

Committee on Import Licensing

**FIRST BIENNIAL REVIEW OF THE IMPLEMENTATION AND OPERATION
OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES**

Background Working Document by the Secretariat¹

This working document is circulated by the Secretariat in preparation for the first biennial review of the implementation and operation of the Agreement on Import Licensing Procedures, to be conducted on 23 October 1996. As indicated in the text below, this document will have to be updated in light of the discussion at that meeting in order to give a full picture of the developments in the Committee during the period covered. Members are invited to communicate to the Secretariat any additional data they wish to have included in this document.

Article 7.1 of the Agreement on Import Licensing Procedures requires the Committee to review as necessary, but at least once every two years, the implementation and operation of the Agreement, taking into account the objectives thereof, and the rights and obligations contained therein. Article 7.2 states that 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 procedures and other relevant reliable information which is available to it, and that 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.

The main objectives of the Agreement are those listed in the preamble of the Agreement. The review should cover the implementation and operation of the Agreement in the light of its objectives and specific obligations.

At its meeting of 12 October 1995, the Committee agreed to conduct the first biennial review under Article 7.1 at the meeting in Autumn 1996.

The information contained in this document covers the period from 1 January 1995 to [23 October 1996].

¹Delegations will be able to comment on this first draft at an informal meeting of the Committee which will be held on 1 October 1996. Comments on this first draft should be sent to Mrs. Nimala Perera by 9 October 1996 (Tel: 739 5092, Room 3138).

The contents of this document are as follows:

	<u>Page</u>
I. COMMITTEE ON IMPORT LICENSING	3
A. Officers, Members and observers	3
B. Main Developments of the Committee during the Period Covered	4
II. NOTIFICATIONS	5
C. Invocation of delayed application provisions by developing country Members (footnote 5 to Article 2.2)	5
D. Notifications of Publications and/or Legislation (Articles 1.4 (a) and/or 8.2 (b))	5
E. Notifications of Import Licensing Procedures (Articles 7.3 and 5)	7
III. CONSULTATION AND DISPUTE SETTLEMENT	8
<u>ANNEX I</u>	9
<u>ANNEX II</u>	10
<u>ANNEX III</u>	11

I. COMMITTEE ON IMPORT LICENSING

A. Officers, Members and Observers

1. Officers:

Chairman (1995-1996): Mr. Calson Mbegabolawe (Zimbabwe)
Vice-Chairman (1995-1996): Mr. Jan Michalek (Poland)

2. Members [123]²

Antigua and Barbuda	Grenada	Norway
Argentina	Guatemala	Pakistan
Australia	Guinea Bissau	Papua New Guinea
Austria	Guinea, Rep. of	Paraguay
Bahrain	Guyana	Peru
Bangladesh	Haiti	Philippines
Barbados	Honduras	Poland
Belgium	Hong Kong	Portugal
Belize	Hungary	Qatar
Benin	Iceland	Romania
Bolivia	India	Rwanda
Botswana	Indonesia	Saint Kitts & Nevis
Brazil	Ireland	Saint Lucia
Brunei Darussalam	Israel	Saint Vincent & Grenadines
Burkina Faso	Italy	Senegal
Burundi	Jamaica	Sierra Leone
Cameroon	Japan	Singapore
Canada	Kenya	Slovak Republic
Central African Rep.	Korea	Slovenia
Chile	Kuwait	Solomon Islands
Colombia	Lesotho	South Africa
Costa Rica	Liechtenstein	Spain
Côte d'Ivoire	Luxembourg	Sri Lanka
Cuba	Macau	Suriname
Cyprus	Madagascar	Swaziland
Czech Republic	Malawi	Sweden
Denmark	Malaysia	Switzerland
Djibouti	Maldives	Tanzania
Dominica	Mali	Thailand
Dominican Republic	Malta	Togo
EC	Mauritania	Trinidad & Tobago
Ecuador	Mauritius	Tunisia
Egypt	Mexico	Turkey
El Salvador	Morocco	Uganda
Fiji	Mozambique	United Arab Emirates
Finland	Myanmar	United Kingdom
France	Namibia	United States
Gabon	Netherlands	Uruguay
Germany	New Zealand	Venezuela
Ghana	Nicaragua	Zambia
Greece	Nigeria	Zimbabwe

²Members and observers on [23 October 1996].

3. ObserversObserver Governments [37]²

Albania	Gambia	Saudi Arabia
Algeria	Georgia	Seychelles
Angola	Jordan	Sudan
Armenia	Kazakhstan	Taipei, Chinese
Belarus	Kyrgyz Rep.	Tonga
Bulgaria	Latvia	Ukraine
Cambodia	Lithuania	Uzbekistan
Chad	Moldova	Vanuatu
China	Mongolia	Vietnam
Congo	Nepal	Zaire
Croatia	Niger	
Estonia	Oman	
Former Yugoslav Rep. of Macedonia	Panama	
	Russian Federation	

Observer Organizations³

IMF

UNCTAD

World Bank

B. Main Developments of the Committee during the Period Covered

4. During the reporting period, the Committee held four meetings on 3 May and 12 October 1995, and 8 March and 23 October 1996. The minutes of these meetings are contained in documents G/LIC/M/1-4, respectively.

5. During the period covered, the Committee adopted rules of procedure for its meetings (G/LIC/W/1); reviewed notifications of legislation and/or publications submitted by [26] Members, replies to the Questionnaire on Import Licensing Procedures submitted by [22] Members, and notifications relating to the institution of import licensing procedures or changes in these procedures submitted by [seven] Members; agreed on reporting procedures to the Council for Trade in Goods under Article 7.4; adopted procedures for notification and review under the Agreement; as concerns notifications provided for in Article 7.3, agreed on revisions to the Questionnaire on Import Licensing Procedures and established a time-limit of 30 September to provide replies to the Questionnaire; agreed that all import licensing procedures, including those dealing with the administration of agricultural tariff quotas, should be notified to the Committee on Import Licensing and that any problems that might arise relating to duplication or overlapping of notifications should be taken up at the Working Group on Notification Obligations and Procedures (G/LIC/M/2); [as concerns substantive issues arising from notifications of import licensing procedures, reached an understanding on review procedures in general with a view to facilitating and speeding up the review of notifications and minimizing any delays in providing clarifications or responses to such queries concerning notifications (G/LIC/M/4);] conducted the first biennial review of the implementation and operation of the Agreement under Article 7.1 on the basis

²Members and observers on [23 October 1996].

³The invitations to these three organizations by the Council for Trade in Goods are *ad hoc* arrangements, pending final agreement on guidelines for observer status for international intergovernmental organizations.

of a factual report prepared by the Secretariat (G/LIC/M/4); and took note of the invocation of the provisions of footnote 5 to Article 2.2 by [24] developing country Members (G/LIC/1 and Add.1-3).

II. NOTIFICATIONS⁴

C. Invocation of Delayed Application Provisions by Developing Country Members (Footnote 5 to Article 2.2)

6. Pursuant to footnote 5 to Article 2.2 of the Agreement, a 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 complying with the requirements of subparagraph (a)(ii) (which requires applications for automatic import licences to be accepted on any working day prior to the customs clearance of the goods) and subparagraph (a)(iii) (which requires applications for automatic import licences when submitted in appropriate and complete form to be approved within a maximum of 10 working days) may, upon notification to the Committee, delay the application of these provisions by not more than two years from the date of entry into force of the WTO Agreement for such Member.

7. Listed below are the [24] developing country Members which have invoked the delayed application provisions since the entry into force of the WTO Agreement and (in brackets) the date of entry into force of the WTO Agreement for the Member concerned (G/LIC/1 and Add.1-3):

Bangladesh (1.1.95)	Honduras (1.1.95)
Bolivia (13.9.95)	Indonesia (1.1.95)
Brazil (1.1.95)	Kenya (1.1.95)
Burkina Faso (3.6.95)	Malaysia (1.1.95)
Cameroon (13.12.95)	Myanmar (1.1.95)
Colombia (30.4.95)	Sri Lanka (1.1.95)
Costa Rica (1.1.95)	Thailand (1.1.95)
Côte d'Ivoire (1.1.95)	Tunisia (29.3.95)
Dominican Republic (9.3.95)	Turkey (26.3.95)
El Salvador (7.5.95)	United Arab Emirates (10.4.96)
Gabon (1.1.95)	Uruguay (1.1.95)
Guatemala (21.7.95)	Venezuela (1.1.95)

D. Notifications of Publications and/or Legislation (Articles 1.4 (a) and/or 8.2 (b))

8. Paragraph 4(a) of Article 1 and paragraphs 3, 4, 5(b), 5(c) and 5(d) of Article 3 require Members to publish certain information "for other Members and traders to know the basis for granting and/or allocating licences", or "in such a manner as to enable governments and traders to become acquainted with them". Article 1.4(a) requires Members to notify the Committee the sources in which the information concerning import licensing procedures are published, and to make copies of these publications available to the Secretariat.

9. Paragraph 2(a) of Article 8 provides that "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"; paragraph 2(b) states that "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".

⁴A list of notifications by Member and Article is contained in Annex III.

10. At its meeting on 12 October 1995, the Committee agreed that in cases where the publications or legislation were not in a WTO official language Members shall provide, together with such publications or 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. It was also agreed that the first notification under Article 8.2(b) shall contain the full text of relevant laws and regulations in effect on entry into force of the WTO Agreement for the Member concerned (G/LIC/M/2 and G/LIC/3).

11. Notifications pursuant to Articles 1.4(a) and/or 8.2(b) have been received from the following Members and have been circulated in G/LIC/N/1/- series. Copies of publications and/or legislation submitted with these notifications are available for consultation in the Secretariat.

<u>Argentina</u>	(G/LIC/N/1/ARG/1)
<u>Australia</u>	(G/LIC/N/1/AUS/1)
<u>Barbados</u>	(G/LIC/N/3/BRB/1)
<u>Canada</u>	(G/LIC/N/1/CAN/1)
<u>Chile</u>	(G/LIC/N/1/CHL/1)
<u>Colombia</u>	(G/LIC/N/1/COL/1)
<u>Costa Rica</u>	(G/LIC/N/1/CRI/1)
<u>Cuba</u>	(G/LIC/N/1/CUB/1)
<u>Cyprus</u>	(G/LIC/N/1/CYP/1)
<u>European Communities</u>	(G/LIC/N/1/EEC/1/Rev.2 & Rev.2/Add.1)
<u>Hong Kong</u>	(G/LIC/N/1/HKG/1)
<u>Jamaica</u>	(G/LIC/N/1/JAM/1)
<u>Japan</u>	(G/LIC/N/1/JPN/1)
<u>Malta</u>	(G/LIC/N/1/MLT/1)
<u>Mauritius</u>	(G/LIC/N/1/MUS/1)
<u>Morocco</u>	(G/LIC/N/1/MAR/1)
<u>New Zealand</u>	(G/LIC/N/1/NZL/1)
<u>Nicaragua</u>	(G/LIC/N/1/NIC/1)
<u>Pakistan</u>	(G/LIC/N/1/PAK/1)
<u>Peru</u>	(G/LIC/N/1/PER/1)
<u>Romania</u>	(G/LIC/N/1/ROM/1)
<u>Swaziland</u>	(G/LIC/N/1/SWZ/1)
<u>Turkey</u>	(G/LIC/N/1/TUR/1)

<u>Uganda</u>	(G/LIC/N/1/UGA/1)
<u>Uruguay</u>	(G/LIC/N/1/URY/1)
<u>Zimbabwe</u>	(G/LIC/N/1/ZWE/1)

E. Notifications of Import Licensing Procedures (Articles 7.3 and 5)

12. Article 2.1 of the Agreement defines automatic import licensing as "import licensing where approval of the application is granted in all cases, and in accordance with the requirements of paragraph 2(a)". Paragraph 2(a) of Article 2 states that "automatic import licensing procedures shall not be administered in such a manner as to have restricting effects on imports subject to automatic licensing..."⁵ Article 3 defines non-automatic import licensing as "import licensing not falling within the definition contained in paragraph 1 of Article 2".⁶

13. Pursuant to Article 7.3 of the Agreement, Members undertake to complete the annual Questionnaire on Import Licensing Procedures promptly and in full. At its meeting in October 1995, the Committee established a time-limit of 30 September each year to submit these notifications (G/LIC/M/2 and G/LIC/3).

14. Article 5.1 of the Agreement requires Members which institute licensing procedures or changes in these procedures to notify the Committee of such within 60 days of publication. Pursuant to Article 5.2, the notifications shall include the list of products subject to licensing procedures; contact point for information on eligibility; administrative body(ies) for submission of applications; date and name of publication where licensing procedures are published; indication of whether the licensing procedure is automatic or non-automatic according to definitions contained in Articles 2 and 3; in the case of automatic licensing procedures, their administrative purpose; in the case of non-automatic licensing procedures, indication of the measure being implemented through the licensing procedure; and expected duration of the licensing procedure if this can be estimated with some probability, and if not, reason why this information cannot be provided.

15. In addition, pursuant to Article 5.5 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 Articles 5.1-5.3 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.⁷

16. During the period covered, the following Members have submitted replies to the Questionnaire pursuant to Articles 7.3 of the Agreement and/or have notified the institution of import licensing procedures or changes in these procedures pursuant to Article 5 (circulated in G/LIC/N/3/- and G/LIC/N/2/- series, respectively). Reference is also made to any relevant statements made by Members on their implementation of the Agreement, as reported in the minutes of the meetings.

<u>Argentina</u>	(G/LIC/N/3/ARG/1 & G/LIC/N/2/ARG/1)
<u>Australia</u>	(G/LIC/N/3/AUS/1)
<u>Barbados</u>	(G/LIC/N/3/BRB/1)

⁵A concordance between the provisions of the Agreement relating to automatic import licensing procedures and the Questionnaire on Import Licensing is contained in Annex I.

⁶A concordance between the provisions of the Agreement relating to non-automatic licensing procedures and the Questionnaire on Import Licensing Procedures is contained in Annex II.

⁷So far, the Committee has not received any notifications under this provision.

<u>Canada</u>	(G/LIC/N/3/CAN/1)
<u>Chile</u>	(G/LIC/N/3/CHL/1)
<u>Colombia</u>	(G/LIC/N/3/COL/1)
<u>Costa Rica</u>	(G/LIC/N/3/CRI/1)
<u>Cyprus</u>	(G/LIC/N/3/CYP/1/Rev.1)
<u>Ecuador</u>	(G/LIC/N/3/ECU/1)
<u>European Communities</u>	(G/LIC/N/2/EEC/1)
<u>Hong Kong</u>	(G/LIC/N/3/HKG/1)
<u>India</u>	(G/LIC/N/3/IND/1)
<u>Japan</u>	(G/LIC/N/2/JPN/1)
<u>Malta</u>	(G/LIC/N/3/MLT/1)
<u>Malaysia</u>	(G/LIC/N/2/MYS/1 & G/LIC/M/1, paragraphs 39-44)
<u>Mauritius</u>	(G/LIC/N/3/MUS/1)
<u>Morocco</u>	(G/LIC/N/3/MAR/1)
<u>Nigeria</u>	(G/LIC/N/2/NGA/1 & G/LIC/N/3/NGA/1)
<u>Norway</u>	(G/LIC/N/3/NOR/1 & Corr.1)
<u>Pakistan</u>	(G/LIC/N/2/PAK/1)
<u>Peru:</u>	(G/LIC/N/3/PER/1)
<u>Romania</u>	(G/LIC/N/2/ROM/1 & G/LIC/N/3/ROM/1)
<u>Trinidad and Tobago</u>	(G/LIC/N/3/TTO/1)
<u>Turkey</u>	(G/LIC/N/3/TUR/1)
<u>United States</u>	(G/LIC/N/3/USA/1)
<u>Uruguay</u>	(G/LIC/N/3/URY/1)

III. CONSULTATION AND DISPUTE SETTLEMENT

17. During the reporting period, Ecuador, Guatemala, Honduras, Mexico and the United States requested consultations with the European Communities concerning the EC regime for the importation, sale and distribution of bananas. The complainants allege that the EC's regime is inconsistent with,

inter alia, Articles 1 and 3 of the Agreement on Import Licensing Procedures (G/LIC/D/1 and 2). A panel was subsequently established at the meeting of the WTO Dispute Settlement Body on 8 May 1996 (WT/DS27/7 and G/LIC/M/2, paragraphs 38-39).

ANNEX I

Generally, information concerning the administration of automatic licensing procedures can be found under the following headings of the replies to the Questionnaire on Import Licensing Procedures:

	<u>Relevant Article in Agreement</u>	<u>Relevant Question in Questionnaire</u>
1. Purposes of maintaining automatic import licensing procedures	Article 2.2(b)	No. 4
2. Product coverage	Article 1.4(a)	No. 2
3. Eligibility of importers to apply for automatic licences	Articles 2.2(a)(i) & 1.4(a)	No. 9(b)
4. Period of submission and processing of applications	Articles 2.2(a)(ii) & 2.2(a)(iii)	Nos. 7(a), 7(b), & 7(c)
5. Administrative body to be approached	Article 1.6	No. 7(d)
6. Refusal of applications	Article 1.7	No. 8
7. Application forms and other documents required on application	Article 1.5	No. 10
8. Availability of foreign exchange for imports	Article 1.9	No. 19

ANNEX II

Generally, information concerning the administration of non-automatic licensing procedures can be found under the following headings of the replies to the Questionnaire on Import Licensing Procedures:

	<u>Relevant Article in Agreement</u>	<u>Relevant Question in Questionnaire</u>
1. Purpose	Articles 3.1 & 3.3	No.4
2. Product coverage under each non-automatic licensing system	Article 1.4(a)	No. 2
3. Distribution of licences among supplying countries	Article 3.5(a)iii & 3.5(c)	No. 3
4. Size of quotas	Articles 3.5(h), 3.5(i) & 3.5(l)	Nos. 6(I), 6(II) & 6(III)
5. Eligibility of importers to apply for non-automatic licences	Article 3.5(e)	No. 9(a)
6. Allocation of licences to applicants	Article 3.5(j)	Nos. 6(III) & 6(VIII)
7. Period of processing of applications	Article 3.5(f)	Nos. 6(V) & 6(VIII)
8. Period of licence validity	Article 3.5(g)	Nos. 6(VI) & 14
9. Application forms and other documents required on application	Article 1.5	No. 10
10. Administrative body to be approached	Article 1.6	No. 6(VII)
11. Refusal of applications	Article 1.7	No. 8
12. Availability of foreign exchange for imports	Article 1.9	No. 19

ANNEX III

Notifications received as at [23 October 1996]

- (i) Notifications of legislation and/or publications (Articles 1.4(a) and/or 8.2(b)) received from:
(26)

Argentina (G/LIC/N/1/ARG/1)	Malta (G/LIC/N/1/MLT/1)
Australia (G/LIC/N/1/AUS/1)	Mauritius (G/LIC/N/1/MUS/1)
Barbados (G/LIC/N/3/BRB/1)	Morocco (G/LIC/N/1/MAR/1)
Canada (G/LIC/N/1/CAN/1)	New Zealand (G/LIC/N/1/NZL/1)
Chile (G/LIC/N/1/CHL/1)	Nicaragua (G/LIC/N/1/NIC/1)
Colombia (G/LIC/N/1/COL/1)	Pakistan (G/LIC/N/1/PAK/1)
Costa Rica (G/LIC/N/1/CRI/1)	Peru (G/LIC/N/1/PER/1)
Cuba (G/LIC/N/1/CUB/1)	Romania (G/LIC/N/1/ROM/1)
Cyprus (G/LIC/N/1/CYP/1)	Swaziland (G/LIC/N/1/SWZ/1)
EC (G/LIC/N/1/EEC/1/Rev.2 & Rev.2/Add.1)	Turkey (G/LIC/N/1/TUR/1)
Hong Kong (G/LIC/N/1/HKG/1)	Uganda (G/LIC/N/1/UGA/1)
Jamaica (G/LIC/N/1/JAM/1)	Uruguay (G/LIC/N/1/URY/1)
Japan (G/LIC/N/1/JPN/1)	Zimbabwe (G/LIC/N/1/ZWE/1)

- (ii) Replies to the Questionnaire on Import Licensing Procedures (Article 7.3) received from:
(22)

Argentina (G/LIC/N/3/ARG/1)	Malta (G/LIC/N/3/MLT/1)
Australia (G/LIC/N/3/AUS/1)	Mauritius (G/LIC/N/3/MUS/1)
Barbados (G/LIC/N/3/BRB/1)	Morocco (G/LIC/N/3/MAR/1)
Canada (G/LIC/N/3/CAN/1)	Nigeria (G/LIC/N/3/NGA/1)
Chile (G/LIC/N/3/CHL/1)	Norway (G/LIC/N/3/NOR/1 & Corr.1)
Colombia (G/LIC/N/3/COL/1)	Peru (G/LIC/N/3/PER/1)
Costa Rica (G/LIC/N/3/CRI/1)	Romania (G/LIC/N/3/ROM/1)
Cyprus (G/LIC/N/3/CYP/1/Rev.1)	Trinidad & Tobago (G/LIC/N/3/TTO/1)
Ecuador (G/LIC/N/3/ECU/1)	Turkey (G/LIC/N/3/TUR/1)
Hong Kong (G/LIC/N/3/HKG/1)	United States (G/LIC/N/3/USA/1)
India (G/LIC/N/3/IND/1)	Uruguay (G/LIC/N/3/URY/1)

- (iii) Notifications of institution of import licensing procedures or changes therein (Article 5) received from: (7)

Argentina (G/LIC/N/2/ARG/2)	Nigeria (G/LIC/N/2/NGA/1)
EC (G/LIC/N/2/EEC/1)	Pakistan (G/LIC/N/2/PAK/1)
Japan (G/LIC/N/2/JPN/1)	Romania (G/LIC/N/2/ROM/1)
Malaysia (G/LIC/N/2/MYS/1)	

- (iv) Developing country Members which have invoked the two-year delayed application provisions (footnote 5 to Article 2.2): (24) (G/LIC/1 and Add.1-3)

Bangladesh (as from 1.1.95)	Honduras (as from 1.1.95)
Bolivia (13.9.95)	Indonesia (1.1.95)
Brazil (1.1.95)	Kenya (1.1.95)
Burkina Faso (3.6.95)	Malaysia (1.1.95)
Cameroon (13.12.95)	Myanmar (1.1.95)
Colombia (30.4.95)	Sri Lanka (1.1.95)
Costa Rica (1.1.95)	Thailand (1.1.95)
Côte d'Ivoire (1.1.95)	Tunisia (29.3.95)
Dominican Republic (9.3.95)	Turkey (26.3.95)
El Salvador (7.5.95)	United Arab Emirates (10.4.96)

Gabon (1.1.95)
Guatemala (21.7.95)

Uruguay (1.1.95)
Venezuela (1.1.95)