

REPORT (1999) OF THE TEXTILES MONITORING BODY

1. This report is presented by the Textiles Monitoring Body (TMB) pursuant to the decision adopted by the General Council on 15 November 1995 on the procedures for an annual overview of WTO activities and for reporting under the WTO (WT/L/105). It covers the period 20 November 1998 to 13 September 1999. During this period, the TMB held 8 meetings. The reports of these meetings are contained in G/TMB/R/50 to 57.¹ The report also covers the issues considered by the TMB during its meeting on 16 to 19 November 1998², as these were not included in the TMB's report for 1998 (see G/L/270, paragraph 2).

2. The present report does not go into the details of the activities of the TMB during the period covered, which are contained in the reports mentioned in paragraph 1 above, but rather provides a listing of the issues handled by the TMB.

I. INTEGRATION PROGRAMMES

Notifications under Articles 2.6 and 2.7(b) of the ATC: First Stage of Integration into GATT 1994 of Products Covered by the ATC

3. The TMB reviewed under Article 2.21 the notifications made pursuant to Articles 2.6 and 2.7(b) by Myanmar (G/TMB/R/52) and Panama (G/TMB/R/49), as well as a revised notification by Nicaragua (G/TMB/R/49). With regard to those notifications for which the calculation of the share of the products integrated had been made on the basis of the volume of imports of a base-year other than that of 1990, the TMB ensured that no better data were available. Concerning the notification which contained products falling under "ex HS lines" in the integration programme, the TMB ensured that the volume of imports of the products integrated corresponded to the requirements of Article 2.6 even if the volume of the imports of such "ex HS lines" were not counted. With respect to the revised notification where revised import data resulted from a shift in the statistical reporting methods, the TMB ensured that all the ATC products listed in the original notification were included in the revised notification.

Notifications under Articles 2.8(a) and 2.11 of the ATC: Second Stage of Integration into GATT 1994 of Products Covered by the ATC

4. The TMB reviewed under Article 2.21 the notifications made pursuant to Articles 2.8(a) and 2.11 by Nicaragua (G/TMB/R/49), Panama (G/TMB/R/49) and Paraguay (G/TMB/R/56). With regard to those notifications for which the calculation of the share of the products integrated had been made on the basis of the volume of imports of a base-year other than that of 1990, the TMB ensured that no better data were available. Concerning the notifications which contained products falling under "ex HS lines" in the respective integration programmes, the TMB ensured that these products either

¹ G/TMB/R/57 will be issued later.

² The report of the meeting is contained in G/TMB/R/49.

corresponded to textile products covered by the Annex to the ATC, or that the volume of imports of the products integrated corresponded to the requirements of Article 2.8(a) even if the volume of the imports of such "ex HS lines" were not counted.

Late Notifications

5. With respect to notifications received by the TMB after the respective deadlines foreseen in the ATC, the TMB reiterated that its taking note of late notifications was without prejudice to the legal status of such notifications.

II. TRANSITIONAL SAFEGUARD MEASURES INTRODUCED UNDER THE ATC

Safeguard Measures Introduced by Colombia

6. The TMB reviewed, pursuant to Article 6.10, the notification by Colombia wherein it stated that it had decided, on 26 October 1998, to apply transitional safeguard measures on imports of plain polyester filaments (tariff heading 54.02.43) from Korea and Thailand, for a period of one year. In concluding its detailed examination, as reflected in the report of the meeting, the TMB considered that in view of the serious limitations it had faced in its review it was not possible to assess whether or not serious damage had been caused to Colombia's industry producing like and/or directly competitive products by increased imports of plain polyester filaments. Therefore, in the view of the TMB, Colombia had not demonstrated successfully that plain polyester filaments were being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products. The TMB recommended, therefore, that the measures introduced by Colombia on imports of plain polyester filaments from Korea and Thailand should be rescinded (G/TMB/R/49, paragraphs 8 to 27).

7. Following this review, the TMB reviewed a communication made by Colombia pursuant to Article 8.10. In this communication, Colombia conveyed its inability to conform with the recommendation the TMB had made that the measures introduced by Colombia on imports of plain polyester filaments from Korea and Thailand should be rescinded. Colombia considered that the measures adopted were compatible with the requirements of Article 6 of the ATC, and that the interpretations and conclusions of the TMB were not in keeping with the legal requirements of the ATC. Following thorough consideration of the reasons given by Colombia in its communication as well as in its oral presentation, the TMB recommended that Colombia reconsider its position and that the measures introduced by Colombia on the imports of plain polyester filaments from Korea and Thailand should be rescinded forthwith (G/TMB/R/51, paragraphs 6 to 35).

8. Subsequently, the TMB, bearing in mind that Article 8.9 of the ATC states, *inter alia*, that the TMB "shall exercise proper surveillance of the implementation of [its] recommendations", and in view of the fact that it had received no information from Colombia concerning the implementation of the recommendation made by the Body at its earlier meeting (see paragraph 7 above), decided to request such information from Colombia (G/TMB/R/53, paragraph 35). A letter was sent to Colombia to that effect. Following an interim reply of 18 May 1999, the TMB received a further communication from Colombia on 22 June 1999. This communication briefly set out several reasons why the Government of Colombia considered that the measure in question complied with the provisions of Article 6 of the ATC and that, therefore, the safeguards applied to imports of plain polyester filaments from Thailand and Korea were justified. Colombia would, therefore, maintain the safeguards as notified to the TMB. In taking note of this communication, the TMB observed, *inter alia*, that following the recommendation it had made pursuant to Article 8.10, the Body was not mandated under the ATC to address the substantive elements of this communication, including the reasons provided by Colombia. Recognizing that Article 8.10 does not define a deadline for action to be taken by the Member(s) concerned pursuant to a recommendation made by the TMB under its

provisions, the TMB expressed concern, however, that it had taken Colombia almost five months to inform the TMB about its decision. Recalling the provisions of Article 8.9, according to which "[t]he Members shall endeavour to accept in full the recommendations of the TMB, which shall exercise proper surveillance of the implementation of such recommendations", the TMB emphasized that such a proper surveillance requires Members to inform the TMB without undue delay of their decisions with regard to the implementation of its recommendations. Furthermore, in the view of the TMB, this was the only way to ensure that the rights of any of the affected Members under Article 8.10 would be fully protected (G/TMB/R/55, paragraphs 38 to 41).

Safeguard Measure Introduced by the United States

9. The TMB reviewed, pursuant to Article 6.10, the notification by the United States of the introduction, on 17 March 1999, of a transitional safeguard measure on imports of products falling under US category 301 (combed cotton yarn) from Pakistan. In concluding its detailed examination, as reflected in the report of the meeting, the TMB considered that in view of the serious limitations stemming from the information submitted by the United States, pursuant to Article 6.7, it was not in a position to assess without doubt whether or not serious damage had been caused to the US industry producing products like and/or directly competitive with combed cotton yarn by increased imports of combed cotton yarn. Consequently, in the view of the TMB, the United States had not demonstrated successfully that combed cotton yarn was being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products. The TMB, recommended, therefore, that the measure introduced by the United States on imports of combed cotton yarn from Pakistan should be rescinded (G/TMB/R/53, paragraphs 5 to 34).

10. Following this review, the TMB reviewed a communication made by the United States pursuant to Article 8.10. In this communication, the United States conveyed its inability to conform with the recommendation the TMB had made that the measure introduced by the United States on imports of combed cotton yarn from Pakistan should be rescinded. Having given thorough consideration to the reasons presented by the United States, the TMB concluded that these reasons did not lead it to change the conclusions and recommendation arrived at by the TMB during its examination of the measure pursuant to Article 6.10. The TMB recommended, therefore, that the United States reconsider its position and that the measure introduced by the United States on the imports of category 301 products from Pakistan should be rescinded forthwith (G/TMB/R/55, paragraphs 4 to 37).

11. The TMB received a further communication from the United States on 9 August 1999 informing the Body that after having carefully examined the conclusions reached by the TMB at its fifty-sixth meeting (see paragraph 10 above) "the US remains convinced that the US action is justified under the provisions of Article 6 of the ATC. We have therefore decided to maintain this restraint in place. We will, however, keep trade and production trends under review". In taking note of the communication by the United States the TMB recalled that the safeguard measure in question had already been dealt with in detail by the TMB on two occasions, initially during its review of the matter pursuant to Article 6.10 and, subsequently, under Article 8.10. The TMB observed that following the recommendation it had made pursuant to Article 8.10, the Body was not mandated under the ATC to review this communication, and noted that Article 8.10 of the ATC states that "[i]f, after such further recommendations, the matter remains unresolved, either Member may bring the matter before the Dispute Settlement Body and invoke paragraph 2 of Article XXIII of GATT 1994 and the relevant provisions of the Dispute Settlement Understanding" (G/TMB/R/57).

III. COMMUNICATIONS RECEIVED BY THE TMB

12. The TMB received a communication from Colombia which stated that following the completion of consultations with the United States, requested by Colombia on 17 August 1998, pursuant to Article 6.7 with a view to applying a transitional safeguard measure on imports of plain polyester filaments (tariff heading 54.02.43),³ Colombia had found that no damage was attributable to imports from the United States. The level of imports from the United States was, according to the communication, lower than that which had originally been estimated, owing to an error in the customs documentation prepared by the importer. The TMB took note of this communication (G/TMB/R/51).

13. The TMB received a communication from the United States, following the Body's consideration, at its meeting of 13 and 14 July 1998, of a joint request by Hong Kong, China; India and Pakistan, requesting it "to review, in accordance with Articles 8.1 and 2.21 of the ATC, the implementation of the Stage 2 integration programme of the United States of America with respect to the continuation of visa requirements for products included in this programme".⁴ In this communication, the United States forwarded, for the TMB's information, a US Federal Register Notice "eliminating the visa requirements for various textile categories, consistent with the TMB's decision on this matter". The TMB took note of this communication (G/TMB/R/51).

14. The TMB received a communication from Brazil according to which, on 31 May 1999, as provided for in an inter-ministerial order, the transitional safeguards on imports of products of categories 611, 618, 619, 620 and 627 from Korea had ceased to be in force. In taking note of this communication, the TMB recalled that these transitional safeguard measures had been agreed, pursuant to Article 6.11, between Brazil and Korea⁵ for the period 1 June 1996 to 31 May 1999. The TMB also noted that by providing the present communication Brazil contributed to the necessary transparency with respect to the implementation of the provisions of the ATC (G/TMB/R/56).

IV. UNITED STATES/TURKEY: INTRODUCTION OF A NEW RESTRICTION

15. The TMB held a discussion in relation to the points raised in the statement made on behalf of a number of WTO Members at the Informal Intersessional Meeting of the General Council on 26 October 1998. The TMB recalled that in the view of those Members "concerns also remain[ed] in respect of measures adopted by an importing Member that [were] not formally notified to the TMB, although these [were] published under the importing Member's domestic procedures and [were], thus, widely known". In the TMB's discussion, it was identified that this observation referred to the introduction of a new restriction on Turkey's exports of certain products by the United States, as part of a broader understanding reached between the two Members. At its fifty-fifth meeting in May 1999, the TMB decided to seek clarification from both Turkey and the United States as to whether or not the measure was being applied pursuant to the ATC and, if this was the case, under which provision of the ATC this restriction had been introduced (G/TMB/R/54). Following interim replies received from the United States in July and September 1999 the TMB understood that Turkey and the United States had planned to submit a joint notification to the TMB; the Body expected that, on the basis of this notification, it will be in a position to take up the issue at its fifty-ninth meeting (G/TMB/R/57).

³ See G/TMB/R/49, paragraph 9.

⁴ For the TMB's consideration of this matter, see G/TMB/R/45, paragraphs 53 to 63.

⁵ For the TMB's review of these measures, see G/TMB/R/27, paragraphs 8 to 37.

V. STATUS OF WTO MEMBERS' COMPLIANCE WITH THE NOTIFICATION REQUIREMENTS DEFINED IN ARTICLES 6.1, 2.6 AND 2.7, AS WELL AS ARTICLES 2.8(A) AND 2.11

16. At the initiative of a TMB member, the TMB decided to take stock of the situation of WTO Members' compliance with the notification requirements contained in Articles 6.1, 2.6 and 2.7, as well as Articles 2.8(a) and 2.11. The purpose of this overview was limited to the issue of compliance with the formal and technical requirements of the respective notification obligations. It was not designed to address the substantive or qualitative aspects of the notifications concerned.⁶ The TMB decided to make the main findings of this stock-taking available to WTO Members, for their information (G/TMB/R/54, paragraphs 5 to 26).

⁶ For the TMB's review of the notifications made pursuant to these Articles, see G/L/179, paragraphs 11 to 77.