

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Import Licensing

DRAFT MINUTES OF THE MEETING HELD ON 9 OCTOBER 1985

Chairman: Mr. A. Liontas

1. The Committee on Import Licensing held its fourteenth meeting on 9 October 1985.
2. The agenda of the meeting was as follows:

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A. Information Available on Import Licensing Procedures

3. The Chairman drew the attention of the Committee to the following documents which had appeared since the meeting of the Committee in March 1985: LIC/3/Add.12, L/5640/Add.4/Rev.1, Add.8/Rev.1, Add.17/Rev.1, Add.18, Add.19, Add.20, Add.21, Add.22 and Corr.1, and Add.23.

4. The representative of the European Economic Community informed the Committee that his delegation had recently supplied updated information on import licensing procedures of the Community and seven of its Member States. He expected that updated information on import licensing procedures of the remaining Member States could be submitted shortly.

5. The representative of New Zealand informed the Committee of recent changes in New Zealand's import licensing system. These changes had to be seen in the broader context of New Zealand's attempts to reform its system of protection. They were comprehensive in nature and were seen by his authorities as their contribution to the concept of "roll back". He expressed the hope that similar moves would be made by other countries. A wide range of products was affected by liberalization measures which had recently been adopted or which were under consideration by his authorities. He indicated that, towards the end of 1986 - beginning of 1987 hardly any

import licensing would be left except import licensing within Import Plans. He added that his government had also decided to implement a two-stage reduction of tariffs by 20 per cent, the first stage would be implemented on 1 July 1986; the second on 1 July 1987.

6. The representative of South Africa informed the Committee that as of 1 July 1985 about 2,400 products had been removed from import control; a list of these products was contained in NTM/W/6/Rev.2/Add.3. Further, those products for which import licences were still required were now specifically listed. A list of those products was contained in Government Gazette No. 9764 of 30 May 1985, a copy of which was available for consultation in the secretariat. He also drew attention of the Committee to document L/5640/Add.23, containing information on import licensing applied by Norway on imports from South Africa. He stated that, in the view of his authorities this measure was not in conformity with Articles 1(2) and 1(3) of the Agreement, nor with the General Agreement itself. The measure constituted a non-tariff burden on South African imports, and his authorities wished to reserve all their rights under the Agreement and under the General Agreement.

7. The representative of the United States recalled that in the past her delegation had expressed concern as to the absence of replies to the questionnaire on import licensing procedures by Egypt. The issue was of special concern to her authorities at this time as they had understood that Egypt had recently introduced a new licensing system. She urged the Egyptian delegation as soon as possible to provide replies to the import licensing questionnaire. The representative of Egypt stated that he understood the concern expressed by the representative of the United States. His delegation had not yet received information on the new import licensing system (which in his view was more liberal than the previous one) but he assured the representative of the United States that his authorities would do their best to provide this information as soon as possible.

8. The Committee took note of the statements made.

B. Implementation and Operation of the Agreement

9. The Chairman recalled that, at the meeting of the Committee in March 1985 the Committee had again considered the question of the observation by one Party of the provisions of the Agreement concerning publication of quotas (LIC/M/12, paragraph 14). Other issues to which the attention of the Committee had been drawn at its meeting in March concerned measures taken by one Party in regards to imports of specialty steels, and bilateral consultations held between two Parties on import licensing procedures applied by one of them on imports of almonds (LIC/M/12, paragraphs 17 and 18).

10. The representative of Japan recalled that at the meeting of the Committee in March he had referred to the decision by his authorities to publish the size of the import quotas for leather footwear. In August, the size of the import quota for leather footwear products had been published in the Official Bulletin of the Ministry of International Trade and Industry and in the International Trade Bulletin of Jetro. For the period September 1985 - February 1986 the import quota for leather footwear was 22 million U.S. dollars. He indicated that the quota for leather, during the first half of

the 1985 fiscal year (beginning in April) was about 53 million U.S. dollars and the import quota for "miscellaneous import goods" for the same period was 45 million U.S. dollars. The figures for import quotas for leather and miscellaneous import goods in the second half of the 1985 fiscal year would be published shortly in the Official Bulletin of the Ministry of International Trade and Industry and in the International Trade Bulletin of Jetro. Regarding the product coverage of the miscellaneous import goods category he referred to information contained in a recent communication from his delegation which had been circulated informally by the secretariat to members of the Committee. In the light of various recent changes in Japan's import licensing system of which the Committee had been informed during this and previous meetings, his delegation was now preparing a revision of Japan's replies to the GATT questionnaire on import licensing procedures (L/5168). He referred in particular to item 6(a)(ii) on page 2 of document L/5168 and stated that in the revised notification the words "in principle" would be deleted, reflecting recent changes in the publication of size of quotas.

11. The representative of the European Economic Community thanked the representative of Japan for the information and stated that he believed that the recent measures taken by the Japanese administration were a step in the right direction. Nevertheless, his delegation still had a number of questions and would like to have more detailed information in writing on the various measures of which the representative of Japan had informed the Committee. His delegation reserved the right to ask further questions on this matter at a future meeting. He repeated that, in addition to the question of publication of the size of import quotas, there were other aspects of the Japanese import licensing system which in his view were not in accordance with the provisions of the Agreement, in particular Article 3 thereof. He stated that there were problems regarding some agricultural goods and concerning the distribution of import licences to some importers or groups of importers. He expressed the hope that the Japanese administration would be able to adjust its import licensing system in this respect too so as to make it more conform with the provisions of the Agreement.

12. The representative of New Zealand also thanked the representative of Japan for the information submitted. He too would like to have a written statement of what had been said by the representative of Japan and he indicated that his delegation might want to revert to this issue at a future meeting.

13. The representative of the United States expressed her appreciation for the information provided by Japan. However, she drew attention to the fact that in a number of cases involving leather and leather footwear, and agricultural products (in particular the miscellaneous import goods category) the Committee had not yet received information on announcements of quotas. Moreover, in many cases in which this information had been made available the information had been provided after the period to which the announcements applied had ended. She urged the Japanese administration to provide information on quota announcements prior to the end of the quota period. In general, her authorities continued to be concerned about the compliance by Japan with its obligations under the Agreement, in particular Article 3(b)(ii) thereof.

14. The representative of Japan recognized the right of other delegations to revert to this issue at a future meeting. However, he believed that since the Japanese government had now published the size of the import quotas, the basic problem which the Committee had addressed in the past had been solved. Thus, he distinguished between the question of publication of the size of import quotas and the question of information on the operation of the Japanese import licensing system. While he was prepared to provide information on the operation of the Japanese import licensing system he considered this to be an issue which should be discussed under another item of the agenda (information available on import licensing procedures). In reply to a question by the representative of New Zealand, he explained that the period for which import quotas for leather footwear had been published (September 1985 - February 1986) was not the same as the second half of fiscal 1985. He took note of the concern expressed by the United States and stated that his delegation would try to provide the information requested, either on a bilateral basis or in the Committee, under the item: Information available on import licensing procedures.

15. The representatives of the European Economic Community and of the United States indicated that in the past the Committee had discussed various aspects of the Japanese import licensing system which did not seem to be in accordance with the provisions of the Agreement. These discussions had not been limited to the question of publication of the size of the import quotas. Therefore, although progress had been made by the Japanese administration in implementing its obligations concerning publication, these representatives considered that the dossier could not be closed.

16. The Chairman noted that one major problem which had arisen in the past regarding Japan's non-compliance with certain provisions of the Agreement concerning the publication of quotas had now more or less been settled. As some delegations had raised certain questions on other aspects of Japan's import licensing system the Committee would revert to this matter at future meetings.

17. The representative of the European Economic Community recalled that at previous meetings of the Committee his delegation had raised the issue of the import procedures applied by the United States on specialty steel. Since the question whether or not these procedures were import licensing procedures was a question of general interest, he requested that the Committee include with a degree of priority in its Work Programme the question of what was and what was not an import licensing procedure. The Community reserved its right to revert to its specific bilateral problem with the United States at future meetings of the Committee but pending successful work on the more general question raised by this problem in the context of the Work Programme, it could be dropped from the regular meetings of the Committee.

18. The representative of the United States stated that in general the United States was not opposed to an examination in the context of the Committee's Work Programme of what was to be considered as import licensing, on the condition that such an examination would not single out the United States speciality steel summary invoice (SSSI). She repeated that no overt or de facto import licensing was applied by the United States for speciality steel. As the United States had already provided the secretariat with a copy of the SSSI and a written description of its use, she believed

that it was now for the European Economic Community to indicate how this procedure could be described as an import licensing procedure, and, more importantly, if it were an import licensing procedure, in what respect it constituted a violation of the Agreement on Import Licensing Procedures. She recalled that in the past the European Economic Community had made it clear that it was concerned about the manner in which the SSSI affected shipments of speciality steel which had left European ports but which had not yet arrived in the United States. In this respect, it was irrelevant whether or not the SSSI constituted an import licensing procedure. Therefore, she believed that if the Committee were to examine what was and what was not an import licensing procedure as part of its Work Programme, a clarification of the goal of such an examination was in order.

19. The representative of the European Economic Community recalled that at previous meetings his delegation had already stated its view on the status of the SSSI under the Agreement. He repeated that the SSSI procedure was an import licensing procedure, or equivalent to an import licensing procedure, which had adverse effects on imports beyond the restrictive effects of the quantitative restrictions.

20. The Committee agreed that the issue raised by the European Economic Community concerning the coverage of Article 1.1 would be considered in the context of its Work Programme.

21. Regarding the import licensing system applied by India in respect of almonds the Chairman noted that in the absence of the representative of India, the Committee agreed to keep this item on its agenda for the next meeting.

22. The representative of the United States expressed increased concerns about the Indian import licensing system for almonds as India in April 1985 had introduced a new import licensing system which was even more restrictive than the previous one. The Committee took note of this statement.

23. The representative of Chile said his delegation would find it very useful if all the information available on licensing procedures could be computerized. At the suggestion of the Chairman, he agreed to discuss the feasibility of this idea with the secretariat.

C. Work Programme

24. The Chairman recalled that at the meeting of the Committee held in June 1985 it was decided to hold an informal meeting concerning proposals made by some signatories regarding points A, B and C of the Work Programme. This informal meeting had taken place on 25 September 1985 and during this meeting the Committee had discussed the proposals submitted by the United States and by the European Economic Community (LIC/W/25/Rev.2). At the informal meeting it was also decided that the secretariat would prepare an inventory of national procedures concerning points D, E and if possible F of the Work Programme. He presented a summary of the discussion at the informal meeting, which is attached as an Annex to these minutes. X

25. Following a brief discussion of the need for further clarification on various aspects of the provisions referred to under points A, B and C, the Committee agreed to consider these aspects, as well as draft recommendations circulated by the secretariat in this connection, at informal meetings to be held before its next formal meeting with a view to reaching, if possible, conclusions at that meeting. The Committee also decided to hold discussions at its next meeting on points D, E and F of the Work Programme on the basis of an inventory of national procedures to be prepared by the secretariat.

26. The representative of the European Economic Community referring to the discussion under the previous item of the agenda (paragraphs 17-20) introduced a proposal by his delegation regarding the interpretation of Article 1.1 of the Agreement on Import Licensing Procedures. He explained that the purpose of this proposed interpretative understanding was to make it clear that any administrative procedures used for the management of quantitative import restrictions should be regarded as licensing procedures which were subject to the provisions of the Agreement on Import Licensing Procedures, irrespective of the specific terminology used to qualify such procedures.

27. The representative of the United States stated that, since the purpose of the inclusion of this item in the Work Programme was to clarify what was an import licensing procedure, she could not agree to starting the discussions on this item on the basis of a specific interpretation of Article 1.1. The Committee should work towards and not on the basis of a specific interpretation. Further, she could not agree to an approach which could imply that any licensing procedure or other administrative procedure used in connection with a quantitative import restriction necessarily entailed trade restrictive effects in addition to those caused by the import restrictions. Such procedures had to be used for the surveillance and monitoring of imports under quota.

28. The representative of the European Economic Community stated that it was not the intention of his delegation to impose a specific interpretation. His delegation had put forward a proposal in order to help the Committee in its discussions of this issue. He pointed out that his delegation had not meant to suggest that any licensing procedure entailed trade restrictive effects as referred to in Article 3(a) of the Agreement; the intention behind the proposal made by his delegation was to determine which procedures should be regarded as licensing procedures.

29. The representative of New Zealand recognized the importance of having a discussion on what was and what was not a licensing procedure; however, one should not start this work with a specific interpretation. He suggested that in the context of its Work Programme the Committee could perhaps attempt to establish an illustrative list of import licensing procedures.

30. The representative of Australia also stated that discussions on this issue should not take place on the basis of a specific proposal. She proposed that a decision on how to approach this item in the Work Programme be postponed until the next formal meeting of the Committee.

31. The representative of the European Economic Community indicated that he saw no problem in the Committee deciding to postpone a formal decision on the handling of this issue in its Work Programme until the next formal meeting.

However, it was his understanding that the issue could be discussed during informal meetings which would be held in the meantime.

32. The Committee took note of the statement made. It agreed to revert to the matter at future meetings, including the informal meetings it planned to hold on the Work Programme.

D. Third Biennial Review of the Implementation and Operation of the Agreement under Article 5.5

32. The Chairman drew attention to document LIC/9 and Corr.1, which contained the basic information for the review.

33. The representative of Chile stated that it was difficult to draw conclusions on the basis of document LIC/9 as to the extent to which signatories to the Agreement complied with its obligations, in particular the obligation under Article 1.4 of the Agreement.

34. The representative of the European Economic Community expressed doubts about the idea of examining the question of the fulfilment by Parties of their obligations under the Agreement. Such an exercise would be very lengthy and possibly contentious. In case a Party considered that other Parties were not complying with their obligations under the Agreement it could resort to the dispute settlement mechanism of the Agreement.

35. The representative of the United States recalled that prior to the first biennial review a document had been circulated allowing any signatory to raise questions regarding the import licensing procedures applied by other signatories. This document had allowed an overview of the problems that signatories had with other signatories' licensing procedures. She regretted that this procedure had not been used since the first biennial review and suggested that it be used again in the context of future biennial reviews. Her delegation thought the licensing Agreement was working well but that the Agreement still left much room for improvement. Efforts were now being made in the context of the Work Programme to tighten up the language of the Agreement, and this work should be continued.

36. The Committee took note of the statements made and concluded the Third Biennial Review of the implementation and operation of the Agreement under Article 5.5.

E. Report (1985) to the CONTRACTING PARTIES

37. The Committee adopted its report (1985) to the CONTRACTING PARTIES.

F. Date and Agenda of the New Meeting

38. The Committee decided to hold its next meeting on 12 March 1986. The agenda for the next meeting would include the following items:

1. Information Available on Import Licensing Procedures
2. Implementation and Operation of the Agreement
3. Work Programme
4. Other Business

ANNEX

Summary and Conclusions of the Informal Meeting of the
Import Licensing Committee held on 25 September 1985,
presented by the Chairman at the Fourteenth Meeting of the
Committee on 9 October 1985

I.1 With regard to Article 1.4 (Publication); the first two sentences of the sub-article contain obligations concerning publication, while the last sentence deals with the provision by signatories of copies of publications to the GATT secretariat. It seems that signatories attach priority to giving greater precision to the obligation to publish certain information as laid down in the second sentence of Article 1.4.

I.2 Regarding the first sentence of Article 1.4 it was observed that it may not be necessary for the Committee to adopt a specific time-limit as most signatories have under their domestic laws specific obligations relating to the publication of the 'basic' rules and procedures concerning licensing well in advance of the entry into force of such rules and procedures. Moreover these basic rules are not likely to change very often.

I.3 As regards the second sentence of Article 1.4 the United States proposal presented in LIC/W/25/Rev.2 implies that where possible 30 calendar days advance publication be made in case of changes in either the rules concerning the licensing procedures or in the list of products subject to import licensing. The EEC proposal (also in LIC/W/25/Rev.2) distinguishes between changes in rules and changes in lists of products. Regarding the former, the EEC proposes that 'minimum notice' be given at least 15 working days before entry into force of changes in those rules. As to changes in lists of products, publication should normally be made at least 15 working days before opening of the quota period. In summary, one may conclude at this stage that a compromise might perhaps be possible on the time-limits to be applied under Article 1.4, second sentence. Such compromise could provide that where possible publication should be made 30 calendar days prior to entry into force of the measure concerned, but at least 15 working days before that date. One would however have to allow a certain flexibility in case of emergency situations.

I.4 As regards the third sentence of Article 1.4, dealing with the provision by signatories of copies of publications to the GATT secretariat, it was observed that this was an issue not directly affecting the trading community. However, if a time-limit were to be adopted, the 30 day period proposed by the United States would probably be regarded by most signatories as too short and impractical. If it were deemed necessary to introduce such a time-limit, this should therefore be longer than 30 days.

II. With respect to Article 3(e) (Publication): the United States proposal provides that "as far in advance as possible, or immediately after" be interpreted to mean "where possible, 30 days prior to the opening date and no more than 30 days after the announcement of the quota or other measure." Regarding the second element of this proposal there was a consensus that, if it were deemed desirable to adopt a specific time-limit, this period should be shorter than the one mentioned in the United States proposal. On the

other hand with respect to the first element no consensus emerged. Some delegations made it clear that they could go along with the 30 day period while the EEC again insisted that it could not accept a period of more than 15 working days. It also became clear during this discussion that some delegations had difficulties concerning the precise meaning of Article 3(e), and before a final decision can be taken on the question of time-limits under this Article it might be useful to revert to this question of interpretation.

III. Concerning Article 3(d) (Public Notice): there was again divergence of views between those delegations that could accept a period of 30 calendar days as proposed by the United States and those in favour of a period a 15 working days. However, here also it may be possible to reach a compromise along the lines suggested with regard to the second sentence of Article 1.4.

IV.1 Concerning Article 1.6 (Application Procedures): there are two elements involved in the United States proposal. The first relates to the interpretation of what constitutes a "reasonable period" to be allowed for the submission of an application for a licence. Here the United States proposes that a 30 day period be observed. The EEC proposes a period of 15 working days. However, it is not evident that the two proposals are completely comparable. The United States proposal refers to a 30 day period "prior to the effective date of licensing" whereas the EEC proposal refers to a 15 working days period before the "closing date for application for licenses" (where such date is specified). Therefore, although some delegations have already indicated that they could comply with the United States proposal, it might not be wise to consider a recommendation before further clarification of the precise implications of the two proposals.

IV.2 As regards the second part of the United States proposal on Article 1.6 relating to the number of administrative bodies to be approached, this proposal appears to be acceptable to all signatories, so that a positive decision could soon be taken on the question of the number of administrative bodies to be approached.

V. Finally, one delegation has raised the question whether the time-limits referring to Article 1.4, second sentence, would also apply to Article 3(c) (publication of the overall amount of quotas). This aspect of the matter should also be taken into account in drafting a recommendation concerning Article 1.4.