

WORLD TRADE ORGANIZATION

RESTRICTED

G/C/M/35
30 July 1998

(98-3030)

Council for Trade in Goods
8 July 1998

MINUTES OF THE MEETING

Held in the Centre William Rappard
on 8 July 1998

Chairperson: Mr. R. Saborío Soto

The meeting was convened by WTO/AIR/874. The proposed agenda contained in document G/C/W/117 was adopted, with the inclusion of item 4 under "Other business" and the withdrawal of the item on "Trade Facilitation".

	Page
1. Continuation of the Harmonization Work Programme provided for in Part IV of the Agreement on Rules of Origin	
- Report by the Committee on Rules of Origin (G/RO/25)	1
2. Notification by Colombia under Section C of Article XVIII of the GATT 1994 (WT/COMTD/N/8 and Corr.1)	
- Communication by the United States (G/L/248).....	6
3. Free Trade Agreement between Turkey and Lithuania	
- Notification by Turkey (WT/REG61/N/1, WT/REG61/1)	8
4. Date of the next meeting	8

1. Continuation of the Harmonization Work Programme provided for in Part IV of the Agreement on Rules of Origin
 - Report by the Committee on Rules of Origin (G/RO/25)

1.1 The Chairman of the Committee on Rules of Origin (CRO), Mr. R. Wells, introducing the report of the Committee on Rules of Origin (G/RO/25), stated that the Harmonization Work Programme (HWP), in accordance with Article 9.2(a) of the Agreement on Rules of Origin, was officially launched on 20 July 1995, and was scheduled for completion by 20 July 1998, as the Agreement envisaged that the HWP should be completed within three years of its initiation. During the last three years, the CRO and the Technical Committee on Rules of Origin (TCRO) had been working very hard and substantial progress had been made as indicated in the Committee's report. However, at its meeting of 29 May 1998, the Committee had concluded that, in light of the complexity of issues and the remaining heavy workload, the HWP could not be finalized by

20 July 1998. The Committee had also decided to make a report to this Council on this issue explaining the situation and making recommendations and proposals on the continuation of the HWP. In the report, Members committed themselves to make their best endeavours to complete the HWP by November 1999. In addition, the Committee recommended that: the CRO, in cooperation with the TCRO, should continue the work identified in Articles 9.2(c) and 9.3 of the Agreement, in accordance with the indicative future work programme set out paragraphs 5 and 6 of document G/RO/25; the Chairman of the TCRO would report to each meeting of the CRO on the progress achieved in the Technical Committee; the Technical Committee would submit the results of its work on overall architecture to the CRO in January 1999. It would submit the final result of its work to the Committee by the end of May 1999 for final consideration by the Committee, and the latter would report to the Council for Trade in Goods on the progress of work in February, June and October 1999. In June 1999 the Committee would review the status of the HWP and make a recommendation on a deadline for completing that work.

1.2 In brief, the recommendations included a fixed deadline for completion of the work of the TCRO (May 1999), and a review of the status of the work by the CRO in June 1999 with a view to setting a final deadline for completing the HWP. The CRO had also proposed to work under a strict discipline, with future work programmes for both the Committee and the Technical Committee. The recommendations and proposals of the CRO were contained in paragraphs 4 to 6 of document G/RO/25 for approval by the Council for Trade in Goods.

1.3 The representative of India stated that as mandated under Article 9.2(a) of the Agreement, the work relating to the harmonization of rules of origin, to, *inter alia*, provide more certainty in the conduct of world trade, was to have been completed within three years of initiation, i.e. by July 1998. However, because of a variety of reasons, some of which had been brought out in the above-referred communication, the work was yet to be completed. While India agreed that the work was both complex and time-consuming, India still felt that if a greater effort had been made and if more cooperation forthcoming, Members would now perhaps be in a better position. It was also unfortunate that the non-compliance of a mandated deadline came so soon after the Geneva Ministerial Conference where Ministers had specifically reaffirmed their commitment to adhere to mandated guidelines.

1.4 India's basic concern in the delay in the HWP stemmed from the fact that certain rules of origin regimes which had been adopted by Members during this intervening period were trade-distorting. This was in spite of the fact that Article 2 of the Agreement set out the obligations of Members in this period. This Article specifically provided that the rules of origin of Members during this transition period should not be used as instruments to pursue trade objectives and that they should not by themselves create restrictive, distorting or disruptive effects on international trade. India had hoped to see a change in these rules with the early completion of the HWP.

1.5 It was in view of these concerns that his delegation since the beginning of this year had been striving, in cooperation with other Members having similar concerns, to ensure that this work was completed by the mandated deadline. However, when India realized that in spite of these best efforts it was not to be, it had proposed a short and firm extension of the mandated deadline. India had felt that if both the TCRO and the CRO continued with the momentum which had been generated during the last few months, the work could be definitely completed by the end of 1998. India had also felt that since the Agreement had mandated the completion of this work within a specific time-frame, any extension of this deadline should also be for a specific and firm period. India had no hesitation in adding that a very large percentage of Members, with whom the Chairman of the CRO had informal consultations, had also similarly preferred the option of a firm deadline.

1.6 In spite of these concerns, India had agreed to an extension of the HWP based on a best endeavour clause to ensure that this work would be completed by November 1999. However, this

was on the hope and understanding that Members would complete the work by November 1999 so that no further extension would be required. Moreover, India understood that the TCRO was to finally complete its work by May 1999, and that residual issues, if any at that stage, would be transmitted to the CRO. He wished to reiterate that during this transition period Members had to adhere strictly to Article 2 of the Agreement which provided that Members should not adopt such rules of origin which might by themselves restrict or distort trade. This was extremely important from the perspective of a developing country, exports from many of which were currently being affected by such regimes.

1.7 Before he concluded, he wished to state that India was pleased that the CRO had in the period between September and December 1998 scheduled a consideration of the "Implications of the implementation of the harmonized rules of origin on other WTO Agreements". This was an issue which his delegation had been repeatedly pressing for. The CRO had to seek clarity with regard to the implications of the main harmonization proposals on the provisions of various WTO Agreements. However, this was a complex task and developing countries with limited resources might find it difficult to address all these issues comprehensively. India had accordingly proposed that the Secretariat prepare an analysis paper on the impact of the main proposals of rules of origin in the textile and clothing sector. India was of the view that such an analysis would help in bringing out the implication of the harmonization proposals as they might affect market access, origin marking requirements, anti-subsidy measures etc. Such an analysis would also be helpful in ensuring that the rules of origin that the CRO was considering were neutral as far as their trade effect was concerned. India and a number of developing countries had in this context already submitted papers which had brought out the likely benefits of such an analysis paper by the Secretariat.

1.8 While most Members seemed to agree with this approach, some Members had been of the view that this work would be better carried out by considering all sectors together. India, however, continued to feel that the textile sector was unique, especially since textile products involved multi-country processing, fabrication and assembly depending upon the comparative advantage that each country had. This was also one sector that was subject to a large number of quantitative restrictions and frequent application of anti-dumping measures. These measures were already affecting even the limited access available under MFA inherited bilateral quotas. It was in this context that India had been pressing for technical assistance from the WTO Secretariat. At no stage had India sought any interpretation on the WTO Agreements from the Secretariat. This was a right of the WTO Members alone – a right which India has zealously guarded. He therefore wished to reiterate that the Secretariat should prepare such an analysis paper since this would help future discussion of the CRO in building up of a common view regarding the future disciplines and in reconciling some of the most significant divergences in proposals for product-specific rules of origin.

1.9 His delegation had felt it important to highlight the concerns that it had in the delay in finalizing the HWP. He hoped that all Members, while agreeing to an extension of the time-frame, would in the coming months demonstrate the necessary political will to conclude the HWP by November 1999.

1.10 The representative of the United States stated that there was no doubt that the harmonization work was important. Since the beginning of this work three years ago, the United States had worked very hard to ensure that adequate progress was being made, especially with regard to the conduct of the technical work being done at the World Customs Organization (WCO). Unfortunately, more time was needed. Under the terms of the Agreement, the technical aspects of the harmonization work should have been completed last autumn. A substantial amount of this important and often complex technical work remained to be done. It was apparent from the experience of the past year that completion of the technical work was important to ensure that effective deliberations at the WTO could take place. The United States supported the programme developed by the CRO for its future harmonization work, because it specifically recognized the numerous elements that had to be addressed in order to achieve completion of the work. The deadlines the Committee had placed upon

itself for periodically reporting its progress to the Council would serve to maintain momentum, while at the same time recognizing the complex challenges and practicalities involved. The United States would join other Members in working hard to ensure a successful harmonization effort.

1.11 The representative of Hong Kong, China stated that as one of the early proponents of the Agreement on Rules of Origin, Hong Kong, China attached great importance to the completion of the HWP. This would require a massive effort by all Members, and close cooperation between the TCRO and the CRO. Hong Kong, China supported the proposed work programme put forward by the CRO. It represented a fine balance between the need for a more definite time-frame and the need for a quality product. Hong Kong, China, hoped that the work programme would sustain the momentum of the HWP. This was important because there was still much to do in terms of product-specific rules, overall architecture and section, chapter and residual rules. Hong Kong, China urged all Members to renew the commitment to complete the HWP according to the proposed work programme, to continue to exercise political will and more flexibility in consensus-building. On its part, Hong Kong, China would continue to accord high priority and to devote adequate resources for this important work.

1.12 The representative of New Zealand stated that his delegation was also one which was disappointed by the lack of a firm deadline for completing the HWP. Rules of origin was one of those areas of the WTO where Members could truly make a concrete contribution to the overall objectives of this organization of facilitating the expansion of trade and a more liberal trading environment. New Zealand hoped that the best endeavours undertaking that Members were making would lead to the completion of the work by the end of 1999.

1.13 The representative of Korea believed that Members' devotion to the harmonization work on rules of origin had been demonstrated through their continuous support for clearer and more predictable rules of origin, which were necessary in order to improve and facilitate international trade. He also believed that such a goal should be achieved as soon as possible. Therefore, despite Members' inability to complete this work before the original deadline, the momentum should be kept going. Although Korea shared the view that there was some degree of uncertainty in the future work, it could be overcome with the setting of a reasonable time-limit and with a willingness to complete the work in time. For this reason, a firm deadline was preferred by his delegation. In most cases the time-limit had proven a driving force behind the prompt conclusion of work. This was Korea's basic position on this issue. However, in order to avoid a deadlock, Korea had willingly decided to go along with the consensus. The commitment to make the best endeavour to complete the work by November 1999 was not binding, but Korea hoped that the job would be accomplished as committed.

1.14 The representative of Pakistan noted with regret the extension of the deadline regarding completion of the HWP as in the interim it meant that some developing countries would suffer because of changes made in the rules of origin by some WTO Members. In spite of that, and in a spirit of compromise, Members had agreed to a new deadline which was on a best endeavours basis, and Pakistan's only hope was that the deadline would be adhered to.

1.15 The representative of Switzerland stated that rules of origin were an important element of international trade. Differences in these rules could impact on trade and distort trade flows. In a world of decreasing tariffs, the efforts made so far by the competent expert bodies in the WCO and WTO to harmonize these rules was all the more important. Without harmonized, non-preferential rules of origin, tariff liberalization would not yield the expected results in terms of increased trade and welfare. Furthermore, the worrying practice of using rules of origin as an instrument of protection would still be tolerated. Against this background, Switzerland saw the completion of the HWP as a very important contribution to trade facilitation which should be a guiding principle of all work conducted in this organization. Switzerland noted with satisfaction that despite the complexity of the subject-matter, substantial progress had been made to reach this goal. Nonetheless, Switzerland regretted that the deadline fixed by Ministers could not be met because certain key policy issues could

not be solved within that time-frame. The report of the CRO gave the assurance that this process would continue, and that concrete results would be reached by the end of June 1999 with the best endeavour commitment to complete the HWP by November 1999. Switzerland would have preferred an earlier date, and was of the opinion that an earlier date would still be possible. Switzerland was committed to finalizing these negotiations within the framework now proposed, and took this work programme seriously. Switzerland reaffirmed that an open-ended negotiating process was not acceptable, as it would not only hinder the removal of obstacles in international trade but also undermine the credibility of the commitments undertaken by WTO Members regarding the implementation of the Marrakesh Agreements as well as the commitments pledged in Singapore and at the recent Ministerial Conference in Geneva. In the view of his delegation, the commitment to finalize the HWP should not only be a commitment on a date, but rather a commitment by all Members to take the decisions which would permit a consensus being reached on substantive and political issues which were still pending. Should Members fail collectively to do so before the third session of the Ministerial Conference, then Members would send a very negative signal in the context of the preparation of further liberalization within the WTO framework including negotiations which also required consensus.

1.16 The representative of Norway wished to emphasize the importance his delegation attached to the successful completion of the HWP. In this respect it was with regret that Norway noted that the CRO and the TCRO had not been able to meet the deadlines specified in Article 9.2(a) of the Agreement due to the unforeseen complexity of the issues. He stressed the continued commitment of his delegation to work with other Members towards the completion of the HWP by the next Ministerial Conference.

1.17 The representative of Colombia stated that his delegation felt frustrated that Members were unable to meet the deadline for the completion of the HWP. This was a particularly sensitive matter for countries with few resources. Since the beginning of the work a great deal of time and resources had been invested in this task, and any extension brought with it additional costs, and disturbed the normal course of activities to which such countries would otherwise have dedicated themselves. If the objectives had not been achieved on a technical level, on a political level Members witnessed a blockage in progress due to a lack of flexibility and an unwillingness to come to a compromise. Therefore Colombia made an appeal that in a matter of such importance to trade, Members be more flexible and pragmatic.

1.18 The representative of Canada noted that his delegation was the first to raise the issue of whether or not Members could realistically meet the deadline already set out and ensure a high quality product. What his delegation had meant by a high quality product were harmonized rules of origin that were also transparent, predictable and neutral. Rules which facilitated trade and reduced the burden on traders and also reduced the burden and the discretion of customs officials. In the discussion that followed thereafter with regard to the work programme itself, Canada had expressed a view that it did not believe that at this point in time it would be responsible, realistic or prudent to set a definite deadline for the CRO. The reason was very simple. There was a lot of work that still needed to be done by the TCRO. Until all that work was completed Members were not in a position to make a decision or recommendation on a firm deadline. However, in the consensus that emerged such a deadline was set for the TCRO. Its work would be submitted by June 1999 whether or not it was complete and this in turn would enable Members to make a recommendation on a realistic deadline for the CRO.

1.19 Canada was committed to the best endeavour clause and to working with all Members in the work programme in both the CRO and the TCRO as set out in the report of the Committee. This was going to require an effort by everyone. It was going to require flexibility and it was going to require Members, as best they could, to make contributions not just to advance their own positions but also to contribute to the entire process of the negotiations. These contributions would include taking on the

rôle on occasions of rapporteurs, if further plurilaterals were held, and submitting papers which went beyond those areas that they were distinctly interested in to take on general matters. So the political commitment by all needed to go beyond simply seeking a deadline, but also to contributing to the process as Members moved towards completing the work.

1.20 The representative of Mauritius noted that the harmonization work on rules of origin was extremely complex and time-consuming, and very often went beyond the reach of many developing countries. Therefore, he was pleased to see that technical assistance in this area had become accessible to all Members. During the discussion on the HWP, his delegation had been given to understand that even a few developed countries had sought assistance from the WTO Secretariat and the WCO. He hoped that all Members would work towards achieving the much desired results.

1.21 The representative of Cuba stated that his delegation could accept the new work programme in a spirit of compromise but regretted that the initial time-table was not respected as the current situation was prejudicial to the export interest of developing countries. Cuba also supported the proposal made by India requesting the Secretariat to carry out a technical analysis of the impact of rules of origin and other disciplines such as subsidies, countervailing and antidumping duties in the textile and clothing sector.

1.22 The representative of Argentina stated that his delegation felt frustrated that Members were unable to meet the mandated deadline but was pleased with the commitment to make best endeavours to conclude the work during the course of the next year. At the same time his delegation was satisfied at having set a deadline for the work of the TCRO. This was very important in order to ensure that work on harmonization of rules of origin was successfully concluded. He agreed with those delegations which felt more comfortable with setting a firm deadline for the completion of the harmonization work.

1.23 The Council took note of the statements, approved the proposals and recommendations contained in the report of the Committee on Rules of Origin in document G/RO/25, and forwarded them to the General Council for adoption.

2. Notification by Colombia under Section C of Article XVIII of the GATT 1994 (WT/COMTD/N/8 and Corr.1)
- Communication by the United States (G/L/248)

2.1 The representative of the United States stated that Colombia had recently notified the WTO that it intended to invoke Article XVIII: C for the purpose of imposing quantitative restrictions on imports of salt. This notification was circulated on 30 April 1998. Article XVIII:C allowed that, subject to a number of conditions and in limited circumstances, certain WTO Members might need to take exceptional measures that would otherwise not be compatible with WTO obligations to promote the establishment of a particular industry. Article XXVIII, paragraph 13 laid out two fundamental conditions that had to be satisfied before exceptional measures could be taken: first the objective of the action had to be to raise the general standard of living of its people; and second no measure consistent with other WTO provisions was practicable to achieve that objective. While her delegation supported economic development, it was vital that the requirements of this exceptional provision be adhered to.

2.2 With respect to the measure notified by Colombia, the United States, on 29 May 1998, had asked this Council to schedule multilateral consultations in accordance with Article XVIII, paragraph 16. The United States had also requested bilateral consultations with Colombia in accordance with Article XVIII, paragraph 18. Her delegation renewed those requests. To facilitate her delegation's understanding of this measure and its application under Article XVIII, Section C, it was interested in

exploring several questions and was prepared to do this first bilaterally before taking it up again in the Council.

2.3 The representative of Colombia drew the Council's attention to the fact that the notification was submitted to the Committee on Trade and Development and that it would be appropriate for any explanations or answers to questions raised by WTO Members to be given in that forum. He recognized the right of Members to request that a topic of interest to them be included in the agenda of the Council, but it seemed rather unusual for a notification to be examined in the first instance by a body other than that which would normally be competent.

2.4 Colombia's review of the problems relating to the production and marketing of salt showed that they were closely connected with the conditions of survival and development of a substantial proportion of the indigenous population in a corner of Colombia's territory known as Guajira, where the land and the sea blend together and where the only possible productive activity is the manual extraction of salt. The rapid growth of imports of mechanically produced salt at prices much lower than the local cost of production had confronted the indigenous community with a difficult situation and the prospect of losing its source of income, with unfortunate social consequences, due to the threat to the economic activity that underpinned their whole way of life as described by the legendary saying according to which: "Maleiwa (the Wayúu God of creation) created the sea and the land and when the sea went into the land salt was formed, and He gave us Wayúu the job of harvesting it".

2.5 Before adopting the Article XVIII:C mechanism, the Colombian Government had carefully examined all the other possibilities of solving the problem provided for by the GATT/WTO, but found none of them suitable. Given the nature of the case, which was of more than purely commercial significance and concerned the survival of Colombia's indigenous population, as well as the fact that it clearly satisfied the criteria of Article XVIII:C, the Government had drawn up a temporary import restriction measure which, as the figures showed, would not lead to any injury.

2.6 As for the United States' call for consultations, he pointed out that to request consultations it was necessary to be a substantial supplier (10 per cent of imports in the last three years), which was not the case for the United States. However, Colombia was ready to provide further details and explanations to anyone who asked for them, either bilaterally or within the framework of the Council on Trade and Development.

2.7 The representative of Australia stated that Australia did not have a direct commercial interest in this issue, however, it did have a systemic interest in the use of Article XVIII:C, a WTO provision that in recent years had been rarely if ever invoked. His delegation would welcome the opportunity to discuss its systemic concerns bilaterally with Colombia or multilaterally. Australia had read the Colombian notification carefully, and appreciated the development concerns. However, it did seem from a preliminary examination that there would be other WTO measures that could be used to meet the concerns of the Colombian Government.

2.8 The representative of the European Communities stated that his delegation understood and respected the important social considerations which was underlying this notification by Colombia. Equally his delegation did have an interest in this question, and he supported the request made by the United States that Colombia should consult with the Council or in other ways individually as appropriate with Council Members.

2.9 The representative of Japan stated that his delegation had a certain understanding about the use of Article XVIII, especially Section C and requested the Colombian delegation to elaborate the relationship between the planned measure and the raising of general living standards. This was Japan's first concern.

2.10 The representative of Cuba noted that the delegation of Colombia had raised a procedural issue. So before going into the substance of the issue and before requesting Colombia to fulfill its consultation obligation, Members should determine whether the Council was the competent body or whether the matter should be taken up in the Committee on Trade and Development where the notification was submitted.

2.11 The Chairman proposed that for the present the Council take note of the statements. He noted that Colombia had indicated that it would be prepared to provide additional information on the planned measure, and further noted that nothing prevented a delegation from requesting that an item be inscribed in the agenda of a Council meeting.

2.12 The Council took note of the statements.

3. Free Trade Agreement between Turkey and Lithuania
- Notification by Turkey (WT/REG61/N/1 and WT/REG61/1)

3.1 The Chairman drew attention to the notification by Turkey circulated in document WT/REG61/N/1. The text of the Agreement had been circulated in document WT/REG61/1.

3.2 The representative of New Zealand, stating that his comment applied to many such notifications made to the Council, said that the notification did not give much of a picture of what the Free Trade Agreement actually amounted to. It was a notification of the text, but did not give any commentary on the nature of the Agreement and its coverage. It might be useful for notifying Members to reflect on the degree of further information that might be included in a notification. Clearly those Members could not put all the details which would be contained in annexes or protocols of the Agreement. But it would be useful for other Members to see in a notification some commentary on the nature of the Agreement, the extent to which certain areas of trade were covered or not covered by the Agreement etc.

3.3 The Chairman proposed that the Council take note of the statement, and that the Committee on Regional Trade Agreements carry out the examination of the Agreement in accordance with the following terms of reference:

"to examine, in light of the relevant provisions of the GATT 1994, the Free Trade Agreement between Turkey and Lithuania and to submit a report to the Council for Trade in Goods".

3.4 It was understood that the understanding read out by the Chairman of the Council for Trade in Goods under item 7 of the Agenda of the meeting of the Council on 20 February 1995, as contained in document WT/REG3/1, would apply *mutatis mutandis* to the examination. It was also understood that, during the examination, due account would be taken of the intrinsic differences between customs unions and free-trade areas.

3.5 The Council so agreed.

4. Date of the next meeting

4.1 The Council took note that the next meeting was scheduled for 1 October 1998, and that the agenda would close by close-of-business 17 September 1998.
