

**REPORT OF THE TEXTILES MONITORING BODY**

**SUMMARY**

This report was adopted and is being presented by the Textiles Monitoring Body (TMB) in the context of the preparation for the Singapore Ministerial Conference. It reflects the work carried out by the TMB on the basis of Members' notifications.

1. **General**

Chapter I (Introduction) provides a brief description of the Agreement on Textiles and Clothing (ATC) and the role of the TMB. It also gives information on the reports adopted by the TMB as well as the notifications submitted to it and their circulation to Members.

2. **Implementation**

Chapters II to IX contain detailed information on the implementation of the different provisions of the ATC. Chapter X provides information and an assessment on the functioning of the TMB.

3. **Built-in-agenda**

(i) According to paragraphs 8(a) and 11 of Article 2 of the ATC, programmes for the second stage of integration (1 January 1998 - 31 December 2001) will have to be notified to the TMB not later than by 31 December 1996.

(ii) Pursuant to paragraph 11 of Article 8, the Council for Trade in Goods shall conduct a major review on the implementation of the ATC during the first stage of integration before the end of 1997. To assist in this review, the TMB shall transmit to the Council for Trade in Goods a comprehensive report on the implementation of the ATC during this first stage by the end of July 1997.

4. **Observations, assessments and recommendations**

(i) Observations and assessments by the TMB with respect to the implementation of the different provisions of the ATC are reproduced in bold letters in the report (integration - paragraphs 11 to 16 and 21 to 27; quantitative restrictions under Article 2 - paragraphs 34, 35 and 41; safeguard actions under Article 6 - paragraphs 82 to 84; Article 7 - paragraphs 99 to 101; compliance with notification requirements - paragraphs 19 and 102; and functioning of the TMB - paragraphs 111 to 122).

(ii) Recommendations are to be found in paragraphs 103, 107 and 119 (printed in bold letters and underlined).

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## **I. INTRODUCTION**

### **A. The Agreement on Textiles and Clothing (ATC) and the role of the Textiles Monitoring Body (TMB)**

1. As specified in paragraphs 1 of Article 1 and Article 9,<sup>1</sup> the ATC sets out provisions to be applied by Members during a transition period of ten years for the integration of the textiles and clothing sector into GATT 1994. The ATC and all restrictions thereunder shall stand terminated on 1 January 2005, on which date the textiles and clothing sector shall be fully integrated into GATT 1994. There shall be no extension of the ATC.

2. The TMB was established in order to supervise the implementation of the ATC, to examine all measures taken under its provisions and their conformity therewith, and to take the actions specifically required of it by the ATC.

3. The composition of the TMB for the first stage of implementation of the ATC (1995 to 1997) was decided by the General Council on 31 January 1995 (WT/L/26) and subsequently modified by the General Council on 6 February 1996 (WT/L/26/Add.1). Ambassador András Szepesi was appointed Chairman of the TMB for the same period by the General Council on 31 January 1995 (WT/GC/M/1). The list of TMB members, alternates, observers, and successive changes, are contained in paragraphs 2 of G/TMB/R/1, 3, 5, 9, 10, 11, 15 and 18.

### **B. Reports by the TMB**

4. The TMB adopted reports of its meetings, which were circulated to WTO Members for their information (G/TMB/R/1 to 18). As provided for in the ATC, at least five months before the end of each stage of the integration process, the TMB shall transmit to the Council for Trade in Goods a comprehensive report on the implementation of the ATC during the respective stage. The first such comprehensive report is due by the end of July 1997.

5. The General Council decided at its meeting on 15 November 1995 on procedures to be followed by the relevant WTO bodies for an annual overview of WTO activities and for reporting under the WTO (WT/L/105). Pursuant to this decision, the first annual report of the TMB was submitted in November 1995 and is contained in document G/L/40.

6. At the meeting of the General Council on 16 April 1996, the Chairman made a statement with regard to the reporting procedures for the Singapore Ministerial Conference (WT/L/145). The present report is being presented by the TMB bearing in mind all the elements contained in this statement. It covers the period 1 January 1995 to 1 October 1996, and provides an overview of the implementation of the different provisions of the ATC. It contains information on the work carried out by the TMB on the basis of Members' notifications and includes some additional observations made by the TMB when preparing and adopting this contribution to the preparation of the Singapore Ministerial Conference.

### **C. Notification by Members**

7. The ATC contains an important number of notification requirements, some with a specific time-frame, and some ad-hoc (mainly related to specific actions taken by individual Members).

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<sup>1</sup>Unless otherwise specified, all Articles mentioned refer to the Agreement on Textiles and Clothing.

8. According to the ATC, in carrying out its functions the TMB “shall rely on notifications and information supplied by the Members under the relevant Articles...” of the ATC.

9. In most cases notifications are to be submitted to the TMB, and are circulated by the TMB to all WTO Members for information and transparency. In line with the working procedures adopted by the TMB, notifications received pursuant to Articles 2.1, 2.2, 2.7(a) and (b), 2.8 (a) and (b), 2.10, 2.11, 2.15, 3.1, 3.3, 3.4, 6.1 and 7.2 of the ATC are circulated to WTO Members without delay. Notifications addressed to the TMB for review other than those listed above are, after such review, also transmitted to WTO Members (G/TMB/R/1 and 11).

## II. INTEGRATION

10. Paragraph 6 of Article 2 states that “on the date of entry into force of the WTO Agreement, each Member shall integrate into GATT 1994 products which accounted for not less than 16 per cent of the total volume of the Member’s 1990 imports of the products in the Annex, in terms of HS lines or categories”. The Members which had made a notification under paragraph 1 of Article 2 (see Chapter III) are covered by paragraph 7(a) of Article 2, and the other Members by paragraph 7(b) of the same Article.

### A. Articles 2.6 and 2.7(a)

11. Pursuant to paragraphs 6 and 7(a) of Article 2, notifications made to the GATT Secretariat by Canada, the European Communities, Norway and the United States no later than 1 October 1994, in accordance with a decision taken by Ministers at Marrakesh on 15 April 1994, were made available to the TMB for the purposes of paragraph 21 of Article 2 of the ATC. In reviewing these notifications the TMB noted that, in accordance with paragraph 6 of Article 2, the volume of products integrated by Canada, the European Communities, Norway and the United States amounted to at least 16 per cent of the total volume of the respective Members’ 1990 imports of the products falling under the coverage of the ATC (Canada: 16.34 per cent; European Communities: 16.4 per cent; Norway: 16.26 per cent; United States: 16.21 per cent), including products from each of the four groups: tops and yarns, fabrics, made-up textile products, and clothing (see Annex I). **Notwithstanding the provisions of paragraphs 6 and 7 of Article 2, the TMB was aware that - with the exception of Canada affecting one product (work gloves) - the products thus integrated were not, prior to their integration into GATT 1994, subject to quantitative restrictions notified under paragraph 1 of Article 2.**

12. Paragraph 6 of Article 2 required Members to integrate products selected from each of the four groups mentioned in paragraph 11 above; **the integration programmes submitted by the Members concerned for the first stage of integration met this requirement. The TMB observed, however, that the share of tops, yarns and fabrics in the integration programmes notified under paragraphs 6 and 7(a) of Article 2 was significantly higher than that of made-up textile products and clothing (see Annex I).**

13. Paragraph 6 of Article 2 also required Members to integrate in the first stage products which accounted for not less than 16 per cent of the total volume of the Member’s 1990 imports of the products in the Annex. **However, as the products integrated were concentrated in the relatively less value-added range of products, it would appear that the share of products integrated, expressed in value terms, was smaller than that expressed in volume.**

14. **The integration of a product into GATT 1994 pursuant to paragraph 6 of Article 2 has two consequences: first, the provisions of Article 6 of the ATC cannot be invoked with respect**

to imports of such product; second, any quantitative restriction on this product notified under Article 2 of the ATC is eliminated.

15. In light of the observation made by the TMB reproduced in the last sentence of paragraph 11 above, it can be observed that the increases in access to the markets of Members having notified restrictions pursuant to paragraph 1 of Article 2 have been limited to date, with one exception, to the annual increases in the levels of restrictions required under paragraphs 13 and, if applicable, 18 of Article 2, and in one case to the recourse to the provision of paragraph 15 of the same Article. The TMB also observed that no notification had been made under paragraph 10 of the same Article, which provides the possibility of integrating products earlier than that provided for in the integration programmes notified.

16. The TMB was aware of the concern expressed by several Members that, should the pattern of selection of the products to be integrated in the second and third stages pursuant to paragraphs 8(a) and (b) of Article 2 reproduce that of the first stage, the implementation of the integration of the textiles and clothing sector into GATT 1994 on 1 January 2005, as stated in paragraph 8(c) of Article 2, would prove difficult. The TMB was equally aware that, in the view of some other Members, the eventual integration of the textiles and clothing sector into GATT had to be seen also in the context of the liberalization built into the ATC in paragraphs 13, 14 and, if applicable, 18 of Article 2.

B. Articles 6.1, 2.6 and 2.7(b)

17. According to paragraph 9 of Article 2, "Members which have notified, pursuant to paragraph 1 of Article 6, their intention not to retain the right to use the provisions of Article 6 shall, for the purposes of this Agreement, be deemed to have integrated their textiles and clothing products into GATT 1994. Such Members shall, therefore, be exempted from complying with the provisions of paragraphs 6 to 8 and 11" of the same Article. The review of the examination by the TMB of notifications received under paragraphs 6 and 7(b) of Article 2 has, therefore, to be made in the context of notifications made pursuant to paragraph 1 of Article 6.

Article 6.1

18. Paragraph 1 of Article 6 states that "Members not maintaining restrictions falling under Article 2 shall notify the TMB ... as to whether or not they wish to retain the right to use the provisions of this Article". The TMB received such notifications from fifty-eight WTO Members. The TMB took note that the following fifty-one Members had notified that they wished to retain the right to use the provisions of Article 6: Argentina, Bangladesh, Bolivia, Brazil, Colombia, Costa Rica, Côte d'Ivoire, Cyprus, the Czech Republic, the Dominican Republic, Ecuador, Egypt, El Salvador, Guatemala, Honduras, Hungary, India, Indonesia, Israel, Jamaica, Japan, Kenya, Korea, Lesotho, Malaysia, Malta, Mauritius, Mexico, Morocco, Myanmar, Nicaragua, Nigeria, Pakistan, Paraguay, Peru, the Philippines, Poland, Romania, Senegal, the Slovak Republic, Slovenia, South Africa, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uruguay, Venezuela and Zambia. It also took note that the following seven WTO Members did not wish to retain the right to use the provisions of Article 6: Australia, Chile, Cuba, Hong Kong, Macau, New Zealand and Singapore.

19. The TMB wishes to draw the attention of Members to the fact that the Members which did not maintain restrictions falling under Article 2 had, pursuant to paragraph 1 of Article 6, the obligation to notify within a specific time-frame whether or not they wished to retain the right to use the provisions of Article 6. The TMB noted with concern that a significant number of such Members did not submit a notification under this paragraph.

Articles 2.6 and 2.7(b)

20. The TMB received forty-two notifications made, pursuant to paragraphs 6 and 7(b) of Article 2, by Argentina, Bangladesh, Bolivia, Brazil, Colombia, Costa Rica, Cyprus, the Czech Republic, the Dominican Republic, El Salvador, Guatemala, Honduras, Hungary, India, Indonesia, Israel, Japan, Korea, Malaysia, Malta, Mauritius, Mexico, Morocco, Myanmar, Nicaragua, Pakistan, Paraguay, Peru, the Philippines, Poland, Romania, Saint Kitts and Nevis, the Slovak Republic, Slovenia, Sri Lanka, Switzerland, Thailand, Tunisia, Turkey, Uruguay, Venezuela and Zambia. It completed its review of thirty-nine of them. In this review the TMB noted that in all cases the products integrated amounted to at least 16 per cent of the respective Members' total imports of the products falling under the coverage of the ATC (in most cases in volume of 1990 imports, in some other cases in value and/or with a different base-year, see Annex I), and that in all cases products from each of the four groups (tops and yarns, fabrics, made-up textile products, and clothing) had been integrated. The review of the notifications made by Israel, Myanmar and Saint Kitts and Nevis are in progress, and will be concluded as soon as the additional information sought by the TMB from these Members is received.

21. As noted above, the TMB in some instances took note of integration programmes which, in certain respects, did not fully meet the technical criteria established under paragraph 6 of Article 2. This concerned cases where the data were not available in volume, or for the year 1990, or where the share of integration was calculated relative to data for the textiles and clothing sector as a whole since data for the exact product coverage of the ATC were not available. **Prior to taking note of such notifications, the TMB ensured that no better data could be obtained. Furthermore, its taking note of such notifications was without prejudice to the rights and obligations of Members under the ATC.**

22. As already mentioned in paragraph 12 above, paragraph 6 of Article 2 requires Members to integrate products selected from each of the four following groups: tops and yarns, fabrics, made-up textile products, and clothing. **The integration programmes submitted by Members pursuant to paragraphs 6 and 7(b) of Article 2 met this requirement. However, although there were wide variations in the programmes presented under these provisions, the TMB observed that in the large majority of cases the share of one or two groups (tops and yarns and/or fabrics) was significantly higher than those of the other groups (see Annex I).**

23. Paragraph 6 of Article 2 also required Members to integrate in the first stage products which accounted for not less than 16 per cent of the total volume of the Member's 1990 imports of the products in the Annex. **However, with respect to the cases where the products integrated were concentrated in the relatively less value-added range of products, it would appear that the share of products integrated, expressed in value terms, was smaller than that expressed in volume.**

24. **The TMB observed that no notification had been made under paragraph 10 of the same Article, which provides the possibility of integrating products earlier than that provided for in the integration programmes notified.**

25. The TMB also observed that seven Members had notified their choice not to retain the right to use the provisions of Article 6 (see paragraph 18) and that for those Members the products falling under the coverage of the ATC had been integrated into GATT 1994 as from 1 January 1995. **The TMB commended these Members for having opted for this approach.**

26. The TMB observed furthermore that among the fifty-one Members which had chosen to retain the right to use the provisions of Article 6, ten (Côte d'Ivoire, Ecuador, Egypt, Jamaica, Kenya, Lesotho, Nigeria, Senegal, South Africa, Trinidad and Tobago) had not submitted a notification under paragraphs 6 and 7(b) of Article 2. **The TMB wished to draw the attention of Members to the fact that the**

**notification requirement contained in paragraph 1 of Article 6, and the resulting notification requirement contained in paragraph 7(b) of Article 2, were mandatory and had to be submitted to the TMB within prescribed deadlines.**

27. The TMB noted that in some cases products integrated under paragraphs 6 and 7(b) of Article 2 had already been subject to quantitative restrictions, notified under Article 3 and justified under a GATT 1994 provision, and that such restrictions were not affected by the integration of the products concerned. Among the forty-two Members which submitted a notification pursuant to paragraphs 6 and 7(b) of Article 2, twelve made notifications under paragraph 1 of Article 3 invoking justification under a GATT 1994 provision for the restrictions notified (see paragraph 43 below).

### **III. ARTICLE 2 - QUANTITATIVE RESTRICTIONS MAINTAINED OR NOTIFIED UNDER THE ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES (MFA), IN FORCE ON 31 DECEMBER 1994**

#### **A. Article 2.1 - Restrictions in force on 31 December 1994**

28. Paragraph 1 of Article 2 of the ATC states that “all 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 shall, within 60 days following such entry into force, be notified in detail, including the restraint levels, growth rates and flexibility provisions, by the Members maintaining such restrictions to the TMB”. Notifications were received pursuant to this paragraph from Canada, the European Communities, Norway and the United States. The TMB completed their review, keeping also in mind observations made by some other Members (see Section B below), and took note of corrections or additions to these notifications made by Canada and the United States (G/TMB/R/6, 7, 10, 11, 12, 13 and 15). According to paragraph 4 of Article 2, “the restrictions notified under paragraph 1 [of Article 2] shall be deemed to constitute the totality of such restrictions applied by the respective Members on the day before the entry into force of the WTO Agreement. No new restrictions in terms of products or Members shall be introduced except under the provisions of this Agreement or relevant GATT 1994 provisions”.

#### **B. Article 2.2 - Observations with regard to Article 2.1 notifications**

29. According to paragraph 2 of Article 2, “it is open to any Member to bring to the attention of the TMB, within 60 days of the circulation of the notifications, any observations it deems appropriate with regard to such notifications”. Such notifications were received from Colombia (observations on the notification made by the United States), Hong Kong (observations on the notification made by the United States), Korea (observations on the notifications made by Canada, the European Communities and the United States) and Macau (observations on the notification made by the United States).

30. In reviewing the notifications made by Colombia, Hong Kong and Korea, the TMB noted that the observations made in these notifications had been taken into account in the corrigenda or addenda to the notifications made under paragraph 1 of Article 2 by the WTO Members concerned (G/TMB/R/6).

31. The TMB took note that the correction made by the United States had been confirmed in a subsequent notification received from Hong Kong under paragraph 2 of Article 2 (G/TMB/R/10). This notification contained additional elements, and the TMB reverted to their consideration at a subsequent meeting. In reviewing these additional elements, the TMB took note of Hong Kong’s demand that the full product descriptions, the conversion factors applicable, the coverage and structure of the groups and sub-groups notified with respect to Hong Kong as well as the category number for



made to-measure suits, be notified to the TMB. The TMB understood that these elements would be notified by the United States under paragraph 17 of Article 2 (G/TMB/R/12).

32. The TMB considered the notification by Macau pursuant to paragraph 2 of Article 2. In this notification, Macau stated that the United States' notification received under the provisions of paragraph 1 of Article 2 of the ATC contained restrictions which, according to Macau, were not in force on the day before the entry into force of the ATC under the bilateral agreement with Macau maintained under Article 4 of the MFA. Accordingly, Macau invited the TMB to recommend that these restrictions were not in conformity with paragraph 1 of Article 2 of the ATC. Given the complexity of the matter, the TMB invited both parties to provide in writing any additional submission or explanation they might find useful, which both parties did.

33. The TMB considered all the elements put forward by both parties in their submissions, including the reference made by Macau to the review by the Textiles Surveillance Body in 1994 of the bilateral agreement concluded under the MFA between Macau and the United States. The TMB noted that its review was conducted under paragraph 2 of Article 2. It found that a recommendation, as requested by Macau, that in the absence of either an agreement over the conversion of certain designated consultation levels (DCLs) (on US categories 219, 225, 317, 326, 611 and 625-9) into specific limits (SLs), or actual trade in these fabric categories, the notification by the United States of those specific limits should be considered null and void, was not warranted. In arriving at its conclusions, the TMB took note that the conversion of DCLs into SLs took place in 1994 under the MFA. The TMB noted with concern, however, that SLs were introduced by the United States in the almost complete absence of trade in these categories. It was the expectation of the TMB that, in monitoring developments in this area, the United States would bear in mind this observation. The TMB also wished to draw the attention of Members to the fact that, with the entry into force of the ATC, specific provisions had been in operation for the establishment of new restrictions (G/TMB/R/13).

34. As indicated in paragraphs 30 to 33 above, the TMB has completed the review of all the observations brought to its attention under paragraph 2 of Article 2 by Members, and the deadline for submitting such observations has lapsed. **It can, therefore, be assumed that the totality of restrictions applied pursuant to paragraph 1 of Article 2 has been notified, and that none of the elements contained in these notifications is either contested by other Members or requires further consideration by the TMB.**

C. Article 2.15 - Elimination of restrictions maintained under Article 2

35. Paragraph 15 of Article 2 states that “nothing in this Agreement shall prevent a Member from eliminating any restriction maintained pursuant to this Article, effective at the beginning of any agreement year during the transition period, provided the exporting Member concerned and the TMB are notified at least three months prior to the elimination coming into effect”. The TMB reviewed a notification made by Norway in September 1995, under this paragraph, of the elimination of certain restrictions with respect to some WTO Members, with effect as of 1 January 1996. The Members affected had also been informed in advance. **The TMB commended Norway for the early elimination of some of its restrictions maintained under the ATC (G/TMB/R/6).**

D. Article 2.17 - Administration of restrictions

36. Paragraph 17 of Article 2 states that “administrative arrangements, as deemed necessary in relation to the implementation of any provision of this Article, shall be a matter for agreement between the Members concerned. Any such arrangements shall be notified to the TMB”. To date, notifications under this Article have been made by Canada, the European Communities, Mauritius and the United States.

37. The TMB considered under paragraph 17 of Article 2 a notification by Mauritius of a visa arrangement it had concluded with the United States, and took note of this notification (G/TMB/R/9). It also considered the detailed notifications by Canada of administrative arrangements concluded with Bangladesh, Brazil, Costa Rica, Cuba, Hong Kong, Hungary, India, Indonesia, Korea, Lesotho, Macau, Malaysia, Mauritius, Pakistan, the Philippines, Poland, Romania, Singapore, the Slovak Republic, Sri Lanka, Swaziland, Thailand, Turkey and Uruguay. The arrangements had been bilaterally agreed and contained provisions which implemented, in accordance with the provisions of paragraph 1 of Article 4 of the ATC, administrative aspects of the respective export control systems (export licences, monitoring of exports, quota flexibility provisions, exchange of statistics, re-exports by Canada, consultations). The TMB took note of these notifications (G/TMB/R/13 and 17).

38. A number of notifications are pending review.

E. Article 2.18 - Advanced implementation of growth rates for certain Members

39. Paragraph 18 of Article 2 specifies that “as regards those Members whose exports are subject to restrictions on the day before the entry into force of the WTO Agreement and whose restrictions represent 1.2 per cent or less of the total volume of the restrictions applied by an importing Member as of 31 December 1991 and notified under this Article, meaningful improvement in access for their exports shall be provided, at the entry into force of the WTO Agreement and for the duration of this Agreement, through advancement by one stage of the growth rates set out in paragraphs 13 and 14, or through at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth and flexibility provisions”. Notifications under this provision have been received from Canada, the European Communities and the United States.

40. According to these notifications, the Members concerned for each importing Members, and the implementation of this provision, were as follows:

- for Canada:<sup>2</sup> Costa Rica, Cuba, the Czech Republic, the Dominican Republic, Hungary, Jamaica, Lesotho, Macau, Mauritius, Myanmar, Poland, the Slovak Republic, South Africa, Sri Lanka, Swaziland and Uruguay. The growth rates set out in paragraph 13 of Article 2 were increased by 25 per cent, instead of 16 per cent;
- for the European Communities: Peru and Sri Lanka. The growth rates set out in paragraph 13 of Article 2 were increased firstly by 16 per cent and secondly by 25 per cent, instead of 16 per cent;
- for the United States: Bahrain, Colombia, Costa Rica, the Czech Republic, the Dominican Republic, Egypt, El Salvador, Fiji, Guatemala, Haiti, Hungary, Jamaica, Kenya, Kuwait, Macau, Mauritius, Poland, Qatar, Romania, the Slovak Republic, the United Arab Emirates and Uruguay. The growth rates set out in paragraph 13 of Article 2 were increased by 25 per cent, instead of 16 per cent.

The TMB took note of these notifications.

41. **The TMB observed that the implementation of this provision of the ATC had been made by the Members concerned using different methodologies. It should be noted in this respect that paragraph 18 of Article 2 does not provide precise guidance as to how to implement the**

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<sup>2</sup>In determining eligibility for treatment, Canada also included those Members that accounted for less than 1.2 per cent of the restraints in effect on 31 December 1994.

advancement by one stage of the growth rates set out in paragraphs 13 and 14, or through at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth and flexibility provisions. However, it is to be noted that the result in terms of market access in the first stage is improved if the methodology chosen for the advancement by one stage of the growth rates includes the growth factor of the first stage, the manner in which it had been done by one of the Members concerned.

#### **IV. RESTRICTIONS OTHER THAN THOSE MAINTAINED OR NOTIFIED UNDER THE ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES (MFA)**

##### **A. Review of notifications made under Article 3.1**

42. Paragraph 1 of Article 3 states that “within 60 days following the date of entry into force of the WTO Agreement, Members maintaining restrictions<sup>3</sup> on textile and clothing products (other than restrictions maintained under the MFA and covered by the provisions of Article 2), whether consistent with GATT 1994 or not, shall (a) notify them in detail to the TMB, or (b) provide to the TMB notifications with respect to them which have been submitted to any other WTO body”. The TMB has received such notifications from twenty-nine WTO Members; to date, the review of twenty-six of these notifications has been completed by the TMB (G/TMB/R/5, 7, 8, 9, 12, 13 and 15), and additional information is being sought from Mexico, Morocco and Thailand before completing the review. During its consideration of notifications made under paragraph 1 of Article 3, the TMB noted that it had received no reverse notification under paragraph 4 of that Article.

43. Out of these twenty-nine notifications, although not required by the ATC, ten Members notified that they did not apply any restriction within the meaning of paragraph 1 of Article 3 (Chile, Indonesia, Kenya, Macau, Mauritius, New Zealand, the Philippines, Saint Kitts and Nevis, Singapore and Sri Lanka). In twelve instances (Bangladesh, Cyprus, Egypt, the European Communities, India, Korea, Malaysia, Malta, Pakistan, Peru, the United States and Venezuela), Members notified restrictions on imports and invoked either Articles XVIII:B, XVIII:C, XX(b), XX(f), or XXIV, as a GATT 1994 justification for such restrictions. The TMB took note of such notifications.

44. In four cases (Cyprus, Hungary, Japan and Slovenia) Members had notified quantitative restrictions which were subject to a phase-out programme, in accordance with paragraph 2(b) of Article 3. The TMB took note of such notifications, and of the fact that phase-out programmes had been or would be notified to the TMB (see Section B below).

45. In addition, Canada and the United States had notified under both paragraph 1 of Article 2 and paragraph 1 of Article 3 measures applied, *inter alia*, to countries which were not yet WTO Members at the time the notification had been made. Since these countries had subsequently become Members, these measures were reviewed by the TMB in the context of paragraph 1 of Article 2.

##### **B. Programmes notified under Article 3.2(b)**

46. Paragraph 2 of Article 3 states that “Members maintaining restrictions falling under paragraph 1, except those justified under a GATT 1994 provision, shall either ... (a) bring them into conformity with GATT 1994 within one year following the entry into force of the WTO Agreement, ... or ... (b) phase them out progressively according to a programme to be presented to the TMB by the Member

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<sup>3</sup>Restrictions denote all unilateral quantitative restrictions, bilateral arrangements and other measures having a similar effect.

maintaining the restrictions not later than six months after the date of entry into force of the WTO Agreement”.

47. Four Members notified a phase out-programme pursuant to paragraph 2(b) of Article 3: Cyprus, Hungary, Japan and Slovenia (G/TMB/N/146, 147, 175, and 186, respectively). The TMB took note of such programmes. In so doing, the TMB observed, in the case of Hungary, that in view of the general nature of this programme, it expected that the details of its implementation in the respective stages would be notified to the TMB prior to their implementation, for its consideration (G/TMB/R/9). In the case of Japan, the TMB expressed the expectation that the implementation of the programme, in conformity with paragraph 2(b) of Article 3, would be such as to provide appropriate progressive increases to the level of restrictions on imports of silk yarn and silk fabric from Korea (G/TMB/R/11). Although Cyprus notified a phase-out programme pursuant to paragraph 2(b) of Article 3, it should be noted that the revised programme submitted by Cyprus in reply to the additional information and clarification sought by the TMB seems to fall more under the provisions of paragraph 2(a) of the same Article.

C. Changes in existing restrictions notified under Article 3.3

48. Paragraph 3 of Article 3 provides that “during the duration of this Agreement, Members shall provide to the TMB, for its information, notifications submitted to any other WTO bodies with respect to any new restrictions or changes in existing restrictions on textile and clothing products, taken under any GATT 1994 provision, within 60 days of their coming into effect”.

49. The TMB received and reviewed three notifications made pursuant to this paragraph by the European Communities. Two notifications contained agreed changes increasing the quantitative limits, or consultation levels, maintained vis-à-vis the Czech Republic, Egypt, Hungary, Malta, Morocco, Poland, Romania, the Slovak Republic, and Tunisia. According to these notifications, these quantitative limits or consultation levels had been applied in the context of preferential trade agreements with each of these countries and were being notified under Article XXIV of the GATT. The TMB took note of the information contained in these notifications. A third notification stated that as a result of the completion of the customs union between the European Communities and Turkey, the consultation levels notified by the European Communities to the TMB under paragraph 1 of Article 3 vis-à-vis Turkey were eliminated as of 1 January 1996. The TMB took note of this information (G/TMB/R/12).

**V. SAFEGUARD ACTIONS UNDER ARTICLE 6**

50. Article 6 of the ATC provides for the possibility of applying transitional safeguard measures on imports of products covered by the ATC and not yet integrated into GATT 1994 that cause serious damage, or actual threat thereof, to the domestic industry producing like and/or directly competitive products. According to paragraph 7 of Article 6, “the Member proposing to take safeguard action shall seek consultations with the Member or Members which would be affected by such action”. Such consultations may result in a restraint measure being applied unilaterally by the importing Member under paragraph 10 of Article 6, or in a restraint measure being agreed between the parties and notified under paragraph 9 of Article 6. In both cases the TMB will have to review the measure. Or, as a result of such consultations, the importing Member may decide not to introduce the safeguard measure envisaged. In addition, paragraph 11 of Article 6 provides that “in highly unusual and critical circumstances, where delay would cause damage which would be difficult to repair, action under paragraph 10 may be taken provisionally on the condition that the request for consultations and notification to the TMB shall be effected within no more than five working days after taking the action”.

51. The United States made twenty-five requests for consultation pursuant to paragraph 7 of Article 6: twenty-four in 1995 and one in 1996 (see Annex II). Eleven resulted in restraint measures being agreed either during the consultation period, or prior to, or during the review of the measure by the TMB. In one case the United States decided not to apply a safeguard measure. Five unilaterally applied measures were dropped by the United States before their review by the TMB, and an additional one during the review. The TMB, therefore, completed the review of seven safeguard measures applied under paragraph 10 of Article 6 by the United States. Section A refers to all cases where the TMB started its review of the safeguard measures applied unilaterally, although in some instances the review was not completed since, in the meantime, the measure was rescinded (with Thailand for US category 352/652) or a measure was agreed (with Turkey for US category 352/652, and with Honduras for US category 435). Brazil requested consultations on imports of seven product categories under paragraph 7 of Article 6 in June 1996 (two on imports from Hong Kong, five on imports from Korea), at the same time introducing provisional safeguard measures pursuant to paragraph 11 of Article 6 (see Section C below and Annex II).

A. Review of unilateral restraint measures applied under Article 6.10, and follow-up of TMB recommendations

United States/Costa Rica, Honduras, Thailand and Turkey: imports of cotton and man-made fibre underwear (US category 352/652)

52. The TMB reviewed safeguard measures applied by the United States pursuant to paragraph 10 of Article 6 on imports of cotton and man-made fibre underwear (US category 352/652) from Costa Rica, Honduras, Thailand and Turkey. Thailand had also made a notification of the same action under paragraphs 5 and 6 of Article 8. During this review, the TMB was informed that the United States and Turkey had arrived at a mutually agreed solution of the issue under paragraph 9 of Article 6. In addition, while starting the examination of the request submitted by Thailand in its notification, the TMB was informed that the United States had decided to rescind this safeguard measure against Thailand (G/TMB/R/2 and paragraphs 88 and 89 below).

53. During its review under paragraphs 2 and 3 of Article 6 of the safeguard action taken by the United States against imports of category 352/652 from Costa Rica and Honduras, the TMB found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB could not, however, reach consensus on the existence of actual threat of serious damage. The TMB recommended that further consultations be held between the United States and the parties concerned, with a view to arriving at a mutual understanding, bearing in mind the above, and with due consideration to the particular features of this case, as well as equity considerations. The TMB also recommended that these consultations should be held consistent with the ATC, in particular with Articles 6 and 4, and be concluded within 30 days, and that the parties should report to the TMB on the outcome of such consultations no later than at the end of that period. The TMB equally noted that, with respect to the introduction of a safeguard measure, the ATC does not provide any indication with respect to the effective date of implementation of that measure.

54. In reaching its recommendation, the TMB examined all the information provided by the parties, including the role played by outward processing trade. On that basis, and keeping also in mind the particular nature of this trade flow, the TMB was of the view that a number of important indicators, *inter alia*, the drop in US domestic production of cotton and man-made fibre underwear, the parallel increase in imports of these products, and the status of this industry, were not such as to warrant a claim of serious damage being caused to the US industry by imports. However, the TMB could not agree, on the basis of all the information provided, whether or not there existed a threat of serious damage caused to the US industry by imports of products of category 352/652 (G/TMB/R/2).

55. Following the TMB's recommendation, the TMB was informed by the United States and Honduras that they had held consultations without reaching a common position, but, subsequently was informed under paragraph 9 of Article 6 that the two parties had arrived at a mutually agreeable resolution of this issue (see G/TMB/R/3 and paragraphs 68 and 69 below).

56. Following the same TMB recommendation, the TMB received reports by both the United States and Costa Rica explaining that it had not been possible to reach a mutually agreeable resolution of the issue. In view of Costa Rica's request to participate in the TMB's examination of these reports, the Body decided to invite the participation of both delegations. The TMB took note of the reports and of the fact that the two parties did not reach a mutual understanding during the consultations. The TMB's discussions confirmed the Body's previous findings in this matter (see paragraph 54 above). There being no further requests by the parties involved, the TMB considered its review of the matter completed (G/TMB/R/3 and 5).<sup>4</sup>

United States/Honduras: imports of cotton and man-made fibre pyjamas and other nightwear (US category 351/651)

57. The TMB reviewed under paragraphs 2 and 3 of Article 6 the safeguard measure introduced by the United States pursuant to paragraph 10 of Article 6 on imports of cotton and man-made fibre pyjamas and other nightwear (US category 351/651) from Honduras. The TMB, having examined all the information provided by the parties, found that serious damage, or actual threat thereof, had not been demonstrated and recommended that the United States rescind the measure (G/TMB/R/2). Subsequently, the TMB was informed that the United States had decided to rescind the measure. The TMB took note of this decision (G/TMB/R/3).

United States/India: imports of men's and boys' wool coats other than suit-type (US category 434)

58. The TMB considered a safeguard measure taken by the United States on imports of men's and boys' wool coats other than suit-type (US category 434) from India. The TMB, having examined all of the information provided by both parties in the light of the conditions established under paragraphs 2 and 3 of Article 6, found that serious damage, or actual threat thereof, had not been demonstrated, and recommended that the United States rescind the measure. Subsequently, the TMB was informed and took note that the United States had decided to rescind this safeguard measure (G/TMB/R/3 and 5).

United States/India: imports of women's and girls' wool coats (US category 435)

59. The TMB considered, under paragraphs 2 and 3 of Article 6, the safeguard measure taken by the United States on imports of women's and girls' wool coats (US category 435) from India. The TMB found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB could not, however, reach consensus on the existence of actual threat of serious damage. The TMB added that, when reviewing the implications of the discussions in the TMB and the Body's finding in this matter, the parties should keep in mind the fact that the ATC is silent as to whether the import restraint can continue to be maintained (see G/TMB/R/3). India referred this matter to the TMB under paragraph 6 of Article 8 (see paragraph 90 below).<sup>5</sup>

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<sup>4</sup>Costa Rica subsequently requested the establishment of a panel (WT/DS24/1). The panel was established by the Dispute Settlement Body on 5 March 1996.

<sup>5</sup>India subsequently requested the establishment of a panel (WT/DS32/1). The United States later withdrew the restraint, and India requested the termination of further action in pursuance of the decision taken by the Dispute Settlement Body to establish a panel to examine that matter (WT/DS32/2).

60. At a later stage, the TMB received a notification from the United States of the withdrawal of this unilateral restraint. The TMB took note of this notification (G/TMB/R/13).

United States/India: imports of woven wool shirts and blouses (US category 440)

61. The TMB considered, under paragraphs 2 and 3 of Article 6, the safeguard measure taken by the United States on imports of woven wool shirts and blouses (US category 440) from India. The TMB found that the actual threat of serious damage had been demonstrated, and that, pursuant to paragraph 4 of Article 6, this actual threat could be attributed to the sharp and substantial increase in imports from India (G/TMB/R/3). India referred this matter to the TMB under paragraph 10 of Article 8 (see paragraph 92 below).<sup>6</sup>

United States/Honduras: imports of women's and girls' wool coats (US category 435)

62. The TMB started its review of a safeguard measures introduced by the United States pursuant to paragraph 10 of Article 6 on imports of women's and girls' wool coats (US category 435) from Honduras. After the presentation of their arguments, the parties informed the TMB that they had decided to resume bilateral consultations, and asked for suspension of the consideration of this issue by the TMB. The Body was informed subsequently that the United States and Honduras had arrived at a mutually agreeable resolution of the issue under paragraph 9 of Article 6 (G/TMB/R/3 and paragraphs 73 and 74 below).

United States/Hong Kong: imports of woven wool shirts and blouses (US category 440)

63. The TMB reviewed a safeguard measure introduced by the United States on imports of woven wool shirts and blouses (US category 440) from Hong Kong. The TMB, having considered the arguments put forward by the parties, noted that Hong Kong's exports of products of category 440 into the United States were already under restraint under a group limit notified by the United States in accordance with paragraph 1 of Article 2 of the ATC. It found that, according to paragraph 4 of Article 6, the application of a safeguard measure under this Article to Hong Kong's exports of products of category 440 into the United States was, therefore, not justified, and recommended that the United States rescind the measure. Subsequently, the TMB was informed and took note that the United States had decided to rescind this safeguard measure (G/TMB/R/4 and 6).

B. Agreed restraint measures notified under Article 6.9

64. Under the provisions of paragraph 8 of Article 6 of the ATC, two Members may, after consultation held pursuant to paragraph 7 of Article 6, reach mutual understanding that the situation calls for restraint on the exports of a particular product. In such cases, paragraph 9 of Article 6 states that "details of the agreed restraint measure shall be communicated to the TMB within 60 days from the date of conclusion of the agreement. The TMB shall determine whether the agreement is justified in accordance with the provisions of this Article. ... The TMB may make such recommendations as it deems appropriate to the Members concerned".

65. The TMB has received the notification under paragraph 9 of Article 6 of twelve restraint measures agreed on imports of various products into the United States from Colombia, the Dominican Republic, El Salvador, Guatemala, Honduras, Jamaica, Turkey and Sri Lanka. In three instances (involving imports from El Salvador, Jamaica and Sri-Lanka), the notification of an agreed measure was superseded

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<sup>6</sup>India subsequently requested the establishment of a panel (WT/DS33/1). The panel was established by the Dispute Settlement Body on 17 April 1996.

as the United States decided to rescind the agreed measure. The TMB took note of such a decision by the United States. These three notifications were, therefore, not reviewed by the TMB. Eight notifications made pursuant to paragraph 9 of Article 6 have been reviewed by the TMB. One notification, received recently, remains to be reviewed.

66. The eight notifications reviewed by the TMB relate to measures agreed on imports into the United States of four products: cotton and man-made fibre underwear (US category 352/652) from Colombia, the Dominican Republic, El Salvador, Honduras and Turkey; women's and girls' wool coats (US category 435) from Honduras; women's and girl's wool suits (US category 444) from Colombia; and cotton and man-made fibre skirts (US category 342/642) from Guatemala. In reviewing these agreed restraints, the TMB made the following observations:

United States/Dominican Republic: imports of cotton and man-made fibre underwear (US category 352/652)

67. In reviewing the restraint measure agreed between the United States and the Dominican Republic on imports of cotton and man-made fibre underwear (US category 352/652), the TMB observed that no growth rate was provided for with respect to the guaranteed access level (GAL).<sup>7</sup> However, according to indications given by the United States Government, the GAL can be increased on request. Therefore, it was the TMB's understanding that, at the request of the Dominican Republic, the GAL would be increased by no less than 6 per cent annually. The TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 352/652 from Costa Rica and Honduras under paragraphs 2 and 3 of Article 6, an action taken at the same time as that on imports of the same product from the Dominican Republic, it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that, whilst the total level of the agreed restraint was substantially above the rollback level, that portion of the restraint which was available unconditionally to the Dominican Republic (i.e. the specific limit) was lower than that rollback level (G/TMB/R/7).

United States/Honduras: imports of cotton and man-made fibre underwear (US category 352/652)

68. In reviewing the restraint measure agreed between the United States and Honduras on imports of cotton and man-made fibre underwear (US category 352/652), the TMB observed that no growth rate was provided for with respect to the GAL. However, according to indications given by the United States Government, the GAL can be increased on request. Therefore, it was the TMB's understanding that, at the request of Honduras, the GAL would be increased by no less than 6 per cent annually. The TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 352/652 from Costa Rica and Honduras under paragraphs 2 and 3 of Article 6 it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that the total level of the agreed restraint, as well as that portion of the restraint which was available unconditionally to Honduras (i.e. the specific limit) were both substantially above the rollback level (G/TMB/R/8).

69. The TMB also received a communication from Honduras relating to the implementation by the United States of this agreed restraint measure. In this communication, Honduras expressed concern

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<sup>7</sup>Guaranteed Access Levels (GALs) are quantities of products of a category that a country can export to the United States without being subject to quantitative limitation, provided the actual product shipped qualifies for such treatment, *inter alia*, by being made of "US components"



that the agreement was not implemented consistently with its terms by the United States, notably with respect to the level of access to the US market as of 1 January 1996, and that this was, therefore, threatening to seriously disrupt trade from Honduras. Honduras requested that the TMB review the implementation of the limits bilaterally agreed. The TMB was informed that it was the United States Government's intention to implement the agreement in full and to be in contact with Honduras with a view to resolving this question. The TMB took note of this, informed Honduras of the United States' intention, and decided that, should problems remain, it would revert to this question at its next meeting. Both parties were informed of this decision (G/TMB/R/8). The TMB was informed subsequently by both parties that the problems had been solved.

United States/El Salvador: imports of cotton and man-made fibre underwear (US category 352/652)

70. In reviewing the restraint measure agreed between the United States and El Salvador on imports of cotton and man-made fibre underwear (US category 352/652), the TMB observed that no growth rate was provided for with respect to the GAL. However, according to indications given by the United States Government, the GAL can be increased on request. Therefore, it was the TMB's understanding that, at the request of El Salvador, the GAL would be increased by no less than 6 per cent annually. The TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 352/652 from Costa Rica and Honduras under paragraphs 2 and 3 of Article 6, an action taken at the same time as that on imports of the same product from El Salvador, it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that the total level of the agreed restraint, as well as that portion of the restraint which was available unconditionally to El Salvador (i.e. the specific limit) were both substantially above the rollback level (G/TMB/R/8).

United States/Turkey: imports of cotton and man-made fibre underwear (US category 352/652)

71. In reviewing the restraint measure agreed between the United States and Turkey on imports of cotton and man-made fibre underwear (US category 352/652), the TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 352/652 from Costa Rica and Honduras under paragraphs 2 and 3 of Article 6, an action taken at the same time as that on imports of the same product from Turkey, it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that the specific limit agreed was substantially above the rollback level (G/TMB/R/8).

United States/Colombia: imports of cotton and man-made fibre underwear (US category 352/652)

72. In reviewing the restraint measure agreed between the United States and Colombia on imports of cotton and man-made fibre underwear (US category 352/652), the TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 352/652 from Costa Rica and Honduras under paragraphs 2 and 3 of Article 6, an action taken at the same time as that on imports of the same product from Colombia, it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that the total level of the agreed restraint, as well as that portion of the restraint which was available unconditionally to Colombia (i.e. the specific limit) were both substantially above the rollback level (G/TMB/R/8).

United States/Honduras: imports of women's and girls' wool coats (US category 435)

73. In reviewing the restraint measure agreed between the United States and Honduras on imports of women's and girls' wool coats (US category 435, see also paragraph 62 above), the TMB observed that no growth rate was provided for with respect to the GAL. However, according to indications given by the United States Government, the GAL can be increased on request. Therefore, it was the TMB's understanding that, at the request of Honduras, the GAL would be increased by no less than 2 per cent annually. The TMB recalled that at a previous meeting, when reviewing the action taken by the United States against imports of category 435 from India under paragraphs 2 and 3 of Article 6, an action taken at the same time as that on imports of the same product from Honduras, it had found that serious damage, as envisaged in these provisions, had not been demonstrated. The TMB had not, however, reached consensus on the existence of actual threat of serious damage. The TMB noted that the total level of the agreed restraint, as well as that portion of the restraint which was available unconditionally to Honduras (i.e. the specific limit) were both above the rollback level. The TMB also noted that the agreed growth rate of 2 per cent was justified in accordance with paragraph 13 of Article 6 (G/TMB/R/8).

74. The TMB also received a communication from Honduras relating to the implementation by the United States of this agreed restraint measure. In this communication, Honduras expressed concern that the agreement was not implemented consistently with its terms by the United States, notably with respect to the level of access to the US market as of 1 January 1996, and that this was, therefore, threatening to seriously disrupt trade from Honduras. Honduras requested that the TMB review the implementation of the limits bilaterally agreed. The TMB was informed that it was the United States Government's intention to implement the agreement in full and to be in contact with Honduras with a view to resolving this question. The TMB took note of this, informed Honduras of the United States' intention, and decided that, should problems remain, it would revert to this question at its next meeting. Both parties were informed of this decision (G/TMB/R/8). The TMB was informed subsequently by both parties that the problems had been solved.

United States/Colombia: imports of women's and girl's wool suits (US category 444)

75. The TMB reviewed the restraint measure agreed between the United States and Colombia on imports of women's and girl's wool suits (US category 444) from Colombia. The TMB examined the information made available by the United States to Colombia during the bilateral consultations, as well as other relevant information provided by the United States at the TMB's request. While it observed that some data, notably the pace of increased imports from Colombia, might lead to different findings, the TMB concluded that this agreement in overall terms was justifiable in accordance with the provisions of Article 6 of the ATC. As such, the agreement was considered justified. The TMB noted, however, that, whilst the total level of the agreed restraint was substantially above the rollback level, that portion of the restraint available unconditionally to Colombia (i.e. the specific limit) was lower than the rollback level (G/TMB/R/11).

United States/Guatemala: imports of cotton and man-made fibre skirts (US category 342/642)

76. The TMB reviewed the restraint measure agreed between the United States and Guatemala on imports of cotton and man-made fibre skirts (US category 342/642) from Guatemala. The TMB examined the information made available by the United States to Guatemala during the bilateral consultations, in particular, and also other relevant information provided by the United States at the TMB's request. While it observed that some data might point to diverging directions, the TMB concluded that this agreement in overall terms was justified in accordance with the provisions of Article 6 of the ATC. The TMB noted that the total level of the agreed restraint, as well as that portion of the restraint that was available unconditionally to Guatemala (i.e. the specific limit), were substantially

above the rollback level. It observed that no growth rate was provided for with respect to the GAL. However, according to indications given by the United States Government, the GAL can be increased on request. Therefore, it was the TMB's understanding that, at the request of Guatemala, the GAL would be increased by no less than 6 per cent annually (G/TMB/R/13).

C. Unilateral measures taken under Article 6.11

77. In June 1996, Brazil requested consultation with Hong Kong and Korea pursuant to paragraphs 7 and 11 of Article 6, introducing at the same time seven provisional safeguard measures (two on imports from Hong Kong, five on imports from Korea). The parties communicated to the TMB that they had failed to agree on restraint measures within the deadline envisaged in paragraph 11 of Article 6.

78. On 11 September 1996, the TMB began its examination of safeguard measures introduced by Brazil, pursuant to paragraph 11 of Article 6, on imports of products of Brazilian categories 618 (woven artificial filament fabric) and 838 (men's and boys' knit shirts of material other than cotton and man-made fibre) from Hong Kong. The two measures had been introduced with effect as from 1 June 1996. The TMB invited the participation of Brazil and Hong Kong, which sent delegations to present their respective cases. Both parties made presentations and provided replies to questions with respect to both measures. On this basis, the TMB started its in-depth discussion but, in view of the complexity of the issue and the lack of time available, was unable to conclude it. The TMB, therefore, decided to revert to its examination at the earliest possible date acceptable to both parties, which were invited to send representatives upon the TMB's resumption of this examination (G/TMB/R/16).

79. On 11 September 1996, the TMB was informed by Brazil and Korea that they had decided to resume consultations with respect to the safeguard measures introduced by Brazil pursuant to paragraph 11 of Article 6 on imports of the following Brazilian product categories from Korea: category 611 (woven fabrics containing 85 per cent or more by weight of artificial staple); category 618 (woven artificial filament fabric); category 619 (polyester filament fabric); category 620 (other synthetic filament fabric); and category 627 (sheeting of staple filament fibre combination). Both parties, consequently, requested the TMB to defer its consideration of these measures (G/TMB/R/16).

D. Present status of safeguard actions taken pursuant to Article 6

80. Since the TMB had to devote much of its work to the examination of actions referred to it under the different provisions of Article 6, it seems appropriate to provide a report on the current outcome of such actions, and to offer some comments to Members. It is to be noted that since the entry into force of the WTO Agreement - hence of the ATC - two Members, the United States and Brazil, have invoked the provisions of this Article to take safeguard actions. The United States sought consultations with fourteen Members in twenty-five cases, while Brazil took provisional actions against two Members in seven cases. A breakdown of such invocations by quarters shows the following pattern (see also Annex II):

1995	1st quarter	10 requests (United States)
	2nd quarter	14 requests (United States)
	3rd quarter	None
	4th quarter	None
1996	1st quarter	1 request (United States)
	2nd quarter	7 requests (Brazil)
	3rd quarter	None
Total		32 requests

81. Out of the twenty-five actions taken by the United States, eleven safeguard measures remained in force in September 1996, while fourteen had been disinvoked or the measures rescinded. Of these eleven measures, nine had been agreed between the parties and notified pursuant to paragraph 9 of Article 6, and two had been introduced unilaterally by the United States under paragraph 10 of Article 6. In one of the two latter cases, the TMB had reached the conclusion that actual threat of serious damage had been demonstrated, and could be attributed to the sharp and substantial increase in imports from the Member concerned. In the other case, the TMB had concluded that serious damage had not been demonstrated but could not, however, reach consensus on the existence of actual threat of serious damage.<sup>8</sup>

82. In all cases where the TMB conducted an examination of the measures taken under Article 6, and in particular of the measures taken pursuant to its paragraph 10, it carried out a very thorough review of the matter, on the basis of the factual data presented to it in conformity with paragraph 7 of Article 6, complemented by any additional information submitted by the parties, or it decided to seek from the Members concerned. **The TMB observed that, in most cases, Members were able to comply with its recommendations.**

83. **The TMB is aware of the implications for trade of requests for consultations made with a view to introducing safeguard measures, in particular, when transitional measures are applied and subsequently rescinded. It believes, however, worthwhile to mention that, while during the first half of 1995 (at a time the TMB had not as yet reviewed any safeguard action) twenty-four requests for consultations had been made (all of them by the United States) pursuant to paragraph 7 of Article 6, only eight had been made (seven by Brazil and one by the United States) in the following 15 months.**

84. **The TMB observed that both the Members invoking the safeguard provisions of the ATC and the Members subject to such actions had strictly observed the procedural requirements of Article 6. The TMB was aware that it had not always been possible to meet all the deadlines of the ATC for its review of the measures notified. This had in all instances taken place with the concurrence of the parties involved and could in part be explained by the importance its members attached to a quick, but also thorough consideration of the issues.**

## **VI. OTHER MEASURES, MATTERS OR INFORMATION SUBMITTED TO THE TMB**

### **A. Matters submitted under paragraphs 5 and/or 6 of Article 8**

85. Paragraph 5 of Article 8 provides that “in the absence of any mutually agreed solution in the bilateral consultations provided for in this Agreement, the TMB shall, at the request of either Member, and following a thorough and prompt consideration of the matter, make recommendations to the Members concerned”. Paragraph 6 of Article 8 states that “At the request of any Member, the TMB shall review promptly any particular matter which that Member considers to be detrimental to its interests under this Agreement and where consultations between it and the Member or Members concerned have failed to produce a mutually satisfactory solution. On such matters, the TMB may make such observations as it deems appropriate to the Members concerned and for the purposes of the review provided for in paragraph 11”. The following such matters have been brought before the TMB.

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<sup>8</sup>Both issues were referred to the dispute settlement mechanism by the Members affected.

Articles 8.5 and 4.2 - Philippines/United States: changes in the administration or implementation of restrictions

86. In July 1996 the TMB received a communication from the Philippines regarding changes in the United States' rules of origin, which, it was argued, adversely affected imports into the United States of certain textile products from the Philippines and upset the balance of rights and obligations between the two parties under the ATC. The Philippines requested the TMB to consider this matter. At its meeting in July 1996, the TMB was informed by the Philippines and the United States that they had decided to continue consultations on the matter, and, therefore, requested the TMB to defer its consideration of this notification.

Articles 8.5 and 5.4 - Pakistan/United States - Alleged circumvention by Pakistani companies

87. In February and March 1996 the TMB considered a notification made by Pakistan, under paragraphs 4 of Article 5 and 5 of Article 8, of debits made by the United States to Pakistan's quotas for US category 361 (bedsheets) on account of alleged circumvention by Pakistani companies. The TMB invited the participation of Pakistan and the United States, which sent delegations to present their respective cases. Both parties made presentations and provided replies to questions. At its March meeting, the TMB was informed by the two delegations that, following consultations, a mutually satisfactory understanding had been reached between them, and that this understanding would be notified to the TMB (G/TMB/R/10 and 11). The TMB received the notification on 1 October 1996.

Articles 8.5 and 8.6: Thailand/United States

88. In the context of the safeguard action introduced by the United States on imports of cotton and man-made fibre underwear (see paragraph 52 above), the TMB received a notification from Thailand under paragraphs 5 and 6 of Article 8 of the ATC. According to this notification, since paragraph 4 of Article 6 of the ATC provided that no safeguard measure shall be applied to the exports of any member whose exports of the particular products were already under restraint under the ATC, the United States had no right to introduce a safeguard measure on imports of category 352/652 from Thailand, as that category was already subject to a group limit. The representative of Thailand confirmed that, irrespective of the United States' decision to rescind the safeguard measure against imports from Thailand, Thailand wanted the TMB to review the question of principle raised. After having heard the presentation of the parties, the TMB decided to resume the discussion of this issue at a subsequent meeting (G/TMB/R/2).

89. The TMB did not resume this discussion, but it recalled in its reply to Thailand that when it had reviewed the safeguard measure introduced by the United States on imports of woven wool shirts and blouses (US category 440) from Hong Kong (G/TMB/R/4 and 6), it had noted that Hong Kong's exports of products of category 440 into the United States were already under restraint under a group limit notified by the United States and had found that, according to paragraph 4 of Article 6, the application of a safeguard measure under Article 6 to Hong Kong's exports of products of category 440 into the United States was, therefore, not justified.

Article 8.6: United States/India: imports of women's and girls' wool coats (US category 435)

90. The TMB received a communication from India under paragraph 6 of Article 8, following the review by the TMB of the safeguard action taken by the United States on imports of products of category 435 (women's and girls' wool coats) from India (see paragraph 59 above). In this communication, India noted that the TMB had arrived at a consensus on the absence of serious damage, but could not reach a consensus on the existence of actual threat thereof. Thus, the TMB had not been able to make appropriate recommendations, though paragraph 6 of Article 6 mandated it to do so in

situations where there had been no agreement between the Member proposing to take safeguard action and the Member which would be affected by such action. It was the understanding of the Government of India that, in the absence of a clear recommendation of the TMB upholding the validity of the restraint action by the United States, it was incumbent upon the United States to withdraw the restraint. India, therefore, requested the TMB to review the action by the United States in continuing its restraint on imports of category 435 from India, as such action was detrimental to India's interests. The TMB heard the presentation by India, and considered the elements put forward. The Body could not make any recommendation in addition to the conclusions it had reached at a previous meeting (G/TMB/R/3), nor could the TMB reach a consensus on whether or not the restraint on category 435 could continue to be maintained in light of the absence of consensus on the existence of actual threat of serious damage. The TMB, therefore, considered its review of the matter under the relevant provisions of the ATC completed (G/TMB/R/6).<sup>9</sup>

B. Matters submitted under paragraph 10 of Article 8

91. Paragraph 10 of Article 8 gives the possibility to a Member which "considers itself unable to conform with the recommendations of the TMB", to "provide the TMB with the reasons therefor not later than one month after receipt of such recommendations. Following thorough consideration of the reasons given, the TMB shall issue any further recommendations it considers appropriate forthwith. If, 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". The TMB has received one such notification. Its review is described below.

India/United States: imports of woven wool shirts and blouses (US category 440)

92. The TMB received a communication from India under paragraph 10 of Article 8, following the review by the TMB of the safeguard action taken by the United States on imports of products of category 440 (woven wool shirts and blouses) from India (see paragraph 61 above). In this communication, India conveyed its inability to conform with the recommendation the TMB had made, which allowed for the continuance of the restraint levels imposed by the United States. The TMB heard the presentation and considered the elements put forward by India. The Body could not make any recommendation in addition to the conclusions it had reached at a previous meeting (G/TMB/R/3). The TMB, therefore, considered its review of the matter completed (G/TMB/R/6).<sup>10</sup>

C. Information submitted to the TMB

Information submitted by Hong Kong

93. The TMB was informed by Hong Kong, pursuant to Article 4.4 of the Dispute Settlement Understanding, of the request for consultations addressed to Turkey by Hong Kong under Article XXII.1 of GATT 1994 relating to the unilateral imposition of quantitative restrictions by Turkey on imports of a broad range of textile and clothing products from Hong Kong as from 1 January 1996 (WT/DS29/1). The TMB took note of this information (G/TMB/R/10).

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<sup>9</sup>See also footnote 5 on page 14.

<sup>10</sup>See also footnote 6 on page 15.

Information received from the Chairman of the Trade Negotiating Committee at official level

94. At its first meeting the Chairman informed the TMB that he had received from the Chairman of the Trade Negotiating Committee at official level a Note for the Record, regarding paragraph 13 of Article 6 of the ATC, providing an agreed interpretation of the phrase “unless otherwise justified to the TMB”. The TMB agreed to transmit this note (G/TMB/N/107) to WTO Members for their information (G/TMB/R/1).

**VII. IMPLEMENTATION OF SPECIAL PROVISIONS IN THE ATC RELATED TO THE SPECIAL INTERESTS OF CERTAIN WTO MEMBERS**

A. Article 1.4

95. Paragraph 4 of Article 1 states that “Members agree that the particular interests of the cotton-producing exporting Members should, in consultation with them, be reflected in the implementation of the provisions of this Agreement”. The TMB received no specific notification under paragraph 4 of Article 1 related to the implementation of this provision.

B. Special provisions in favour of developing and least-developed country Members

96. Several paragraphs of the ATC contain special provisions in favour of developing and/or least-developed country Members. In its submission to the Committee on Trade and Development, made at the request of the Chairmen of the Council for Trade in Goods and the Committee on Trade and Development, the TMB identified the following: paragraph 2 of Article 1, paragraph 18 of Article 2, paragraphs 6(a), (b) and (c) of Article 6, and paragraph 3(a) of the Annex. In the same submission, the TMB also identified provisions of the ATC which could be applied in such a way as to provide favourable treatment, or be beneficial, *inter alia*, to developing country or least-developed country Members. These are paragraph 4 of Article 1, paragraphs 6 and 7(a) and (b), 15 and 18 of Article 2, Article 3, paragraphs 6(b) and (d) of Article 6, paragraphs 1 and 2 of Article 7. This submission, based on notifications received by the TMB up until mid-July 1996, has been circulated to WTO Members in document WT/COMTD/W/17.

**VIII. ARTICLE 7 - COMMITMENTS UNDERTAKEN AS A RESULT OF THE URUGUAY ROUND**

97. Paragraph 1 of Article 7 states that, “as part of the integration process and with reference to the specific commitments undertaken by the Members as a result of the Uruguay Round, all Members shall take such actions as may be necessary to abide by GATT 1994 rules and disciplines so as to:

- (a) achieve improved access to markets for textile and clothing products through such measures as tariff reductions and bindings, reduction or elimination of non-tariff barriers, and facilitation of customs, administrative and licensing formalities;
- (b) ensure the application of policies relating to fair and equitable trading conditions as regards textiles and clothing in such areas as dumping and anti-dumping rules and procedures, subsidies and countervailing measures, and protection of intellectual property rights; and
- (c) avoid discrimination against imports in the textiles and clothing sector when taking measures for general trade policy reasons”.

98. Paragraph 2 of Article 7 states, *inter alia*, that “Members shall notify to the TMB the actions referred to in paragraph 1 which have a bearing on the implementation of this Agreement. In addition, paragraph 3 of that Article offer the possibility that “where any Member considers that another Member has not taken the actions referred to in paragraph 1, and that the balance of rights and obligations under this Agreement has been upset, that Member may bring the matter before the relevant WTO bodies and inform the TMB”. The TMB has not received any notification or information from Members pursuant to these paragraphs.

99. The TMB was aware of the conclusions reached by the Committee on Market Access in April 1995, according to which in supervising the implementation of concessions relating to tariffs and non-tariff measures, the approach to be followed was to rely on cross or reverse notifications to identify problems that might arise out of the implementation of these concessions. According to the information available to the TMB, no such cross or reverse notification had been submitted to date to the Committee on Market Access. The TMB was equally aware, however, that on a few occasions, issues which may also be relevant in the context of the provisions of Article 7 of the ATC had been raised in the Committee on Market Access.

100. The TMB was also aware of the concerns expressed by some Members with respect to the lack of sufficient improvements in access to the markets in some developing Members.

101. In accordance with the provisions of paragraph 11 of Article 8, the comprehensive report the TMB is due to submit to the Council for Trade in Goods by the end of July 1997 in the context of the major review of the implementation of the ATC will have to address, *inter alia*, the issue of implementation of Article 7 of the ATC. In order to have a reliable basis for such an assessment, the TMB will have to rely on contributions from Members as well as relevant information from WTO bodies.

## **IX. COMPLIANCE WITH NOTIFICATION REQUIREMENTS UNDER THE ATC**

102. The implementation of the ATC cannot be monitored fully unless Members comply with its notification requirements. In this respect, the overall picture is a mixed one. On the one hand, the Members accounting for the majority of international trade in textiles and clothing under the ATC complied with the essential notification requirements of the ATC. A number of notifications have, however, been addressed to the TMB after the respective deadlines foreseen. In this respect the TMB observed that its taking note of late notifications was without prejudice to the legal status of such notifications. On the other hand, as indicated in the context of some of the provisions discussed above, the TMB noted with concern that an important number of Members had not provided any notification. The TMB observed that the Secretariat had sent reminders to Members on their notification obligations. The TMB expressed its serious concern that the absence of notifications or their late submission may have implications for the implementation of the ATC.

103. The TMB requests the Council for Trade in Goods to take note of the above observations and concerns and to recall to Members the particular importance of strictly adhering to the notification requirements under the ATC.



## **X. FUNCTIONING OF TMB**

### **A. TMB working procedures**

104. Pursuant to paragraph 2 of Article 8 of the ATC, the TMB devoted several formal and informal sessions of its first meeting to the elaboration and adoption of its working procedures (G/TMB/R/1).

105. At a subsequent meeting, the TMB had a discussion on when notifications made to the TMB for its information pursuant to paragraph 3 of Article 3 of the ATC should be circulated to WTO Members. Bearing in mind paragraph 5 of Article 3 the TMB decided that in such cases paragraph 4.2(a) of the TMB's working procedures would apply, i.e. that such notifications would be circulated to WTO Members without delay, it being understood that the TMB might examine or review these notifications at a later stage (G/TMB/R/11).

### **B. Discharging functions on an *ad personam* basis**

106. Paragraph 1 of Article 8 of the ATC states that TMB members discharge their function on an *ad personam* basis. The working procedures adopted by the TMB specify that "in discharging their functions ... , TMB members and alternates undertake not to solicit, accept or act upon instructions from governments, nor to be influenced by any other organisations or undue extraneous factors. They shall disclose to the Chairman any information that they may consider likely to impede their capacity to discharge their functions on an *ad personam* basis. Should serious doubts arise during the deliberations of the TMB regarding the ability of a TMB member to act on an *ad personam* basis, they shall be communicated to the Chairman. The Chairman shall deal with the particular matter as necessary".

107. When adopting its working procedures, the TMB invited its Chairman to submit to the Council for Trade in Goods the following for appropriate action: "WTO Members which, pursuant to the decision of the General Council of 31 January 1995, appoint TMB members under Article 8.1 of the Agreement on Textiles and Clothing accept that TMB members serve in their *ad personam* basis and not as government representatives. Consequently, they shall not give TMB members instructions, nor seek to influence them, with regard to matters before the TMB. The same applies to alternates." This proposal was transmitted to the Council for Trade in Goods in July 1995, and the matter is still with the Council. **The TMB requests the Council to take appropriate action on this proposal.**

### **C. Meetings of the TMB**

108. The TMB has to date held nineteen meetings, nine in 1995 (the first one was held in seven sessions), ten from January to 1 October 1996, totalling overall eighty-four days (see Annex III). It has reviewed ten safeguard measures imposed pursuant to paragraph 10 of Article 6, as well as five matters referred to the TMB under Article 8, for which it invited delegations of the parties concerned, in accordance with its working procedures. It has started to review two safeguard measures imposed under paragraph 11 of Article 6. The TMB also reviewed, pursuant to paragraph 9 of Article 6, eight agreed restraint measures. In addition it has reviewed, *inter alia*, forty-two notifications made pursuant to paragraphs 6 and 7(a) and (b) of Article 2, twenty-five notifications under paragraph 1 of Article 3, and taken note of twenty-five notifications under paragraph 17 of Article 2, as well as of fifty-eight notifications under paragraph 1 of Article 6. For this purpose, the TMB had in many instances to seek additional information or explanations from the Members before the review could be completed.

### **D. Circulation of reports, Chairman's notes, derestriction of TMB documents**

109. The TMB usually adopts the reports of its meetings at the subsequent meeting, on the basis of a draft proposed by the TMB secretariat incorporating, whenever appropriate, the texts of TMB's

recommendations, findings and observations; these texts themselves have already been adopted by the TMB. Such reports are, therefore, normally circulated to WTO Members more than a month after each meeting of the TMB. The TMB felt that this time lag was unnecessarily long. It, therefore, authorized its Chairman on several instances, in particular when the TMB had reviewed dispute cases between WTO Members, to issue a note forwarding information on the TMB's recommendations, findings and observations to WTO Members (G/TMB/1 to 8).

110. Following the decision adopted by the General Council at its meeting on 18 July 1996, the TMB considered the question of the derestriction of its working documents (G/TMB/W/- and G/TMB/SPEC/-series). 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" (G/TMB/R/1). The TMB took note of the General Council's decision and decided that it would act in full compliance with it (G/TMB/R/16).

E. Overall assessment

111. **An assessment of TMB's functioning cannot be made without taking into consideration the circumstances of its establishment, the initial workload it was faced with, as well as the importance of this sector of international trade for a large number of WTO Members. At the entry into force of the ATC, the TMB composition had yet to be decided, which took the General Council one month. The TMB, therefore, had to start the elaboration of its working procedures, a mandatory requirement of paragraph 2 of Article 8, with considerable delay. It adopted them in a difficult context, as many of the notifications called for by the ATC were arriving and a number of safeguard actions were being taken and had to be reviewed.**

112. **The adoption of working procedures was a precondition for the TMB to become operational. The TMB took four months to develop and adopt them, but, after more than one year of experience, the TMB is of the view that it has been a worthwhile investment. Nevertheless, the TMB keeps its working procedures under review.**

113. **The amount of notifications and dispute cases the TMB has had to review since its inception has been substantial, in particular in 1995. The TMB has been able to cope with it, although in some instances the review of dispute cases had to be slightly delayed. This was done in all cases in consultation - and agreement - with the Members concerned, which showed an understanding for which the TMB is thankful.**

114. **A first set of notifications (e.g. notifications pursuant to Articles 2.1 and 2.2, 2.6 and 2.7(a) and (b), 3.1 and 6.1) reached the TMB in its early days. In view of their great number, and of the number of safeguard actions the TMB had to cope with at the same time, the review of these notifications had to be somewhat delayed. The TMB, however, took the decision to circulate such notifications to WTO Members without delay. It did an in-depth review of these notifications, often seeking additional information (formally and informally) from Members. This in many cases lead to important modifications of the original notifications, with a view to bringing them in line with the relevant provisions of the ATC.**

115. **The TMB reviewed fourteen disputes or related cases; the completion of two of these reviews is pending. In the majority of cases the TMB could reach a consensus and adopt recommendations, as required by the ATC, with which the parties were able to comply.**

116. **As a result of these reviews, as well as of the examination of the other notifications, the TMB believes that it has been able to establish a certain authority and to set certain standards**

which can provide guidance to Members in terms of their implementation of the different provisions of the ATC.

117. The deadlines provided by the ATC to the TMB for its review of dispute cases places it under tight time constraint. On the one hand, the TMB has to reach a conclusion relatively quickly, but on the other hand, it has to cope with a very substantial amount of information and make an in-depth analysis of many economic and legal arguments and considerations. The TMB is of the view that in some instances additional - if limited - time is necessary to reach decisions as required.

118. The TMB is concerned that in a few cases it could not arrive at a consensus decision on matters brought to it, and, therefore, could not fulfil its mandate. Part of this can be attributed to the lack of time available for its review. But the TMB is fully aware of the adverse impact such inability had on the Members affected. While similar circumstances causing a temporary deadlock cannot totally be excluded in the future, the TMB is determined to make all the necessary efforts to overcome such difficulties and reach the decisions required of it by consensus.

119. An organizational aspect has also a bearing on the work of the TMB. A number of TMB members are nominated by WTO Members represented by small delegations, and have a number of important duties to perform as their country or territory representatives, in addition to the TMB. While the TMB, in compliance with the decision of the General Council, submitted well in advance its tentative schedule of meetings for 1996, this was often not accommodated in the WTO schedule of meetings. On a number of occasions, meetings of two or three other WTO bodies took place in parallel with TMB meetings, making it difficult for some members or alternates to participate in TMB meetings. In order to facilitate the work of the TMB, due consideration should be given to the schedule of meetings of the TMB in the WTO's overall schedule of meetings.

120. The TMB has made substantial efforts to ensure and to improve the transparency of its proceedings. It has decided to circulate most of the notifications it receives to WTO Members without delay, as reflected in its working procedures. It has also tried to provide as much information as possible in its reports on matters at hand, reproducing in particular the views of the parties to a dispute, and also giving, to the extent possible, the reasons for the decisions reached by consensus. Furthermore, the concern for transparency was germane to the fact that in developing its working procedures the TMB agreed that, in dispute cases, representatives of the Members involved could be present and participate in the discussion, within certain limits, throughout the review, up to, and in some cases, including, the drafting of the recommendations. The TMB has also authorized its Chairman to circulate a note to WTO Members after the conclusion of the review of dispute cases, so that its recommendations or findings are immediately available to WTO Members.

121. The TMB is aware of the fact that in a number of cases the common rationale for its recommendations or findings was not as clearly expressed as it would have hoped. It is committed to improving transparency in this respect, as well as making further efforts to provide as many details and explanations as possible in its reports. Members should, however, take into consideration that consensus is sometimes reached on the basis of different considerations or different rationales, and that a more detailed report may render consensus more difficult to achieve and/or require additional time.

122. The TMB is of the view that, although it has in most cases been possible for Members to rely on it, there may be a need - and possibility - for improvement in certain areas such as its ability to reach decisions by consensus, and to make its decisions more understandable by Members. In this regard, the TMB feels that one important way to achieve these objectives is

to ensure that the TMB continues to develop its collegiality in order to overcome possible difficulties stemming, *inter alia*, from the fact that, on the one hand, TMB members are appointed by Members designated by the Council for Trade in Goods and its membership has to be balanced and broadly representative of the Members and, on the other hand, TMB members discharge their functions on an *ad personam* basis. Also with regard to developing collegiality, noticeable progress could be achieved over time, which provides a good basis for future improvements.

## ANNEX I

Notifications Received Pursuant to Paragraphs 6 and 7 of Article 2  
Situation as of 1 October 1996

WTO Member	Share of total volume of the Member's 1990 imports of the products in the Annex integrated (unless otherwise indicated) (%)	Share of tops and yarns (%)*	Share of fabrics (%)*	Share of made-up textile products (%)*	Share of clothing (%)*
Argentina	16.8	0.12	12.73	3.96	0.001
Bangladesh	16.04 (of the 1990 value of imports)	4.59	6.15	0.05	5.25
Bolivia	16.42 (of 1990 imports of textiles and clothing)	7.38	1.96	0.35	6.73
Brazil	16	6.02	3.01	7.02	0.01
Canada	16.34	9.6	4.33	1.28	1.13
Colombia	16.21	16.21	0.00	0.00	0.00
Costa Rica	16	8.68	1.61	5.39	0.32
Cyprus	16.44 (of the 1990 value of imports)	0.73	13.88	1.49	0.33
Czech Republic	16.16 (of 1993 imports)	12.55	1.63	1.06	0.92
Dominican Republic	16.02 (of 1991 imports)	7.48	8.11	0.29	0.14
El Salvador	16	12.68	1.12	2.05	0.15
European Communities	16.4	4.4	8.10	3.60	0.40
Guatemala	16.17	4.57	7.79	0.37	3.44
Honduras	16.0	5.36	5.32	3.09	2.23
Hungary	16.01 (of 1992 imports)	7.00	5.67	2.78	0.56
India	16.35 (April 1990 - March 1991)	16.35	0.00	0.00	0.00
Indonesia	16	15.96	0.03	0.01	0.00
Japan	16	4.45	2.10	9.02	0.44
Korea	16.35	14.81	1.52	0.00	0.01
Malaysia	18.09 (of the 1990 value of imports)	6.97	9.79	0.14	1.17
Malta	17.3	0.74	16.32	0.15	0.09
Mauritius	16.94 (of the 1990 value of imports of textiles and clothing)	7.6	9.2	0.04	0.2
Mexico	16	5.46	9.20	0.54	0.79
Morocco	16.89 (1990 imports of textiles and clothing)	14.54	0.16	2.17	0.00
Nicaragua	16.64 (of 1990 imports of textiles and clothing)	10.19	6.38	0.01	0.12
Norway	16.26	3.51	11.95	0.65	0.15
Pakistan	28.14 (July 1990 - June 1991)	0.33	0.00	0.01	27.79
Paraguay	16.78	0.10	2.53	8.45	5.71
Peru	16.26	0.26	15.87	0.00	0.13
Philippines	16.13	9.61	4.91	0.32	1.28
Poland	16.28	15.70	0.04	0.20	0.34
Romania	43.34 (of the 1990 value of imports)	17.06	0.00	26.28	0.00
Slovak Republic	16.11 (of 1993 imports)	6.46	5.82	3.82	0.003
Slovenia	18.61 (of 1992 imports)	7.74	4.47	3.52	2.88
Sri Lanka	16.06 (of the 1990 value of imports)	7.42	7.56	0.56	0.51
Switzerland	16.19	4.99	2.40	8.13	0.67
Thailand	16.02	15.10	0.00	0.69	0.23
Tunisia	17.34	15.22	0.59	1.53	0.00
Turkey	18	15.0	2.30	0.67	0.03
United States	16.21	8.42	2.38	3.25	2.16
Uruguay	16.49	6.78	9.59	0.11	0.01
Venezuela	16	7.35	8.09	0.33	0.23
Zambia	16.01 (of the 1990 value of imports of textiles and clothing)	4.44	7.26	2.21	2.11

\*Shares in most cases calculated by the Secretariat on the basis of notifications.

ANNEX II

Application of the Transitional Safeguard Mechanism under Article 6 of the Agreement on Textiles and Clothing  
Situation as of 1 October 1996

Member requesting consultations	Member subject to a request for consultation	Category number	Product description	Date of the request for consultations	Type of safeguard measure introduced	Review by the TMB	Follow-up of the TMB review	Safeguard measure currently in force
United States	El Salvador	351/651	Cotton & man-made fibre pyjamas & other nightwear	27 March 1995	Agreed restraint	United States rescinded		No
United States	Honduras	351/651	Cotton & man-made fibre pyjamas & other nightwear	27 March 1995	Unilateral restraint	Yes	United States rescinded	No
United States	Jamaica	351/651	Cotton & man-made fibre pyjamas & other nightwear	27 March 1995	Agreed restraint	United States rescinded		No
United States	Costa Rica	352/652	Cotton & man-made fibre underwear	27 March 1995	Unilateral restraint	Yes	Dispute settlement panel	Yes
United States	Dominican Republic	352/652	Cotton & man-made fibre underwear	27 March 1995	Agreed restraint	Yes		Yes
United States	El Salvador	352/652	Cotton & man-made fibre underwear	27 March 1995	Agreed restraint	Yes		Yes
United States	Honduras	352/652	Cotton & man-made fibre underwear	27 March 1995	Unilateral restraint	Yes	Subsequent agreed restraint, reviewed	Yes
United States	Turkey	352/652	Cotton & man-made fibre underwear	28 March 1995	Unilateral restraint	Agreed restraint during review	Agreed restraint reviewed	Yes
United States	Colombia	352/652	Cotton & man-made fibre underwear	29 March 1995	Agreed restraint	Yes		Yes
United States	Thailand	352/652	Cotton & man-made fibre underwear	29 March 1995	Unilateral restraint	United States rescinded during review		No
United States	India	440	Woven wool shirts and blouses	18 April 1995	Unilateral restraint	Yes	Dispute settlement panel	Yes
United States	India	435	Women's and girls' wool coats	18 April 1995	Unilateral restraint	Yes	Dispute settlement panel; United States rescinded; India requested termination of further action in pursuance of decision to establish a panel	No
United States	India	434	Men's & boys' wool coats other than suit-type	18 April 1995	Unilateral restraint	Yes	United States rescinded	No

Member requesting consultations	Member subject to a request for consultation	Category number	Product description	Date of the request for consultations	Type of safeguard measure introduced	Review by the TMB	Follow-up of the TMB review	Safeguard measure currently in force
United States	Honduras	435	Women's and girls' wool coats	24 April 1995	Unilateral restraint	Agreed restraint during review	Agreed restraint reviewed	Yes
United States	Philippines	670-L	Man-made fibre luggage	24 April 1995	Unilateral restraint	Rescinded before review		No
United States	Brazil	434	Men's & boys' wool coats other than suit-type	26 April 1995	None			No
United States	Hong Kong	440	Woven wool shirts and blouses	27 April 1995	Unilateral restraint	Yes	United States rescinded	No
United States	Sri Lanka	670-L	Man-made fibre luggage	27 April 1995	Agreed restraint	United States rescinded		No
United States	Thailand	670-L	Man-made fibre luggage	28 April 1995	Unilateral restraint	Rescinded before review		No
United States	Thailand	603	Artificial staple yarn	28 April 1995	Unilateral restraint	Rescinded before review		No
United States	Guatemala	342/642	Cotton and man-made fibre skirts	31 May 1995	Agreed restraint	Agreed restraint reviewed		Yes
United States	Colombia	444	Women's and girls' wool suits	31 May 1995	Agreed restraint	Agreed restraint reviewed		Yes
United States	Philippines	444	Women's and girls' wool suits	31 May 1995	Unilateral restraint	Rescinded before review		No
United States	Costa Rica	351/651	Cotton & man-made fibre pyjamas & other nightwear	29 June 1995	Unilateral restraint	Rescinded before review		No
United States	El Salvador	342/642	Cotton and man-made fibre skirts	29 March 1996	Unilateral restraint	Agreed restraint before review		Yes
Brazil	Hong Kong	618	Woven artificial filament fabric	1 June 1996	Unilateral restraint	Review started		Yes
Brazil	Hong Kong	838	M88 shirts, knitted or crocheted, of other textile material	1 June 1996	Unilateral restraint	Review started		Yes
Brazil	Korea	611	Woven fabric containing 85% or more by weight artificial staple	1 June 1996	Unilateral restraint	Review deferred at the request of both parties		Yes
Brazil	Korea	618	Woven artificial filament fabric	1 June 1996	Unilateral restraint	id		Yes
Brazil	Korea	619	Polyester filament fabric	1 June 1996	Unilateral restraint	id		Yes
Brazil	Korea	620	Other synthetic filament fabric	1 June 1996	Unilateral restraint	id		Yes
Brazil	Korea	627	Sheeting of staple filament fibre combinations	1 June 1996	Unilateral restraint	id		Yes

**ANNEX III**  
**TMB Meetings**

Meeting number	Meeting dates	Meeting reports
1	8-9 and 23-24 March, 10-11 April, 15-19 May, 7-9 June, 4-6 and 12-13 July 1995	G/TMB/R/1
2	13-15 and 17-21 July 1995	G/TMB/R/2
3	28 August to 1 September 1995	G/TMB/R/2
4	12 -15 September 1995	G/TMB/R/3
5	25-28 September 1995	G/TMB/R/4
6	16-20 October 1995	G/TMB/R/5
7	13-17 November 1995	G/TMB/R/6
8	4-5 December 1995	G/TMB/R/7
9	18-20 December 1995	G/TMB/R/8
10	1-2 February 1996	G/TMB/R/9
11	26-29 February 1996	G/TMB/R/10
12	20-22 March 1996	G/TMB/R/11
13	22-24 April 1996	G/TMB/R/12
14	3-5 June 1996	G/TMB/R/13
15	24-27 June 1996	G/TMB/R/14
16	22-23 July 1996	G/TMB/R/15
17	9-11 September 1996	G/TMB/R/16
18	16-18 September 1996	G/TMB/R/17
19	30 September-1 October 1996	G/TMB/R/18