

**Textiles Monitoring Body**

TWENTY-FOURTH MEETING OF THE TMB

Note by the Chairman

1. The Textiles Monitoring Body met on 13 to 15 January 1997.
2. The TMB authorized its Chairman to provide WTO Members with the following information.

**Korea/Ecuador: notification under Article 8.6 of the Agreement on Textiles and Clothing (ATC)**

3. The TMB considered a notification, dated 22 November 1996, received from Korea requesting the TMB to conduct, pursuant to paragraph 6 of Article 8 of the ATC, an examination of transitional safeguard measures introduced by Ecuador, referring to the provisions of the ATC, on imports of several textiles and clothing products from Korea and Hong Kong. The notification had been received by the TMB after the notice convening the twenty-second TMB meeting (25 to 26 November 1996) had been issued. The TMB decided, therefore, to conduct the examination at its twenty-third meeting on 17 to 19 December 1996, and to invite representatives of Ecuador and the two WTO Members affected by the measures to this examination.
4. In a communication of 27 November 1996 addressed to the TMB, Ecuador stated that “a temporary safeguard measure was adopted by the previous Government on the last day of its administration, that is, on 9 August 1996. The present Government, which took office on 10 August 1996, could decide, if necessary, to implement the provisions of the Agreement in connection with the adoption of measures for this sector”. The official document attached to the communication referred to the ATC which “establishes that any Member Country may apply a transitional safeguard when a product is being imported into its territory in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry”. It also made reference to the prior opinion of the Customs Technical Committee “in favour of the adoption of transitional safeguard measures as provided for in Article 6 of the ATC” and to the report of an Inter-ministerial Commission recommending “the establishment of a safeguard in accordance with paragraph 11 of Article 6 of the ATC”.
5. In a subsequent notification, dated 10 December 1996, Korea requested the TMB that the examination of its notification be postponed until February 1997, reflecting the view which had been expressed by Ecuador that more time was necessary for an adequate examination of the case. Both Ecuador and Hong Kong were informed of this request.
6. The TMB at its twenty-third meeting discussed these developments. It was concerned that, contrary to the requirements of paragraph 11 of Article 6, it was not in a position to review this issue despite the fact that the measures had been in place for almost five months. It therefore decided to invite representatives of Ecuador, Korea and Hong Kong to its next meeting (13 to 15 January 1997), when it intended to consider this matter.

7. At this meeting, the representative of Korea stated that the transitional safeguard measures introduced by Ecuador violated many of the provisions of the ATC. In the view of Korea, this had been acknowledged by Ecuador in bilateral consultations which had taken place between the two Members, during which Ecuador had committed itself to withdraw the measures on 9 February 1997.

8. The representative of Hong Kong referred to a statement made by Hong Kong at the meeting of the Council for Trade in Goods on 29 November 1996, and to a letter sent by Hong Kong to Ecuador requesting information on the nature and scope of the measures, including the WTO provisions on the basis of which they had been taken.

9. The representative of Ecuador stated that these measures, introduced on 9 August 1996, consisted of additional tariff duties to be applied against imports of certain textile and clothing products imported from, *inter alia*, two WTO Members. In the view of Ecuador, since Article 6 of the ATC provided for the introduction of transitional safeguard measures in the form of quantitative restrictions, the measures introduced by Ecuador could not, and had not, been taken under the provisions of the ATC, but under other WTO provisions. Furthermore, the measures would lapse on 9 February 1997.

10. In taking note of these statements, and of the information provided by Ecuador, the TMB noted that the action taken was not consistent with the provisions of Article 6 of the ATC, both because of the price-based nature of the measures themselves, and because the procedural and substantive requirements contained in Article 6 of the ATC were not met. The TMB observed that Article 6 provides, *inter alia*, that though a Member can introduce quantitative restrictions "the Member proposing to take safeguard action shall seek consultations with the Member or Members which would be affected by such action", and that, in "highly unusual and critical circumstances, where delay would cause damage which would be difficult to repair, action [...] may be taken provisionally on the condition that the request for consultations and notification to the TMB shall be effected within no more than five working days after taking the action".

11. The TMB registered its concern that:

- (a) Ecuador had adopted this action on 9 August 1996 invoking Article 6 of the ATC, but had not informed the TMB or the affected Members of this action until 27 November 1996;
- (b) Consultations had not taken place until Korea, having noticed that the measures were being applied, raised the issue in the Council for Trade in Goods and the TMB;
- (c) Ecuador did not inform the TMB that, in its view, the measures did not constitute measures taken pursuant to Article 6 of the ATC until this meeting.

12. The TMB, while bearing in mind the statement by Ecuador that these measures had not been taken under the provisions of the ATC, noted that such measures had been in force for some five months and would remain applicable until 9 February 1997 with possible effects on trade between the Members concerned, and expected that Ecuador would take the necessary steps to disinvoke Article 6 of the ATC with respect to these measures, and comply with the legal and procedural requirements under the WTO.

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13. The twenty-fifth meeting of the TMB is scheduled for 3 and 4 February 1997.

14. The full report of the twenty-fourth meeting will be circulated at a later stage.