

**UNITED STATES – TRANSITIONAL SAFEGUARD MEASURE ON COMBED
COTTON YARN FROM PAKISTAN**

Request for the Establishment of a Panel by Pakistan

The following communication, dated 3 April 2000, from the Permanent Mission of Pakistan to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

1. Upon instructions from my authorities, I hereby request the establishment of a panel pursuant to Article XXIII:2 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 8.10 of the Agreement on Textiles and Clothing (ATC) to examine the transitional safeguard applied since 17 March 1999 by the United States under Article 6 of the ATC on combed cotton yarn (United States category 301) from Pakistan.

2. On 24 December 1998, the United States requested consultations with Pakistan pursuant to Article 6.7 of the ATC concerning a restraint on exports of combed cotton yarn. These consultations did not result in a mutual understanding as to whether the situation called for a restraint on the exports of this product from Pakistan. On 5 March 1999, the United States notified the Textiles Monitoring Body (TMB) pursuant to Article 6.10 of the ATC that it had decided to unilaterally impose the restraint. This measure was applied as from 17 March 1999 (US Federal Register of 12 March 1999, document 99-6098).

3. As required by Article 6.10 of the ATC, the TMB examined the restraint at its 54th meeting held in April 1999. The TMB concluded that "the United States had not demonstrated successfully that combed cotton yarn was being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products." The TMB recommended therefore that "the measure introduced by the United States on imports of combed cotton yarn from Pakistan should be rescinded" (G/TMB/18, para. 32).

4. On 28 May 1999, the United States informed the TMB that it considered itself unable to conform with the recommendation of the TMB. In accordance with Article 8.10 of the ATC, the TMB examined at its 56th meeting held in June 1999 the reasons given by the United States for its inability to comply with the recommendation. The TMB concluded that "these reasons did not lead it to change the conclusions and recommendation arrived at by the TMB during its examination of the measure pursuant to Article 6.10." It recommended therefore that "the United States reconsider its position and that the measure introduced by the United States on the imports of category 301 products from Pakistan should be rescinded forthwith" (G/TMB/19, para. 36).

5. The United States continues to maintain its unilateral restraint on combed cotton yarn from Pakistan despite the recommendation of the TMB. The matter has therefore remained unresolved. Article 8.10 of the ATC provides that if a matter remains unresolved after a further recommendation

of the TMB based on that provision, the Members concerned may bring the matter before the Dispute Settlement Body (DSB) and invoke Article XXIII:2 of the GATT 1994 and the relevant provisions of the DSU. Pakistan is therefore now entitled to request the DSB to establish a panel to examine this matter in accordance with the procedures set out in the DSU.

6. Pakistan considers the restraint imposed by the United States on cotton yarn from Pakistan to be inconsistent with Article 2.4 of the ATC and not justified by Article 6 of the ATC. For the reasons explained in detail at the 54th and 56th meetings of the TMB, Pakistan considers that this restraint does not meet the requirements for transitional safeguards set out in paragraphs 2, 3, 4, and 7 of Article 6 of the ATC because the United States:

- made its determination of serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products, by (a) excluding from its determination a significant proportion of the production of like products by its domestic industry and (b) without taking into account all factors relevant to the state of its domestic industry;
 - failed to demonstrate that the alleged serious damage, or actual threat thereof, to domestic industry was being caused by increased imports;
 - attributed the alleged damage, or actual threat thereof, to its domestic industry solely to imports from Pakistan to the exclusion of imports from other sources, including unrestrained sources;
 - based its determination of serious damage, or actual threat thereof, on a comparison of data for an eight-month period in 1997 and 1998, which is in the view of Pakistan a period too short to determine whether the alleged damage, or actual threat thereof, was serious; and
 - relied on partial and unverified information.
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