

**COLOMBIA – SAFEGUARD MEASURE ON IMPORTS OF  
PLAIN POLYESTER FILAMENTS FROM THAILAND**

Request for the Establishment of a Panel by Thailand

The following communication, dated 7 September 1999, from the Permanent Mission of Thailand to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

I have the honour, upon instruction of my authorities, to request the establishment of a panel pursuant to Article XXIII 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 and other relevant provisions of the Agreement on Textiles and Clothing (ATC) with respect to Colombia's safeguard measure establishing a unilateral restraint on imports of plain polyester filaments (tariff heading 5402.43) from Thailand, effective as of 26 October 1998, which is inconsistent with Colombia's obligations under the Agreement Establishing the World Trade Organization (WTO Agreement). Specifically, the measure is inconsistent with at least the following WTO Agreement obligations: (i) the requirements of Articles 6 of the ATC regarding the application by the Members of a transitional safeguard mechanism; and (ii) the provisions contained in Article 2 of the ATC regarding the introduction and the application of restrictions by the Members.

On 28 and 29 September 1998, at the request of Colombia pursuant to Article 6.7 of the ATC, consultations took place between Thailand and Colombia regarding imports into the latter of plain polyester filaments (tariff heading 5402.43) from Thailand. These consultations did not result in a mutual understanding as to whether the situation called for restraint on the said imports.

On 6 November 1998, the Textile Monitoring Body (TMB) received a communication from Colombia (G/TMB/SPEC/364) notifying it that Colombia had decided to apply, through Resolution of the Higher Council of Foreign Trade No. 0009/98, a safeguard measure establishing restraint on imports of plain polyester filaments (tariff heading 5402.43) from Thailand, effective as of 26 October 1998. Pursuant to Article 6.10 of the ATC, the TMB conducted an examination of the matter and, at its fiftieth meeting held on 16 to 19 November 1998, recommended that the measures introduced by Colombia on imports of plain polyester filaments from Thailand should be rescinded (G/TMB/R/49, Paragraphs 8-27).

On 22 December 1998, the TMB received a further communication from Colombia under Article 8.10 of the ATC conveying Colombia's inability to conform with the above TMB recommendation and providing the TMB with the reasons therefor (G/TMB/SPEC/367). At its fifty-second meeting held on 18 to 20 January 1999, the TMB reviewed the matter and issued a further recommendation that Colombia reconsider its position and that the measures introduced by Colombia

on the imports of plain polyester filaments from Thailand should be rescinded forthwith (G/TMB/R/51, Paragraphs 6-35).

In a communication dated 22 June 1999, Colombia informed the TMB that it will maintain its safeguard measure establishing restraint on imports of plain polyester filaments from Thailand as notified to the TMB (G/TMB/N/344).

In spite of the above-mentioned consultations and TMB recommendations, therefore, the matter remains unresolved. Consequently, Thailand considers that all requirements in Article 8.10 of the ATC for recourse to Paragraph 2 of Article XXIII of GATT 1994 have been met, and requests that a panel be established to settle this dispute at the next meeting of the Dispute Settlement Body with standard terms of reference as set out in Article 7 of the DSU.

. Thailand requests that the panel consider and find that:

(i) through Resolution of the Higher Council of Foreign Trade No. 0009/98 of 26 October 1998 Colombia has failed to carry out its obligations under several provisions of the WTO Agreement, including but not limited to Articles 2 and 6 of the ATC;

(ii) such failure nullifies and impairs benefits accruing, directly or indirectly, to Thailand under the WTO Agreement, including the GATT 1994 and the ATC.

Pursuant to Article 6.1 of the DSU, Thailand further requests that this request for the establishment of a panel be inscribed on the agenda of the next meeting of the DSB scheduled for 22 September 1999 and be circulated to all Members.

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