Dated: May 19, 2000.

**William B. Bader,**

*Assistant Secretary for Educational and Cultural Affairs, United States Department of State.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/D–186]**

## WTO Consultations Regarding Section 337 of the Tariff Act of 1930

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice that the European Communities (''EC'') has requested consultations with the United States under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and the related rules of practice and procedure of the International Trade Commission contained in chapter II of Title 19 of the U.S. Code of Federal Regulations. The EC alleges that section 337 is inconsistent with Article III of the General Agreement on Tariffs and Trade 1994 (''GATT 1994'') and Articles 2 (in conjunction with Article 2 of the Paris Convention), 3, 9 (in conjunction with Article 5 of the Berne Convention), 27, 41, 42, 49, 50, and 51 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (''TRIPS Agreement''). A first round of consultations with the EC was held on February 28, 2000, in Geneva, Switzerland. The Government of Canada and the Government of Japan participated as third parties. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 30 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments may be submitted to the Monitoring and Enforcement Unit, Office of the General Counsel, Attn: Section 337 Dispute, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508, (202) 395–3582.

**FOR FURTHER INFORMATION CONTACT:** Rhonda K. Schnare, Associate General Counsel, Office of the General Counsel, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC, (202) 395–3150.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested by the EC concerning whether section 337 of the Tariff Act of 1930 is inconsistent with the United States' obligations under GATT 1994 and the TRIPS Agreement. The EC has not requested the establishment of a dispute settlement panel. If the EC decides to proceed to a dispute settlement panel, under normal circumatances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

### Major Issues Raised by the European Communities

Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) addresses unfair methods of competition and unfair acts in the importation and sale of products in the United States, the threat or effect of which is to destroy or substantially injure a domestic industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce in the United States. However, in cases of alleged infringement of a valid and enforcable U.S. patent, registered trademark, copyright, or mask work, there is no injury requirement.

In 1989, a GATT panel established at the request of the EC concluded that section 337 was inconsistent with GATT Article III. Subsequently, section 337 was amended by the URAA to bring it into conformity with the findings of the GATT panel report.

In January 2000, the EC requested consultations with the United States under certain WTO agreements regarding section 337. The EC's consultation request alleged that the amendments to section 337 failed to bring it into compliance with the GATT and that section 337 continues to provide less favorable treatment to imported goods than to domestic goods in violation of GATT Article III. The EC's consultation request also alleged that section 337 is inconsistent with Articles 2 (in conjunction with Article 2 of the Paris Convention), 3, 9 (in conjunction with Article 5 of the Berne Convention), 27, 41, 42, 49, 50, and 51 of the TRIPS Agreement. A first round of consultations with the EC was held in February 2000 in Geneva, Switzerland. The EC has not requested the establishment of a dispute settlement panel, but maintains the right to do so.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel, and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–186, Section 337 Dispute) may be made by calling Brenda Webb, (202) 395–

6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**A. Jane Bradley,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 00–13419 Filed 5–26–00; 8:45 am]

**BILLING CODE 3190–01–M**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/DS–192]**

## WTO Dispute Settlement Proceeding Regarding United States—Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (''USTR'') is providing notice of Pakistan's request for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (''WTO''). Pakistan challenges the United States' action of imposing a transitional safeguard on imports of combed cotton yarn from Pakistan. In this dispute, Pakistan alleges that ths safeguard measure is inconsistent with certain ogligations under the WTO Agreement on Textiles and Clothing. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted by July 7, 2000, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

**ADDRESSES:** Comments may be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Combed Cotton Yarn, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC, 20508.

**FOR FURTHER INFORMATION CONTACT:** Demetrios Marantis, Associate General Counsel at (202) 395–3581 or Caroyl Miller, Deputy Chief Textile Negotiator at 395–3026.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that Pakistan has submitted a request for the establishment of a WTO dispute settlement panel to examine the U.S. transitional safeguard measure on imports of combed cotton yard from Pakistan. The WTO Dispute Settlement Body (''DSB'') is expected to establish a panel for this purpose in June 2000.

### Major Issues Raised and Legal Basis of the Complaint

Pakistan challenges the transitional safeguard measure the United States imposed on March 17, 1999, on imports of combed cotton yarn from Pakistan. In its request for a panel to examine the measure, Pakistan alleges that the U.S. transitional safeguard measure is inconsistent with Article 2.4 of the WTO Agreement on Textiles and Clothing (''ATC'') and is not justified by Article 6 of the ATC. Pakistan further maintains that the U.S. measure does not meet the requirements for transitional safeguards set out in paragraphs 2, 3, 4, and 7 of Article 6 of the ATC because the United States allegedly:

- Made its determination of serious damage, or actual threat thereof, to its domestic industry producing like and/or directly competitive products, by (a) excluding from its determination a significant proportion of the production of like products by its domestic industry and (b) without taking into account all factors relevant to the state of its domestic industry;
- Failed to demonstrate that the alleged serious damage, or actual threat thereof to the domestic industry was being caused by increased imports;
- Attributed the alleged damage, or actual threat thereof, to its domestic industry solely to imports from Pakistan to the exclusion of imports from other sources, including unrestrained sources;
- Based its determination of serious damage, or actual threat thereof, on a comparison of data for an eight-month period in 1997 and 1998, which is in the view of Pakistan a period too short to determine whether the alleged damage, or actual threat thereof, was serious; and
- Relied on partial and unverified information.

The United States and Pakistan consulted on this issue on February 10 and 11, 1999, but were unable to reach a mutually satisfactory solution to the matter. The WTO Textile Monitoring Body (''TMB'') reviewed the U.S. measure on April 29, 1999, but determined in its report that ''it was not in a position to assess without doubt whether or not serious damage had been caused to the US' industry producing products like and/or directly competitive with combed cotton yarn * * *'' (G/TMB/18). The TMB therefore recommended that the United States rescind the measure. On May 27, 1999, the United States informed the TMB that it was unable to conform to this recommendation. The TMB subsequently reviewed and reaffirmed its recommendation, and in an August 6, 1999, letter to the TMB the United States renewed its determination to retain the temporary safeguard measure. Pakistan considers this matter to be unresolved and that the parties have—through the TMB—satisfied the consultation requirement of Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputers (''DSU''). Accordingly, on April 3, 2000, Pakistan requested the establishment of a dispute settlement panel pursuant to Article 8:10 of the ATC, Article XXIII:2 of the General Agreement on Tariffs and Trade 1994 (''GATT 1994''), and Article 6 of the DSU.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Comments must be in English and provided in fifteen copies to Sandy McKinzy at the address provided above. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitting person. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy. Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508. The public