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3.11 Textiles and Clothing



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NOTE

The Course on Dispute Settlement in International Trade, Investment and Intellectual Property consists of forty modules.

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WHAT YOU WILL LEARN

The *Agreement on Textiles and Clothing* (“ATC”) is one of a few sector-specific agreements in the WTO. It is limited in its scope and duration. It sets out provisions to be applied during a 10-year transitional period, starting from 1995. Its basic purpose is to secure the integration of trade in textile and clothing into the normal rules of the GATT, through gradual phase-out of quota restrictions that have long been applied by major developed countries to imports from developing countries and economies.

Reflecting the specific (and limited) scope of the ATC, not all disputes involving textile and clothing products come under its purview. For example, disputes relating to anti-dumping measures do not fall in the ambit of the ATC. These are covered by the *Anti-dumping Agreement*.

For disputes arising from violations of the ATC itself, the Agreement establishes a two-step procedure. This procedure is unique to the ATC in as much as it provides for an additional step in the shape of the Textiles Monitoring Body (“TMB”). A case has to be considered by the TMB before it can be referred to the panel process. During the seven and a half years that the ATC has been in force, there have been several dispute cases, some of which were resolved in the TMB. Three went through panels and the Appellate Body.

This Module gives an overview of the ATC, its main provisions, and how these have been clarified or interpreted by the TMB, or by panels and the Appellate Body.

The first Section gives a short introduction to the ATC and its main provisions. The second Section describes the role and procedures of the TMB and brings out some significant clarifications resulting from its work. The third Section reviews important panel and Appellate Body rulings in disputes raised under the ATC. It also reviews some pertinent findings from cases in which violation of ATC obligations was invoked as a supplementary issue. Finally, the fourth Section contains a summary overview of ATC dispute cases examined by panels and the Appellate Body.

1. INTRODUCTION

This section provides a brief background to the Agreement on Textiles and Clothing (ATC), why it was needed, what is its main purpose, and what is the scope of disputes under the ATC. The section also provides a summary overview of the main provisions of the Agreement.

1.1 Why ATC

ATC is essentially designed to correct a long standing anomaly in the multilateral trading system.

The background

Since 1961, international trade in textiles and clothing had been virtually excluded from the normal rules and disciplines of the GATT. It was governed by a system of discriminatory restrictions, which deviated from some of the basic principles of the GATT. The system was first incorporated in a so-called Short-Term Cotton Arrangement (“STA”), followed by a Long-Term Arrangement (“LTA”) and, later, by the Multi-fibre Arrangement (“MFA”). The MFA continued until the WTO Agreements came into effect on 1 January 1995.

While GATT rules prohibited the use of quantitative restrictions to provide protection to domestic industries, the system allowed the use of such restrictions. While the Most-Favoured-Nation (MFN) principle of the GATT required equal treatment for all supplying countries, the system permitted the imposition of restrictions against imports from particular countries.

Such an obvious departure from the basic principles of the multilateral trading system constituted a major distortion in international trade, more so as restrictions were applied mainly on imports from developing economies. It also meant an obstacle to the normal development of trade.

Among the principal aims of the Uruguay Round were the removal of such distortions and the further liberalization of trade. Consistent with these aims, it was agreed that negotiations should be undertaken to bring about the re-integration of the textiles and clothing sector into the same mainstream of multilateral rules as for any other industrial sector. Hence the ATC.

1.2 Purpose of the ATC

According to its terms, the purpose of the ATC is to integrate the textile and clothing sector into the normal rules and disciplines of the GATT.

Article 1:1 of the ATC

This Agreement sets out provisions to be applied by [WTO] Members during a transition period for the integration of the textiles and clothing sector into GATT 1994. (Emphasis added).

**“Integration”
explained**

The ATC however does not provide any explicit definition of the term “integration”. The ordinary meaning of the term “integration” is the act of unifying or ending the difference in treatment. Therefore, as used in the ATC, it implies the elimination of those practices from the sector which did not conform to the normal rules of the GATT.

Context of integration

In order to determine the practices which did not conform to the rules of the GATT, and which therefore constitute the context of the ATC, reference to Paragraph 2 of the Preamble to the ATC recalling the April 1989 Decision of the Trade Negotiations Committee can be helpful. That Decision specified that integration of the sector will cover the phase out of restrictions under the Multi-fibre Arrangement and other restrictions on textiles and clothing not consistent with GATT rules and disciplines. The Decision stipulated that:

**Trade Negotiations
Committee, April 1989
Decision¹**

(a) Substantive negotiations will begin in April 1989 in order to reach agreement within the time-frame of the Uruguay Round on modalities for the integration of this sector into GATT, in accordance with the negotiating objective;

(b) such modalities for the process of integration into GATT on the basis of strengthened GATT rules and disciplines should inter alia cover the phasing out of restrictions under the Multi-fibre Arrangement and other restrictions on textiles and clothing not consistent with GATT rules and disciplines, the time-span for such process of integration, and the progressive character of this process which should commence following the conclusion of the negotiations... (Emphasis added)

Thus the context of the ATC demonstrates that the object and purpose of “integration” is the phase-out of restrictions on textile and clothing products that were maintained under the Multi-fibre Arrangement and any other restrictions that were not consistent with GATT rules and disciplines.

Although the April 1989 Decision of the Trade Negotiations Committee also referred to “other restrictions not consistent with GATT rules and disciplines” in addition to restrictions under the multi-fibre agreement, such other restrictions

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