# WORLD TRADE ORGANIZATION

**WT/DS243/5**
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## UNITED STATES – RULES OF ORIGIN FOR TEXTILES AND APPAREL PRODUCTS

Request for the Establishment of a Panel by India

The following communication, dated 7 May 2002, from the Permanent Mission of India to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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On 11 January 2002, the Government of India requested consultations with the Government of the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Article 7 of the Agreement on Rules of Origin (ARO) concerning the rules of origin that the United States applies to textiles and apparel products under legislation adopted in 1994 and 2000. The request was circulated to Members of the World Trade Organization on 22 January 2002 in document WT/DS243/1. India and the United States held consultations in Geneva on 7 February and 26 March 2002 with a view to reaching a mutually satisfactory resolution of the matter. Unfortunately, the consultations failed to settle the dispute.

In view of the above, India hereby requests, pursuant to Article 6 of the DSU, Article XXIII of the GATT 1994 and Article 8 of the ARO, that a panel be established to examine, in the light of the relevant provisions of the ARO, the rules of origin for textiles and apparel products set out in Section 334 of the Uruguay Round Agreements Act (URAA) and the Statement of Administrative Action accompanying the URAA, the subsequent modifications made by Section 405 of the Trade and Development Act of 2000, the customs regulations implementing these Acts as well as the administration of these Acts and regulations.

Section 334 of the URAA changed the rules of origin applicable to textile and apparel products as from 1 July 1996. Prior to that change, textile and apparel products, like other industrial products, could be conferred the origin of a country if a new and different article of commerce resulted from a manufacturing or processing operation in that country. The main changes introduced by Section 334 were, including but not limited to, the following:

- Fabrics are deemed to originate in the country where they were formed in the greige state by weaving or knitting. Dying, printing and other finishing operations that are ordinarily performed to turn greige fabric into a useful article of commerce no longer confer origin.

- A wide range of made-up non-apparel products, such as silk scarves, blankets as well as bed, table and kitchen linen, are deemed to originate in the country where their constituent fabrics are formed into the greige state.

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- For apparel products, the origin is deemed to be the country where the assembly takes place, which means that the country where the component parts were cut into shape can no longer be the country of origin.

The European Communities (the EC) considered the changes in Section 334 to be inconsistent with the United States' obligations under the ARO and other WTO agreements, and initiated dispute settlement proceedings against them (WT/DS85/1). The EC withdrew the complaint when the United States agreed to introduce legislation restoring the previous rules in respect of certain products. However, the legislation actually introduced did not satisfy the EC, and it therefore initiated new dispute settlement proceedings (WT/DS151/1). This dispute was settled through a *procès-verbal* according to which the United States agreed to introduce legislation modifying the Section 334 rules of origin for certain products of export interest to the EC (WT/DS151/10). Section 405 of the Trade and Development Act of 2000 gives effect to this *procès-verbal*, but fails to reinstate the rules of origin that applied prior to the changes introduced by Section 334 of the URAA.

As a result of the changes introduced by legislation adopted in 1994 and 2000, the rules of origin applied by the United States now distinguish, *inter alia*, between:

- textiles or apparel and other industrial products;
- fabrics made of wool and fabrics mode of other fibres;
- different made-up non-apparel products that have undergone identical processing operations;
- certain made-up non-apparel products processed from fabric made of wool or cotton and those processed from fabric made of other fibres; and
- made-up non-apparel products made of fabric with more than 16 per cent cotton and those made of fabric with 16 per cent or less cotton.

The changes thus resulted in extraordinarily complex rules of origin for textile and apparel products under which the criteria that confer origin vary between similar products and processing operations. The structure of the rules of origin, their implementation and administration, the circumstances under which they were adopted and their effect on the conditions of competition for textiles and apparel products demonstrate that they are used as instruments to pursue trade objectives. Moreover, they create restrictive, distorting and disruptive effects on international trade, pose unduly strict requirements, require the fulfilment of certain conditions not related to manufacturing or processing as a pre-requisite for the determination of the country of origin, are more stringent than the rules applied by the United States to determine whether a good is domestic, discriminate between Members and are not administered in a consistent, uniform, impartial and reasonable manner. For these reasons, India considers the United States' rules of origin for textiles and apparel products to be inconsistent with paragraphs (b), (c), (d) and (e) of Article 2 of the ARO.

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