

TECHNICAL COOPERATION HANDBOOK ON NOTIFICATION REQUIREMENTS

Agreement on Import Licensing Procedures

1. This section of the Handbook on Notification Requirements covers the notification obligations under the Agreement on Import Licensing Procedures (LIC). It consists of the following five parts:

- Part I: Overview of notification requirements
- Part II: Listing of the notification obligations
- Part III: Document(s) concerning guidelines and formats
- Part IV: "Mock" examples of notifications
- Part V: Text of the Agreement

2. For acceding countries, the deadlines for the submission of their notifications will be governed by their respective Protocols of Accession.

Note: The Handbook on Notification Requirements does not constitute a legal interpretation of the notification obligations under the respective Agreement(s). It has been prepared by the Secretariat to assist Members in complying with their notification obligations.

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AGREEMENT ON IMPORT LICENSING PROCEDURES

OVERVIEW OF NOTIFICATION OBLIGATIONS

AGREEMENT ON IMPORT LICENSING PROCEDURES**Article 1.4(a)**¹

Members are required to notify the Committee on Import Licensing the sources in which the information concerning import licensing procedures are published, and to make copies of these publications available to the Secretariat.

In cases where the publications are not in a WTO official language, Members shall provide, together with such publications, a summary of the notification in one of the WTO languages. Other Members may ask for a full translation if they so wish, or seek any additional information on a bilateral basis. Any issues that cannot be solved on a bilateral basis may be brought to the attention of the Committee.

Members which were Parties to the Tokyo Round Code shall decide for themselves whether the notifications they have made in this respect under the Tokyo Round Code shall remain valid, and whether only changes that have occurred since should be notified, or new full notifications should be made.

The Committee, at its meeting on 12 October 1995, established a deadline of 12 January 1996 for the first notification under this provision from current Members.

Article 7.3¹

Members are required to complete, by 30 September each year, the questionnaire on import licensing procedures (see G/LIC/3, Annex).

The questionnaire covers import licensing and similar administrative procedures (which are understood to include technical visas, surveillance systems, minimum price arrangements and other administrative reviews). Members are required to provide information relating to purposes and coverage of licensing, laws, regulations and administrative orders under which licensing is maintained, procedures for application and granting licences under restrictive and non-restrictive systems, allocation of quotas, period for processing of applications, licence validity, administrative bodies to be approached, documentation requirements for application, eligibility of importers to apply for licence, conditions of licensing and foreign exchange formalities.

Members shall decide for themselves whether the replies provided previously under the GATT 1947 procedures shall remain valid under the WTO Agreement, and whether only changes that have occurred since should be notified, or new full notifications should be made.

¹ As concerns notifications submitted under Articles 1.4(a) and 8.2 (b) for circulation as documents, the Committee agreed that delegations, where possible, would also provide copies of their notifications on diskettes, preferably in Wordperfect 5.2. As regards replies to the Questionnaire on Import Licensing Procedures, delegations would indicate where changes have been made with regard to their previous notifications.

Article 8.2(b)²

Members are required to inform the Committee of any changes in their laws and regulations relevant to the Agreement and in the administration of such laws and regulations.

The first notification under Article 8.2(b) by Members which were not Parties to the Tokyo Round Code shall contain the full text of relevant laws and regulations in effect on entry into force of the WTO Agreement for the Member concerned.

In cases where the legislation is not in a WTO official language, Members shall provide, together with such legislation, a summary of the notification in one of the WTO languages. Other Members may ask for a full translation if they so wish, or seek any additional information on a bilateral basis. Any issues that cannot be solved on a bilateral basis may be brought to the attention of the Committee.

Members which were Parties to the Tokyo Round Code shall decide for themselves whether their full notification of legislation made under the Tokyo Round Code shall remain valid under the WTO Agreement, and whether only changes that have occurred since should be notified, or new full notifications should be made.

The Committee, at its meeting on 12 October 1995, established a deadline of 12 January 1996 for the first notification under this provision from current Members.

Article 5.1-5.4

Members which institute licensing procedures or changes in these procedures are required to notify the Committee of such within 60 days of publication. Such notifications shall include the information listed in Art.5.2 (i.e., list of products subject to licensing; contact point for information on eligibility; administrative bodies for submission of applications; date and name of publication where licensing procedures are published; indication whether the procedure is automatic or non-automatic according to the definitions in Articles 2 and 3; in the case of automatic licensing, their administrative purpose; in the case of non-automatic licensing, indication of the measure being implemented through the licensing procedure; expected duration of the licensing procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided). Members are required to notify the Committee of the publications in which the relevant information is published.

Article 5.5

Any Member which considers that another Member has not notified the institution of a licensing procedure or changes therein in accordance with Article 5.1-5.3, may bring the matter to the attention of such other Member, and if notification is not made promptly thereafter, such Member may itself notify the licensing procedure or the changes therein.

Footnote 5 to Article 2.2

Footnote 5 to Article 2.2 enables developing countries which were not parties to the Tokyo Round Code to delay, upon notification to the Committee, the application of the provisions of Art.2.2(a)(ii) and (a)(iii) linked to automatic licensing for a period of two years.

² As concerns notifications submitted under Articles 1.4(a) and 8.2 (b) for circulation as documents, the Committee agreed that delegations, where possible, would also provide copies of their notifications on diskettes, preferably in Wordperfect 5.2. As regards replies to the Questionnaire on Import Licensing Procedures, delegations would indicate where changes have been made with regard to their previous notifications.

LIC-II

**AGREEMENT ON IMPORT LICENSING
PROCEDURES**

NOTIFICATION OBLIGATIONS

AGREEMENT ON IMPORT LICENSING PROCEDURES**NOTIFICATION OBLIGATIONS**

<u>Item</u>	<u>Notification requirement</u>	<u>Type of measure</u>	<u>Periodicity</u>	<u>Format</u>	<u>Members notifying</u>	<u>To Whom</u>
1.	Agreement on Import Licensing Procedures, Art. 1.4 (a)	Names of publications in which rules and information relevant to the ILP Agreement are published; copies of publications	First notification upon becoming a WTO Member; changes <i>ad hoc</i>	NO	WTO Members	WTO Secretariat
2.	Agreement on Import Licensing Procedures, Art. 5.1-5.4	New import licensing procedures or changes thereto; publications containing relevant information	Within 60 days of publication	Article 5.2	WTO Members - <i>ad hoc</i>	Committee on Import Licensing
3.	Agreement on Import Licensing Procedures, Art. 5.5 (reverse notification)	Non-notified import licensing procedures or changes thereto	<i>Ad hoc</i>	NO	WTO Members - <i>ad hoc</i>	Committee on Import Licensing
4.	Agreement on Import Licensing Procedures, Art. 7.3	Replies to questionnaire on import licensing procedures	Annual, by 30 September	G/LIC/3, Annex	WTO Members	Committee on Import Licensing
5.	Agreement on Import Licensing Procedures, Art. 8.2(b)	Laws/regulations and administrative procedures and changes thereto	Full text of relevant legislation upon becoming a WTO Member; changes <i>ad hoc</i>	NO	WTO Members	Committee on Import Licensing
6.	Agreement on Import Licensing Procedures, Art. 2.2 (footnote 5)	Deferred application of the provisions of Articles 2.2(a)(ii) and (iii)	Once upon entry into force of the WTO Agreement for the Member	NO	Developing country Members not parties to the Tokyo Round Code; <i>ad hoc</i>	Committee on Import Licensing

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DOCUMENT(S)
G/LIC/3

WTO Committee on Import Licensing

PROCEDURES FOR NOTIFICATION AND REVIEW
UNDER THE AGREEMENT ON IMPORT LICENSING PROCEDURES

Note by the Secretariat

At its meeting on 12 October 1995, the Committee on Import Licensing agreed to apply the following procedures for notification and review under the Agreement on Import Licensing Procedures.

(1) Notifications under Article 1.4(a)¹

- Members shall notify the Committee the sources in which the information concerning import licensing procedures are published, and shall make copies of these publications available to the Secretariat.
- Members which were Parties to the Tokyo Round Code shall decide for themselves whether the notifications they have made in this respect under the Tokyo Round Code shall remain valid, and whether only changes that have occurred since should be notified, or new full notifications should be made.
- Members which were not Parties to the Tokyo Round Code shall make full notifications.
- Notifications by current Members shall be made by 12 January 1996.²
- In cases where the publications are not in a WTO official language, Members shall provide, together with such publications, a summary of the notification in one of the WTO languages. Other Members may ask for a full translation if they so wish, or seek any additional information on a bilateral basis. Any issues that cannot be solved on a bilateral basis may be brought to the attention of the Committee.

Copies of publications received shall be kept in the Secretariat for consultation by interested delegations. Members shall be informed periodically by the Secretariat of the notifications received.

¹As concerns notifications submitted for circulation as documents, the Committee agreed that delegations, where possible, would also provide copies of their notifications on diskettes, preferably in WordPerfect 5.2. As regards replies to the Questionnaire on Import Licensing Procedures, delegations would indicate where changes have been made with regard to their previous notifications.

²Informal consultations shall be conducted by the Chairman regarding a time-limit for notifications for future Members.

(2) Procedures for Review under Article 7.1

- The Committee shall review once every two years the implementation and operation of the Agreement on the basis of a factual report prepared by the Secretariat.

(3) Notifications under Article 7.3³

- Members shall complete the Questionnaire on Import Licensing Procedures by 30 September each year (see Annex).⁴
- Members shall decide for themselves whether the replies provided previously under the GATT 1947 procedures shall remain valid under the WTO Agreement, and whether only changes that have occurred since should be notified, or new full notifications should be made.

(4) Notifications under Article 8.2(b)³

- The first notification under Article 8.2(b) by Members which were not Parties to the Tokyo Round Code shall contain the full text of relevant laws and regulations in effect on entry into force of the WTO Agreement for the Member concerned.
- Members which were Parties to the Tokyo Round Code shall decide for themselves whether their full notifications of legislation made under the Tokyo Round Code should remain valid under the WTO Agreement, and whether only changes that have occurred since should be notified, or new full notifications should be made.
- Notifications by current Members shall be made by 12 January 1996.⁵
- In cases where the legislation is not in a WTO official language, Members shall provide, together with such legislation, a summary of the notification in one of the WTO languages. Other Members may ask for a full translation if they so wish, or seek any additional information on a bilateral basis. Any issues that cannot be solved on a bilateral basis may be brought to the attention of the Committee.

Copies of legislation received shall be kept in the Secretariat for consultation by interested delegations, and Members shall be informed periodically by the Secretariat of the notifications received.

³As concerns notifications submitted for circulation as documents, the Committee agreed that delegations, where possible, would also provide copies of their notifications on diskettes, preferably in WordPerfect 5.2. As regards replies to the Questionnaire on Import Licensing Procedures, delegations would indicate where changes have been made with regard to their previous notifications.

⁴Originally circulated as GATT 1947 document L/3515, and subsequently revised by the WTO Committee on Import Licensing at its meeting on 12 October 1995 and issued as document G/LIC/2.

⁵Informal consultations shall be conducted by the Chairman regarding a time-limit for notifications for future Members.

ANNEX⁶

QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

The present questionnaire is designed to elicit information on import licensing and similar administrative procedures⁷ maintained in and applied to the customs territories to which GATT 1994 applies. If different procedures or methods of licensing or similar administrative procedures are applied to different categories of products, to different countries of supply or to different modes of importation, they should be separately described in respect of each question as relevant.

Outline of Systems

1. Give a brief description of each licensing system as a whole and, with respect to each, reply to the following questions as relevant, placing all of the material with respect to a given system in sequence together, and using cross references as appropriate when elements which have already been described are also present in another system.

Purposes and Coverage of Licensing

2. Identify each licensing system maintained and state what products, appropriately grouped, are covered.

3. The system applies to goods originating in and coming from which countries?

4. Is the licensing intended to restrict the quantity or value of imports, and if not, what are its purposes? Have alternative methods of accomplishing the purposes been considered and if so which? Why have they not been adopted?

5. Cite the law, regulation and/or administrative order under which the licensing is maintained. Is the licensing statutorily required? Does the legislation leave designation of products to be subjected to licensing to administrative discretion? Is it possible for the government (or the executive branch) to abolish the system without legislative approval?

Procedures

6. For products under restriction as to the quantity or value of imports (whether applicable globally or to a limited number of countries or whether established bilaterally or unilaterally):

I. Is information published, and where, concerning allocation of quotas and formalities of filing applications for licences? If not, how is it brought to the attention of possible importers? Of governments and export promotion bodies of exporting countries and their trade representatives? Is the overall amount published? The amount allocated to goods from each country? The maximum amount allocated to each importer? How to request any exceptions or derogations from the licensing requirement?

II. How is the size of the quotas determined: on a yearly, six-monthly or quarterly basis? Are there cases where the size of quota is determined on a yearly basis but licences are issued for

⁶The text reproduced below is identical to that in document G/LIC/2.

⁷Similar procedures are understood to include technical visas, surveillance systems, minimum price arrangements, and other administrative reviews effected as a prior condition for entry of imports.

imports on a six-monthly or quarterly basis? In the latter case, is it necessary for importers to apply for fresh licence on a six-monthly or quarterly basis?

- III. Are licences allotted for certain goods partly or only to domestic producers of like goods? What steps are taken to ensure that licences allocated are actually used for imports? Are unused allocations added to quotas for a succeeding period? Are the names of importers to whom licences have been allocated made known to governments and export promotion bodies of exporting countries upon request? If not, for what reason? (Indicate products to which replies relate.)
 - IV. From the time of announcing the opening of quotas, as indicated in I above, what is the period of time allowed for the submission of applications for licences?
 - V. What are the minimum and maximum lengths of time for processing applications?
 - VI. How much time remains, at a minimum, between the granting of licences and the date of opening of the period of importation?
 - VII. Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?
 - VIII. If the demand for licences cannot be fully satisfied, on what basis is the allocation to applicants made? First come, first served? Past performance? Is there a maximum amount to be allocated per applicant and, if so, on what basis is it determined? What provision is made for new importers? Are applications examined simultaneously or on receipt?
 - IX. In the case of bilateral quotas or export restraint arrangements where export permits are issued by exporting countries, are import licences also required? If so, are licences issued automatically?
 - X. In cases where imports are allowed on the basis of export permits only, how is the importing country informed of the effect given by the exporting countries to the understanding between the two countries?
 - XI. Are there products for which licences are issued on condition that goods should be exported and not sold in the domestic market?
7. Where there is no quantitative limit on importation of a product or on imports from a particular country:
- (a) How far in advance of importation must application for a licence be made? Can licences be obtained within a shorter time-limit or for goods arriving at the port without a licence (for example, owing to inadvertency)?
 - (b) Can a licence be granted immediately on request?
 - (c) Are there any limitations as to the period of the year during which application for licence and/or importation may be made? If so, explain.
 - (d) Is consideration of licence applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?

8. Under what circumstances may an application for a licence be refused other than failure to meet the ordinary criteria? Are the reasons for any refusal given to the applicant? Have applicants a right of appeal in the event of refusal to issue a licence and, if so, to what bodies and under what procedures?

Eligibility of Importers to Apply for Licence

9. Are all persons, firms and institutions eligible to apply for licences:

- (a) under restrictive licensing systems?
- (b) under non-restrictive systems?

If not, is there a system of registration of persons or firms permitted to engage in importation? What persons or firms are eligible? Is there a registration fee? Is there a published list of authorized importers?

Documentational and Other Requirements for Application for Licence

10. What information is required in applications? Submit a sample form. What documents is the importer required to supply with the application?

11. What documents are required upon actual importation?

12. Is there any licensing fee or administrative charge? If so, what is the amount of the fee or charge?

13. Is there any deposit or advance payment requirement associated with the issue of licences? If so, state the amount or rate, whether it is refundable, the period of retention and the purpose of the requirement.

Conditions of Licensing

14. What is the period of validity of a licence? Can the validity of a licence be extended? How?

15. Is there any penalty for the non-utilization of a licence or a portion of a licence?

16. Are licences transferable between importers? If so, are any limitations or conditions attached to such transfer?

17. Are any other conditions attached to the issue of a licence:

- (a) for products subject to quantitative restriction?
- (b) for products not subject to quantitative restriction?

Other Procedural Requirements

18. Are there any other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation?

19. Is foreign exchange automatically provided by the banking authorities for goods to be imported? Is a licence required as a condition to obtaining foreign exchange? Is foreign exchange always available to cover licences issued? What formalities must be fulfilled for obtaining the foreign exchange?

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AGREEMENT ON IMPORT LICENSING PROCEDURES

EXAMPLES

EXAMPLE OF NOTIFICATION UNDER FOOTNOTE 5 TO ARTICLE 2.2

In accordance with footnote 5 to Article 2.2 of the Agreement on Import Licensing Procedures, [name of country] wishes to delay the application of the provisions of Article 2.2 (a)(ii) and (a)(iii) by not more than two years.

EXAMPLE OF NOTIFICATION UNDER ARTICLES 1.4(a) AND 8.2(b)

I have the honour to notify that rules and all information relating to import licensing procedures applicable in [name of country] are published in the Import Licensing Bulletin and the Government Gazette of [name of country].

A copy each of Import Permits Act (1995), Administrative Order (No. 001) establishing the list of goods subject to automatic and non-automatic licensing, and Guidelines for Importers on How to Obtain Import Licences and Permits are submitted herewith.

REPLIES TO THE QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

**NOTIFICATION UNDER ARTICLE 7.3 OF THE AGREEMENT
ON IMPORT LICENSING PROCEDURES**

[NAME OF COUNTRY]

Outline of System

1. Import licensing system is regulated by Decree No. ..., and Regulation No. ... establishing the list of goods subject to import licensing. The licensing system is administered by the Department of Trade.

Purposes and Coverage of Licensing

2. Imports of [products] are subject to automatic licensing and [products] to non-automatic licensing.
3. The system applies to goods originating in and coming from all countries.
4. Automatic import licensing is for statistical purposes. Non-automatic import licensing is for the purpose of administering import restrictions maintained pursuant to ...
5. The licensing system is not a statutory requirement. Authority exists to suspend the system whenever it is determined that such action is appropriate. Notice of such action is published in the Government Gazette.

Procedures

6. For products under restriction:
 - I. Information relating to quotas, formalities of filing applications for licences, exceptions and derogations is published in the Government Gazette.
 - II. Quotas are determined on an annual basis.
 - III. Licences are allotted to importers regardless of whether they are producers of like products. Regulations require that licensees must utilize a specified percentage of licences issued and must surrender unused amounts which are then reallocated to other eligible importers. Unused allocations are not added to quotas for the next year. The list of importers to whom licences have been allocated is published in the Government Gazette.
 - IV. From the time of announcing the opening of quotas, a period of at least 30 days is allowed for the submission of applications for licences.
 - V. Applications for licences are processed within 2-3 weeks.
 - VI. Import Licences are granted at least 30 days prior to the date of opening of the period of importation.
 - VII. Licence applications are considered by one administrative body.
 - VIII. Licences are issued mainly on the basis of past performance. A portion of the quota is allocated to new importers. Applications are examined on receipt.
 - IX. There are no bilateral quotas or export restraint arrangements. Export permits from exporting countries are not required.
 - X. Export permits from exporting countries are not required.

- XI. No licences are issued on condition that goods should be exported and not sold in the domestic market.
7. Where there is no quantitative limit on importation of a product or on imports from a particular country:
- (a) Application for a licence must be made at least one week in advance of importation. Licences can be obtained within a shorter time-limit or for goods arriving at the port without a licence.
 - (b) Under certain circumstances, a licence can be granted immediately on request.
 - (c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.
 - (d) An importer has to approach only one administrative organ in connection with an application.
8. None. The reasons for any refusal are given to the applicant in writing. In the event of refusal to issue a licence, the applicant has a right of appeal to the ...

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for licences.

Documentational and Other Requirements for Application for Licence

10. A sample application form is available for reference in the Secretariat. An importer is required to submit the following documents with the application: ...
11. Upon actual importation, an importer is required to submit the approved import licence or a copy thereof.
12. There is no licensing fee or administrative charge.
13. There is no deposit or advance payment requirement associated with the issuance of licences.

Conditions of Licensing

14. A licence is valid for one year from the date of issue. The validity can be extended if the applicant so requests.
15. There is no penalty for the non-utilization of a licence or a portion of it.
16. Licences are not transferable between importers.
17. There are no conditions attached to the issuance of a licence.

Other Procedural Requirements

18. There are no other administrative procedures, apart from import licensing required prior to importation.
19. Foreign exchange is automatically provided by the banking authorities for goods to be imported.

LIC-V

AGREEMENT ON IMPORT LICENSING PROCEDURES

TEXT OF THE AGREEMENT

AGREEMENT ON IMPORT LICENSING PROCEDURES

Members,

Having regard to the Multilateral Trade Negotiations;

Desiring to further the objectives of GATT 1994;

Taking into account the particular trade, development and financial needs of developing country Members;

Recognizing the usefulness of automatic import licensing for certain purposes and that such licensing should not be used to restrict trade;

Recognizing that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of GATT 1994;

Recognizing the provisions of GATT 1994 as they apply to import licensing procedures;

Desiring to ensure that import licensing procedures are not utilized in a manner contrary to the principles and obligations of GATT 1994;

Recognizing that the flow of international trade could be impeded by the inappropriate use of import licensing procedures;

Convinced that import licensing, particularly non-automatic import licensing, should be implemented in a transparent and predictable manner;

Recognizing that non-automatic licensing procedures should be no more administratively burdensome than absolutely necessary to administer the relevant measure;

Desiring to simplify, and bring transparency to, the administrative procedures and practices used in international trade, and to ensure the fair and equitable application and administration of such procedures and practices;

Desiring to provide for a consultative mechanism and the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby agree as follows:

Article I

General Provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures¹ used for the operation of import licensing regimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing Member.
2. Members shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols,

¹Those procedures referred to as "licensing" as well as other similar administrative procedures.

as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.²

3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.

4. (a) The rules and all information concerning procedures for the submission of applications, including the eligibility of persons, firms and institutions to make such applications, the administrative body(ies) to be approached, and the lists of products subject to the licensing requirement shall be published, in the sources notified to the Committee on Import Licensing provided for in Article 4 (referred to in this Agreement as "the Committee"), in such a manner as to enable governments³ and traders to become acquainted with them. Such publication shall take place, whenever practicable, 21 days prior to the effective date of the requirement but in all events not later than such effective date. Any exception, derogations or changes in or from the rules concerning licensing procedures or the list of products subject to import licensing shall also be published in the same manner and within the same time periods as specified above. Copies of these publications shall also be made available to the Secretariat.

(b) Members which wish to make comments in writing shall be provided the opportunity to discuss these comments upon request. The concerned Member shall give due consideration to these comments and results of discussion.

5. Application forms and, where applicable, renewal forms shall be as simple as possible. Such documents and information as are considered strictly necessary for the proper functioning of the licensing regime may be required on application.

6. Application procedures and, where applicable, renewal procedures shall be as simple as possible. Applicants shall be allowed a reasonable period for the submission of licence applications. Where there is a closing date, this period should be at least 21 days with provision for extension in circumstances where insufficient applications have been received within this period. Applicants shall have to approach only one administrative body in connection with an application. Where it is strictly indispensable to approach more than one administrative body, applicants shall not need to approach more than three administrative bodies.

7. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in respect of any omission or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.

8. Licensed imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the licence due to differences occurring during shipment, differences incidental to bulk loading and other minor differences consistent with normal commercial practice.

9. The foreign exchange necessary to pay for licensed imports shall be made available to licence holders on the same basis as to importers of goods not requiring import licences.

10. With regard to security exceptions, the provisions of Article XXI of GATT 1994 apply.

²Nothing in this Agreement shall be taken as implying that the basis, scope or duration of a measure being implemented by a licensing procedure is subject to question under this Agreement.

³For the purpose of this Agreement, the term "governments" is deemed to include the competent authorities of the European Communities.

11. The provisions of this Agreement shall not require any Member to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article 2

Automatic Import Licensing⁴

1. Automatic import licensing is defined as import licensing where approval of the application is granted in all cases, and which is in accordance with the requirements of paragraph 2(a).

2. The following provisions⁵, in addition to those in paragraphs 1 through 11 of Article 1 and paragraph 1 of this Article, shall apply to automatic import licensing procedures:

- (a) automatic licensing procedures shall not be administered in such a manner as to have restricting effects on imports subject to automatic licensing. Automatic licensing procedures shall be deemed to have trade-restricting effects unless, *inter alia*:
 - (i) any person, firm or institution which fulfils the legal requirements of the importing Member for engaging in import operations involving products subject to automatic licensing is equally eligible to apply for and to obtain import licences;
 - (ii) applications for licences may be submitted on any working day prior to the customs clearance of the goods;
 - (iii) applications for licences when submitted in appropriate and complete form are approved immediately on receipt, to the extent administratively feasible, but within a maximum of 10 working days;
- (b) Members recognize that automatic import licensing may be necessary whenever other appropriate procedures are not available. Automatic import licensing may be maintained as long as the circumstances which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way.

Article 3

Non-Automatic Import Licensing

1. The following provisions, in addition to those in paragraphs 1 through 11 of Article 1, shall apply to non-automatic import licensing procedures. Non-automatic import licensing procedures are defined as import licensing not falling within the definition contained in paragraph 1 of Article 2.

⁴Those import licensing procedures requiring a security which have no restrictive effects on imports are to be considered as falling within the scope of paragraphs 1 and 2.

⁵A developing country Member, other than a developing country Member which was a Party to the Agreement on Import Licensing Procedures done on 12 April 1979, which has specific difficulties with the requirements of subparagraphs (a)(ii) and (a)(iii) may, upon notification to the Committee, delay the application of these subparagraphs by not more than two years from the date of entry into force of the WTO Agreement for such Member.

2. Non-automatic licensing shall not have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of the restriction. Non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.
3. In the case of licensing requirements for purposes other than the implementation of quantitative restrictions, Members shall publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences.
4. Where a Member provides the possibility for persons, firms or institutions to request exceptions or derogations from a licensing requirement, it shall include this fact in the information published under paragraph 4 of Article 1 as well as information on how to make such a request and, to the extent possible, an indication of the circumstances under which requests would be considered.
5.
 - (a) Members shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning:
 - (i) the administration of the restrictions;
 - (ii) the import licences granted over a recent period;
 - (iii) the distribution of such licences among supplying countries;
 - (iv) where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. Developing country Members would not be expected to take additional administrative or financial burdens on this account;
 - (b) Members administering quotas by means of licensing shall publish the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas, and any change thereof, within the time periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;
 - (c) in the case of quotas allocated among supplying countries, the Member applying the restrictions shall promptly inform all other Members having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall publish this information within the time periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;
 - (d) where situations arise which make it necessary to provide for an early opening date of quotas, the information referred to in paragraph 4 of Article 1 should be published within the time-periods specified in paragraph 4 of Article 1 and in such a manner as to enable governments and traders to become acquainted with them;
 - (e) any person, firm or institution which fulfils the legal and administrative requirements of the importing Member shall be equally eligible to apply and to be considered for a licence. If the licence application is not approved, the applicant shall, on request, be given the reason therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing Member;
 - (f) the period for processing applications shall, except when not possible for reasons outside the control of the Member, not be longer than 30 days if applications are considered as and when received, i.e. on a first-come first-served basis, and no longer than 60 days if all applications are considered simultaneously. In the latter case, the period for

processing applications shall be considered to begin on the day following the closing date of the announced application period;

- (g) the period of licence validity shall be of reasonable duration and not be so short as to preclude imports. The period of licence validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements;
- (h) when administering quotas, Members shall not prevent importation from being effected in accordance with the issued licences, and shall not discourage the full utilization of quotas;
- (i) when issuing licences, Members shall take into account the desirability of issuing licences for products in economic quantities;
- (j) in allocating licences, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licences issued to applicants in the past have been fully utilized during a recent representative period. In cases where licences have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licences. Consideration shall also be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least-developed country Members;
- (k) in the case of quotas administered through licences which are not allocated among supplying countries, licence holders⁶ shall be free to choose the sources of imports. In the case of quotas allocated among supplying countries, the licence shall clearly stipulate the country or countries;
- (l) in applying paragraph 8 of Article 1, compensating adjustments may be made in future licence allocations where imports exceeded a previous licence level.

Article 4

Institutions

There is hereby established a Committee on Import Licensing composed of representatives from each of the Members. The Committee shall elect its own Chairman and Vice-Chairman and shall meet as necessary for the purpose of affording Members the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

Article 5

Notification

1. Members which institute licensing procedures or changes in these procedures shall notify the Committee of such within 60 days of publication.

⁶Sometimes referred to as "quota holders".

2. Notifications of the institution of import licensing procedures shall include the following information:

- (a) list of products subject to licensing procedures;
- (b) contact point for information on eligibility;
- (c) administrative body(ies) for submission of applications;
- (d) date and name of publication where licensing procedures are published;
- (e) indication of whether the licensing procedure is automatic or non-automatic according to definitions contained in Articles 2 and 3;
- (f) in the case of automatic import licensing procedures, their administrative purpose;
- (g) in the case of non-automatic import licensing procedures, indication of the measure being implemented through the licensing procedure; and
- (h) expected duration of the licensing procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided.

3. Notifications of changes in import licensing procedures shall indicate the elements mentioned above, if changes in such occur.

4. Members shall notify the Committee of the publication(s) in which the information required in paragraph 4 of Article 1 will be published.

5. Any interested Member which considers that another Member has not notified the institution of a licensing procedure or changes therein in accordance with the provisions of paragraphs 1 through 3 may bring the matter to the attention of such other Member. If notification is not made promptly thereafter, such Member may itself notify the licensing procedure or changes therein, including all relevant and available information.

Article 6

Consultation and Dispute Settlement

Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement shall be subject to the provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding.

Article 7

Review

1. The Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement, taking into account the objectives thereof, and the rights and obligations contained therein.

2. As a basis for the Committee review, the Secretariat shall prepare a factual report based on information provided under Article 5, responses to the annual questionnaire on import licensing

procedures⁷ and other relevant reliable information which is available to it. This report shall provide a synopsis of the aforementioned information, in particular indicating any changes or developments during the period under review, and including any other information as agreed by the Committee.

3. Members undertake to complete the annual questionnaire on import licensing procedures promptly and in full.
4. The Committee shall inform the Council for Trade in Goods of developments during the period covered by such reviews.

Article 8

Final Provisions

Reservations

1. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

Domestic Legislation

2.
 - (a) Each Member shall ensure, not later than the date of entry into force of the WTO Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.
 - (b) Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

⁷Originally circulated as GATT 1947 document L/3515 of 23 March 1971.