1 ARTICLE 1 1
1.1 Text of Article 1 1
1.2 Article 1.1: scope of the Licensing Agreement 2
1.2.1 Import licensing rules versus administration of import licensing regimes 2
1.2.2 Application of the Licensing Agreement to particular types of measures 3
1.2.2.1 Tariff-rate quota procedures 3
1.2.2.2 Advance Sworn Import Declaration Procedure 5
1.3 Article 1.2 5
1.4 Article 1.3 7
1.5 Article 1.4(a) 7

1 ARTICLE 1

1.1 Text of Article 1

Gen rl P o

1. For the purpose of this Agreement, import licensing is defined as administrative procedures[1] used for the ope2.6 (e)2.....1r 1(h)-nT 160.4.3 (ec57 (th)-0.7[(i)-6.6 (2(u)-0.7 7 (rt)-67[
ation (other than that required for customs purposes) to
as a prior condition for importation into the customs

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

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, 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]
(.01 /TT4 .17f Tw 06178 Tw 4.333 0 453[(t)-2.7 (th6 (uot(n)-0.7 (s1)7.3)1)-3.7 (20.3 r)19-6.6 ( )04.6 (n)-0.7 (s1)7(c).7 (C //TT1 .1

application for a license, such as the EC tariff quota procedures at issue, fell under the provisions of the Licensing Agreement:

> "Although the precise terms of Article 1.1 do not say explicitly that licensing procedures for tariff quotas are within the scope of the Licensing Agreement, a careful reading of that provision leads inescapably to that conclusion. The EC import licensing procedures require 'the submission of an application' for import licences as 'a prior condition for importation' of a product at the lower, in-quota tariff rate. The fact that the importation of that product is possible at a high out-of-quota tariff rate without a licence does not alter the fact that a licence is required for importation at the lower in-quota tariff rate.
>
> We note that Article 3.2 of the Licensing Agreement provides that:
>
> > 'Non-automatic licensing shall not have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of the measure.' (emphasis added)
>
> We note also that Article 3.3 of the Licensing Agreement reads:
>
> > 'In the case of licensing requirements for purposes of implementing trade measures, Members shall publish sufficient information for other Members and traders to know the basis for granting and/or allocating licences.' (emphasis added)
>
> We see no reason to exclude import licensing procedures for the administration of tariff quotas from the scope of the Licensing Agreement on the basis of the use of the term 'restriction' in Article 3.2. We agree with the Panel that, in the light of the language of Article 3.3 of the Licensing Agreement and the introductory words of Article XI of the GATT 1994, the term 'restriction' as used in Article 3.2 should not be interpreted to encompass only quantitative restrictions, but should be read also to include tariff quotas.
>
> For these reasons, we agree with the Panel that import licensing procedures for tariff quotas are within the scope of the Licensing Agreement."[6]

5. The dispute in EC – Poultry concerned two EC regulations: one that opened a tariff quota for frozen poultry meat and a

> In the case before us, the licensing procedure established in Article 1 of Regulation 1431/94 applies, by its terms, only to in-quota trade in frozen poultry meat. No licensing is required by Regulation 1431/94 for out-of-quota trade in frozen poultry meat. To the extent that the Panel intended merely to reflect the fairly obvious fact that this licensing procedure applies only to in-quota trade, we uphold the finding of the Panel that '[t]he Licensing Agreement, as applied to this particular case, only relates to in-quota trade'."[8]

1.2.2.2 Advance Sworn Import Declaration Procedure

6. In [illegible], one of the measures at issue was an Advance Sworn Import Declaration ([illegible]) (DJAI). No finding was made on whether the DJAI procedure fell within the scope of Article 1, but the Appellate Body stated that the measure had features "that arguably resemble import licensing procedures within the meaning of Article 1.1":

> "We recall that the Panel made [illegible]

> For these reasons, we uphold the finding of the Panel that Brazil has not established that the European Communities has acted inconsistently with either Article 1.2 or Article 3.2 of the Licensing Agreement."[16]

1.4 Article 1.3

11. In EP , the Panel examined Brazil's Claim that the EC's allocation of import licences on the basis of export performance was inconsistent with Articles 1.3 and 3.5(j) of the Licensing Agreement. The Panel noted:

> "The requirement of export performance for the issuance of import licences on its face does seem unusual. However, Brazil has not elaborated on how the export performance requirement was administered and how it has affected the in-quota exports of poultry products from Brazil."[17]

12. Recalling the Appellate Body's finding in Bans (referred to in paragraph 1 above), that Article 1.3 applies to the administration of import licensing procedures, not to import licensing rules as such, the Panel further found: "In our view, the issue of licence entitlement based on export performance is clearly that of rules, not that of application or administration of import licensing procedures. Thus, Article 1.3 is not applicable on this specific issue."[18]

1.5 Article 1.4(a)

13. In E C