

ARTICLE X
PUBLICATION AND ADMINISTRATION
OF TRADE REGULATIONS

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() Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, , of the prompt review and correction of

have to be administered in conformity with other provisions of the General Agreement, in particular Article X dealing with the Publication and Administration of Trade Regulations".²

- (2) *"published promptly in such a manner as to enable governments and traders to become acquainted with them"*

The Panel Report of 1989 on "EEC - Restrictions on Imports of Dessert Apples, Complaint by Chile" examined, , the claim by Chile that the licensing and deposit system on dessert apple imports introduced by the EEC on 6 February 1988 and administrative arrangements by the member states putting this into effect were not published promptly in such a manner as to enable governments and traders to become acquainted with them as required under Article X:1 (first sentence).

announced on 20 April 1988 thus covered a quota period which began on 14 February 1988 and ended on 31 August 1988.

"... The Panel therefore considered that the allocation of back-dated quotas did not conform to the

(4) *"confidential information"*

During the fourth review under the Protocol of Accession on "Trade with Hungary," the representative of Hungary noted, in response to the inquiry by the EEC referred to above, that the lists attached to the governmental trade agreements "resulted from private negotiations among enterprises in Hungary and in the other countries in question. In view of the latter circumstance, in accordance with the releva.0561 Tw-.01s07soh

be published and were not usually brought to the attention of the Commission. The fact that Chilean exporters were the first to send apples to the Community was not proof of discriminatory, non-uniform, partial or unreasonable administration, but simply an objective fact due to the climatic differences among exporting countries. In response, the Panel found as follows:

“The Panel further noted that the EEC Commission Regulations in question were directly applicable in all of the ten Member States concerned in a substantially uniform manner, although there were some minor administrative variations, e.g. concerning the form in which licence applications could be made and the requirement of pro-forma invoices. The Panel found that these differences were minimal and did not in themselves establish a breach of Article X:3. The Panel therefore did not consider it necessary to examine

that it was not necessary for it to make a finding on these matters with regard to quantitative restrictions maintained contrary to that Agreement."²⁰

C. NOTIFICATION IN GATT

At various times since 1947 notes have been prepared by the Secretariat summarizing the notification obligations of contracting parties under the General Agreement.²⁷

The Decisions of 12 April 1989 on "Functioning of the GATT System" include a decision to establish an "Overview of Developments in the International Trading Environment," providing that "Such an overview should be undertaken by the Council. It should be assisted by an annual report by the Director-General setting out major GATT activities and highlighting significant policy issues affecting the trading system ... It is understood that this overview by the Council, together with the trade policy review mechanism, would replace the existing reviews in special Council meetings established under paragraph 24 of the 1979 Understanding ...".³² See also the material below on the Trade Policy Review Mechanism.

2. Notifications provided for by specific provisions of the General Agreement or decisions of the CONTRACTING P

Quantitative restrictions and other measures affecting trade

Articles XII:4 and XVIII:12 ³⁵	Notification of introduction or intensification of all measures taken for balance-of-payments purposes
Questionnaire on Import Licensing Procedures (L/5640) ³⁶	Notification of import licensing and similar administrative procedures maintained in and applied with respect to imports into the customs territories to which GATT applies
Data base on quantitative restrictions and other non-tariff measures ³⁷	Biennial complete notification of quantitative restrictions; notification of details of changes in quantitative restrictions as and when these changes occur
Inventory of Non-Tariff Measures ³⁸	

ARTICLE X - PUBLICATION AND ADMINISTRATION OF TRADE

Emergency action on imports of particular products

Article XIX:2 Notice in writing to the CONTRACTING PARTIES as far in advance of action as may be practicable; however, in critical circumstances action may be taken provisionally without prior consultation

Consultations and dispute settlement

Article XXII⁵⁰ Notification of any request for consultations under Article XXII

Article XXIII⁵¹ Notification of any request for consultations under Article XXIII:1 or request for establishment of a panel under Article XXIII:2

Other institutional and final provisions

Article XXV:5⁵² Notification of request for waivers of obligations

Article XXXI Notice of withdrawal from the General Agreement (see also references to notice of intent to withdraw in Articles XVIII:12(e) and XXIII:2).

Protocol of Provisional Application Notice of withdrawal of provisional application of the General Agreement

Customs unions and free-trade areas; regional agreements

Article XXIV:7(a)⁵³ Notification by any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area

Article XXIV:7(c) Communication of any substantial change in a plan or schedule included in an interim agreement for the formation of a customs union or free-trade area

Decision of 26 November 1971⁵⁴ Biennial reporting on regional agreements

Trade and development

Article XXXVII:2⁵⁵ Reports by contracting parties whenever it is considered that effect is not being given to the provisions of Article XXXVII:1

⁵⁰“Procedures under Article XXII on Questions Affecting the Interests of a Number of Contracting Parties” adopted on 1958, 7S/24; Decision on “Improvements to the GATT Disp

trade in a recent representative period, will be the determining factor in deciding on the frequency of

operation, the CONTRACTING PARTIES will review, and if necessary modify, these arrangements at the end of the Uruguay Round.”⁵⁷

On 19 July 1989, the Council agreed on an outline format for country reports to be submitted under the TPRM, including a list of matters to be dealt with in country reports and of statistical and tabular data to be submitted.⁵⁸ In 1993, the Council agreed to clarified procedures dealing with such matters as timing of review meetings, rôle of discussants, statements in the Council and replies by countries under review.⁵⁹

At the Forty-Ninth Session in December 1994, the CONTRACTING PARTIES agreed that informal consultations should be held on issues relating to the operation of the TPRM. On 10 May 1994, the Council agreed to the following decision on arrangements for continued operation of the TPRM:

“1. The Trade Policy Review Mechanism shall continue in operation until its successor mechanism established in Annex 3 of the Agreement establishing the World Trade Organization (WTO) comes into effect.

“2. Contracting parties agree that a report by the Government of the contracting party or by the entity under review remains a central element of the review process. However, in order to avoid duplication of the material contained in the Secretariat report, and to lighten the burden on delegations, Government reports shall be in the form of policy statements. It would essentially be for the contracting parties and entities concerned to decide on the form and length of such statements, although the Council, or the Trade Policy Review Body to be established under the WTO Agreement, may decide on new guidelines for Government reports.

“3. Contracting parties agree that the principal focus of Secretariat reports should be on the trade policies and practices of the contracting party or entity under review. Contracting parties recognize that trade policies must, to the extent necessary, be se

E. NOTIFICATION PROCEDURES DURING THE TRANSITION TO THE WORLD TRADE ORGANIZATION

The 15 April 1994 Final Act of the Uruguay Round includes a Decision on Notification Procedures, which calls for a Central Registry of Notifications to be established, and for a review of notification obligations and procedures to be carried out by a working group under the WTO Council on Trade in Goods. The Decision was adopted by Ministers at Marrakesh, and it was further adopted, and the Central Registry was established, by the WTO General Council at its first meeting on 31 January 1995.

On 8 December 1994 the CONTRACTING PARTIES and the Preparatory Committee for the World Trade Organization adopted a Decision on "Transitional Arrangements - Avoidance of Procedural and Institutional Duplication", which provides that the Preparatory Committee:

"Noting that the General Agreement on Tariffs and Trade (hereinafter referred to as "GATT 1947") and the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO Agreement") are legally distinct and that Members of the WTO may therefore remain contracting parties to the GATT 1947;

"Considering that contracting parties to the GATT 1947 and parties to the Tokyo Round Agreements that are also Members of the WTO should not be subjected to the inconvenience of having to notify and consult on their measures and policies twice;

"Desiring, therefore, that the bodies established under the GATT 1947, the Tokyo Round Agreements and the WTO Agreement coordinate their activities to the extent that their functions overlap;

"Decides to propose the following procedures for adoption by the CONTRACTING PARTIES to the GATT 1947, the Committees established under the Tokyo Round Agreements and the General Council of the WTO:

"In the period between the date of entry into force of the WTO Agreement and the date of the termination of the legal instruments through which the contracting parties apply the GATT 1947 and of the Tokyo Round Agreements the following notification and coordination procedures shall apply under the GATT 1947, the Tokyo Round Agreements and the WTO Agreement:

"1. If a measure is subject to a notification obligation both under the WTO Agreement and under the GATT 1947 or a Tokyo Round Agreement, the notification of such a measure to a WTO body shall, unless otherwise indicated in the notification, be deemed to be also a notification of that measure under the GATT 1947 or the Tokyo Round Agreement. Any such notification shall be circulated by the WTO Secretariat simultaneously to the Members of the WTO and to the contracting parties to the GATT 1947 and/or the parties to the Tokyo Round Agreement. These procedures are without prejudice to any notification procedures applicable in specific areas.

"2. The coordination procedures set out in paragraphs 3 and 4 below shall apply in the relations between the bodies referred to in sub-paragraphs (a) to (d) below: ...

"(d) The GATT 1947 Council of Representatives shall coordinate its trade policy reviews with those of the WTO Trade Policy Review Body.

...

"5. The C

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Article VI

Discussion: SR.9/17, 24, 41, 47
Reports: W.9/122+Corr.1, 217, 220, 231, 236/Add.1;
L/334; 3S/222
Other: L/189, 261/Add.1, 270/Add.1, 273, 275, 276
W.9/20/Add.1, 28, 41, 46, 68, 86+Rev.1, 214
Spec/70/55, 93/55, 106/55, 109/55, 111/55

Article VII

Discussion: SR.9/17, 20, 47
Reports: W.9/155, 191, 199, 212, 217+Corr.1, 236/Add.1;
L/329; 3S/205
Other: L/189, 261/Add.1, 272, 273, 275, 276
W.9/46, 54+Add.1, 61, 141, 152, 169/Rev.1, 172
Spec/40/55

Article VIII

Discussion: SR.9/18, 47
Reports: W.9/155, 191, 199, 212, 217, 236/Add.1;
L/329; 3S/205
Other: L/189, 261/Add.1
W.9/46, 69, 120, 125, 168, 172
Spec/40/55

Article IX

Reports: W.9/155, 191, 212, 217, 236/Add.1;
L/329; 3S/205
Other: L/189, 261/Add.1, 273, 275, 276
W.9/46, 87, 172
Spec/40/55

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Report: L/327, 3S/234-235
Other: L/189, 261/Add.1
W.9/46, 217
Spec/47/55