

## UNITED STATES – RULES OF ORIGIN FOR TEXTILES AND APPAREL PRODUCTS

### Report of the Panel

WT/DS243/R\*

*Adopted by the Dispute Settlement Body  
on 23 July 2003*

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## I. INTRODUCTION

1.1 On 11 January 2002, India requested consultations with the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereafter the "DSU"), Article XXII of the General Agreement on Tariffs and Trade 1994 (hereafter the "GATT 1994"), Article 7 of the Agreement on Rules of Origin (hereafter the "*RO Agreement*") ... regarding section 334 of the United States Uruguay Round Agreements Act of 1994 (hereafter "section 334") and section 405 of the United States Trade and Development Act of 2000 (hereafter "section 405") and the customs regulations implementing these provisions.<sup>1</sup>

1.2 Consultations were held in Geneva on 7 and 28 February and 26 March 2002, but did not lead to a mutually satisfactory resolution of the matter.

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<sup>1</sup> WT/DS243/1.



1.3 On 7 May 2002, India requested<sup>2</sup> the Dispute Settlement Body (hereafter the "DSB") to establish a panel pursuant to Article 6 of the DSU, Article XXIII of the GATT 1994 and Article 8 of the *RO Agreement*. India's panel request referenced the rules of origin for textiles and apparel products set out in section 334 and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (hereafter the "URAA"), the subsequent modifications made by section 405 of the Trade and Development Act, the customs regulations implementing these Acts as well as the administration of these Acts and regulations, as the measures at issue. India claimed that the United States' rules of origin for textiles and apparel products were inconsistent with paragraphs (b), (c), (d) and (e)<sup>3</sup> of Article 2 of the *RO Agreement*.<sup>4</sup>

1.4 At its meeting on 24 June 2002, the DSB established a Panel pursuant to the request of India, in accordance with Article 6 of the DSU. The Panel was established with standard terms of reference. The terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by India in document WT/DS243/5/Rev.1, the matter referred to the DSB by India in that document and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."<sup>5</sup>

1.5 On 10 October 2002, the Panel was constituted as follows:

Chairperson: Mr Lars Anell

Members: Ms Mary Elizabeth Chelliah

Mr Donald McRae<sup>6</sup>

1.6 Bangladesh, China, the European Communities, Pakistan and the Philippines reserved their third party rights to participate in the Panel's proceedings. China, the European Communities and the Philippines presented written and oral arguments to the Panel.

1.7 The Panel met with the parties on 12 and 13 December 2002 as well as on 23 January 2003. It met with the third parties on 13 December 2002. The Panel issued its interim report to the parties on 11 April 2003. The Panel issued its final report to the parties on 25 April 2003.

<sup>2</sup> India had originally submitted its request on 7 May 2002 but omitted reference to Article 2. On 3 June India submitted a corrected panel request, and it is on the basis of this request that the Panel was established.

<sup>3</sup> India has decided to refrain from further pursuing its claim that the administration of the United States rules of origin is inconsistent with Article 2(e) of the *RO Agreement* because India considers that the DSU does not provide an effective remedy against WTO-inconsistent actions that have been taken in the past. Therefore, any finding of violation of this provision would not result in an effective remedy for India.

<sup>4</sup> WT/DS243/5/Rev.1.

<sup>5</sup> WT/DS243/6.

<sup>6</sup> *Ibid.*

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## II. FACTUAL ASPECTS

2.1 This dispute concerns the rules of origin which the United States applies to textiles and apparel products under section 334 of the URAA Act of 1994 and the subsequent modifications made thereto by section 405 of the Trade and Development Act of 2000 as well as the implementing customs regulations set out in 19 CFR § 102.21.

### A. *Section 334 of the Uruguay Round Agreements Act*

2.2 Section 334 provides, in relevant part, that:

"(b) Principles.—

(1) In general.- Except as otherwise provided for by statute, a textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory, or insular possession, if-

(A) the product is wholly obtained or produced in that country, territory, or possession;

(B) the product is a yarn, thread, twine, cordage, rope, cable, or braiding and-

(i) the constituent staple fibers are spun in that country, territory, or possession, or

(ii) the continuous filament is extruded in that country, territory, or possession,

(C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that country, territory, or possession; or

(D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.

(2) Special rules.- Notwithstanding paragraph (1)(D)-

(A) the origin of a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraph (A), (B), or (C) of paragraph (1), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90; and

(B) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.