

WORLD TRADE ORGANIZATION

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REPORT (2002) 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).

2. Since the adoption of its Report (2001) (G/L/475), i.e. 14 September 2001, and up to 15 October 2002, the TMB has held 11 meetings. The detailed reports of these meetings are contained in G/TMB/R/82 to 92.¹

3. The present report provides a summary of the matters referred to and/or taken up by the TMB during the period as above, together with the main elements of the conclusions it reached and the related actions it took with respect to them, except for the issues discussed at the last meeting of the Body (15 October 2002) which will be reflected in G/TMB/R/92.

I. QUANTITATIVE RESTRICTIONS MAINTAINED ON TEXTILE AND CLOTHING PRODUCTS UNDER THE PROVISIONS OF ARTICLE 2 OF THE AGREEMENT ON TEXTILES AND CLOTHING (ATC)

Notifications under Article 2.1 of the ATC: Quantitative Restrictions Notified Following the Accession of a New Member

4. The TMB took note of a notification received pursuant to Article 2.1 from the European Communities following the accession of Chinese Taipei to the WTO. Having sought clarification and information from the European Communities and after consideration of the observations made by Chinese Taipei regarding this notification², the TMB observed that the notification, as supplemented, contained the quantitative restrictions on imports of textile and clothing products originating in Chinese Taipei under arrangements between Chinese Taipei and the European Communities that were in force on the date prior to the date of accession of Chinese Taipei to the WTO, including the respective growth rates and flexibility provisions. In addition, the notification contained the restraint levels, respective growth rates and flexibility provisions implemented as of 1 January 2002. As regards the implementation of the growth-on-growth provisions provided for in Articles 2.13 and 2.14, the TMB, having sought clarification from the European Communities, noted that the European Communities had stated, *inter alia*, that "paragraph 167 of the Report of the Working Party stipulates that 'the increase in growth rates provided for in Articles 2.13 and 2.14 of the ATC would be applied, in stages, from the date of accession of Chinese Taipei.' Since Chinese Taipei only became Member of the WTO on 1 January 2002, the relevant stage is the third stage of integration of the ATC. Therefore the European Community applied the third stage growth-on-growth provision and increased the growth rates of the remaining restraints on imports from Chinese Taipei by 27 per cent on 1 January 2002." The TMB observed that this was not questioned by Chinese Taipei and that it was in line with the conclusion reached by the TMB regarding the minimum requirements applicable to the implementation of the growth-on-growth provisions of the ATC with respect to Chinese Taipei.³

¹ G/TMB/R/92 will be issued later, upon its adoption by the TMB.

² See G/TMB/R/85, paragraph 6 and G/TMB/R/87, paragraph 4.

³ See paragraph 16.

In taking note of the notification received from the European Communities, the TMB also observed that the observations made by Chinese Taipei pursuant to Article 2.2 had been taken into account by the European Communities in the supplementary communication it had provided to the original notification (G/TMB/R/90, paragraph 45).

5. The TMB took note of a notification received pursuant to Article 2.1 from Turkey following the accession of Chinese Taipei to the WTO. Having sought clarification and information from Turkey and after having considered the observations made by Chinese Taipei as regards this notification⁴, the TMB observed that the notification contained the restrictions applied by Turkey on the imports of certain textile and clothing products taken over from Turkey's bilateral agreement with Chinese Taipei that was in force on the day before the accession of Chinese Taipei to the WTO, including the respective growth rates and flexibility provisions. The notification also contained, *inter alia*, information on the product categories integrated under Stages 1, 2 and 3 on 1 January 2002. As regards the implementation of the growth-on-growth provisions provided for in Articles 2.13 and 2.14, the TMB, having sought clarification from Turkey, noted that Turkey had "increased the growth rate on the remaining restraint levels by 16 per cent, 25 per cent and then by 27 per cent on 1 January 2002."⁵ In taking note of the notification provided by Turkey, the TMB also observed that the observations made by Chinese Taipei pursuant to Article 2.2 had been taken into account by Turkey in the addendum it had submitted to the original notification (G/TMB/R/90, paragraph 46).

6. The TMB took note of a notification received pursuant to Articles 2 and 3 from Canada, following the accession of China to the WTO. Having sought clarification and information from Canada and after consideration of the observations made by China on the Canadian notification⁶, the TMB also took note of the statement by Canada that "all the quantitative restraints with China had been maintained under Article 4 or notified under Articles 7 or 8 of the MFA, and therefore, were all being notified pursuant to Article 2 of the ATC only". The TMB also observed that the notification, as corrected and supplemented, contained details including the relevant restraint levels in force on the day prior to China's accession to the WTO, as well as the relevant growth rates and flexibility provisions. It also contained information on the effect of the implementation of the integration programmes on the restrictions notified, in particular the fact that, as for other WTO Members, Canada did not adjust downwards the levels of those restraints on imports from China when products were removed from the coverage of these restraints during the third stage of integration.

7. As regards the implementation of the growth-on-growth provisions provided for in Articles 2.13 and 2.14, the TMB, having sought clarification from Canada, noted that Canada had reported that it had "increased the growth rate in the remaining restraint levels with China by 25 per cent and then by 27 per cent on 1 January 2002". The TMB further observed that, as China had stated that "[t]he growth rates of 16 per cent, 25 per cent and 27 per cent shall apply to China in turn at appropriate dates as specified in accordance with paragraph 241 of the Report of the Working Party on the Accession of China, or at least a growth rate of 25 per cent shall apply to China on 11 December 2001, which shall be increased by another 27 per cent on 1 January 2002" and that Canada, having reviewed this statement, had remained of the view that its implementation of the growth-on-growth provisions fulfilled the requirements of paragraph 241 of the Report on the Working Party on the Accession of China. The TMB further observed that Canada's implementation of the growth-on-growth provisions met the minimum requirements described by the TMB in its examination of the implementation of the growth-on-growth provisions of the ATC with respect to China and also the lesser requirement as described by China.⁷ In taking note of the notification received from Canada, the TMB also observed that the other observations made by China pursuant to Article 2.2 had been taken into account by Canada in the corrigendum it had provided to its original notification (G/TMB/R/90, paragraph 47).

⁴ See G/TMB/R/87, paragraph 7.

⁵ See paragraph 16.

⁶ See G/TMB/R/85, paragraph 7, G/TMB/R/86, paragraph 6 and G/TMB/R/87, paragraph 8.

⁷ See paragraph 15.

8. The TMB took note of a notification received pursuant to Articles 2 and 3 from Canada, following the accession of Chinese Taipei to the WTO. Having sought clarification and additional information from Canada and having considered the observations made by Chinese Taipei on the Canadian notification⁸, the TMB also took note of the statement by Canada that "all the quantitative restraints with Chinese Taipei had been maintained under Article 4 or notified under Articles 7 or 8 of the MFA, and therefore, were all being notified pursuant to Article 2 of the ATC only". The TMB also observed that the notification, as corrected and supplemented, contained details including the restraint levels in force on the day prior to Chinese Taipei's accession to the WTO, as well as the relevant growth rates and flexibility provisions. It also contained information on the effect of the implementation of the integration programme for the third stage on the restrictions notified, in particular the fact that, as for other WTO Members, Canada did not adjust downwards the levels of those restraints on imports from Chinese Taipei when products were removed from the coverage of these restraints during that stage of integration. As regards the implementation of the growth-on-growth provisions provided for in Articles 2.13 and 2.14, the TMB, having sought clarification from Canada, noted that Canada had reported that it had "applied the third stage growth-on-growth provision and increased the growth rates of the remaining restraints on imports from Chinese Taipei by 27 per cent on 1 January 2002". The TMB observed that this was not questioned by Chinese Taipei and that it was in line with the conclusion reached by the TMB regarding the minimum requirements applicable to the implementation of the growth-on-growth provisions of the ATC with respect to Chinese Taipei.⁹ In taking note of the notification received from Canada, the TMB also observed that the observations made by Chinese Taipei pursuant to Article 2.2 had been taken into account by Canada in the corrigendum it had provided to the original notification (G/TMB/R/90, paragraph 48).

9. The TMB took note of a notification received pursuant to Article 2.1 from the United States following the accession of Chinese Taipei to the WTO. Having sought clarifications and information from the United States¹⁰ and mindful of the fact that Chinese Taipei had informed the TMB that it had no comments or observations to make in the sense of Article 2.2, the TMB observed that the notification, as supplemented, contained the quantitative restrictions on imports of textile and clothing products originating in Chinese Taipei under arrangements between Chinese Taipei and the United States that were in force on the date prior to the date of accession of Chinese Taipei to the WTO. In addition to the restraint levels, the notification contained the respective growth rates and flexibility provisions in force on 31 December 2001. Also, in reply to the TMB's request, information was provided on the quantitative restrictions eliminated on 1 January 2002 as a result of the integration by the United States of certain products during Stages 1, 2 or 3 of the integration process. As regards the implementation of the growth-on-growth provisions provided for in Articles 2.13 and 2.14, the TMB, having sought clarification from the United States, noted that the United States had stated that "[t]he Working Party report on the accession of Chinese Taipei provides that the increase in growth rates provided for in Articles 2.13 and 2.14 of the ATC are to be applied from the date of accession, as appropriate . Chinese Taipei acceded to the WTO on 1 January 2002. Accordingly, the growth rates were increased by 27 per cent." Though the TMB had requested an explanation by the United States as to why it had decided to implement the growth-on-growth provision in this manner, no further reply was provided. The TMB observed, however, that this implementation was not questioned by Chinese Taipei and that it was in line with the conclusion reached by the TMB regarding the minimum requirements applicable to the implementation of the growth-on-growth provisions of the ATC with respect to Chinese Taipei¹¹ (G/TMB/R/91, paragraph 5).

⁸ See G/TMB/R/85, paragraph 8, G/TMB/R/86, paragraph 7, G/TMB/R/87, paragraph 9 and G/TMB/R/88, paragraph 7.

⁹ See paragraph 16.

¹⁰ See G/TMB/R/87, paragraph 6 and G/TMB/R/88, paragraph 6.

¹¹ See paragraph 16.

10. The TMB started its examination of a notification received pursuant to Article 2.1 from the European Communities following the accession of China to the WTO. It sought clarifications and additional information from the European Communities regarding several aspects of the notification, *inter alia*, on the extent to which the restrictions maintained had been affected by the ATC integration process, the manner in which the growth-on-growth provisions had been implemented and the operation of the European fairs quotas. The TMB also decided to bring the observations made by China, pursuant to Article 2.2, to the attention of the European Communities. It considered the answers received from both Members and sought additional clarifications from them, as necessary for its review of the notification. The TMB started to examine the latest additional information provided by the European Communities during its meeting of September 2002, mindful of the fact that the answers provided by the European Communities to previous questions put by the TMB, in particular that related to the quotas for European Fairs, had been brought to the attention of China and that China had not as yet reacted upon it.¹²

11. The TMB started its examination of a notification received pursuant to Article 2.1 from Turkey following the accession of China to the WTO. It sought clarifications from Turkey, *inter alia*, regarding the reasons why it had considered it appropriate to notify quantitative restrictions under Article 2.1, keeping in mind the provisions of paragraph 241 of the Report of the Working Party on the Accession of China, as well as those of Article 2.1 of the ATC, of which the latter deals with "quantitative restrictions within bilateral agreements maintained under Article 4 or notified under Article 7 or 8 of the MFA in force on the day before the entry into force of the WTO Agreement". The TMB also decided to seek clarification from Turkey on the extent to which the restrictions maintained had been affected by the ATC integration process, the manner in which the growth-on-growth provisions had been implemented and whether or not a limit applied on the cumulative use of flexibility. The TMB further decided to bring the observations made by China pursuant to Article 2.2 to the attention of Turkey. It considered the answers received from both Members and sought additional clarifications, as necessary for its review of the notification. In particular, during its meeting of September 2002, the TMB considered the growth rates for the quantitative restrictions notified and, observing that the appropriate growth rates had not been provided by Turkey, invited Turkey to notify them as rapidly as possible and to apply them for the purpose of application of the provisions of Article 2.¹³

12. The TMB started its examination of a notification received pursuant to Article 2.1 from the United States following the accession of China to the WTO. The TMB sought clarifications from the United States, *inter alia*, on the extent to which the restrictions maintained had been affected by the ATC integration process and the manner in which the growth-on-growth provisions had been implemented. The TMB also decided to seek confirmation of its understanding that, in accordance with the provisions of Article 2.16, no quantitative limits were in place or maintained on the combined use of swing, carryover and carry forward. The TMB also considered the observations made by China pursuant to Article 2.2, as well as the responses received from the United States. Furthermore, during its meeting of September 2002, the TMB considered in particular the following elements: the interaction between specific limits and group limits, the downward adjustment of quota levels for partially integrated products, the cap maintained by the United States on the combined use of carryover and carry forward and the manner in which the United States had implemented the growth-on-growth provisions of the ATC in relation to China. With respect to this latter point, the TMB recalled that it had already addressed, in a detailed and focussed discussion, the manner in which the growth-on-growth provisions provided for in Articles 2.13 and 2.14 should be implemented and had reached a conclusion on the minimum requirements that had to be implemented by the

¹² See G/TMB/R/85, paragraph 5, G/TMB/R/87, paragraph 4, G/TMB/R/90, paragraph 51 and G/TMB/R/91, paragraph 6.

¹³ See G/TMB/R/86, paragraph 4, G/TMB/R/88, paragraph 4, G/TMB/R/90, paragraph 49 and G/TMB/R/91, paragraph 12.

Members concerned, including the United States.¹⁴ In light of this conclusion, the TMB had already invited the United States to reconsider its position and to implement the necessary adjustments to the respective methodology applied.¹⁵

Notifications Under Article 2.2 of the ATC: Observations by Members with Regard to Notifications Made Pursuant to Article 2.1 by Another Member

13. The TMB considered the observations made by Chinese Taipei, pursuant to Article 2.2, with regard to the notifications made pursuant to Article 2.1 by Canada, the European Communities and Turkey.¹⁶ The TMB also considered the observations made by China, pursuant to Article 2.2, with regard to the notification made by Canada.¹⁷ In addition, the TMB started its consideration of the observations made by China, pursuant to Article 2.2, with regard to the notifications made pursuant to Article 2.1 by the European Communities, Turkey and the United States.

Implementation of Growth-on-growth Provisions of the ATC with Respect to Recently Acceded Members

14. Also keeping in mind the preliminary exchange of views that had taken place during some of its previous meetings, the TMB addressed in July 2001, in a focussed discussion, the cross-cutting issue of the manner in which the growth-on-growth provisions provided for in Articles 2.13 and 2.14 had to be implemented with respect to recently acceded Members, such as China and Chinese Taipei. Reaching a common understanding was a pre-condition to completing, as soon as possible, the review of several notifications that had been received by the TMB pursuant to Articles 2.1 and 2.2. Consequently, the TMB was of the view that the conclusions to be reached on this matter would have to be brought to the attention of the Members concerned, independent of certain other aspects that could require further clarifications, before completion of the review, pursuant to Article 2.21, of the notifications concerned.

15. With respect to the growth-on-growth provisions applicable to China, after having carefully considered all the aspects involved, as reflected in detail in the report of the respective meeting, the TMB came to the conclusion that since the relevant provisions of the legal instruments of China's accession did not provide an unambiguous guidance, it was not possible to provide a clear answer to the question of whether the restraining Members had also been required to apply the not less than 16 per cent increase in the respective growth rates, as provided for in Article 2.13, for the Stage 1 integration process. The lack of a clear answer regarding this aspect had led the TMB to consider those minimum requirements which had to be implemented by the Members concerned. These minimum requirements could be summarized in the following: as from 1 January 2002, the base levels in force on 10 December 2001 (i.e. on the day prior to the date of China's accession) had to be increased by the respective growth rates applied for the year 2001 (prior to China's accession), increased by the full 25 per cent applicable to Stage 2 and further increased by the 27 per cent applicable to Stage 3. Since the United States had reported an implementation which did not meet these minimum requirements, the TMB invited it to reconsider its respective position in light of the TMB's comments, observations and conclusion and to implement the necessary adjustments in its respective methodology applied. The TMB noted that during its detailed discussion it had addressed the relevant aspects of the respective notifications received from China pursuant to Article 2.2 and had reflected on them to the extent possible. Therefore, the Body considered that the examination of these particular aspects of the Article 2.2 notifications which touched upon the methodology of implementation of the growth-on-growth provisions had been concluded (G/TMB/R/90, paragraphs 5 to 34).

¹⁴ See paragraph 15.

¹⁵ See G/TMB/R/86, paragraph 5, G/TMB/R/88, paragraph 5, G/TMB/R/90, paragraph 50 and G/TMB/R/91, paragraphs 7 to 11.

¹⁶ See paragraphs 4, 5 and 8.

¹⁷ See paragraph 6.

16. As regards the growth-on-growth provisions applicable to Chinese Taipei, the TMB came to the conclusion that, since the relevant provisions of the legal instruments of Chinese Taipei's accession did not provide unambiguous guidance in this regard, it was not possible to give a clear answer to the question of whether restraining Members had also been required to apply the not less than 16 per cent, followed by the not less than 25 per cent increase in the respective growth rates, as provided for in Articles 2.13 and 2.14(a) for Stages 1 and 2, respectively. The lack of a clear reply regarding this aspect led the TMB to consider those minimum requirements which had to be implemented by the Members concerned. The TMB concluded that these minimum requirements implied that on 1 January 2002, the base levels in force on 31 December 2001 (i.e. on the day prior to the date of Chinese Taipei's accession) had to be increased by the respective growth rates applied in 2001, as further increased by 27 per cent which was applicable for Stage 3. The TMB noted that the manner in which Canada, the European Communities, Turkey and the United States had implemented the respective provisions met these minimum requirements (G/TMB/R/90, paragraphs 5 to 9 and 35 to 44).

Implementation of the Provisions of Article 2.18 of the ATC During the Third Stage of the Integration Process

17. At its meeting in November 2001, noting that under the provisions of Article 2.18, which applied to small suppliers and new entrants, as well as, to the extent possible, to least-developed country Members, "... meaningful improvement in access for their exports shall be provided [...] for the duration of this Agreement [i.e. the ATC] ...", the TMB considered that in order to comply with the requirements of the first sentence of Article 2.21, it should receive the necessary information from the Members concerned on how they intended to implement the provisions of Article 2.18 as from 1 January 2002. It recalled that Canada had already officially provided information in this regard. With respect to the United States, the TMB sought confirmation of the statement made in the meeting of the Council for Trade in Goods, on 26 October 2001, that it was the US' intention to increase the annual growth rates applied for small suppliers during Stage 2 by 27 per cent as from 1 January 2002. As regards the European Communities, the TMB decided to seek information as to the methodology it would apply as from 1 January 2002 in order to implement of the provisions of Article 2.18 for the third Stage of the integration process (G/TMB/R/83, paragraphs 12 to 15). At the following meeting, on the basis of replies received from the European Communities and the United States, the TMB noted that the three Members concerned would increase the annual growth rates applied during Stage 2 for WTO Members falling under the provisions of Article 2.18 (small suppliers) in their respective regimes by 27 per cent as from 1 January 2002 (G/TMB/R/84, paragraph 7).

Notifications under Article 2.17 of the ATC: Administrative Arrangements Deemed Necessary in Relation to the Implementation of Article 2

18. The TMB reviewed, pursuant to Article 2.21, the notification made by Canada of administrative arrangements contained in an administrative Memorandum of Understanding agreed between Canada and China, pursuant to Article 2.17 of the ATC, "in order to implement the textiles and clothing restraints between Canada and China to be notified pursuant to Article 2.1 of the ATC". The TMB observed that the arrangements contained, *inter alia*, provisions regarding an export control system operated by China, the implementation of the flexibility provisions related to swing, carryover and carry-forward, exchange of statistics, the treatment of re-exports and consultations. It sought clarifications from both Members regarding certain elements of the notification, including how the provision of statistics on export or import of products not contained in the Article 2.1 notification of Canada's quantitative restrictions on imports from China was deemed necessary in relation to the implementation of any provision of Article 2 of the ATC and on the possible credit by Canada to the appropriate restraint limit of quantities covered by export licences for which the corresponding goods had not been shipped, operated through an electronic verification system. The TMB noted in this regard that both Members had provided very similar reasoning and explanations regarding the exchange of additional statistics, by referring to the need of addressing issues concerning

circumvention and transshipment. Their respective assessment of the impact of the electronic verification system was also found to be similar (G/TMB/R/89, paragraphs 6 to 9).

19. The TMB reviewed, pursuant to Article 2.21, the notification made by the European Communities of administrative arrangements agreed between the European Communities and Chinese Taipei. The TMB observed that the arrangements contained, *inter alia*, provisions regarding the classification of products, export certification and import control, rules of origin, circumvention and transshipment, outward processing and products exempt from quantitative limits. It sought clarification from the European Communities regarding certain elements of the notification, including (i) the obligation to adapt the definition of quantitative limits and of the categories of products to which they apply where this proves necessary to ensure that any subsequent amendment to the combined nomenclature or a decision amending the classification of such products does not result in a reduction of such quantitative limits and (ii) how, in the view of the European Communities, the provisions related to circumvention contained in the administrative arrangements were deemed necessary in relation to the implementation of any provision of Article 2. The European Communities confirmed that the adaptation of the definition of quantitative limits following amendments of the combined nomenclature would be implemented in conformity with Articles 4.2 and 4.4 of the ATC and stated that the provisions concerning circumvention were considered as complementary information for the functioning of Article 2. For transparency reasons the two parties had agreed to include these provisions as they might affect the way the quantitative restrictions were implemented. Similar dispositions existed in most of the administrative arrangements that the European Communities had notified to the TMB under Article 2.17. Furthermore, the European Communities confirmed that, regarding the consultations foreseen by Article 4.2 of the administrative arrangements, if a mutually satisfactory solution were to be found between the two parties, this solution would be also subject to the provisions of Article 5 of the ATC. The TMB noted that, though the opportunity had been provided to it, Chinese Taipei had not made any observation with respect to the notification submitted by the European Communities. It was also observed that the implementation of the circumvention provisions of the administrative arrangements would be fully subjected to the relevant provisions of Article 5 of the ATC (G/TMB/R/89, paragraphs 10 to 13).

20. The TMB began its review, pursuant to Article 2.21, of the notification made by the European Communities and China of administrative arrangements agreed between the two Members. It decided to seek clarifications regarding certain elements of the notification. It sought clarification from both Members on the functioning of a "reserve" available exclusively to the EC's industry, for a defined time-period, before the relevant quantitative restriction could be fully utilized, and from the European Communities on how, in its view, the provisions related to circumvention contained in the administrative arrangements were deemed necessary in relation to the implementation of any provision of Article 2. At a subsequent meeting, the TMB sought confirmation from the European Communities that the provisions contained in the administrative arrangements concluded with China, including those related to regional concentration, were not intended to constitute a derogation from the provisions of the ATC and would, therefore, be implemented by the respective Members in conformity with the relevant provisions of the ATC. The TMB began considering the responses received from the European Communities to this further request for information and decided to revert to its review at a subsequent meeting.¹⁸

21. The TMB began its review, pursuant to Article 2.21, of the notification made by the United States of administrative arrangements with China. It sought clarifications from both Members with respect to certain aspects of the notification, including the products covered by the arrangements, the relevance for the implementation of any provision of Article 2 and the operation of the provisions regarding cooperation in the prevention of circumvention, the ATC relevance of a provision enabling the United States to impose, in particular circumstances, triple charges on quotas, the possibility for

¹⁸ See G/TMB/R/87, paragraph 14, G/TMB/R/89, paragraph 14, G/TMB/R/90, paragraph 52 and G/TMB/R/91, paragraph 13.

the United States to introduce a restraint on such products in certain specific circumstances where a product would be transshipped through China, and the scope of application of visa requirements. The TMB also recalled that when it had examined the administrative arrangements concluded by the United States with several WTO Members, in June 1997, the United States had provided written replies to the TMB's request for clarification. In light of these replies, as regards the correct understanding of the product coverage of these administrative arrangements, the TMB "took note of the precision provided by the United States according to which only products subject to restraints under paragraph 1 of Article 2 were subject to the administrative arrangements". Furthermore, "the United States had stated that when provisions of the administrative arrangements were inconsistent with the ATC, the provisions of the ATC would apply. The TMB understood that this statement applied to each and every provision of the arrangements notified. The TMB expected, therefore, that all the provisions of these administrative arrangements would be implemented by the respective Members in conformity with the relevant provisions of the ATC". Against this background, the TMB sought confirmation that the above statement made by the United States also applied to the administrative arrangements with China. The TMB, furthermore, sought clarifications from the United States in relation to the product coverage of a product category. At a subsequent meeting, the TMB reverted to its review, also on the basis of information provided by the United States in response to the clarifications sought by the TMB and, mindful of the fact that it had also sought clarifications with respect to a number of specific issues from China, which had not as yet been provided, decided to take up this issue at an ensuing meeting.¹⁹

22. The TMB began its review, pursuant to Article 2.21, of the notification made by the United States of administrative arrangements agreed between the United States and Chinese Taipei. The TMB sought clarifications from both Members with respect to certain aspects of the notification, including the products covered by the arrangements, the relevance for the implementation of any provision of Article 2 and the operation of the provisions regarding cooperation in the prevention of circumvention, the applicability of Article 4 in cases where changes in the implementation and interpretation of the administrative arrangements would be implemented, the scope of application of the visa certification system, the ATC relevance of a provision enabling the United States to impose, in particular circumstances, triple charges on quotas, the possibility for the United States to introduce a restraint on such products in certain specific circumstances where a product would be transshipped through Chinese Taipei. The TMB also sought confirmation that the statement made by the United States, referred to in paragraph 21 above also applied to the administrative arrangements concluded between the United States and Chinese Taipei. At a subsequent meeting the TMB started to examine the additional information provided by Chinese Taipei, mindful of the fact that it had sought similar clarifications from the United States which had not yet been provided.²⁰

II. INTEGRATION OF PRODUCTS COVERED BY THE AGREEMENT ON TEXTILES AND CLOTHING INTO GATT 1994

Notifications under Article 6.1 of the ATC: Notification as to Whether Members not Maintaining Restrictions Falling under Article 2 Wish to Retain the Right to Use the Provisions of Article 6

23. The TMB took note of the notifications made pursuant to Article 6.1, respectively, by China and Chinese Taipei that they wished to retain the right to use the transitional safeguard provided for in Article 6 (G/TMB/R/85, paragraph 11 and G/TMB/R/86, paragraph 15).

¹⁹ See G/TMB/R/89, paragraph 15, G/TMB/R/90, paragraph 54 and G/TMB/R/91, paragraph 14.

²⁰ See G/TMB/R/89, paragraph 16 and G/TMB/R/90, paragraph 53.

Notification under Articles 2.6 and 2.7(b) of the ATC: First Stage of Integration into GATT 1994 of Products Covered by the ATC by Members which have, Pursuant to Article 6.1, Retained the Right to Use the Provisions of Article 6

24. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.6 and 2.7(b), by Lithuania. Having received the clarifications sought from Lithuania with respect to the figures provided for the total volume of imports in Lithuania of the products covered by the ATC in 1995, the TMB noted that the volume of the products integrated amounted to 16.85 per cent of the volume of imports into Lithuania in 1995 of the products falling under the coverage of the Agreement. The TMB also noted that the products integrated included, in accordance with Article 2.6, products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. With respect to the fact that the calculation of the share of the products integrated had been made on the basis of a different base year, other than 1990, the TMB took note of the statement by Lithuania that 1995 represented the first fully reliable statistical year based on the Harmonized System (HS) in Lithuania (G/TMB/R/83, paragraph 5).

Notifications under Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 of the ATC: First, Second and Third Stages of Integration into GATT 1994 of Products Covered by the ATC by Members which have, Pursuant to Article 6.1, Retained the Right to Use the Provisions of Article 6

25. The TMB reviewed, under Article 2.21, the notifications made pursuant to Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 by China. Having received the clarifications sought from China the TMB noted that, in accordance with Articles 2.6, 2.8(a) and 2.8(b), the volume of imports of the products integrated amounted, respectively, to 20.79, 17.07 and 18.10 per cent of the volume of imports in 1992 of the products falling under the coverage of the Agreement. The TMB also noted that, in accordance with Articles 2.6, 2.8(a) and 2.8(b), the products integrated for each stage included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. With regard to the fact that the calculation of the share of the products to be integrated had been made on the basis of imports in 1992, the TMB noted the statement by China that this was the first year for which data were available on the basis of the Harmonized System. Furthermore, the TMB observed that the integration programme for Stage 1 contained three HS lines falling under an "ex HS line" in the Annex to the ATC, and noted the statement by China that only the imports corresponding to the respective product definition under the ATC had been counted with respect of two of these lines, and that since the products that were covered by the ATC could not be separated, the whole tariff line had been incorporated in the integration programme for third line,. The TMB observed in this regard that if the imports of this "ex HS line" were not counted in the volume of imports of the products integrated for Stage 1, that volume would still amount to not less than 16 per cent of the total volume of China's 1992 imports of the products in the Annex, as required by Article 2.6 (G/TMB/R/90, paragraph 57).

26. The TMB started its review, under Article 2.21, of the notifications made, pursuant to Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 by Chinese Taipei. It sought clarification as to whether (i) some of the products integrated fell under the coverage of the ATC; (ii) the imports that had been counted in respect of products belonging to HS lines in the Annex to the ATC for which only part of the respective line falls under the coverage of the Agreement ("ex-HS lines") corresponded precisely to the product description contained in the ATC Annex (G/TMB/R/86, paragraph 11 and G/TMB/R/87, paragraph 19).

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

27. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.8(a) and 2.11, by Lithuania. Having received the clarifications sought from Lithuania with respect to the figures provided for the total volume of imports in Lithuania of the products covered by the ATC in

1995, the TMB noted that the volume of the products integrated amounted to 17.69 per cent of the volume of imports into Lithuania in 1995 of the products falling under the coverage of the Agreement. The TMB also noted that the products integrated included, in accordance with Article 2.8(a), products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. With respect to the fact that the calculation of the share of the products integrated had been made on the basis of a different base year, other than 1990, the TMB took note of the statement by Lithuania that 1995 represented the first fully reliable statistical year based on the Harmonized System (HS) in Lithuania (G/TMB/R/83, paragraph 6).

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

28. The TMB reviewed under Article 2.21 the notifications made, pursuant to Articles 2.8(b) and 2.11, by Lithuania and Morocco. The TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to the following percentages of 1990 imports of the products falling under the coverage of the Agreement (unless otherwise specified): Lithuania (20.20 per cent of 1995 imports), Morocco (18.81 per cent). With respect to Morocco, the TMB noted that, given the structure of the notification, it was not possible to assess without doubt, in a limited number of cases, whether or not a product line had already been integrated in a previous stage. However, the TMB observed in this regard that even if all the imports of such lines were not counted in the volume of imports of the products to be integrated, that volume would still amount to not less than 18 per cent of the total volume of Morocco's 1990 imports of the products in the Annex, as envisaged in Article 2.8(b). The TMB also noted that, in each notification, in accordance with Article 2.8(b), the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. With regard to the fact that the calculation of the share of the products integrated by Lithuania had been made on the basis of a different base year, other than 1990, the TMB took note of the statement by Lithuania that 1995 represented the first fully reliable statistical year based on the Harmonized System (HS) in Lithuania (G/TMB/R/83, paragraph 7).

29. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.8(b) and 2.11, by Thailand. The TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated had been reported to amount to 18.59 per cent of the volume of 1990 imports of the products falling under the coverage of the Agreement, and that the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. The TMB noted, however, that the notification, as revised, contained two HS lines which did not appear to fall under the coverage of the ATC, and that three other HS lines had already been integrated by Thailand during the first stage. The TMB also noted that the integration programme contained four HS lines falling under an "ex HS line" in the Annex to the ATC, and that with respect to two of these HS lines Thailand had reaffirmed that the levels of 1990 imports of those two products corresponded to the respective product description contained in the Annex to the ATC. The TMB observed in this regard that if the imports of the non-ATC products were discounted, as well as those of the two "ex HS lines" for which no specific explanation had been available as to the correspondence with the ATC Annex, and if the volume of imports of those products already integrated in Stage 1 were not counted in the volume of imports of the products to be integrated, that volume would still amount to not less than 18 per cent of the total volume of Thailand's 1990 imports of the products in the Annex, as envisaged in Article 2.8(b) (G/TMB/R/84, paragraph 5).

30. The TMB reviewed under Article 2.21 the notifications made, pursuant to Articles 2.8(b) and 2.11 by Honduras and the Slovak Republic. During this review, the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to the following percentages of 1990 imports of the products falling under the coverage of the Agreement (unless otherwise specified): Honduras (18.80 per cent); Slovak Republic (18.47 per cent of the volume of imports in 1993). The TMB also noted that in each notification, in accordance with Article 2.8(b), the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile

products and clothing. As regards the notification of Honduras, the TMB observed that one product defined at the HS 5-digit level appeared to include products that had already been integrated in part in the second stage of the integration process at the HS 6-digit level, and that four products appeared to have been counted twice in the integration programme for the third stage. The TMB observed, however, that even if the products that seemed to have been already integrated and those that seemed to have been counted twice were to be discounted, the integration programme of Honduras for the third stage would still amount to not less than 18 per cent of the total volume of Honduras' 1990 imports of the products in the Annex. With respect to the notification of the Slovak Republic, the TMB observed that the calculation of the share of the products integrated had been made on the basis of imports in 1993, which was the first year for which data were available. The TMB observed, furthermore, having sought clarifications from the Slovak Republic in this regard, that the integration programme contained several HS lines falling under an "ex HS line" in the Annex to the ATC, and took note of the statement by the Slovak Republic that these products corresponded precisely to the product description contained in the ATC Annex (G/TMB/R/85, paragraph 10).

31. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.8(b) and 2.11 by Guatemala. During this review the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to 18.01 per cent of the volume of imports in 1990 of the products falling under the coverage of the Agreement. The TMB also noted that, in accordance with Article 2.8(b), the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing (G/TMB/R/86, paragraph 12).

32. The TMB reviewed, under Article 2.21, the notification made pursuant to Articles 2.8(b) and 2.11 by Paraguay. During this review the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to 18.27 per cent of the volume of imports in 1990 of the products falling under the coverage of the Agreement. The TMB observed, after having sought confirmation from Paraguay that, in accordance with Article 2.8(b), the products integrated included products from each of the four groups (tops and yarns, fabrics, made-up textile products and clothing), Paraguay had replied that it considered itself to have complied with the requirements laid down in Article 2.8(b). Recalling that the ATC does not provide any guidance as to the classification of the products listed in its Annex according to the four product groups, the TMB thoroughly re-examined the list of products included in the integration programme notified by Paraguay and concluded that the products integrated included products from each of the four groups (G/TMB/R/87, paragraph 21).

33. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.8(b) and 2.11 by Egypt. During this review the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to 18.06 per cent of the volume of imports in 1990 of the products falling under the coverage of the Agreement. The TMB also noted that, in accordance with Article 2.8(b), the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing (G/TMB/R/87, paragraph 22).

34. The TMB reviewed, under Article 2.21, the notification made pursuant to Articles 2.8(b) and 2.11 by Venezuela. Having received the clarifications sought from Venezuela, the TMB noted that, in accordance with Article 2.8(b), the volume of imports of the products integrated amounted to 20.46 per cent the volume of imports in 1990 of the products falling under the coverage of the Agreement and that the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing. The TMB observed that the integration programme contained six HS lines falling under an "ex HS line" in the Annex to the ATC, and noted the statement by Venezuela that the percentage notified for these sub-headings did not necessarily correspond to the product description specified in the ATC Annex. The TMB observed in this regard that if the imports of these "ex HS lines" were not counted in the volume of imports of the products integrated for Stage 3, that volume would still amount to not less than 18 per cent of the total volume of Venezuela's 1990 imports of the products in the Annex, as required under Article 2.8(b) (G/TMB/R/90, paragraph 58).

35. The TMB continued its review, under Article 2.21, of the notification made pursuant to Articles 2.8(b) and 2.11 by Nicaragua. It sought clarification from Nicaragua, with respect to its revised notification, as to whether (i) some of the products included in the programme had already been integrated in Stages 1 or 2, and (ii) the revised programme notified met the requirements of Article 2.8(b), in terms of the percentage of Nicaragua's 1990 imports of the products in the Annex to the ATC to be integrated.²¹

36. At its meeting in October 2001 the TMB, observing that the clarifications it had sought from some Members with respect to the notification they had made pursuant to Articles 2.8(b) and 2.11 had not been received, decided to reiterate its requests, in view of the fact that the respective programmes of integration would have to be implemented as from 1 January 2002.²² This observation was reiterated in November 2001.²³ Furthermore, in February 2002, the TMB, observing that clarifications it had sought from four Members (Bolivia, Mexico, Nicaragua and Paraguay) with respect to their notifications pursuant to Articles 2.8(b) and 2.11 had still not been received, decided to reiterate its requests, in view of the fact that the respective programmes of integration had to be implemented as from 1 January 2002.²⁴ Paraguay subsequently submitted the clarifications sought by the TMB.²⁵

Matters Related to the Implementation of Articles 2.8(b) and 2.11: Elimination of Visa Requirements for Integrated Products

37. During its November 2001 meeting it was recalled that, in May 2001, when reviewing under Article 2.21 the notification made pursuant to Articles 2.8(b) and 2.11 by the United States, the TMB had sought confirmation that no visa requirements would be applied with respect to products to be integrated during Stage 3 of the integration process. Since no further communication had been provided by the United States, apart from an interim reply, the TMB sought confirmation that no visa requirement would be applied to any of the products integrated into GATT 1994 as a result of the implementation of the Stage 3 integration programme as from 1 January 2002. The United States, in a communication dated 11 December 2001, informed the TMB that "the visa requirement for products integrated in the third stage has been eliminated" (G/TMB/R/83, paragraphs 10 and 11, and G/TMB/R/84, paragraph 6).

Observation with Respect to Late Notifications

38. With respect to notifications addressed to the TMB after the relevant deadlines, the TMB reiterated that its taking note of late notifications was without prejudice to the legal status of such notifications.

²¹ G/TMB/R/83, paragraph 8.

²² G/TMB/R/82, paragraph 7.

²³ G/TMB/R/83, paragraph 9.

²⁴ G/TMB/R/86, paragraph 13.

²⁵ See paragraph 32 above.

III. NOTIFICATIONS UNDER ARTICLE 3 OF THE ATC

Notifications under Article 3.1 of the ATC: Restrictions on Textile and Clothing Products other than Restrictions Maintained under the MFA and Covered by the Provisions of Article 2.

39. The TMB examined the notification received pursuant to Article 3.1 from the European Communities, following the accession of China to the WTO. It sought clarification from the European Communities, *inter alia*, as regards the fact that it appeared to the TMB that the European Communities had notified the quantitative restrictions in force on 11 December 2001 (i.e. not on the day prior to the date of entry into force of the WTO Agreement in respect of China). The TMB also requested clarification and further relevant details regarding a phase-out programme in the sense of Article 3.2(b) of the restrictions notified pursuant to Article 3.1. At a further meeting, the TMB continued its examination of this notification, also on the basis of additional information received from the European Communities in response to the clarifications sought by the TMB. In its response, the European Communities confirmed that its notification contained all restrictions, other than those formerly maintained under the MFA and covered by the provisions of Article 2, that were in force on 10 December 2001. It confirmed also that the annual growth rates that were applied under the bilateral agreement in force between the European Communities and China prior to the date of China's accession to the WTO would continue to apply in 2002, 2003 and 2004. As regards the details regarding a phase-out programme in the sense of Article 3.2(b) of those restrictions notified pursuant to Article 3.1, the European Communities provided a list of the restrictions that had been eliminated on 11 December 2001 as a result of the implementation of the integration programmes of the European Communities for Stages 1 and 2, as well as a list of the restrictions eliminated as of 1 January 2002 as a result of the EC's implementation of the third stage of the integration programme. Furthermore, the European Communities stated that "according to Annex I to the bilateral agreement [between the European Communities and China] the Commission intends to phase out the 'restrictions on all remaining products no later than 1 January 2005', depending on China's progress in removing state trading in silk products. In addition, both parties can at any time request consultations in this regard". The TMB understood that, in any event, all remaining restrictions under Article 3.1 would be increased annually by the application of the respective growth rates notified and would be eliminated, at the latest, on 1 January 2005. On that basis, the TMB took note of the notification (G/TMB/R/87, paragraph 11).

40. The TMB examined the notification received pursuant to Article 3.1 from Turkey, following the accession of China to the WTO. It sought clarification from Turkey on the operation of what appeared to be a phase-out programme, in the sense of Article 3.2(b), of the restrictions notified pursuant to Article 3.1, and also whether the 2001 growth rates indicated in the notification would also apply in 2002, 2003 and 2004. At a further meeting, the TMB continued its examination of the notification, also on the basis of additional information provided by Turkey in response to clarifications sought by the TMB. Turkey confirmed that it had notified to the TMB the quantitative restrictions taken over from its previous bilateral agreement with China "maintained under the non-MFA Agreement" at the levels specified for the year in which China acceded to the WTO. In light of this statement, the TMB understood that, pursuant to Article 3.1, Turkey had notified the restrictions maintained on products that had not been covered by the former MFA. As regards the details regarding a phase-out programme in the sense of Article 3.2(b) of the restrictions notified pursuant to Article 3.1, Turkey provided a list of the restrictions that had been eliminated on the day of accession of China to the WTO, as well as a list of the restrictions eliminated as of 1 January 2002. Furthermore, Turkey stated that it "intends to 'phase-out' the restrictions on all remaining products no later than 1.1.2005". Also, Turkey confirmed that the growth rates noted in Annex to the notification applied to the remaining quantitative restrictions in the years 2002-2004. On the basis of the above, the TMB took note of the notification (G/TMB/R/88, paragraph 10).

41. The TMB examined the notification received pursuant to Article 3.1 from Japan, following the accession of China to the WTO. It sought clarification on the exact nature of the quantitative

restrictions notified, their precise product coverage and the respective annual levels. As Japan had indicated that it would present a phase-out programme under Article 3.2(b) in due course, the TMB expressed its expectation that this phase-out programme would be provided in the near future. In response, at a subsequent meeting, Japan provided clarification on the exact nature of the quantitative restrictions notified, their precise product coverage and the respective annual levels for the Japanese fiscal year 2001. Japan maintained quantitative restrictions on imports from China of silk yarn and silk fabric. The quota levels were determined through consultations between China and Japan. The TMB took note of the notification made by Japan pursuant to Article 3.1. With respect to what constituted a phase-out programme in the sense of Article 3.2(b), the TMB noted, *inter alia*, that the quota levels would be increased annually and the measures would be removed no later than 1 January 2005. The TMB observed that, though the quota levels for the Japanese fiscal year 2001 had been provided and the functioning of the phase-out programme explained, no information had been provided on the quota levels for the current fiscal year, nor had information been made available as to when the annual consultations between Japan and China with a view to determining those levels would take place. The TMB further observed that in order to allow for predictability, trade levels for the coming year should normally be known sufficiently in advance, so that exporters and importers could plan their business accordingly. The TMB was thus particularly concerned that the Japanese fiscal year 2002 had started without the levels for silk yarn and silk fabric for that year being agreed. The TMB, therefore, expected being informed by Japan as soon as possible on the timing of the annual consultations between Japan and China, as well as on the trade levels to be determined for both silk yarn and silk fabric for the Japanese fiscal year 2002 (G/TMB/R/87, paragraph 18).²⁶

42. The TMB considered a notification made under Article 3.1 by Poland, following Chinese Taipei's accession to the WTO. According to this notification, Poland maintained a safeguard measure on imports of synthetic fabrics originating in Chinese Taipei. At the same time, Poland informed the TMB that the measure would be withdrawn on 15 September 2002. The TMB observed that the measure had been notified more than 60 days after the accession of Chinese Taipei to the WTO, and that the withdrawal of the measure on 15 September 2002 fulfilled the requirements of Article 3.2. The TMB took note of this notification (G/TMB/R/90, paragraph 55).

43. The TMB considered a notification made under Article 3.1 by Brazil following the accession of Chinese Taipei to the WTO. According to this notification, Brazil maintained a quantitative restriction on imports from Chinese Taipei of certain man-made knitted or crocheted fabrics. Brazil stated that the programme of phase out of the restriction would be notified to the TMB according to the terms laid down in Article 3.2(b). The TMB took note of this notification and expressed its expectation that the phase-out programme in question would be provided in the near future (G/TMB/R/87, paragraph 16).²⁷

44. The TMB started its examination of the notification received pursuant to Article 3.1 from China, following its accession to the WTO. It decided to seek clarification on how, in the view of China, the export restrictions notified would fit with paragraphs 162, 164, 165 and 342 of the Report of the Working Party on the Accession of China, whether these export restrictions were applied on a global basis or to selected WTO Members and how they operated in practical terms. With respect to the statement of China that "the programme to phase-out the restrictions will be notified to the TMB no later than 10th June of 2002", the TMB, referring to paragraph 1.3 of Part I of the Protocol of Accession of China to the WTO and to Article 3.2(b) of the ATC, expressed its expectation that this phase-out programme would be provided in the near future (G/TMB/R/86, paragraph 10).

²⁶ See also paragraph 46 below.

²⁷ See paragraph 45 below.

Notifications under Article 3.2(b) of the ATC: Progressive Phase out of Restrictions Not Justified Under a GATT 1994 Provision

45. The TMB considered a notification made under Article 3.2(b) by Brazil of the phase-out programme of the quantitative restriction maintained by Brazil on imports from Chinese Taipei of certain man-made knitted or crocheted fabrics. According to the notification, the quantitative restriction will be dismantled on 14 September 2003. Additionally, for the quota year that begins on 15 September 2002 and runs until 14 September 2003, the quota level will be increased by 6 per cent. The TMB took note of this notification (G/TMB/R/90, paragraph 56).

46. The TMB considered a notification made under Article 3.2(b) by Japan of the progressive phase-out programme of the quantitative restrictions maintained by Japan on imports from China of silk yarn and silk fabric.²⁸ According to the notification, the quantitative restrictions maintained on imports from China of silk yarn and silk fabric will be increased for each of the Japanese fiscal years 2002, 2003 and 2004, by 3.8 per cent for silk yarn and 4.8 per cent for silk fabrics. In addition, the measures will be eliminated on 1 January 2005. The TMB took note of this notification (G/TMB/R/91, paragraph 15).

47. As regards the phase-out programmes in the sense of Article 3.2(b) of the restrictions notified by the European Communities, Turkey and Poland, see paragraphs 39, 40 and 42 above.

Notification under Article 3.3 of the ATC: Information with Respect to Any New Restrictions or Changes in Existing Restrictions on Textile and Clothing Products, Taken under any GATT 1994 Provision

48. The TMB took note of a notification by the European Communities under Article 3.3 of agreed changes made to the consultation levels it maintained *vis-à-vis* Egypt for 2002 and 2003. According to this notification, these consultation levels had been introduced in the context of preferential trade agreements with Egypt and were being notified by the European Communities under Article XXIV of the GATT (G/TMB/R/86, paragraph 14).

IV. TRANSITIONAL SAFEGUARD MEASURES INTRODUCED UNDER THE ATC

Notification under Article 8.10 of the ATC: Inability of a Member to Conform with a Recommendation Made by the TMB

49. The TMB considered a communication from Poland with reference to Article 8.10, following the examination by the TMB in September 2001, pursuant to Article 6.10, of the transitional safeguard measure introduced by Poland on 20 July 2001, for a duration of three years, on imports of acrylic/modacrylic staple yarn, pure or mixed with fine animal hair from Romania. Poland stated that it considered itself unable to conform with the recommendation the TMB had made that the transitional safeguard measure introduced on imports of the above products from Romania be rescinded and provided reasons for this inability. Having invited the participation of representatives of both Poland and Romania to the consideration of this communication, the TMB heard the statements made and gave thorough consideration to the reasons presented by Poland for its inability to conform with the TMB's recommendation. The TMB concluded that these reasons did not lead it to change its conclusion and the recommendation made pursuant to Article 6.10. The TMB recommended, therefore, that Poland reconsider its position and that the safeguard measure introduced on the imports from Romania of acrylic/modacrylic staple yarn, pure or mixed with wool or fine animal hair be rescinded forthwith (G/TMB/R/83, paragraphs 16 to 41).

²⁸ See also paragraph 41 above.

50. At its subsequent meeting, bearing in mind that Article 8.9 of the ATC states that "[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", and in view of the fact that the TMB had received no information from Poland as to the implementation of this recommendation, the TMB decided to request such information from Poland. Poland's reply to the TMB's request was considered at the January 2002 meeting. This communication stated that, following the recommendation by the TMB, "Poland is intending to implement [the] TMB recommendation [...] relating to [the] transitional safeguard measure introduced by Poland on imports of staple yarn from Romania. This measure will be rescinded on 1 March 2002". The TMB recalled that it had examined this safeguard measure in September 2001 pursuant to Article 6.10 and, that subsequently, in November 2001, it had considered the reasons given by Poland for considering itself unable to conform with the recommendation the TMB had made. Detailed information, together with the TMB's recommendation had been provided to WTO Members with regard to the latter examination on 23 November 2001. In taking note of the communication of Poland, the TMB observed that, though Article 8 contained no specific deadline for the implementation by the Member(s) concerned of the TMB's recommendations, the measure would have been in place for more than seven months (G/TMB/R/85, paragraph 12).

V. COMMUNICATIONS RECEIVED BY THE TMB

Communication Received by the TMB Regarding Restrictions Maintained on Imports of Certain Textile Products from China

51. The TMB took note of a communication by Hungary, provided for the Body's information, of the notification made pursuant to the Decision on Notification Procedures for Quantitative Restrictions adopted by the Council for Trade in Goods on 1 December 1995 (G/L/59), containing the quantitative restrictions in force in 2002 maintained on imports of certain textile products from China. The notification stated, *inter alia*, that these restrictions were justified by Annex 7 of the Protocol of Accession of China to the WTO and that "the proposed removal of the restrictions maintained by Hungary according to Annex 7 of the Protocol of Accession of China is 2005" (G/TMB/R/88, paragraph 12).

Communication Received from the Chairman of the Committee for Trade and Development

52. The TMB considered the communication received from the Chairman of the Committee on Trade and Development, in pursuance of the CTD work programme stemming from paragraph 44 of the Doha Ministerial Declaration and paragraph 12.1 of the Decision on Implementation-Related Issues and Concerns, requesting information concerning any discussions or other developments taking place in the TMB by July 2002 relating to the special and differential provisions contained in the ATC. The TMB adopted its response to this communication which stated *inter alia*, that since no such request had been addressed to it, the TMB had not scheduled a general discussion relating to the special and differential treatment provisions contained in the ATC. It would, however, inform the Committee on Trade and Development if there were to be developments that could be of interest to the CTD for the purpose of its mandated review. In addition, the TMB drew the attention of the CTD to the Body's comprehensive report on the implementation of the ATC during the second stage of the integration process (G/L/459), and in particular to those parts of the report which could be relevant in the context of the consideration of provisions related to special and differential treatment (G/TMB/R/85, paragraph 13).

VI. OTHER MATTERS EXAMINED BY THE TMB

Derestriction of WTO Documents

53. Following the decision adopted by the General Council, on 14 May 2002, regarding the procedures for the circulation and derestriction of WTO Documents, the TMB considered the implications of this decision on its working procedures. The TMB recalled that in adopting its own working procedures on 13 July 1995 it had agreed that it would " ... decide on the implementation of the decision of the General Council on derestriction of documents when the General Council has adopted its decision on this matter". Subsequently, the TMB had taken note of the relevant decision of the General Council and decided that it would act in full compliance with it. Since the recent decision of the General Council brought about important changes, the TMB carefully examined the decision, took note of it and decided to act in full compliance with it (G/TMB/R/89, paragraph 18).
