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IMPLEMENTATION OF THE AGREEMENT ON TEXTILES AND CLOTHING AND RELATED MATTERS

The following communication, dated 4 July 1996, has been received from the Permanent Mission of Pakistan, with the request that it be circulated as a formal document of the Council for Trade in Goods on behalf of ASEAN Members of the WTO, namely, Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand, and Hong Kong, India, Korea, and Pakistan.

IMPLEMENTATION OF THE AGREEMENT ON TEXTILES AND CLOTHING AND RELATED MATTERS

I. Introduction

1. Representing about 9% of world export of manufactures in 1994, textile and clothing is one of the most important sectors in world trade. Its importance for developing countries is even more significant inasmuch as the sector accounts for over 20% of their total exports; for some developing countries, especially the least developed among them, its share in their overall export earnings is still larger (over 60% of exports).

2. The Agreement on Textiles and Clothing (ATC) was therefore hailed as one of the principal achievements of the Uruguay Round, both in terms of the systemic significance of the phase out of MFA restrictions for a rule-based non-discriminatory trading system and of its contribution to the increase in export earnings of developing countries.

3. It is also important to recall that in its "Overview of the Results of Market Access in Goods and Services" (November 1994)¹, even the most conservative version of the Model developed by the GATT Secretariat to estimate the increase in exports due to the implementation of liberalisation commitments made in the Uruguay Round, projected an increase of 18% for textiles and 69% for clothing over a 10-year period. These increases were significantly higher than for most other sectors and were mainly attributable to the elimination of quantitative restrictions under the Multi-Fibre Arrangement, and for the strong estimated gain of some 14% in the merchandise exports of developing and transition economy countries.

II. Review of Implementation of the Textile Agreement and Related Matters

A. Purpose of the Review

4. Against the above backdrop, it is important that a review of the implementation of the ATC be carried out in the context of the WTO Ministerial Conference (SMC) at Singapore with the purpose of making an evaluation of the implementation so far, and to make appropriate recommendations to the SMC. The evaluation should aim to identify and assess the elements necessary for faithful implementation of the ATC and for an effective process of integration of the sector into the normal rules of the GATT/WTO. The evaluation may also consider other matters affecting trade in textiles, especially for the export interests of developing countries.

B. Scope of the Review

5. We believe that the review may usefully be structured around consideration of certain topical elements as follows:

¹Source: General Agreement on Tariffs and Trade (November 1994), The Results of the Uruguay Round of Multilateral Trade Negotiations, Market Access for Goods and Services: Overview of the Results.

(i) Integration programmes: A central feature of the ATC was the progressive character of the integration process². It was also envisaged (Article 1:5) that in order to facilitate the integration process, Members should allow for continuous autonomous adjustments and increased competition in their markets.

- Given that the first stage of the integration programmes undertaken by MFA restraining Members have not included any restrained items, except for one item by one Member, the review exercise may consider its impact for the later stages of the integration process. Assessment may be made especially in the context of contributions to smooth transition to GATT disciplines. Examination may also cover elements of the integration programmes of these Members for the second stage, bearing in mind that progressive liberalization of restrictions is in the interest of both restraining and exporting Members.

(ii) Use of Transitional Safeguards: The ATC provides for a safeguard mechanism during the transition period to be "used as sparingly as possible" and "consistently with the provisions (i.e. disciplines) of this Article and the effective implementation of the integration process" (Article 6:1).

- Against these basic principles, the review may consider the invocation of a large number of safeguard measures against the export interests of developing country Members, and assess the implications of such actions for effective implementation of the integration process during the remainder of the transition period.

(iii) Bilaterally agreed arrangements: A fundamental concept of the ATC was to strengthen the multilateral disciplines in the field of textile trade so as to ensure the final integration of the sector into the normal rules of the GATT/WTO. Accordingly, MFA's accent on bilateral arrangements was excluded from its basic architecture. In the limited context in which bilateral arrangements were to be possible, multilateral disciplines were strengthened including through stricter oversight by the TMB.

- Given that a number of bilateral arrangements have been concluded including in the context of the invocation of safeguard measures, and some of these arrangements were not subsequently confirmed by the TMB, the review may examine the impact of bilateral arrangements for the integrity of the multilateral rules and disciplines.

(iv) Functioning of the TMB: The ATC requires the TMB to supervise the implementation of the ATC, to examine all measures taken under the ATC and their conformity therewith, and to take other actions specifically required of the TMB by the ATC (Article 8:1). The TMB has thus been assigned the important task, *inter alia*, of adjudicating among Members.

- The review exercise may consider ways to improve the working of the TMB through, *inter alia*, enhancing the transparency of its process and by ensuring participation of its members strictly on an *ad personam* basis so as to ensure impartiality.

(v) Treatment of Least Developed Countries and small suppliers: The ATC provided that to the extent possible, exports from a least-developed country Member may also benefit from the provisions of Article 2:18 in such a way as to permit meaningful increases in access possibilities for these Members as for small suppliers and new entrants in the field of textiles and clothing trade.

- Given that these improvements have not been extended to the restrained least-developed Members, the review may consider the impact of the situation for the export possibilities of the Members concerned.

²Cf. the second preambular paragraph of the ATC.

(vi) Particular interests of cotton-producing countries: Article 1:4 of the ATC provided that "the particular interests of the cotton producing exporting Members should, in consultation with them, be reflected in the implementation of the provisions of the Agreement".

- Given that no such consultations have been notified, the review may assess its implications for the particular interests of the exporting Members concerned, and for full and effective implementation of the ATC.

(vii) Rules of Origin: The ATC envisaged that introduction of changes in practices, rules, procedures, etc., should not: upset the balance of rights and obligations between the Members concerned; adversely affect the access available to a Member; impede full utilisation of such access; or disrupt trade under the ATC (Article 4:1). The UR Agreement on Rules of Origin further provided that pending the completion of the work programme for harmonization of Rules of Origin, Members shall ensure, *inter alia*, that their "rules of origin are not used as instruments to pursue trade objectives directly or indirectly"³.

- Given that one restraining Member has implemented changes in its Rules of Origin relating to imports of textile and clothing products as an instrument of trade policy, and these changes have introduced great uncertainty and unpredictability for the full utilization of quota access, the review exercise should consider the situation with a view to proposing corrective measures.

(viii) Other ATC issues (O.P.T., special regimes, etc.): A fundamental principle of the GATT/WTO is the elimination of discriminatory treatment in international commerce. Contrary to this, however, special regimes are continually being extended to provide for better access to certain Members or countries.

- The review exercise should ensure that such special privileges do not undermine the access rights of restrained Members.

(ix) Relationship between Restrictions and Regionalism:

- In view of the tremendous adverse implications of an expanding coverage of restrictions in the context of regionalism, especially for the export prospects of developing country Members, the review may focus on ways to ensure that access for the exports of these Members is not impeded or undermined.

(x) Use of trade measures for non-trade purposes: Recently pressures have been growing for trade measures in pursuit of the realisation of furtherance of non-trade objectives and purposes, particularly affecting the textile products. Often, these measures carry a protectionist bias.

- Given that trade measures for non-trade purposes are based on criteria outside the framework of WTO disciplines, and produce serious disruptive effects for the trade interest and prospects of developing country Members, the review exercise may consider ways to ensure strict compliance with the rules and disciplines of the multilateral trading system.

³Cf. Article 2(b) of the Agreement on Rules of Origin.

III. The Review Mechanism

6. Unlike the other Uruguay Round agreements, the ATC does not have a specific multilateral body to undertake reviews with the participation of all WTO Members. TMB members perform their functions in their individual capacities, and it does not as such reflect the concerns and views of WTO Members. Article IV of the Agreement establishing the WTO provides that the Council for Trade in Goods (CTG) should oversee the functioning of the Multilateral Trade Agreements in Annex 1A including the ATC. The CTG therefore has an important role to play in the review exercise proposed in this communication.

IV. Conclusion

7. In view of the immense systemic importance of the integration of textiles into the WTO body of rules, and the commitment to the progressive elimination of MFA restrictions for the export interests of developing countries, the first Ministerial Conference following the conclusion of the Uruguay Round must provide the necessary political impulse for a commercially meaningful process of integration. The Ministers should confirm a strong policy commitment to the full implementation of the ATC and should direct the General Council to keep its progress under review and report to the next Ministerial Conference. To facilitate consideration of the issue by the Ministers at Singapore, the Council for Trade in Goods should present its report with appropriate recommendations in accordance with the Reporting Procedures for the SMC adopted by the General Council in document WT/L/145.