

Textiles Monitoring Body

REPORT OF THE EIGHTY-EIGHTH MEETING

1. The Textiles Monitoring Body held its eighty-eighth meeting on 9, 11 and 12 April 2002.
2. Present at this meeting were the following members and/or alternates: Mr. Alvarado/Ms. Miranda/Mr. Gough; Messrs. Ekawat; Farahat/Dalela; Karapinar; Moroz; Shin/Lee; Sorensen; Tagliani; Yamagami; Ms. Zhang/Mr. Nayyar/Ms. Lu.
3. The TMB adopted the report of its eighty-seventh meeting (G/TMB/R/86).

Notifications under Article 2.1 of the Agreement on Textiles and Clothing (ATC)

4. The TMB reverted to its examination of a notification received pursuant to Article 2.1 from the European Communities following the accession of China to the WTO, also on the basis of additional information received from the European Communities in response to clarifications sought by the TMB¹ (G/TMB/N/60/Add.5 and Add.5/Suppl.1) and of observations made by China pursuant to Article 2.2.² The TMB decided to bring these observations to the attention of the European Communities and also to seek further clarification from the European Communities regarding some aspects of this notification, *inter alia*, on the manner in which the growth-on-growth provisions had been implemented, bearing in mind the relevant provision (i.e. paragraph 241) of the Report of the Working Party on the Accession of China.
5. The TMB reverted to its examination of a notification received pursuant to Article 2.1 from the European Communities following the accession of Chinese Taipei to the WTO, also on the basis of additional information received from the European Communities in response to clarifications sought by the TMB³ (G/TMB/N/60/Add.6 and Add.6/Suppl.1) and of observations made by Chinese Taipei pursuant to Article 2.2.⁴ The TMB decided to bring these observations to the attention of the European Communities and also invited the European Communities to provide any additional explanation or clarification it believed could be relevant with respect to the manner in which the growth-on-growth provisions had been implemented, bearing in mind the relevant provision (i.e. paragraph 167) of the Report of the Working Party on the Accession of Chinese Taipei.
6. The TMB began its examination of a notification received pursuant to Article 2.1 from the United States following the accession of Chinese Taipei to the WTO (G/TMB/N/63/Add.13). The TMB decided to seek clarifications from the United States, *inter alia*, on the extent to which the restrictions maintained had been affected by the ATC integration process, the manner in which the growth-on-growth provisions had been implemented and whether or not a limit applied on the cumulative use of flexibility.
7. The TMB began its examination of a notification received pursuant to Article 2.1 from Turkey following the accession of Chinese Taipei to the WTO (G/TMB/N/432). The TMB decided to seek clarifications from Turkey, *inter alia*, on the extent to which the restrictions maintained had been affected by the ATC integration process, the manner in which the growth-on-growth provisions had

¹ See G/TMB/R/85, paragraph 5.

² See G/TMB/N/436 and paragraph 10 below.

³ See G/TMB/R/85, paragraph 6.

⁴ See G/TMB/N/439 and paragraph 12 below.

been implemented and whether or not a limit applied on the cumulative use of flexibility. The TMB further decided to bring to the attention of Turkey the observations received from Chinese Taipei, pursuant to Article 2.2, regarding the Turkish notification.⁵

8. The TMB reverted to its consideration of the notification received pursuant to Articles 2 and 3 from Canada, following the accession of China to the WTO, on the basis of the additional information received from Canada in response to clarifications sought by the TMB (G/TMB/N/62/Add.3, Add.3/Corr.1 and Add.3/Corr.1/Suppl.1) and of observations made by China pursuant to Article 2.2.⁶ The TMB took note of the statement by Canada that all the quantitative restraints with China had been maintained under Article 4 or notified under Articles 7 or 8 of the MFA, and therefore, were all being notified pursuant to Article 2 of the ATC only. The TMB decided to bring the observations of China to the attention of Canada.

9. The TMB reverted to its consideration of the notification received pursuant to Articles 2 and 3 from Canada, following the accession of Chinese Taipei to the WTO, on the basis of the additional information received from Canada in response to clarifications sought by the TMB (G/TMB/N/62/Add.4, Add.4/Corr.1 and Add.4/Corr.1/Suppl.1) and of observations made by Chinese Taipei pursuant to Article 2.2.⁷ The TMB took note of the statement by Canada that all the quantitative restraints with Chinese Taipei had been maintained under Article 4 or notified under Articles 7 or 8 of the MFA, and therefore, were all being notified pursuant to Article 2 of the ATC only. The TMB decided to bring the observations made by Chinese Taipei to the attention of Canada.

Notifications under Articles 2.2 of the ATC

10. The TMB began its consideration of notifications received from China pursuant to Article 2.2 (G/TMB/N/436 and G/TMB/N/445), regarding the notifications of the restrictions maintained on imports from China of the products falling under the coverage of the ATC received, respectively, from the European Communities and the United States pursuant to Article 2.1. The TMB decided to bring these notifications to the attention of the European Communities and the United States, respectively and requested them to provide their comments, observations or possible additional information with respect to the observations made by China.

11. The TMB began its consideration of a notification received from China pursuant to Article 2.2 (G/TMB/N/437), regarding the notification made by Canada, pursuant to Articles 2 and 3, with respect to China. The TMB observed that two of the points raised by China (i.e. the status under the ATC of consultation levels contained in the notification and the limitation which appeared to exist on the cumulative use of flexibility prior to China's accession), had already been raised with Canada by the TMB⁸ and that Canada had clarified these points in a correction to the original notification. Notwithstanding this, the TMB decided to bring the notification of China to the attention of Canada, since the observations contained therein had addressed another aspect as well, namely the manner in which the growth-on-growth provisions should be implemented.

12. The TMB began its consideration of notifications received from Chinese Taipei pursuant to Article 2.2 (G/TMB/N/438, G/TMB/N/439 and G/TMB/N/446), regarding the notifications of the restrictions maintained on imports from Chinese Taipei of the products falling under the coverage of the ATC received, respectively, from Canada pursuant to Articles 2 and 3, and from the European Communities and Turkey pursuant to Article 2.1. It decided to bring these notifications to the attention of Canada, the European Communities and Turkey, respectively, and requested them to provide their comments, observations or possible additional information with respect to the observations made by Chinese Taipei.

⁵ See G/TMB/N/446 and paragraph 12 below.

⁶ See G/TMB/N/437 and paragraph 11 below.

⁷ See G/TMB/N/438 and paragraph 12 below.

⁸ See G/TMB/R/85, paragraph 7.

Notifications under Article 2.17 of the ATC

13. The TMB began its review, pursuant to Article 2.21, of the notification made by the European Communities of administrative arrangements agreed between the European Communities and Chinese Taipei. The TMB decided, *inter alia*, to seek clarifications from the European Communities regarding certain elements of the notification, including (i) the obligation to adapt the definition of quantitative limits and of the categories of products to which they apply where this proves necessary to ensure that any subsequent amendment to the combined nomenclature or a decision amending the classification of such products does not result in a reduction of such quantitative limits and (ii) how, in the view of the European Communities, the provisions related to circumvention contained in the administrative arrangements are deemed necessary in relation to the implementation of any provision of Article 2 of the ATC.

14. The TMB began its review, pursuant to Article 2.21, of the notification made by the European Communities of administrative arrangements agreed between the European Communities and China. It decided, *inter alia*, to seek clarifications regarding certain elements of the notification. It sought clarification from both Members on the functioning of a "reserve" available exclusively to the EC's industry, for a defined time-period, before the relevant quantitative restriction can be fully utilized, and from the European Communities on how, in its view, the provisions related to circumvention contained in the administrative arrangements are deemed necessary in relation to the implementation of any provision of Article 2 of the ATC.

15. The TMB began its review, pursuant to Article 2.21, of the notification made by the Canada of administrative arrangements agreed between Canada and China. It decided, *inter alia*, to seek clarifications from both Members regarding certain elements of the notification, including on how the provision of statistics on export or import of products not contained in the Article 2.1 notification of Canada's quantitative restrictions on imports from China is deemed necessary in relation to the implementation of any provision of Article 2 of the ATC.

Notification under Article 3.1 of the ATC

16. The TMB considered a notification made under Article 3.1 by Brazil following the accession of Chinese Taipei to the WTO. According to this notification, Brazil maintained a quantitative restriction on imports from Chinese Taipei of certain man-made knitted or crocheted fabrics. Brazil stated that the programme of phase out of the restriction would be notified to the TMB according to the terms laid down in Article 3.2(b). The TMB took note of this notification (G/TMB/N/434) and expressed its expectation that the phase-out programme in question would be provided to it in the near future.

Notifications under Articles 3.1 and 3.2(b) of the ATC

17. The TMB continued its examination of the notification received pursuant to Article 3.1 from the European Communities, following the accession of China to the WTO, also on the basis of additional information received from the European Communities in response to clarifications sought by the TMB⁹ (G/TMB/N/64/Add.2 and Add.2/Suppl.1). In its response, the European Communities confirmed that it had included in the notification all restrictions, other than those formerly maintained under the MFA and covered by the provisions of Article 2, that were in force on 10 December 2001. It confirmed also that the annual growth rates that were applied under the bilateral agreement in force between the European Communities and China prior to the date of China's accession to the WTO would continue to apply in 2002, 2003 and 2004. As regards the details regarding a phase-out programme in the sense of Article 3.2(b) of those restrictions notified pursuant to Article 3.1, the European Communities provided a list of the restrictions that had been eliminated on 11 December 2001 as a result of the integration programmes of the European Communities for

⁹ See G/TMB/R/85, paragraph 9.

Stages 1 and 2, as well as a list of the restrictions eliminated as of 1 January 2002 as a result of the implementation of the third stage of the integration programme of the European Communities. Furthermore, the European Communities stated that "according to Annex I to the bilateral agreement [between the European Communities and China] the Commission intends to phase out the 'restrictions on all remaining products no later than 1 January 2005', depending on China's progress in removing state trading in silk products. In addition, both parties can at any time request consultations in this regard". The TMB understood that, in any event, all remaining restrictions under Article 3.1 would be increased annually by the application of the respective growth rates notified and would be eliminated, at the latest, on 1 January 2005. On that basis, the TMB took note of the notification.

18. The TMB continued its examination of the notification received pursuant to Article 3.1 from Japan, following the accession of China to the WTO, also on the basis of additional information received from Japan in response to clarifications sought by the TMB.¹⁰ In its response, Japan provided clarification on the exact nature of the quantitative restrictions notified, their precise product coverage and the respective annual levels for the Japanese fiscal year 2001. Japan maintained quantitative restrictions on imports from China of silk yarn and silk fabric. The restrictions were administered by Japan and the quota levels were determined through consultations between China and Japan. The TMB took note of the notification made by Japan pursuant to Article 3.1 (G/TMB/N/425 and Add.1). With respect to what constituted a phase-out programme in the sense of Article 3.2(b), the TMB noted, *inter alia*, that the quota levels would be increased annually and the measures would be removed no later than 1 January 2005. The TMB observed that in Japan's response, though the quota levels for the Japanese fiscal year 2001 had been provided and the functioning of the phase-out programme explained, no information had been provided on the quota levels for the current fiscal year, nor had information been made available as to when the annual consultations between Japan and China with a view to determining those levels would take place. The TMB further observed that in order to allow for predictability, trade levels for the coming year should normally be known sufficiently in advance, so that exporters and importers could plan their business accordingly. The TMB was thus particularly concerned that the Japanese fiscal year 2002 had started without the levels for silk yarn and silk fabric for that year being agreed. The TMB, therefore, expected being informed by Japan as soon as possible on the timing of the annual consultations between Japan and China, as well as on the trade levels to be determined for both silk yarn and silk fabric for the Japanese fiscal year 2002.

Notifications under Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 of the ATC

19. The TMB continued its review, under Article 2.21, of the notifications made pursuant to Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 by Chinese Taipei, also on the basis of additional information received from Chinese Taipei in response to questions put by the TMB¹¹ (G/TMB/N/428 and Add.1; 429 and Add.1; 430 and Add.1). Having examined the response received, the TMB decided to seek further clarifications from Chinese Taipei regarding its notifications.

20. The TMB started its review, under Article 2.21, of the notifications made pursuant to Articles 2.6 and 2.7(b), 2.8(a), 2.8(b) and 2.11 by China (G/TMB/N/441, 442 and 443). It decided to seek clarifications from China as to whether (i) the imports that had been counted in respect of products belonging to HS lines in the Annex to the ATC for which only part of the respective line falls under the coverage of the Agreement ("ex-HS lines") corresponded precisely to the product description contained in the ATC Annex; and (ii) the list of the products integrated for Stage 3 contained products from the four product groups mentioned in Article 2.8(b), i.e. tops and yarns, fabrics, made-up textile products, and clothing.

¹⁰ See G/TMB/R/86, paragraph 9.

¹¹ See G/TMB/R/86, paragraph 11.

Notifications under Articles 2.8(b) and 2.11 of the ATC

21. The TMB reviewed, under Article 2.21, the notification made pursuant to Articles 2.8(b) and 2.11 by Paraguay (G/TMB/N/392 and Add.1). During this review the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to 18.27 per cent of the volume of imports in 1990 of the products falling under the coverage of the Agreement. The TMB observed, after having sought confirmation from Paraguay¹², that, in accordance with Article 2.8(b), the products integrated included products from each of the four groups (tops and yarns, fabrics, made-up textile products and clothing). Paraguay had replied, *inter alia*, that it considered itself to have complied with the requirements laid down in Article 2.8(b). Recalling that the ATC does not provide any guidance as to the classification of the products listed in its Annex according to the four product groups, the TMB thoroughly re-examined the list of products included in the integration programme notified by Paraguay and concluded that the products integrated included products from each of the four groups.¹³

22. The TMB reviewed under Article 2.21 the notification made, pursuant to Articles 2.8(b) and 2.11 by Egypt (G/TMB/N/435). During this review the TMB noted that, in accordance with Article 2.8(b), the volume of the products integrated amounted to 18.06 per cent of the volume of imports in 1990 of the products falling under the coverage of the Agreement. The TMB also noted that, in accordance with Article 2.8(b), the products integrated included products from each of the four groups: tops and yarns, fabrics, made-up textile products and clothing.

23. The TMB began its review, under Article 2.21, of the notification made pursuant to Articles 2.8(b) and 2.11 by Venezuela. It decided to seek clarifications as to whether (i) the imports that had been counted in respect of products belonging to HS lines in the Annex to the ATC for which only part of the respective line falls under the coverage of the Agreement ("ex-HS lines") corresponded precisely to the product description contained in the ATC Annex; and (ii) the programme notified met the requirements of Article 2.8(b), in terms of the percentage of Venezuela's 1990 imports of the products in the Annex to the ATC.

Observations with Respect to Late Notifications

24. With respect to notifications addressed to the TMB after the relevant deadlines, the TMB reiterated that its taking note of late notifications was without prejudice to the legal status of such notifications.

¹² See G/TMB/R/43, paragraph 7, G/TMB/R/51, paragraph 5 and G/TMB/R/86, paragraph 13.

¹³ This conclusion could be reached after having examined the relevant explanatory notes to the Harmonized System, which helped clarify that twines, cordage, ropes and cables of jute or of other textile bast fibres, or of sisal textile fibres (HS 5607.10 and 5607.29) could be considered to fall under the product group defined as tops and yarns.