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Council for Trade in Goods

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## THIRD MAJOR REVIEW OF THE IMPLEMENTATION OF THE AGREEMENT ON TEXTILES AND CLOTHING BY THE COUNCIL FOR TRADE IN GOODS

Communication from Argentina; Bangladesh; Brazil; China; Colombia; Costa Rica; Egypt;  
Guatemala; Hong Kong, China; India; Indonesia; Republic of Korea; Macao, China; Maldives;  
Pakistan; Paraguay; Peru; Sri Lanka; Thailand; Uruguay; and Vietnam

In the context of the major review of the implementation of the Agreement on Textiles and Clothing in the third stage of the integration process, the following communication, dated 28 September 2004, is being circulated at the request of the above-mentioned delegations.

### Introduction

1. Together with agriculture, trade in textiles and clothing has long remained outside the mainstream of WTO rules and principles. Therefore, the completion of the process of integration of textile and clothing sector into the normal rules and disciplines of GATT 1994 in another three months' time is of great systemic value to the strengthening of the multilateral trading system. At the same time, it will be another step towards fulfilling the promise of the Uruguay Round.

2. To be certain, however, the 10-year long process of winding down the complex regime of quota restrictions inherited from the Multi-fibre Arrangement (MFA) into the Uruguay Round Agreement on Textiles and Clothing (ATC) has not been smooth or free of problems. Indeed, ever since the coming into effect of the WTO, the implementation of the ATC has been a constant concern and the subject of consideration both within and outside the WTO. Numerous meetings and countless hours have had to be devoted to considering the issues involved and to keeping the process on track.

3. Although in a few months, the ATC and all restrictions under it shall stand terminated, the final major review of its implementation by the Council for Trade in Goods (CTG) is significant in more than one way. For one thing, it is critical to ensuring that all requirements of the Agreement will have been fully and faithfully met. For another, it is important in terms of the lessons to draw from the process.

4. In this connection it may be recalled that, in accordance with Article IV of the Marrakesh Agreement Establishing the World Trade Organization, the CTG is responsible for overseeing the functioning of all Agreements in the area of trade in goods including the ATC. In addition, the ATC specifically mandates the CTG to conduct a major review of its implementation before the end of each stage of the integration process. Finally, in successive Ministerial Conferences (barring the unsuccessful ones in Seattle and Cancun), Ministers emphasised the need for ensuring full and faithful implementation of WTO Agreements. More significantly, at the very first WTO Ministerial Conference held in Singapore, they confirmed their commitment to such implementation specifically with respect to all "the provisions of the ATC", not with respect to implementation in some general

way; this, given the widespread concerns expressed by developing countries regarding the implementation of a number of provisions of the Agreement. For ease of reference, relevant excerpts from various Ministerial declarations and decisions are provided in Annex 1 to this paper. Also included in the Annex are decisions of the General Council and the CTG germane to ATC implementation. Finally, as a further context for CTG's consideration, also provided in the Annex are statements at the meetings of these Councils and notifications to the TMB by the restraining Members.

5. To assist the CTG in its review, the Textiles Monitoring Body has provided a comprehensive report (G/L/683). The report embodies a wealth of detailed information with regard to all the various aspects of implementation and is a highly useful contribution to the major review. We offer our commendation for the Body's hard work.

6. This paper is being presented to bring to light only a few pertinent aspects of the implementation process and is intended to assist the CTG in its consideration, especially against the background and objectives mentioned in paragraph 3 above. First, it seeks to highlight certain specific examples of the introduction of new restrictions or intensification of existing restrictions to the detriment of exporting developing countries. Second, it is followed by some additional issues from ATC implementation in general. The final section contains some specific proposals for consideration by the CTG.

#### New restrictions: some examples

##### *Introduction of new restrictions by the EU following its enlargement from May 2004*

7. As mentioned in Annex 1, at the very first Ministerial Conference in Singapore, Ministers declared as follows: "We confirm our commitment to full and faithful implementation of *the provisions* of the Agreement on Textiles and Clothing" (emphasis added).

8. The issue under reference has been discussed by the TMB in its comprehensive report to the CTG in paragraphs 325 through 334, and 588.

9. In a nutshell, with the enlargement of the EU following the accession of ten new member States from May 2004 (namely, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia), the EC extended its quotas on textiles and clothing to include these newly acceding States, and also determined the levels of these quota limits unilaterally.

10. The ten newly acceding states, WTO Members in their own rights, did not apply any quota restrictions before their accession to the EU. Indeed, despite the fact that prior to this accession they have had Free Trade Area agreements with the EU, none of them were obliged to, or felt the need to, do so.

11. The imposition of these quotas by the EU is incompatible with Article 2.4 of the ATC according to which "no new restrictions in terms of products or Members shall be introduced except under the provisions of [the ATC] or relevant GATT 1994 provisions".

12. It may be recalled in this connection that a dispute panel and the Appellate Body had ruled that similar restrictions imposed by Turkey following its customs union with the EC violated Article 2.4 of the ATC. Both had further ruled that those restrictions were not justified by reference to GATT Article XXIV either. The following finding by the Panel is especially noteworthy:

"The prohibition on 'new restrictions' must be interpreted taking into account the preceding sentence [in Article 2.4 of the ATC]: 'The restrictions notified under paragraph 1 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'. The ordinary meaning of the words indicates that WTO Members intended that as of 1 January 1995, the incidence of restrictions under the ATC could only be reduced. ***We are of the view that any legal fiction whereby an existing restriction could simply be increased and not constitute a 'new restriction', would defeat the clear purpose of the ATC which is to reduce the scope of such restrictions, starting from 1 January 1995....*** Thus, we consider that, setting aside the possibility of exceptions and justifications mentioned in Article 2.4 of the ATC, any increase of an ATC compatible quantitative restriction notified under Article 2.1 of the ATC, constitutes a 'new' restriction.

On 28 February 1995 (therefore within the 60-day period of Article 2.1 of the ATC), the European Communities notified its previous restrictions maintained under the MFA. This notification referred to restrictions applicable only to EC territory. After the period of 60 days (under Article 2 of the ATC) the European Communities is prohibited from notifying any new restrictions *or changes to existing and notified restrictions*, except if adopted in compliance with the ATC or any other provisions of GATT 1994. Apart from these special cases the European Communities is not entitled to notify any increase of its MFA-derived restrictions ..."<sup>1</sup> (Emphasis added)

13. It is equally clear that the action was contrary to the solemn commitments made by Members in successive Ministerial declarations with respect to "faithful implementation" of the ATC.

14. In reply to a question from the TMB, the EU took the position that "the Community does not consider its extension of the geographical application of existing restrictions to constitute new restrictions in the sense of Article 2:4 of the ATC".

15. After a thorough examination of this EU contention, the TMB concluded that the measures taken by the EC constituted "new restrictions" and that the "action could not find justification under the provisions of the ATC". It is unnecessary to reproduce the details of TMB's analysis and arguments in this regard, as these are available in its comprehensive report to the CTG.<sup>2</sup>

16. Regrettably, the EU has chosen not to give any credence to the TMB findings, leaving the restrictions in question to remain in effect apparently in the knowledge that dispute settlement proceedings were both time-consuming and costly for the developing countries concerned to pursue.

*Continuation of quota restrictions by Turkey despite Panel and Appellate Body rulings*

17. This matter is referred to in paragraphs 408 through 410, 413 and 420 – 421 of the TMB report.

18. Following the establishment of its customs union with the EU, Turkey imposed quota restrictions on textile and clothing imports from countries on which the EU also imposed these

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<sup>1</sup> Panel Report, *Turkey – Restrictions on Imports of Textiles and Clothing Products*, WT/DS34/R, adopted on 19 November 1999, paragraphs 9.71 and 9.72

<sup>2</sup> G/L/683, paragraphs 325 through 334 (hereinafter the Report).

restrictions. Later, it withdrew these restrictions vis-à-vis the Czech Republic, Hungary, Poland, Romania, the Slovak Republic, Bulgaria, Malta, Morocco and Tunisia.

19. On a challenge by India, a WTO dispute panel found that the measures adopted by Turkey were inconsistent with the provisions of Articles XI and XIII of GATT and *Article 2.4 of the ATC*. The Panel rejected Turkey's claim that these restrictions were compatible with Article XXIV of the GATT. The Panel concluded that Turkey's action nullified or impaired the benefits accruing to India. The Appellate Body upheld the Panel conclusion and ruled that Article XXIV did not allow Turkey to adopt these GATT-inconsistent measures. The Dispute Settlement Body adopted the Appellate Body and Panel reports<sup>3</sup>.

20. As the TMB report to the CTG notes (paragraphs 408-410 and 421 of G/L/683), Turkey continues to maintain these restrictions on imports from Argentina; Brazil; China; Egypt; Hong Kong, China; India; Indonesia; Korea; Macao, China; Malaysia; Pakistan; Peru; the Philippines; Singapore; Sri Lanka; Chinese Taipei; and Thailand.

21. It is obvious that Turkey's action is inconsistent with its obligations and that it also amounts to a disregard of the disciplines of the ATC and various declarations and decisions of Ministers, especially as the Panel and the Appellate Body ruled them to be unjustified.

*Changes to product classification by the United States*

22. It is well known that during the implementation of the ATC, the US substantially changed its rules of origin relating to the import of textile and clothing products, creating significant adverse effects on trade.

23. In the process of these changes, US also enlarged the coverage of certain cotton made-up products. Thus, it is now specified that these products are of cotton even if they contain as little as 16 per cent of cotton by weight. (Prior to this, these products were considered to be that of cotton only if they contained cotton as their chief weight). Indeed this was the disposition under the pre-ATC bilateral agreements between the United States and the respective developing countries which were the basis of restrictions carried over from the MFA and notified to the TMB under Article 2 of the ATC.

24. Notwithstanding that a dispute panel ruled in a case brought by India that the complainant did not succeed in establishing that the changes had been effected in violation of obligations under the *Agreement on Rules of Origin*, the change in classification of cotton products enlarged the scope and incidence of restrictions on these products under the ATC to the disadvantage of the exporting Members concerned.

25. Lest it is misconstrued, the point that we seek to highlight in connection with the CTG's major review is specifically the one relating to the widening of the coverage of some cotton products in the context of quota access under the ATC, not the changes to rules of origin *per se*.

26. It is apparent that the change in the definition and coverage of these products led to more exports being classified and counted as those of cotton than was the case previously. Thus, for example, products which were exported under US Category 666 (Other man-made fibre furnishings) now came to be classified and counted under Categories 360, 361, 362 (cotton pillowcases, cotton

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<sup>3</sup> Appellate Body Report, *Turkey – Restrictions on Imports of Textile and Clothing Products*, WT/DS34/AB/R, adopted 19 November 1999 and Agreement under Article 21.3(b) of the DSU, WT/DS34/10 dated 18 January 2000.

sheets and bedspreads respectively), etc., in which a number of exporting Members had high rates of quota utilization.

27. Unfortunately, with respect to this issue, the TMB report simply states as follows: "[...] while noting the concerns expressed in this regard, the TMB observes that none of the Members has referred any such specific matter to the TMB ..." under its dispute resolution functions<sup>4</sup>.

28. While that might well be the case, the real question to highlight for CTG's consideration, as in the case of the two issues mentioned above (i.e., EU's introduction of new restrictions in the territories of the newly acceding member states and Turkey's maintenance of restrictions despite the Panel and Appellate Body rulings about their being inconsistent with Turkey's WTO obligations), is the neglect by the restraining countries of their obligations and the failure to implement their commitments faithfully, leaving the developing countries concerned with the burden of expensive recourse. The change resulted in effective diminution of access (or, to put it differently, in enlarging the scope and incidence of relevant restrictions) in violation of Article 2.4 of the ATC, and causing disruption to established trade.

#### Additional aspects of ATC implementation

29. In the same way, the integration programmes in general have been implemented in such a way as to leave a host of consequences to contend with.

#### *Integration process in general*

30. This issue is dealt with in a number of paragraphs in the TMB report spread over several sections.

31. The ATC provided for a ten-year transitional period to accomplish the phase-out of quota restrictions. This long period was intended to facilitate a smooth and progressive process.

32. Against this objective and purpose of the Agreement, it should be instructive to see how major restraining countries did actually phase out the quota restrictions. In this connection, a table at Annex 2 to this paper summarises the process of actual elimination of quotas by the three major restraining countries. In its report to the CTG, the "TMB observes that in terms of the total number of specific restrictions applied by restraining Members, the information at the Body's disposal is either identical with or very close to the picture presented by ITCB members in [Annex 2]"<sup>5</sup>. In a nutshell:

- Of a total of 937 quotas applied by the United States on imports of textiles and clothing products from WTO Members under the MFA, it phased out only 103 quotas up until now. This number includes 17 quotas on Kenya and Mauritius which were lifted only under the AGOA legislation. The United States will thus abolish 834 quotas, or 89 per cent of the total, at the end in one go.
- The EU carried over 303 quotas; phased out 91 as of now; and would abolish 212, or 70 per cent, on 1 January 2005. The number 91 includes 13 quotas that the EU suspended in return for market access concessions that it secured from two WTO Members.
- Likewise, out of a total of 368 quotas carried over by Canada, it has so far phased out 76. Consequently, it will abolish 292, or over 79 per cent, at the end of the process.
- Contrary to the above three, Norway had already abolished all 54 quotas (46 before the end of 1997 and the remaining eight at the beginning of 2001).

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<sup>4</sup> Paragraph 479 of the Report

<sup>5</sup> Paragraph 640 of the Report

33. Looked at from a different angle, and taking as the basis the portion of 1990 import trade that was actually under quota restriction, the United States has thus far integrated less than 20 per cent, while the EU, based on 1995 imports when its membership increased to 15, only 32 per cent. Consequently, the amount of restrained trade left to be integrated by the two at the end of the process is 80 per cent and 68 per cent respectively (the large bulk in each case, consisting of trade in apparel). Unfortunately, for lack of necessary information, it is not been possible to assess similar percentages in respect of Canada and Turkey.

34. The above, despite the fact that (i) Ministers repeatedly reaffirmed their commitment to full and effective implementation of the process, and (ii) at Doha, they had also decided that "the provisions of the [ATC] relating to the early integration of products and the elimination of quota restrictions should be effectively utilised"<sup>6</sup>.

35. Regrettably, the major restraining Members did not accord any deference either to the explicit objective of phasing out the quota restrictions "progressively" or to the Ministerial decision at Doha to facilitate this by using "the provisions of the [ATC] relating to the early integration of products and the elimination of quota restrictions ...". They maintained that they had the full period of ten years for adjustment and therefore back-loaded the elimination of the bulk of quotas to the end of the phase-out process.

#### *Denial of carry forward quotas in 2004*

36. Due to the inflexible stance on the part of the major restraining Members, the CTG and the General Council have also been kept from providing a positive resolution to the issue of decrease in quota access in the final year of the ATC (2004) due to non-availability of so-called *carry forward* quotas. This matter has been the subject of discussion in several General Council meetings and is also dealt in the TMB report in paragraphs 256 to 261, 589 and 643.

37. It may be pertinent in this regard to recall the TMB's observation that although "the ATC does not contain any explicit disposition concerning the matter [relating to carry forward in 2004], the denial of this flexibility would run counter to the basic concept of *progressive* liberalization embodied in the ATC. *In fact, it would be absurd* if a more restrictive application of the flexibility provisions had been foreseen for the last year of ATC implementation compared to the preceding years. In addition, what would justify such an approach in economic terms, since all the restrictions will have to be eliminated on 1 January 2005?"<sup>7</sup>

38. The TMB goes on to "express its hope that appropriate solution to this matter, addressing the concern about potential reduction in market access opportunities in 2004, will be found and adopted by the General Council in the near future"<sup>8</sup> adding that "the TMB believes that [such] appropriate solutions to avoiding potential reduction in market access in 2004 can be sought by relying on a number of different mechanisms or combination thereof"<sup>9</sup>.

#### *Trade remedy actions*

39. In addition, stemming from the manner in which the major restraining Members and Turkey chose to implement their obligations under the ATC leaving the bulk of quota restrictions only at the end of the transitional period, is the fact that it leaves another significant problem to contend with:

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<sup>6</sup> WT/MIN(01)/17, paragraph 4.1.

<sup>7</sup> Paragraph 260 of the Report.

<sup>8</sup> Paragraph 261 of the Report.

<sup>9</sup> Paragraph 643 of the Report.

that of the sudden downward pressure on export prices following the abolition of all quota restrictions.

40. Under the quota regime, trade transactions in textiles and clothing have not been driven by normal commercial considerations alone. Quota considerations have been an important component of pricing decisions and arrangements. Most business operators therefore believe that the elimination of quota restrictions will exert downward pressure on prices. The deliberate policy of postponing the elimination of most quota restrictions at the end of ten years in one go therefore is liable to exacerbating the situation and encouraging the protection seeking interests to cry dumping and spark political pressures for alternate methods of protection.

41. Developing Members have repeatedly brought this problem to the attention of the WTO including by presenting a proposal for a specific short term disposition to allow time for trade to find its normal course, especially as allegations about dumping in the immediate aftermath of the abolition of quotas could not be reasonably evaluated unless there was sufficient opportunity for businesses to adjust to normal pricing<sup>10</sup>.

42. It is worth noting in this regard that the Ministers in Doha decided that "Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement [on Textiles and Clothing] for a period of two years following full integration of this Agreement into the WTO"<sup>11</sup>. The precise disciplines for giving effect to this decision however are yet to be established.

43. Unfortunately, as in the case of the carry forward issue, the major developed countries continue to refuse to shoulder their responsibility resulting from the manner in which they chose to implement their commitment to phase out the quota regime, despite the fact that Ministers in Doha had "pledge[d] to reject the use of protectionism"<sup>12</sup>.

*Implementation of ATC provisions relating to specific categories of suppliers*

44. The ATC established guiding principles as well as specific provisions for preferential treatment of certain categories of exporting countries. Thus it required that, in the implementation of quota growth rates, small suppliers and new entrants shall be so treated as to permit meaningful increases in their access possibilities "at the entry into force of WTO Agreement and for the duration of this Agreement [i.e., ATC]" and that "such improvements shall be notified to the TMB". Likewise, it was provided that "special treatment should be accorded to the least-developed country Members"<sup>13</sup> and they may also "benefit from meaningful improvements in access possibilities as for small suppliers". And a separate Ministerial decision on measures in favour of least-developed countries adopted at the conclusion of the Uruguay Round provided that the various agreements and instruments should be applied in a flexible and supportive manner for the least-developed countries and that, to this effect, sympathetic consideration shall be given to specific and motivated concerns raised by them<sup>14</sup>. Finally, the ATC envisioned that "the particular interests of cotton-producing exporting Members should, in consultation with them, be reflected in the implementation the provisions of [the ATC]"<sup>15</sup>.

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<sup>10</sup> WT/GC/W/502.

<sup>11</sup> Op. cit. paragraph 4.2.

<sup>12</sup> WT/MIN(01)/DEC/1, paragraph 1.

<sup>13</sup> Article 2.18 of the ATC.

<sup>14</sup> Decision on Measures in Favour of Least-Developed Countries.

<sup>15</sup> Article 1.4 of the ATC.

45. In this connection, it is pertinent to refer to TMB's final comments in paragraphs 520–522. The following observations are worthy of consideration in particular. They succinctly bring out the fact that despite repeated exhortations and decisions at various levels, restraining countries either ignored these provisions or failed to give them any meaningful effect.

- *With regard to least-developed countries:* "Noting the statement of the United States that 'virtually all LDCs are small suppliers not subject to quotas', it should be noted that that at least there is one important exception (Bangladesh) whose imports into the United States continue to be subject to restrictions under the ATC. Furthermore, the reference by the United States to significant preferences granted to LDCs through regional trade preference programmes is duly noted. However these programmes have not yet been notified to the WTO; therefore, the TMB has no basis to assess their possible impact"<sup>16</sup>.
- *With regard to small suppliers:* "Regarding the implementation of the provisions of Article 2.18 in favour of small suppliers and new entrants, the TMB recalls that the methodology chosen by the respective restraining Members for the implementation during stage 1 predetermined the possible impact of the implementation of the same provisions during the successive integration stages. The TMB notes *with regret* that, as a follow-up to the Doha Ministerial Decision, the Council for Trade in Goods was not in a position to make recommendations to the General Council in the matter. It is also observed that, despite the TMB's respective comments made in the previous comprehensive reports, Members have made no attempt to implement Article 2.18 by implementing 'at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth rates and flexibility provisions'"<sup>17</sup>.
- *With regard to cotton-producing exporting countries:* "... while noting the statement of the United States according to which some consideration had been given in establishing 'the base levels of quotas [...] [to] parameters appropriate [*inter alia*] for cotton-producing countries', it should be observed that (i) there is no explanation regarding what were 'parameters appropriate' to these Members and that (ii) Article 1.4 appears to address the particular interests of such Members throughout the period of ATC implementation and is not limited to the process of establishing the base levels (prior to the beginning of the implementation of the ten-year transition period)"<sup>18</sup>.

*The issue of administrative arrangements maintained for implementation and administration of quota restrictions*

46. This issue is discussed in the TMB report over several paragraphs. Reference in particular may be made to paragraphs 137 and 366 through 370.

47. Together with the quota restrictions, there have existed arrangements for the purpose of implementing and administering these restrictions, containing such aspects as product classification, export licenses/visas, procedures for exchange and reconciliation of information pertaining to the use of quotas, arrangements for treatment of shipments in excess of quotas, and so forth. With the termination of quota restrictions (and the ATC), it is essential that these administrative arrangements should also expire.

48. Earlier this year, the three major restraining Members notified their final integration programmes to the TMB, indicating that with the integration of remaining ATC products they will also eliminate all remaining quota restrictions<sup>19</sup>. These notifications however remained silent with

<sup>16</sup> Paragraph 520 of the Report.

<sup>17</sup> Paragraph 521 of the Report.

<sup>18</sup> Paragraph 522 of the Report.

<sup>19</sup> G/TMB/N/465, 464, 469 and G/TMB/R/110.



respect to the administrative arrangements and procedures that, as noted above, have been in place only for the implementation and administration of quota restrictions.

49. In examining the above integration programmes from the three major restraining Members, the TMB remarked as follows: "... in view of the importance attached to the administrative arrangements under the ATC regime, the TMB believes that it has made a useful contribution by pointing out that with the elimination of all quantitative restrictions maintained under the ATC, all related administrative procedures, including those specified in the administrative arrangements notified pursuant to Article 2.17, shall stand terminated. *In fact, the process of integration in the sense of the ATC will only become complete if the administrative requirements that were related to the administration of the restrictions are also abolished.*"<sup>20</sup> (Emphasis added)

50. Most importantly, these arrangements have not been applicable to all WTO Members; only to those whose exports have been under quota restriction. Exporters of the same products, particularly those from developed countries, are not required to carry the burden of fulfilling the requirements of these arrangements. These arrangements are thus inconsistent with the fundamental GATT obligation of MFN treatment for all. It may be recalled in this connection that according to Article I of the GATT, "[...] with respect to all *rules and formalities* in connection with importation [...], any advantage, favour, privilege or immunity granted by any [Member] to any product originating in [...] any other country *shall be accorded immediately and unconditionally* to the like products originating in ... the territories of all other [Members]". (Emphasis added)

51. The administrative arrangements are also inconsistent with the restraining countries' obligations under GATT Articles XI and XIII. Besides, they add to the cost of export transactions and are contrary to the avowed purpose of trade facilitation so forcefully advocated by the restraining countries, in particular.

52. When commenting on views conveyed to the TMB by different Members (in response to its general request for any comments/views), the Body noted "the statement by Canada according to which the administrative arrangements undertaken pursuant to Article 2.17 were used to administer the provisions of the ATC and [that they] will expire, along with the ATC, on 31 December 2004".<sup>21</sup> However, the TMB went on to state as follows: "Regarding comments made [by the United States] with respect to the period following the termination of the ATC, the TMB observes that with the expiry of the ATC on 1 January 2005, all the provisions of the Agreement will expire and the measures notified pursuant to those provisions will have to cease to be applied, *unless justified under other applicable provisions of the WTO Agreement, including GATT 1994.*"<sup>22</sup> (Emphasis added)

53. In regard to the above (highlighted) remark in the TMB observations, it is difficult to see what, if any, in these administrative arrangements can be justified under the other applicable provisions of the WTO Agreement, including GATT 1994.

### Conclusion

54. In light of the above, and given that in another three months time the process of full integration of the sector would have been completed, we propose that the Council for Trade in Goods:

- (i) Take note of the TMB report.
- (ii) Express its regret over the introduction and maintenance of certain measures by EU, Turkey and the United States in disregard of the disciplines of the ATC.

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<sup>20</sup> Paragraph 137 of the Report.

<sup>21</sup> Paragraph 368 of the Report.

<sup>22</sup> Paragraph 370 of the Report.

- (iii) Express disappointment over the manner in which the major restraining Members implemented their integration programmes during the integration process, especially (a) by postponing the elimination of bulk of quota restrictions until the end of the implementation process, and (b) by not giving meaningful effect to ATC provisions with regard to special and differential treatment of small suppliers, least-developed countries and cotton-producing exporting countries.
- (iv) Reaffirm the TMB observation that "the process of integration in the sense of the ATC will only become complete if the administrative requirements that were related to the administration of quota restrictions are also abolished".
- (v) Express disappointment that the restraining Members have not yet responded positively to concerns about potential reduction in market access opportunities due to denial of carry forward quotas in 2004 and reiterate the TMB's hope that an appropriate solution will be found and adopted by the General Council in the near future.
- (vi) Recall the Doha Ministerial decision that Members will exercise particular consideration before initiating investigations in the context of anti-dumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the ATC for a period of two years following full integration of textile and clothing sector into the WTO, establish appropriate procedures to operationalize the decision.
- (vii) Exercise close oversight of the process until full and faithful implementation of the ATC in all its aspects.

## **ANNEX 1**

### **ATC Implementation Declarations/Decisions over the years**

#### **Agreement on Textiles and Clothing**

"There shall be no extension of this Agreement". (ATC Article 9)

#### **Ministerial Conference**

##### ***Singapore, Declaration, 13 December 1996***

"We confirm our commitment to full and faithful implementation of the provisions of the Agreement on Textiles and Clothing (ATC)". (WT/MIN(96)/DEC, paragraph 15)

##### ***Geneva, Declaration, 25 May 1998***

"We reaffirm the commitments and assessments we made at Singapore...." (WT/MIN(98)/DEC/1, paragraph 2)

"Full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system..." (Paragraph 8)

"...we decide that a process will be established....to ensure full and faithful implementation of existing agreements..." (Paragraph 9)

##### ***Doha, Declaration, 14 November 2001***

"We attach the utmost importance to the implementation related issues and concerns raised by Members and are determined to find appropriate solutions to them." (WT/MIN(01)/DEC/1, paragraph 12)

##### ***Doha, Decision on Implementation-Related Issues and Concerns, 14 November 2001***

"[The Ministerial Conference] reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

- that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.
- that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.
- that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

- that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;
- that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000;

and make recommendations to the General Council by 31 July 2002 for appropriate action. (WT/MIN(01)/17, paragraph 4)

### **General Council**

***Meetings held on 8 and 31 July 2002; Agenda item: Proposal relating to advancing the implementation of growth-on-growth referred by the Ministerial Conference***

*Statement by the European Commission*

"The process of integration of the textiles and clothing sector under the normal rules of the WTO was in its seventh and a half year, and all Members were committed to the full and faithful implementation of the ATC, which included the termination of the ATC on 1 January 2005." (Minutes of meeting, WT/GC/M/75, paragraph 207)

*Statement by the United States*

"Despite the hardship to its industry resulting from the ATC, the United States was faithfully implementing its requirements and remained committed to its full integration" (paragraph 218)

*Statement by Canada*

"Canada remained committed to the full integration of the textile and clothing sector into GATT 1994 disciplines by 1 January 2005, as provided for in the ATC, and for the elimination of all remaining quotas by that date." (Paragraph 219)

***Meeting held on 24 – 25 July 2003; Agenda item: Consideration of proposal to allow use of carry forward quotas in 2004***

*Statement by the United States*

"...his delegation appreciated the comments from several Members concerning the final year of the quota phase-out programme. The United States urged these Members not to lose sight of the fact that the important watershed event of the completion of the quota phase-out programme required by the ATC was nearly at hand...The United States had continually reaffirmed to its trading partners that it would fully and faithfully implement the ATC as scheduled, and did so again at the present meeting." (Minutes of meeting, WT/GC/M/81, paragraph 47)

### **Council for Trade in Goods (CTG)**

***First Major Review of ATC Implementation, 1997/98***

"The [CTG] reiterated the commitment by Members to the full and faithful implementation of all provisions of the Agreement on Textiles and Clothing. The Council noted that, as specified in Article 9, the ATC and all restrictions there under shall stand terminated on 1 January 2005, on which date the textiles and clothing sector shall be fully integrated into GATT and that there shall be no extension of the ATC." (Report adopted on 16 February 1998, G/L/224)

***Second Major Review of ATC Implementation, 2001/02***

"Based on the discussions, which are set out in detail in the reports on the meetings, the Council...arrived at certain conclusions, [*inter alia*], the reaffirmation by all Members of their commitment to achieve the full and faithful implementation of the ATC by 1 January 2005." (Report adopted on 23 July 2002, G/L/556)

***Meeting held on 13 June 2002, Agenda item consideration of proposal to advance growth-on-growth referred by the Ministerial Conference***

*Statement by the United States*

"The entry into force of the ATC ... established an irreversible schedule for the phased elimination of the quota regime that regulates a significant portion of world trade in the sector... The ATC is a very important agreement for the United States, and it took very seriously its commitment to ensure that the provisions of the ATC, in its entirety, are fully and faithfully implemented." (Minutes of the meeting held on 13 June 2002, G/C/M/62, page 3)

*Statement by Canada*

"As had been indicated on numerous occasions and re-affirmed by Ministers in Doha, Canada remained fully committed to the full implementation of the Agreement on Textiles and Clothing, which will occur only two and a half years from now.... In conclusion, that Canada remained firmly committed to the full implementation of the ATC, and to the removal of the quota restrictions by no later than 1 January 2005." (G/C/M/62, page 6)

*Statement by European Commission*

"The spokesman for the European Union re-stated its position that it had fully complied with the obligations of the ATC, would continue to do so, and would respect the deadline of the end of 2004." (G/C/M/62, page 7)

**Textiles Monitoring Body (TMB)**

***Final implementation notifications***

*By the United States (11 February 2004)*

"I have the honour to notify that on 1 January 2005 the United States will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that were not integrated during the first three stages of integration under the ATC. On this date, the United States will eliminate all remaining restrictions under the ATC on such products, and the United States will have integrated into GATT 1994 all products listed in the Annex to the ATC." (G/TMB/N/465)

*By Canada (11 February 2004)*

"I have the honour to notify that on 1 January 2005, Canada will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that were not integrated during the first three stages of integration under the ATC. On this date, Canada will eliminate all remaining restrictions under the ATC on such products, and Canada will have integrated into GATT 1994 all products listed in the Annex of the ATC." (G/TMB/N/464)

*By the European Union (16 March 2004)*

"I have the honour to notify that on 1 January 2005, the European Community will integrate into GATT 1994 all textile and clothing products to which the ATC applies, ..., that were not integrated during the first three stages of integration under the ATC. On this date, the European Community will eliminate all remaining restrictions under the ATC on such products, and thus the European Community will have integrated into GATT 1994 all products listed in the Annex of the ATC". (Notification to the TMB, G/TMB/N/469)

"The Community's notification to the TMB of 17 March about the elimination of restrictions on schedule as foreseen by the ATC by the end of 2004 remains valid also for the enlarged Community of 25 members." (TMB report of on its meeting dated 21-22 June 2004, G/TMB/R/110)

**Annex 2**

**Pace of Quota Abolition**

	USA	EU	Canada	Norway
Total number of quotas at start of ATC <sup>a</sup>	937	303	368	54
Of which phased-out <sup>b</sup> :				
(i) Stage 1 (from 1995):				
By integration under Art. 2.6	0	0	8	0
By early elimination under Art. 2:15				46
(ii) Stage 2 (from 1998):				
By integration under Art. 2.8(a)	3	21	26	0
By Art.2.8(a) and Art.4	2			
By early elimination under Art. 2:15	10 <sup>c</sup>			8
(iii) Stage 3 (from 2002):				
By integration under Art. 2.8(b)	69	57	42	0
By Art.2.8(b) and Art.4	2			
Under bilateral agreements				
Under AGOA	17	13		
Total number of quotas abolished as of March 2004	103	91	76	54
Quotas to be abolished on 1 Jan. 2005	<b>834</b>	<b>212</b>	<b>292</b>	<b>0</b>

- a. Including specific limits and sub-limits notified under Art.2 of the ATC.
- b. Numbers do not include product categories on which quotas have been eliminated only partially.
- c. Eliminated only for Romania, not for any other restrained Member.