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Textiles Monitoring Body

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AGREEMENT ON TEXTILES AND CLOTHING

Notification under Article 2.17

UNITED STATES

Administrative Arrangements with Chinese Taipei

Addendum

The Textiles Monitoring Body has received a further notification from the United States pursuant to Article 2.17. The TMB is circulating this notification to WTO Members for their information.

Permanent Mission of the United States
to the World Trade Organization
Geneva

10 October 2002

The Honourable András Szepesi
Chairman
Textiles Monitoring Body
World Trade Organization
Rue de Lausanne 154
1211 Geneva

Dear Mr. Chairman,

Thank you for your letter of 4 July 2002, concerning the notification to the Textiles Monitoring Body (TMB) by the United States under Article 2.17 of the Agreement on Textiles and Clothing (ATC) concerning quantitative restrictions maintained on imports from Chinese Taipei. Answers to the specific questions you have posed follow. As an introductory comment, though, I would like to remind the TMB of the statement in the chapeau to the notification, which states: "the following provisions are drawn from a 1997 bilateral agreement. The TMB may wish to bear in mind first, that the administrative provisions were drawn from an existing bilateral agreement, rather than being drafted anew and were not prospectively adjusted to account for changes that would occur upon Chinese Taipei's accession to the WTO. Second, at the time the bilateral agreement was concluded, neither Member anticipated the delay to Chinese Taipei's eventual accession to the WTO on 1 January 2002.

1. The TMB's understanding is correct.¹
2. The TMB's assumptions are correct. Paragraph 7 of the expired bilateral agreement, which referred to an Export Certification System, was not among those provisions agreed to be necessary for the implementation of the ATC, and thus is not included in the administrative arrangements.
3. The TMB's assumption that paragraph 11 (a) has been superseded by ATC Article 4 is correct.

¹ The TMB's question to the US was as follows: "Paragraph 3 of the administrative arrangements defines the product covered, referring to Annex B for the descriptions of the respective product categories. Since Annex B describes the entire US textiles and apparel category system, the TMB would appreciate it if its understanding could be confirmed that the products covered by the administrative arrangements are limited to those covered by the ATC and not yet integrated as a result of the implementation of the provisions of Articles 2.6, 2.7(a), 2.8(a), 2.8(b) and 2.11 of the ATC. The same understanding also applies with respect to paragraphs 9(a) and (d) of the administrative arrangements."

4. The TMB's understanding is confirmed.²

5. Article 5.1 of the ATC states that circumvention by transshipment and other means "frustrates the implementation of this Agreement to integrate the textiles and clothing sector into GATT 1994" and calls on Members to cooperate fully to address this problem. Furthermore, Article 5.2 makes clear that transshipment and other practices can circumvent the ATC. Thus, Article 5 expresses the understanding of the WTO Members that transshipment and other practices that result in circumvention of the quantitative restrictions notified under Article 2 undermine these restrictions and frustrate the integration process set out in Article 2. Accordingly, the United States and Chinese Taipei have agreed that the provisions of paragraph 18, which address circumvention, are necessary in relation to the implementation of Article 2 of the ATC.

6. Paragraph 18(E) is part of an administrative arrangement that the United States and Chinese Taipei agreed was necessary in relation to the implementation of Article 2 of the ATC for the reasons set forth in response to the previous question. We do not believe that each provision of such an arrangement requires separate justification, as Paragraph 13 as a whole is clearly an administrative arrangement within the scope of Article 2.17. The United States will implement this administrative arrangement in conformity with all relevant provisions of the ATC. The United States notified similar provisions in agreed administrative arrangements with the following WTO Members: Bangladesh, Brazil, China, Colombia, Costa Rica, Dominican Republic, Egypt, Guatemala, Haiti, Hungary, India, Indonesia, Jamaica, Korea, Macau, Malaysia, Mauritius, Oman, Pakistan, Philippines, Poland, Qatar, Romania, Sri Lanka, Chinese Taipei, Thailand, Turkey, Uruguay and United Arab Emirates.

7. As explained in the U.S. response to the previous question, the United States does not believe that each provision of an administrative arrangement within the scope of Article 2.17 requires separate justification. We note that Article 5.5 of the ATC makes clear that circumvention may include goods transiting through a country or place with no change or alteration.

8. The TMB's understanding is confirmed.³

9. The TMB's understanding is confirmed.⁴

² The TMB's question to the US was as follows: "Paragraph 12 states that 'the visa and certification system established by letters dated 30 April 1997, 3 September 1997, and 23 September 1997, will remain in force subject to paragraph 11(b)'. The TMB understands that this system is that contained in the Visa Arrangement attached to the administrative agreements and that no visa requirements would be applied to the imports from Chinese Taipei of any of the products integrated into GATT 1994 by the United States as a result of the Stages 1 to 3 integration programmes. It would be appreciated if this could be confirmed."

³ The TMB's question to the US was as follows: "The TMB recalled that when it had examined the administrative arrangements concluded by the United States with several WTO Members, in June 1997, the United States had provided written replies to the TMB's request for clarification. In light of these replies, as regards the correct understanding of the product coverage of these administrative arrangements, the TMB 'took note of the precision provided by the United States according to which only products subject to restraints under paragraph 1 of Article 2 were subject to the administrative arrangements' (G/TMB/R/31, paragraph 10). Furthermore, 'the United States had stated that when provisions of the administrative arrangements were inconsistent with the ATC, the provisions of the ATC would apply. The TMB understood that this statement applied to each and every provision of the arrangements notified. The TMB expected, therefore, that all the provisions of these administrative arrangements would be implemented by the respective Members in conformity with the relevant provisions of the ATC' (G/TMB/R/31, paragraph 21). Against this background, the TMB would appreciate it if confirmation could be provided that the above statement made by the United States also applies to the administrative arrangements concluded between the United States and Chinese Taipei."

⁴ The TMB's question to the US was as follows: "Annex C refers to 'exempt products requiring exempt certification'. The TMB would appreciate it if its understanding could be confirmed that the exemption refers to the fact that the products in question are, if properly certified, not subject to quantitative limit under the ATC."

I appreciate the opportunity to respond to questions from the TMB, and will be pleased to response to additional questions if they arise.

Sincerely,

(Signed)
David M. Spooner
Special Textile Negotiator
