information on the import licensing procedures relevant to the administration of these two Conventions.

10. Several members said that they would not have specific difficulties in submitting information on the application of these two Conventions in their respective countries. They would, however, reserve their right to judge whether

these Conventions and the import regimes established by them fell within the scope of the Agreement. Some members, although recognizing the importance of these Conventions at the human and social level, expressed doubts as to the appropriateness of pursuing these matter in detail when specialist institutions, set up under the Conventions concerned, were dealing with the necessary exchange of information. The Committee noted the statements made.

11. The Chairman noted that the process of collection of information had on the whole been satisfactory. He underlined that signatories should continue to furnish data on their licensing systems. In this way one of the main objectives of the Agreement, transparency, would be met.

C. First biennial review of the implementation and operation of the Agreement under Article 5.5

12. The Chairman drew attention to the documentation for the biennial review and in particular to the basic document LIC/W/12/Rev.1. He recalled that questions addressed to signatories under the headings of the review had been circulated informally by the secretariat and invited members to reply to these questions.

13. During a preliminary discussion there was a short exchange of views between the representatives of Hungary and the European Economic Community on the status of the Community as reflected in LIC/W/3/Rev.2. The representative of Hungary pointed to the fact that the Agreement had been signed by the European Economic Community although the competences within the scope of the Agreement belonged to the national administrations of the member States and not to the Communities. They, therefore, did not know whom to address themselves to secure the implementation of the Agreement. The representative of the European Economic Community recalled that the EEC as such was the sole signatory of the Agreement and that under the decision of the Council of the European Communities of 10 December 1979, the Agreement had become an obligation under Community legislation. It followed that the European Economic Community had responsibility for proper implementation of the Agreement.

14. The representative of Hungary expressed his government's concern about import licensing procedures applied in the member States of the European Economic Community to administer prohibitions or quantitative restrictions on imports from Hungary. He said that, in his government's view, import licensing procedures utilized in these countries in order to administer import restrictions maintained inconsistent with Article XIII of the GATT, were equally illegal. He also said that certain rules and regulations relating to the requirement of an import licence in a number of member States of the European Economic Community singled out imports from some signatory countries to the Agreement. In his view this practice, which limited the application of the Agreement vis-a-vis Hungary in the member States, impaired the balance of rights and obligations between Hungary and these signatories under the Agreement on Import Licensing Procedures as well as under the General Agreement. The representative of the European Economic Community pointed out that the Agreement was concerned solely with procedural questions and did not bear directly on problems of quantitative restrictions for which other GATT organs had responsibility. He could not accept the view of the Hungarian representative that the implementing rules for the import licensing procedures in question were not consistent with the obligations of the European Economic Community under the Agreement.

15. The Committee took note of the statements made.

C.1 Information

C.1.1 Publication

16. Delegations responded to the questions posed.

17. The information supplied by the representatives of Czechoslovakia, the European Economic Community, Finland, Hungary, Pakistan, Philippines, the United Kingdom on behalf of Hong Kong, and Yugoslavia is included in LIC/3/Corr.2, LIC/3/Add.4 and in a revision of the basic document for the review LIC/5.

18. The representative of Argentina informed the Committee that the decisions and orders, referred to in document LIC/3, part II, paragraph 1 and reproduced in document LIC/1, contained the text of all the regulations pertaining to import licensing in Argentina which had not been modified since 1978.

19. The representative of Argentina said that his delegation would soon be notifying the Committee of the requirement of a prior authorization from the Directorate General for Military Manufactures for imports of steel plates and steel bars. The enacting decrees of 1968 had been published in the Official Gazette.

20. The representative of the European Economic Community said that in the Netherlands the royal decrees were published in the Staatsblat whereas ministerial orders and notices emanating from the ministries were published in the Staatscourant.

21. The representative of Japan said that the products subject to quotas were contained in the Import Notice of the Ministry of International Trade and Industry. The total amount of quotas by value and by quantity was in principle published on each item in the MITI "Official Bulletin and International Trade Bulletin". He reiterated his statement made at the previous meeting of the Committee (LIC/M/4, paragraph 14) that the expression "in principle" meant that there still remained a few exceptional items for which the total amounts of quotas were not open to the public due to some internal political and social difficulties with which the industries concerned were confronted. Several delegations expressed their concern about this last statement. They requested that some further information be provided to the Committee by the delegation of Japan on the amount and nature of products that were considered exceptional items. The representative of the European Economic Community stated that, regarding the situation under discussion, the Community reserved its right under the Agreement on Import Licensing Procedures and under the General Agreement, in particular its Article XIII. The Chairman suggested that the Committee take note of the statements made and revert to the matter at a future meeting.

22. The representative of Norway said that Melding Fra Handelsdepartementet was published whenever major changes in the Norwegian legislation concerning import licensing procedures made it necessary. Minor changes were published in the daily press. Amendment to the laws and regulations were also published in the Norwegian Law Gazette.

### C.1.2 Public Notice

23. Delegations responded to the questions posed.

24. Information supplied by the representatives of the European Economic Community, Pakistan, the Philippines and Yugoslavia is included in LIC/4/Rev.2 and LIC/5.

25. The representative of Chile informed the Committee that Chile did not maintain import restrictions. If ever they did, public notice would be given in the Official Gazette.

26. The representative of Czechoslovakia said that his delegation would not be informing the Committee in accordance with the provisions of paragraphs (c) and (d) of Article 3 since quotas as such were not applied in Czechoslovakia.

27. The representative of Finland said that the global quotas on restricted items, by value and quantity, were published in the annual "Communication from Import and Export Permits Office". The quotas were not allocated to imports from specific countries within the multilateral foreign trade regime. Similar information was also available in the "Import System of Finland", published annually.

28. The representative of Hungary informed the Committee that the value of the global quota for consumer goods in US dollar terms was published annually in the Foreign Trade Gazette. The quotas were not broken down by countries or importers.

29. The representative of Japan said that Japan did not have a system where total amounts of quotas were allocated among supplying countries.

30. The representative of Sweden said that when an agreement on import restrictions had been concluded, a notice thereof was published in the Official Gazette. Following a procedure that had been agreed upon after consultations with the importers, further details regarding the overall amounts of quotas and the amount released for each country could be obtained from the Board of Commerce.

### C.1.3 Notifications under Article 5.4

31. In reply to a question the representative of the European Economic Community expressed his delegations view that the obligation to notify the conformity of laws, regulations and administrative procedures with the provisions of the Agreement was not, strictly speaking, a formal obligation under Article 5, paragraph 4(a) of the Agreement. He would, however, confirm that the provisions of the Agreement on Import Licensing Procedures were, under the Community law, binding and fully applied in all the member States.

32. The representatives of Pakistan and the Philippines stated that, their laws, regulations and administrative procedures relating to import licensing were in conformity with the provisions of the Agreement and any changes thereof that might occur would be notified to the Committee.

## C.2 Administration of automatic licensing procedures

33. The following statements were made in reply to questions.

34. With reference to the procedures applied for statistical purposes as well as to ensure that the imports are of liberalized goods (L/5111, reply no.1, paragraph 2), the representative of Austria said that there were no additional requirements to be met by importers eligible for automatic licences for imports of such products.

35. The representative of Canada explained the administrative reasons for limiting the period of submission of applications to thirty days preceding the arrival of a shipment, as stated in reply No.7(a) concerning the procedures for imports of textiles and dairy products on pages 28 and 37 of document L/5126, respectively. In some situations, particularly in the area of textiles where imports were under restraint or subject to surveillance depending upon the country of origin, a thirty day rule was used in order to provide an equitable treatment to identical products imported from different sources. Limitation to thirty days also prevented abuse of the surveillance mechanism for purposes of triggering government action for other forms of import control on the basis of permit requests which did not relate to firm import commitments. For licensing of products under restraint arrangements, where the amount of imports was debited against the total quota, the thirty day rule was used to ensure some degree of certainty to importers on the quantity to be imported and to minimize the subsequent adjustments that needed to be made on the remaining amount of the quota.

36. The representative of Canada also said that the reference in paragraph 1 of the introduction to document L/5126, to "other formalities" used for surveillance purposes, was intended to indicate that there were import requirements in force for a variety of purposes which did not involve import licensing. Such formalities related to the procurement of certificates or other documentary evidence as to the origin of imports or the conformity of imports with packaging, labelling, phytosanitary regulations, etc., before the goods were released at the port of entry.

37. The representative of Chile informed the Committee that the procedures were simplified to the maximum for imports of a value below 10,000 US dollars. For statistical purposes the Central Bank of Chile was to be informed prior to transactions over this amount. However, there were no conditions attached to obtaining foreign exchange for imports exceeding 10,000 US dollars and importers had immediate access to the foreign exchange market.

38. The representative of the European Economic Community said that Title III of Regulation (EEC) 926/79 which dealt with imports subject to surveillance and provided for issue of an "import document" did not permit a request for that document to be refused. The import document which was distinct from an "import authorization" remained readily available unless and until protective measures became necessary in accordance with Title IV of Regulation (III) 926/79. The representative of the European Economic Community replied in the negative when asked whether there was a maximum time period in which "import certificates" for agricultural products, described in Annex II on pages 11 to 17 of document COM.IND/W/55-COM.AG/W/72/Add.59, ought to be issued and whether a request for an "import certificate" could be denied for any other reason than documentation errors.

39. The representative of the European Economic Community said that in the Benelux Economic Union countries automatic licences were not refused for any reason other than for documentational errors. He further said that the licences issued constituted import authorizations which remained valid throughout the period for which they had been granted. However, in exceptional cases where considerable speculative demand for licences occurred, the importer could be invited to use up the licence which he held, before he could introduce a new request for a new and separate licence. As to the period of processing of licences for goods not subject to quantitative restrictions, the representative of the European Economic Community said that the facility of granting a licence immediately, was not to be (abused or) exploited unduly by the importer.

40. The representative of the European Economic Community said that the system of unrestricted licensing in Denmark was originally introduced as a means of dismantling various postwar restrictions. Unrestricted licensing had not been used as a step leading to final liberalization within the last ten years since few of such restrictions remained. He also explained that there were some changes with respect to the quotaling of goods resulting in turn from changes in the Customs Cooperation Council Nomenclature. The purpose of the unrestricted licensing presently used was mainly to prevent certain products which otherwise would be free from being included in the quotas covering more than one product. Consequently, unrestricted licensing had never led to the imposition of quotas.

41. With regard to the legal status of the import declaration applied by France, the representative of the European Economic Community said that this administrative formality carried out a posteriori at the clearing of goods was established essentially for statistical purposes. In exceptional cases where a better information or an improved surveillance was called for, in particular in cases of import surge, the import declaration would be matched by a technical visa. The requirement of a technical visa involved an additional formality whereby the importer had the obligation to apply for an import document to the relevant Technical Directorate of the Ministry of Industry or the Ministry of Agriculture prior to importation of goods. An application for a technical visa, valid for six months, was processed within a maximum of five working days in conformity with the provisions of the Article 2 of the Agreement on automatic import licensing. Import declaration and technical visa were imposed for limited periods. Since 1970 there had been more than one hundred and sixty modifications to the list of relevant products and therefore a consolidated list of products presently concerned could not be provided. However, all information concerning these products was available in the Official Journal or at the Directorate of External Relations of the Ministry of Economy and Finance. The representative of the European Economic Community also confirmed that the documents made available in the secretariat on import licensing procedures applied in France and listed in Part II, paragraph 5.4.1 to 5.4.18 on page 9 of document LIC/3 pertained to the import declaration.

42. The representative of the European Economic Community stated that all licensing procedures established in the Federal Republic of Germany for reasons other than those related to quantitative restrictions were considered automatic by his delegation. Such licences were issued within ten days.

43. The representative of the European Economic Community said that there were no temporary restrictions of imports into Greece since the accession of Greece into the European Economic Community on 1 January 1981.

44. The representative of the European Economic Community said that in accordance with the application of Regulation (EEC) 926/1979 in Italy, an automatic licence or import declaration would not be denied for any reasons other than for documentational errors.

45. The representative of the European Economic Community stated that Open General Import Licence (OGIL) in the United Kingdom was in conformity with Article 2 of the Agreement. In referring to document LIC/1/Add.12, he said that OGIL was a legal instrument which created public rights at any given point in time by indicating whether or not an individual import licence was required. He further explained that the addition of a particular category of goods to the OGIL schedule had the effect of imposing a requirement for the issue of an individual import licence prior to authorizing imports of such goods. Where such requirement had been introduced for non-restrictive purposes, the United Kingdom operated them in full compliance with Article 2 and other relevant provisions of the Agreement on Import Licensing Procedures.

46. The representative of Finland stated that automatic licences used for surveillance purposes could not be denied for any reason other than for documentation errors.

47. The representative of Japan informed the Committee that import declaration system abolished in December 1980 was not replaced by any other automatic licensing procedures. One member asked whether the procedure where confirmation of the Ministry of International Trade and Industry was required prior to importation of the specific products published in the Official Gazette, etc., (L/5168, reply No.18(2)), could be considered as automatic licensing. The representative of Japan said that the procedure was used for statistical purposes in order to grasp import trends of the products concerned and was not aimed at restricting imports of such products.

48. The representative of Norway informed the Committee that the applications for licences should be forwarded to the Ministry of Commerce and Shipping before the shipment had taken place from the exporting country to prevent any difficulties that might arise if the goods did not satisfy the licensing requirements. The procedures for granting a licence were the same if the applications were submitted to the Ministry after the shipment had taken place from the exporting country. In that case, the exporter and importer would have to deal with the consequences if the products did not satisfy the requirements of automatic licensing and the licences were not approved.

49. The Committee, after having noted the discussion of automatic licensing systems, agreed to revert to some of the questions posed to the delegations of the European Economic Community, Japan, Norway and Romania at its next meeting.

### C.3 Administration of non-automatic licensing procedures

50. With regard to quota licence situations in his country, where allocation was generally on the basis of past performance, the representative of Australia said that although there were no special provisions allowing new importers to attain to import licences, existing licences were either partially or totally transferred to third parties on application to the Department of Business and Consumer Affairs.

51. The representative of Canada said that there were no special provisions under the Narcotics Control Act and Export and Import Permits Act for right of appeal in respect of permit denials. However, an applicant could request a reconsideration of his application or make an appeal to the Federal Court of Appeal.
52. The representative of Canada also said that the special conditions which might be attached to licensing requirements from time to time on such products as footwear, clothing, textiles, eggs, dairy products and turkey, related to situations which were not covered by specific licensing requirements.
53. The representative of the European Economic Community, referring to the period of validity of a licence in the Federal Republic of Germany, said that as a rule a licence was valid for six months. However, in one case the Commission recommendation No.587/80/ECSC of 7 March 1980 on Community surveillance in respect of the importation of certain iron and steel products fixed the period of validity of the import licence at two months.
54. The representative of Hungary expressed his delegation's concern about the administration of the licensing procedures in the member States of the Community. In the Benelux Economic Union countries import licences were required for all products originating in certain countries. In the United Kingdom individual import licences were required for specific products imported from certain sources. In both cases licensing was used to restrict the quantity or value of imports from certain countries signatories to the Agreement on Import Licensing Procedures. The representative of the European Economic Community said that import licensing procedures in operation in the Benelux Economic Union countries and in the United Kingdom were in conformity with the Community's obligations under the Agreement on Import Licensing. The Committee took note of the statements made.
55. In answer to a question whether the certificate of import approval should not be considered as an import licence within the definition of Article 1 of the Agreement, the representative of Japan explained that the certificate of import approval was the document issued by the Minister of International Trade and Industry or a foreign exchange bank after having considered as appropriate the application for import approval submitted by the importer. This document could be obtained at any time once the certificate of import quota allocation had been issued by the MITI. One member questioned whether it was indispensable for Japan to retain those two administrative steps where the importers had to secure a certificate of import approval from a foreign exchange bank although they had been granted a certificate of import quota allocation by the MITI.
56. The representative of the United States stated that his country maintained no general import licensing requirement. Information available in documents L/5131 and Addenda 1 and 2 gave a full and complete picture of import licensing systems in the United States.
57. The representative of the United States said that there was no given amount of quotas allocated to non-historical licensees of certain dairy products. However, the portion set aside for non-historical licensees was approximately 10 and 50 per cent under Appendix I and II respectively. A non-historical licensee could establish eligibility on the basis of the proof of importation of 10,000 lbs of certain items that were not subject to quotas and therefore not licenced.

58. Referring to licensing procedures applied for the importation of most plants and plant products and certain animals and animal products he said that these had most of the features of automatic licensing. Import permits required for these products were granted within less than ten working days. However certain delays could arise in non-routine cases when space at a quarantine station was not available.

59. The delegations of Austria, Australia, Czechoslovakia, India, Japan, New Zealand, the United States and Yugoslavia would revert to the questions addressed to them at the next meeting of the Committee.

60. Concluding the first Biennial Review, the Chairman stated that during the first year of the operation of the Agreement the Committee had dealt with the organization of its work and questions of procedure whereas during the second year it was concerned with the gathering of information. He suggested that the Committee might, in future, concentrate more on the adequacy and appropriateness of the information at its disposal and on specific areas in which further examination of information appeared necessary.

61. The Committee declared that the first biennial review of the implementation and operation of the Agreement, as called for in Article 5.5, was concluded and that the results of the Review would be incorporated in the present minutes or in revisions of the basic documentation. The Committee agreed to revert at its next meeting to the specific questions addressed to delegations on the implementation and operation of the Agreement during the first biennial review.

D. Report to the CONTRACTING PARTIES under Article 5.5

62. The Committee adopted its report to the CONTRACTING PARTIES on the second year of operation of the Agreement (L/5248).

E. Derestriction of Documents

63. The Committee agreed to the proposal for derestriction of document as set out in LIC/W/14, circulated by the secretariat in conformity with the procedures adopted at the Committee's second meeting (LIC/M/2).

F. Revised inventory of non-tariff measures

64. The Chairman informed the Committee that a revised version of the Inventory of Non-Tariff Measures relating to industrial products had just been issued and that for agricultural products a revision was being prepared. These documents contained sections on import licensing procedures and he suggested that it would be appropriate at some future time for the Committee to examine their relevance to the Agreement. It was so agreed.

G. Date and agenda of the next meeting

65. The Committee agreed to hold its next meeting on 10-11 May 1982.

66. Among items for inclusion in the agenda are the following.

- A. Information available on import licensing procedures
- B. Implementation and operation of the Agreement