
General Council

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PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Agreement on Textiles and Clothing: Suggestions for Improved Implementation

Communication¹ Pursuant to Paragraph 9(a)(i) of the
Geneva Ministerial Declaration

Communication from Hong Kong, China on behalf of Members of ITCB

The following communication, dated 4 October 1999, has been received from the Hong Kong Economic and Trade Office.

1. The following suggestions are made on how importing developed countries, that have long maintained quantitative restrictions on imports of textile and clothing products, could improve the process and the quality of implementation of the Agreement on Textiles and Clothing (ATC). These suggestions are based on the evaluation of implementation of the ATC presented to the General Council (document WT/GC/W/283).

2. It may be emphasized that these suggestions are presented without any intention to effect changes in the Agreement. It is felt that their implementation by developed restraining countries would contribute to realizing the objectives of the ATC, and to responding to the particular trade interests and development needs of developing countries, in particular the least-developed among them.

The integration process

Considerations:

- ATC was expected to be a principal area of benefit for developing countries from the Uruguay Round. It was estimated at the time that "more than one third of the total benefits from the Round are expected to derive from liberalization of textiles and clothing ..." (WTO Annual Report 1998, page 36).
- The central objective of the ATC was to phase out the restrictions under the MFA in a progressive manner.

¹ By ITCB members that are also Members of the WTO, namely, Argentina; Bangladesh; Brazil; China (Observer); Colombia; Costa Rica; Egypt; El Salvador; Guatemala; Honduras; Hong Kong, China; India; Indonesia; Korea; Macau; Maldives; Mexico; Pakistan; Paraguay; Peru; Sri Lanka; Thailand and Uruguay.

- It was also agreed that Members should allow for continuous industrial adjustment and increased competition in their markets (Article 1:5 of ATC).
- Contrary to these, the restraining countries have chosen to implement the integration process in a manner that despite integration of 33 per cent, only 4-6 per cent of imports, that was actually under restrictions, has been liberalized. Few quotas have been eliminated.
- By definition, therefore, the process has contributed little towards realizing the ATC objective of progressive phase out of quota restrictions.
- The percentages for integration at the start of each stage were provided in Article 2 of ATC as the minima necessary. Therefore the importing countries can integrate/liberalize more than these minima following Articles 2:10 and 2:15 of ATC, as has already been done by Norway and Canada.

Suggestion:

- As a manifestation of their commitment to the objective of liberalization of trade in the sector, the restraining WTO Members should take steps to improve the quality of their implementation of the ATC.
 - To this end, they should ensure that at least 50 per cent of the volume of 1990 imports of products, that were under specific quota limits, shall have been liberalized by the start of the next stage of implementation of the ATC on 1 January 2002.

Quota access

Considerations:

- In their declaration on the occasion of Geneva Ministerial Conference, Ministers renewed their "commitment to ensuring that the benefits of the multilateral trading system are extended as widely as possible." They further recognized "the need for the system to make its own contribution in response to the particular trade interests and development needs of developing-country Members." (Geneva Ministerial Declaration, paragraph 5)
- The growth-on-growth allowed has not led to lessening the restrictive nature of quotas.
- Nor have these increases in access for small suppliers and least-developed countries measured up to the standard of being "meaningful" as envisaged under Article 1:2 of the ATC.
- Consequently, limitations on quota access have continued to retard developing countries' opportunities to benefit from strong consumer demand.
- Like the integration percentages, growth-on-growth in the ATC was also provided as the minima necessary. The restraining countries can therefore increase these minima autonomously, as has in fact been done by Canada in a few cases on MFN basis.

Suggestion:

- In response to recognition, by Ministers, of the need for the multilateral trading system to contribute to the particular trade interests of developing countries, the restraining countries should:
 - Apply the methodology employed by the EU in implementing the growth-on-growth for small suppliers and extend the same treatment to least-developed countries.
 - Advance the implementation of the growth-on-growth for stage 3 to 1 January 2000 (from 1 January 2002).
 - Any resulting growth rates lower than 6 per cent be increased to that percentage.

Transitional safeguard actions

Considerations:

- During the past 4½ years, a number of safeguard actions were invoked by a restraining WTO Member.
- Subsequent examination of these actions by the TMB and, in some cases, by dispute panels led to the conclusion that, in most cases, the actions were not justified.
- Nevertheless they affected \$1 billion worth of trade and caused disruptive effects for exporting countries and businesses.

Suggestion:

- In order to ensure that the use of transitional safeguards is sparing and to discourage unsubstantiated recourse to the safeguard mechanism:
 - The Members that have long maintained restrictions under the MFA and have, therefore, had sufficient experience of assessing the validity of proposed actions:
 - Should promptly remove the measure and compensate for loss of trade, in cases in which the recourse to safeguard action is subsequently found by the TMB/Panel to be unjustified.

Anti-dumping actions

Considerations:

- During the course of ATC implementation, a major restraining Member has had recourse to a number of anti-dumping actions/investigations involving products that have already been under quota restrictions.
- The levels of restrictions for these products were agreed to avoid damage on account of lower prices of imports from the restrained exporting countries. In other words the risk of damage had already been discounted.

- Recourse to anti-dumping actions has had adverse effects for the exporting countries concerned.

Suggestion:

- In order to avoid double jeopardy to the exporting countries concerned, restraining Members should agree not to initiate anti-dumping actions against products under quota restrictions. And to lend certainty to trade, they should not take such action during a period of two years after the elimination of the quota.

Administrative procedures

Considerations:

- A number of administrative procedures have been established purportedly under Articles 4 or 5 of the ATC, adding to the cost of doing business and extra documentation for countries under restraint.
- Although these procedures have been implemented as measures under the ATC, they have not been notified to or examined by the TMB.

Suggestion:

- With a view to ensuring that administrative procedures do not operate as disguised protection by the restraining Members, the TMB may be invited to examine these measures.

Rules of origin

Considerations:

- The changes in rules of origin effected by the US have had a bearing on rights under the ATC/WTO, including the full utilization of quotas.
- In view of the inconsistency of these changes with obligations under the WTO, the US has recently agreed to partially re-instate the pre-existing rules.

Suggestion:

- With a view to ensuring that the balance of rights and obligations embodied in the Agreement is restored:
 - The TMB/CTG may examine the impact of changes in rules of origin by the restraining Members on the rights of the exporting Members concerned and make recommendations for multilateral consideration.

Multilateral surveillance of implementation

Considerations:

- The importance of multilateral surveillance of implementation and prevention of disputes is self-evident.

- Equally important is the need to establish multilateral control so as to avoid the emergence of grey area measures with respect to products covered by the ATC.

Suggestion:

- In order to ensure the conformity, with the ATC, of the measures taken with respect to products covered by the ATC:
 - The restraining Members should notify each measure together with its justification to the TMB within 30 days from the date that it is adopted.
 - The TMB should examine the measure within 30 days and submit its findings to the CTG for its recommendation.
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