

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Market Access

MINUTES OF THE MEETING OF 3 MARCH 1997

Chairman: Mr. Jean Saint-Jacques (Canada)

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Introduction

The above agenda, which was contained in WTO/AIR/512 dated 4 February 1997, and Corr.1 and Corr.2, was adopted without any change.

1. **Observer status of international intergovernmental organizations**
- 1.1. International intergovernmental organizations having observer status on an *ad hoc* basis

The **Chairman** drew the Committee's attention to Part I of document G/MA/W/11 which contained the list of international intergovernmental organizations having observer status on an *ad hoc* basis in the Committee, i.e. the FAO, IMF, ITCB, UNCTAD, WCO and the World Bank. He reminded the Committee that the Agreements established in December 1996 between the WTO and the World

Bank and IMF provided that the WTO would invite these organizations to send a member of their staff to the meetings of WTO bodies on a reciprocity basis. It appeared therefore that observer status was already granted to those organizations by virtue of these agreements and he asked the Committee to take note of this fact. Concerning the FAO, ITCB, UNCTAD and the WCO, given the fact that they already had been granted observer status on an *ad hoc* basis, the Chairman proposed that the Committee grant observer status to these international organizations.

The Committee so **agreed**.

1.2 **International intergovernmental organizations which requested observer status**

The **Chairman** referred to Part II of document G/MA/W/11 which indicated that requests for observer status in the Committee had been received from the African, Caribbean and Pacific Group of States (ACP Group) and from the Inter-American Development Bank. He informed the Committee that these two organizations had been granted observer status in the GATT 1947 Council and proposed that, unless an objection were raised, these two organizations should be invited to participate in the formal meetings of the Committee as observers.

The Committee so **agreed**.

2. **Submission of documentation related to HS96 changes**

The **Chairman** referred to the provisions contained in the Decision of the General Council of 18 July 1996 (document WT/L/173) extending the time-limit of the waiver granted to Members having requested to be considered under the waiver until **30 April 1997**. The Members concerned had been expected to submit the complete documentation required for the introduction of the HS96 changes into their WTO schedules by **30 September 1996**. As could be noted from document G/MA/TAR/2/Rev.7, giving the present situation regarding the submission of the required documentation, out of the 37 Members covered by the waiver, 10 Members had either submitted only some preliminary data or nothing at all. He also noted that out of the 32 HS submissions received, two had been approved, and for 27 submissions the Secretariat had received reservations. He urged all Members which were covered by the waiver and had not yet submitted the required documentation to do so as early as possible. He reminded the Members concerned that the waivers would expire on 30 April 1997.

The representative of **El Salvador** informed the Members of the Committee that her authorities were still faced with technical difficulties to implement HS96 which was the reason for not having yet submitted the required documentation. According to the information received from capital, the changes would be implemented in the first part of the year; consequently her country would need to request an extension of the waiver.

The representative of **Switzerland** stated that, under the decision on the introduction of HS96 changes into WTO schedules of tariff concessions, individual waivers, which were for operational reasons grouped into one single decision, had been granted to suspend the application of the provisions of Article II of GATT 1994 for another period of 10 months until 30 April 1997. The purpose was to enable Members listed in the Annex of the Decision to implement on 1 January 1996 the recommended amendments to the HS nomenclature, on condition that *inter alia* negotiations and consultations based on reservations made on submissions of HS96 changes be completed not later than 30 April 1997. He recalled that Switzerland had submitted its consolidated loose-leaf schedule containing the proposed HS96 changes in December 1995, which had then been circulated to WTO Members on 16 January 1996 with document G/SECRET/HS96/10 fulfilling thus the requirement under the Council Decision of 13 December 1995 (WT/L/124). Switzerland had received general reservations from four Members. The reservations, except one, had been made without further specifications, and no substantive

explanation had been supplied. Consequently, the Swiss delegation could not enter into negotiations and consultations with the interested Members, as required under the Decision. He expressed concern about those general reservations and he hoped that the Members concerned would specify their reservations without further delay in order to enable his country to complete negotiations or consultations not later than 30 April 1997. He requested the Chairman to carry out consultations on this matter and added that failing progress, his delegation would raise the matter formally at the next meeting of the Council for Trade in Goods.

The representative of **Romania** informed the Committee that his country had implemented the HS96 changes as of 1 January 1997, Romania having become a Contracting Party to the HS Convention only in autumn 1996. In August 1996, i.e. well before the implementation date, Romania had submitted the required documentation in document G/SECRET/HS96/24. By the expiration of the 90 day period, Romania had received only one reservation of a general nature and its delegation was ready to hold the necessary consultations. In these circumstances, and in view of the fact that the Romanian schedule containing the HS96 changes could not be certified prior to the implementation of HS96, and with reference to the fact that at the meeting of the Committee on 13 June 1996 it had been agreed that any other member could also be covered by the waiver, he informed the Committee that Romania requested to be covered by the waiver.

The delegate of **Venezuela** stated that the position of his government was similar to that of Switzerland since his delegation had submitted a consolidated loose-leaf schedule containing the HS96 changes towards the middle of 1996 and to date, his delegation had received only one reservation of general nature which did not provide any explanation for the reservation. He appealed to the delegation concerned to specify the reasons for the reservation. He reiterated his delegation's willingness to conduct consultations on the Venezuelan schedule in order to avoid being involuntarily forced to request an extension of the waiver.

The delegate of the **European Communities** supported the comments made by Switzerland and Venezuela and stressed the importance of concluding the verification process related to this transposition exercise in view of the heavy workload faced by the Committee during this year, e.g. the work on the loose-leaf schedules and the update of the IDB.

The representative of **Norway** fully supported the EC statement and expressed concern about the lack of progress on the submission of documentation related to HS96 amendments. As recalled by the Swiss delegation, the individual waivers granted under a single decision were expiring on 30 April 1997. He referred to his delegation's statement made at the meeting of the Committee of June 1996 when Norway requested the Committee to undertake a review of the status of implementation by Members of HS96 change and of the need for the extension of waivers. His delegation was extremely concerned about the use of general reservations: Norway had submitted its HS96 documentation in January 1996 and was still expecting specifications with regard to general reservations made by Korea and the United States. His delegation hoped to receive the necessary specifications before 30 April and avoid having to request an extension of the waiver.

The representative of **Egypt** stated that his authorities had technical difficulties preparing the amendments related to the HS96 changes. His delegation was working with the Secretariat to solve these difficulties. Egypt would need to request an extension of the waiver.

The delegate of **Mexico** recalled that his delegation had so far only submitted the 1996 national tariff indicating where HS96 changes had been introduced. His delegation hoped to have the necessary documentation ready very soon. His delegation would need to request an extension of the waiver beyond 30 April 1997.

The representative of **Hungary** indicated that her delegation, like other delegations, was faced with the problem of the use of general reservations. She stressed the need to conclude the verification process by the deadline of 30 April.

The delegate of **Argentina** stated that his delegation had submitted the necessary documentation in time and had received three general and one more specific reservation. His delegation was also concerned that no specifications for those reservations had been provided; Argentina would be obliged to request an extension of the waiver.

The delegate of **Brazil** informed the Committee that work related on the documentation had been finalized; the documentation should arrive in Geneva during the forthcoming week.

The representative of **Korea**, referring to the statement by the delegate of Norway, promised to clear Korea's general reservation before the end of April. At the same time, he requested the two major trading countries that had submitted general reservations on the Korean schedule to specify the general reservations as soon as possible.

The delegate of **Australia** endorsed the comments made about general reservations and said that her country would be obliged to request an extension of the waiver.

On behalf of the Czech and Slovak Republics, the representative of **Slovakia** informed the Committee that their delegations had received three reservations, one of them of a general nature. He joined in the concern expressed by other delegations.

The **Chairman** took note of the statements and urged all delegations having submitted general reservations to submit the necessary specifications as quickly as possible so that negotiations could be concluded in the shortest possible time.

3. **Establishment of loose-leaf schedules**

The **Chairman** recalled that the Decision regarding the establishment of consolidated loose-leaf schedules, approved by the Council for Trade in Goods at its meeting of 29 November 1996, was contained in document G/L/138. He reminded the Committee that the schedules of several Members containing both the information needed in the loose-leaf schedules and the HS96 changes had already been submitted and as mentioned by a number of delegations, practically for all of them, general reservations had been received. He urged those delegations that had submitted reservations to proceed with the verification of the schedules that had been submitted as quickly as possible.

4. **Integrated Data Base**

The **Chairman** stated that, as concerned the Integrated Data Base, since October 1995, the Statistics and Information Division had received from Members eight full submissions (tariff and import data), seven tariff submissions, five import submission with available tariffs, and nine import submissions with no available tariff. Information on twenty-six tariffs had been obtained from other WTO divisions (Market Access and Trade Policy Review). Finally, 14 tariffs had been processed from national publications. He regretted to note that the information was not as complete as it should be.

He recalled further that in October 1995 (G/MA/M/3) the Committee had agreed that the Secretariat would conduct a study on the "downsizing" of the Integrated Data Base (IDB) from the mainframe to a PC environment and that the IDB be made operational with basic information on tariffs and imports before broadening its scope by including non-tariff measures and other types of restrictions. This study, which had been carried out by an outside consultant, had been completed and resulted in

a document of some 450 pages. A summary of the report containing the main conclusions and recommendations had been prepared by the Secretariat and had been circulated in document G/MA/IDB/W/2. Because this document had been circulated only very recently, the Chairman expected that Members would need additional time to examine it before proceeding to a discussion in a formal Committee meeting. It also appeared that informal consultations would be required on the subject before the matter could be taken up in the Committee. He added that the full report would be available on request from the Secretariat Statistics and Information Division.

As concerned the dissemination of the IDB, the **Chairman** drew a distinction between the IDB data generally available which included tariffs and trade information, and the data that might be obtained during negotiating rounds, e.g. the offers submitted by Members. For the purpose of this discussion, he was not referring to offers during negotiating rounds but simply to the normal trade and tariff information contained in the IDB. As a result of the Decision by the Committee in October 1995, the IDB files were disseminated to WTO Members and to international organizations on computer tapes and diskettes, as well as on a CD ROM with an application system. Other organizations had data bases containing similar data and this information was disseminated not only to the members of those organizations but to the public on a cost recovery basis. The Chairman suggested that the Committee reflect on the possibility of making the information contained in the IDB available to the public on a cost recovery basis. In order to have WTO considered as one of the major sources of information used for trade purposes, either for trade negotiations or analyses, it would be very useful to allow the Secretariat to disseminate this information. This issue would need further reflection and the Committee should revert to it at a future meeting.

The representative of the **European Communities** pointed out that, while his delegation did not have any problem as concerned the dissemination of the information, the question was: what would be disseminated and how reliable would the information be if the data base did not contain a wide country coverage. He did not think that researchers or trade people would invest any money in buying information from the IDB if it did not represent an important share of world market trade; the same applied for tariff information. This type of service was already provided by several companies around the world and applied tariffs could be purchased from those companies in the year when tariffs were applied and not years later as was the case with the IDB. In summary, his delegation would not have any objection to disseminate IDB information if it was reliable and it was ensured that the product was a valid one.

In reply to an enquiry of the representative of **New Zealand**, the representative of the Secretariat said that with regard to the possibility of approaching directly the authorities concerned in the various countries in order to obtain trade data directly from capitals, contacts had been established with eight to ten capitals and for half of them the contacts had been very fruitful. It had been possible to establish a list of names of individuals in the capitals responsible for the preparation of import and tariff data and the Secretariat intended use these contacts again in the future to get updated information. Concerning New Zealand, while successful contacts had been established which permitted to obtain updated information on statistics, problems had been encountered in getting updated tariff information.

5. Submission of national tariffs for 1997

The **Chairman** pointed out that the Secretariat had prepared for the information of Committee Members a revision of document G/MA/TAR/3 showing the present situation relating to the submission of national tariffs by Members. He urged Members that had not yet supplied this information to do so as quickly as possible in view of its importance for the work of the Organization and also in view of developing the WTO statistical basis.

The representative of Cuba informed the Members of the Committee that as of 1 January 1997 the Republic of Cuba had a new tariff at eight digit level which would be handed over to the Secretariat very soon.

The representative of India indicated that the national tariff of India for 1996 had been submitted to the Trade Policy Review Division. As the Indian financial year started in April, the 1997 tariff would be forwarded soon thereafter.

6. **Notification of quantitative restrictions**

The Chairman recalled that the Committee had discussed on the advisability of preparing a format for the notification of quantitative restrictions. At that time, it was felt that since the number of notifications received had been quite limited it would be better to wait until more notifications would be received in order to take into account the various types of information contained in the notifications. Also the Chairman of the Working Party on Notification Obligations and Procedures had requested this Committee to look into this question and the Committee had authorized the Chairman to reply indicating that the Committee would keep the matter under review. The Secretariat had received by now a larger number of notifications and had prepared document contained in G/MA/NTM/QR/Add.3 showing the additional notifications submitted, as well as a draft format for future notifications. The Chairman explained that no decision needed to be taken by the Committee at this meeting, but he asked Members to examine the draft format which, in his view, would be useful for future notifications. If the Committee would agree to this at a subsequent meeting, the Secretariat would issue it as a formal document and the information contained in the document, as well as the documentation already submitted to the Secretariat, would be presented in this format.

Replying to a question raised by the representative of the European Communities as to whether there was any electronic format foreseen for the notification of quantitative restrictions, the Chairman said that this question could be examined.

The representative of New Zealand, noting that a number of notifications on quantitative restrictions made so far was quite limited, wondered whether countries which not have any notifiable quantitative restrictions should not notify this fact.

The Chairman took note of the comments made by the delegate of New Zealand and urged delegations that had not yet submitted their notifications on quantitative restrictions to do so as soon as possible, keeping in mind the proposed draft format.

7. **Introduction of future changes in the Harmonized System**

The representative of the World Customs Organization (Mr. Kusahara, Director of Nomenclature and Classification Directorate) informed the Committee that to date there were 88 Contracting Parties to the HS Convention and that more than 80 per cent of the Contracting Parties had already implemented the HS96 changes in their national tariffs. Only about 10 countries had not yet implemented those changes, most of them having financial problems to print their new tariffs. He added that the WCO would be prepared to assist any country in order to expedite its Article XXVIII procedures for the implementation of HS96.

As regards the future amendments to the Harmonized System, Mr. Kusahara, referring to the details of provisional amendments already circulated, explained that the WCO HS Committee had been dealing with those amendments for about two years. In this connection, he pointed to the fact that the predecessor of the Harmonized System, the Customs Co-operation Council Nomenclature (CCCN), had been reviewed every six years since its entry into force in 1959. However, in the 1970s, it became

apparent to many countries that the CCCN was no longer up to date. This gave rise to the establishment of the Harmonized System which, is not kept up to date, would quickly become obsolete and useless. The WCO had the responsibility of keeping this nomenclature alive and useful. According to Article 16 of the HS Convention, the WCO had to prepare a recommendation containing amendments to the HS and notify it to the Contracting Parties. If any objection to a specific amendment was notified by a Contracting Party within six months, the amendment would be dropped. All other amendments for which there were no objections were deemed to be accepted six months after the date of notification by the Council and would be subsequently implemented. As concerned the date of implementation, Article 16, para. 4 (b), said that "where the recommended amendment is notified on or after 1 April, the date shall be the first of January of the third year following the date of such notification"; this meant that, if the WCO adopted a recommendation in June 1997 and notified it to the administrations in July 1997, the amendment would come into force on 1 January 2000. By that time, according to the procedures of Article 16, the Contracting Parties to the Convention would have had the obligation to bring their tariff nomenclatures into conformity with the HS amendment. As regards the frequency of the HS amendments, the WCO Council at its 1988 meeting had endorsed the HS Committee's conclusion to review the Harmonized System at regular intervals of three to four years. So far the HS had been amended every four years: it entered into force in 1988, it was amended first in 1992, and a second time in 1996. As concerned the third amendment, the HS Committee took a provisional decision at its meeting of November 1996 to implement it on 1 January 2002, i.e. at a six year interval instead of four years. This meant that the WCO would adopt and notify the next HS amendment recommendation in 1999. This decision, taken on a provisional basis, would be taken up and finalized at the next meeting of the HS Committee in April 1997.

Regarding the magnitude of amendments, Mr. Kusahara explained that the first set of amendments comprised about 200 amendments, most of them being of editorial nature. The second set of amendments comprised approximately 400, some of them being substantive. The third set of amendments so far provisionally adopted would consist of two types: purely editorial and other amendments. As concerned those other amendments, they could be classified into three categories: (a) waste and scrap (for environmental reasons); (b) clarification of legal texts without substantive changes, and (c) other (a few items only). The principles applied by the WCO to amend HS were the following: when a sub-heading was to be created or deleted, two basic criteria were applied: (1) the threshold value (the trade value needed to be important enough to justify a sub-heading), and (2) the need for a clear distinction. There were, however, exceptions to those basic rules when dealing with environmental or social concerns or goods of special interest to developing countries. In those cases, the criterion of trade value was not applied rigidly and some flexibility was introduced. Then, Mr. Kusahara gave an outline of the three categories (a), (b) and (c) of the amendments so far provisionally adopted and the relatively small magnitude of substantive amendments in relation to goods of trade importance.

The Committee **took note** of the explanations given by Mr. Kusahara.

8. **Other Business**

8.1 **Date of the next meeting of the Committee**

The **Chairman** pointed out to the Committee that in view of the fact that requests for extension of waivers which expired on 30 April 1997 would have to be considered by the Committee before being submitted to the Council for Trade in Goods and forwarded to the General Council, the next meeting of the Committee would take place on **8 April 1997**.

It was so **agreed**.

9. **Election of officers**

Election of Chairperson

The **Chairman** stated that as the Members were aware, the Chairman of the Council for Trade in Goods, pursuant to paragraph 6.3 of the "Guidelines for Appointment of Officers to WTO Bodies", had carried out informal consultations on a slate of names for appointment as chairpersons to the different subsidiary bodies of the Council for Trade in Goods. The proposed nominations had been taken note of by the Council for Trade in Goods at its meeting on 12 February 1997.

He stated that, with respect to this Committee, the Chairman of the Council for Trade in Goods had proposed that **Mr. Moha Ouali Tagma of Morocco** be the Chairman and unless there was any objection it would be agreed that Mr. Tagma was elected as Chairman for this year.

This was **agreed** by the Committee.

He added that the question of the election of a Vice-Chairperson would be the subject of informal consultations and would be taken up at the next meeting of the Committee.

The Committee **so agreed**.