

WORLD TRADE ORGANIZATION

RESTRICTED

G/NOP/4

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Working Group on Notification Obligations and Procedures

MEETING HELD ON 7 FEBRUARY 1996

Chairman: Mr. A. Shoyer (United States)

Note by the Secretariat

1. The draft agenda for the fourth meeting of the Working Group, set out in WTO/AIR/247, dated 18 January 1996, was adopted.

Introduction

2. In opening the meeting, the Chairman reviewed the work programme for the year ahead. He considered that the overall programme of the Group consisted of three stages: the first comprised the work at the three meetings in 1995 at which the issues in this area were identified and an inventory of subjects for detailed examination was created. The current meeting began the second stage during which the subjects identified last year will be examined individually and in detail. The third stage would entail the preparation of the Group's report and recommendations to the CTG. As to timing, he considered that the Working Group's report should be submitted to the CTG in good time before the Ministerial Conference in December. Hence, the detailed examination phase should be complete by the end of July with the report being prepared and the recommendations finalized in September or early October.

3. To this end, the Chairman advised that meeting dates had been reserved, as discussed at the last meeting, for one day in the early part of each month: 8 March¹, 12 April, 3 May, 6 June, 3 July, and 10 September.

4. The Chairman noted that the agenda proposed two topics for examination at this meeting: first, the question of duplication or overlapping in the notification requirements of the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures ("Subsidies") and of the Subsidies and Trade-Related Investment Measures (TRIMs) Agreements and second, three aspects of the question of simplification of data requirements and standardization of formats. In view of the considerable technical detail inherent in these subjects, the Chairman encouraged the submission of material in writing which would facilitate discussion in the Group as well as examination by experts in the capitals.

Agenda Item 2(a) Duplication/Overlapping in Notification Obligations

5. The delegate of New Zealand provided a paper which was circulated at the meeting and is being reproduced as document G/NOP/W/7. He suggested that the paper might be helpful as a starting

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point for further discussions as it set out three options on how to approach the question of duplication/overlapping in the Agriculture/Subsidies Agreements. The first option would make no change to the present arrangements; rather, the Group could decide to review the arrangements at a specified date in the future when Members will have had the experience of a full cycle of notifications in their present format. The second option in the New Zealand paper foresaw the development of a revised notification format for agriculture subsidies, which would merge the two sets of obligations, resulting in one single notification format meeting the requirements of both Agreements. The third option would start with the Agriculture Agreement notification and add to it the additional qualitative information required by the Subsidies Agreement notification to respond to the needs of both Agreements through one format.

6. A number of delegates spoke under this agenda item using as a basis the three options in the New Zealand paper. They emphasized that their views were preliminary as they had just recently received the paper, and undertook to have its contents carefully examined in capitals, after which they would continue the debate at a future meeting.

7. Several delegates indicated a preference for the first option of making no change to the present formats at this time. They considered that it was too early to undertake a review of the notification process without the experience of a full cycle of Subsidies and Agriculture notifications. It was noted in this regard that some Members had not yet submitted their Subsidies Agreement notifications and many Agriculture Agreement notifications were due later in 1996. Some considered that the Group did not have enough basic information to make reliable judgements or recommendations in this matter. Other views were that the present notification requirements had not presented serious problems: the two agreements did not have extensive specific overlapping and, therefore, did not warrant substantive changes. The view was also held that acceptance of the first option would not be inconsistent with the Group's mandate as there could be a recommendation for an ongoing or further work programme in this area.

8. Some delegates were not in favour of the approach envisaged in the first option, being concerned that maintaining the status quo might give rise to delays in examining the duplication problem and would not respond to the Group's mandate in this area. They considered that some harmonization and streamlining was possible, and, therefore, that the Group should move forward in its search for solutions to the duplication problem on the basis of the available formats and notifications. Another approach, in the context of the first option, was that this examination be taken as an ongoing process and having made as much progress as possible in its present discussions, part of the Group's recommendations could be that the work be taken up again after a period of time.

9. Some delegations considered that options two and three presented a good basis for a substantive discussion in the Group. There was scope for harmonizing the existing formats and these options presented the means. It was stressed that a single notification format for the Agriculture and Subsidies Agreements would simplify the administrative process by removing the double collection of information on the same programmes. There are a number of descriptive or information requirements in the Subsidies Agreement which could be accommodated in the Agriculture Agreement, such as the titles of the programmes and their operation. Treatment of the requirements for information on "per unit subsidy" and on trade effects would be more difficult to deal with. Nevertheless, it would be worthwhile to examine the possibility of adding these to the Agriculture format to arrive at a single notification but without changing the obligations or the information requirements of the two Agreements.

10. While supporting an examination of these options, it was pointed out that, in such a discussion, transparency must not be diminished and the legal obligations must be fully respected. With this in mind, it was suggested that the examination could only be successful if it were undertaken as a narrow and self-contained exercise, with discussions not going beyond the specific issue. Concern was expressed,

however, that option two could imply changes to Members' obligations which would be time-consuming and very difficult to achieve.

11. As regards the actual procedures for submission of any unified notification, it was questioned if there should be two separate notifications, one document with two symbols or a cross-reference. Another question would be the timing of notifications where there are now certain legal requirements.

12. Looking beyond the three options in the paper before the Group, it was suggested that a fourth approach could be considered, that of proposing modifications to the textual obligations in the two Agreements, particularly if the Group found that the other options were insufficient. It was recognized that such an examination, which was permitted by the Group's mandate, would be difficult before a full cycle of notifications had been made, but it was a conceptual possibility. It was stressed that any proposals to change the notifications processes must safeguard the different natures and legal implications of the Agriculture and Subsidies Agreements.

13. The delegate of the United States provided a paper on the question of duplication/overlapping in the Agriculture/Subsidies Agreements under three headings: (i) Subsidies Agreement: Consider eliminating requirements to provide information on subsidy per unit and on trade effects, except where information is reasonably available for commodity-specific programmes; (ii) The notification format used under the Agreement on Agriculture could be adapted to satisfy the substantive requirements of both the Subsidies and the Agriculture Agreements; and (iii) Consolidated information on agriculture subsidy programmes should be reported, in full, to both the Agriculture Committee and the Subsidies Committee. This paper is being circulated in document G/NOP/W/8.

14. A number of delegates welcomed the US paper but were not in a position to offer substantive comments at that point. They undertook to examine it in detail and provide their comments at a future meeting.

15. Turning to the duplication or overlapping in the Agreement on Trade-Related Investment Measures (TRIMs) and the Subsidies Agreement, it was noted that any duplication which existed would have little practical effect as the TRIMs notification under Article 5.1 was a one-time obligation and was due within 90 days of the date of entry into force of the Agreement. Subsequent notification of changes under Article 5.4 would be of an ad hoc nature, i.e. not regular or ongoing. Consequently, while TRIMs measures could be maintained by some Members for certain periods of time, they would have to be notified only on one occasion under this Agreement and there would, therefore, be little purpose in taking steps in the Group to address such non-recurring duplication (see also comments on this topic in G/NOP/W/8).

Agenda Item 2(b) Simplification of Data Requirements and Standardization of Formats

16. In opening the discussion, the Chairman recalled that in earlier discussions three suggestions had been tabled; namely, the identification of any formats/questionnaires which sought information going beyond the specific requirements of the relevant agreements; suggestions as to any additional areas where formats/questionnaires could be developed; and areas where formats/questionnaires common to more than one notification obligations could be combined.

17. A comment was made that the information required on "per unit subsidy" in the Subsidy Agreement did not necessarily go beyond the requirements of that Agreement but it did not appear to be a useful requirement in the current situation and even less so in respect of agricultural subsidies where considerable other quantitative information was required. Other delegates were of the view that since "per unit subsidy" was mentioned in Article 25 of the Subsidies Agreement, the information sought in the current format was definitely not beyond the requirements of the Agreement.

18. Also under this agenda item, it was questioned if some form of guidance could be developed to assist Members in responding with precision to the requirement to notify quantitative restrictions in the context of the CTG Decision on notification procedures for quantitative restrictions. In this regard it was asked if such discussion would be appropriate to this Group or the Market Access Committee.

19. Discussion then turned to the approach this Group should take in responding to points raised in respect of the three suggestions in paragraph 16. One possibility would be to suggest to the various committee chairpersons that these questions be put on their agendas for discussion and that any ideas emerging from this process be forwarded to this Group. Another view was that the discussion on such questions should be the responsibility of the respective committees with their specific technical expertise rather than this "global" Group. At a minimum, this Group should not propose modifying formats without the input of the concerned Committee. It was also observed that individual Committees might be sensitive or hesitant about making changes to their notification formats and it would be more productive to hold such discussion in this Group with the outcome being provided to the concerned committee, possibly as a recommendation for consideration. A suggested approach to this question was that these problems be discussed in the Group to determine their feasibility and the best approaches in recognition of the broad mandate of this Group to look at all types of concerns and its overall view of the situation in this area.

20. In the light of the discussion on this agenda item, and in response to the specific suggestion which had been made, the Chairman suggested that he send a short note to the chairpersons of the concerned committees indicating that these issues, listed in paragraph 16 above, had been discussed in the Working Group and would continue to be examined, but that a suggestion had been made that it might be useful to have these subjects discussed in the relevant committees as well, as the committees considered appropriate.

Closing Comments

21. The Chairman recalled that, in keeping with the proposed work programme for the second stage, he would be proposing further topics for detailed examination at the next meeting on 8 March². These would be duplication/overlapping in notification obligations in the areas of (i) Agriculture/Import Licensing, and (ii) SPS/TBT, as well as the subject of assistance to some developing countries in meeting their notification obligations. This would, he hoped, give delegations time to examine the documentation which it had received at this meeting and to prepare for its further consideration.

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