

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/44

28 November 1974

Special Distribution

ACTIVITIES OF THE TEXTILES SURVEILLANCE BODY

(23 April-15 November 1974)

REPORT TO THE TEXTILES COMMITTEE BY THE TEXTILES SURVEILLANCE BODY

Chairman: Mr. Paul WURTH

1. The Textiles Committee at its meeting held from 26-28 March 1974, established the Textiles Surveillance Body (TSB) consisting of eight members and a Chairman in accordance with paragraph 1 of Article 11 of the Arrangement. The Committee further agreed that the TSB would formally come into being on 1 April 1974, and hold its first meeting on 23 April 1974.

2. In compliance with the Committee's decision the TSB met as scheduled, and since its constitution it has held eleven meetings. The members of the Body unanimously welcomed the designation of Ambassador P. Wurth of the GATT secretariat as Chairman. The TSB's meetings were attended by the following members: Mr. Chung (Korea), Mr. Colliander (Sweden), Mr. Meynell (EEC), Mr. Mizoguchi (Japan), Mr. Phelan (United States), Mr. Saleem (Pakistan) and Mr. Tomić (Yugoslavia), Mr. Garrido (Mexico), occupied the tripartite seat for the period from 1 April to 30 July, Mr. Dinzl (Austria) from 1 August to 30 September and Mr. Villar (Spain) for the period running from 1 October to 31 December 1974. These meetings were also attended by alternates designated by members.

3. In carrying out the functions required of it under the Arrangement, the TSB addressed itself to a number of procedural and substantive matters. These are briefly summarized in the following:

I. Records of meetings and notifications to the Textiles Committee

4. With a view to keeping all parties to the Arrangement abreast of its work, the TSB has decided that a summary of the major points discussed, in addition to the recording in full of any recommendations, findings or decisions, should be circulated to them. Such recommendations or findings will also be forwarded, wherever

provided in the Arrangement, to the GATT Council for its information. Thus, the reports on the meetings so far held have been circulated regularly in the COM.TEX/SB/- series of documents.¹

5. The TSB further decided that in addition to Article 2 notifications submitted to it, all such agreements as may be received under Articles 3 and 4 of the Arrangement were to be examined by the TSB, and subsequently circulated for the information of participating countries², along with such comments as the TSB may deem appropriate.

II. Recommendations and findings by the TSB

6. On the question of recommendations and findings by the TSB, it was agreed that these should be reached by consensus and not by vote. When the TSB is called upon to make recommendations or findings, full account should be taken of the relevant provisions of the Arrangement and, in particular, those of Article 11, paragraph 6. It was decided that the views expressed by the parties involved in a dispute before the TSB should be recorded in an annex to its recommendations on the dispute in question. It is the view of the TSB that in any dispute before it, its primary aim is to seek conciliation and to use its good offices for this purpose. Recommendations by the TSB referred to in the Arrangement might also be designed to facilitate the resolution of any remaining difficulties between the parties concerned, or the renewal of the negotiations with a view to reaching mutually acceptable solutions.

III. Equity in treatment

7. All members of the TSB affirmed, at the outset, the importance they attach to impartiality in reaching conclusions on any dispute referred to the TSB, and to ensuring that the parties thereto are treated completely equally. To this end, the TSB addressed itself particularly to the question of participation in its deliberations by parties involved in a dispute before it, when one of the parties concerned has a member on the TSB and the other party has not a member thereon. The view was held that a member of the TSB should not himself present a case brought before it concerning the country to which he belongs.

¹See COM.TEX/SB/1, 9, 18, 19, 27, 30, 35 and 39. The report on the eleventh meeting, held from 13 to 15 November 1974, will be circulated after its approval by the TSB at its next meeting scheduled from 4 to 6 December 1974.

²Further details are given under Sections V and VI.

8. This matter, of course, is of crucial importance, and the TSB reverted to it at subsequent meetings in order to carry further the discussion on how, in such cases, equity in treatment could best be assured. Bearing in mind the provisions of Article 11(6), the question was also discussed as to whether or not the participation by the TSB member concerned, and the representative of the non-member, should continue throughout the discussion up to and including the formulation and drafting of the TSB recommendations.

9. In the light of the views expressed in the TSB, and following informal consultations with a number of other participating countries in the Arrangement, the TSB has adopted certain guidelines regarding its internal procedures. These are set out in Annex 1 of COM.TEX/SB/30.

IV. Justification of restrictions on textiles

A. Non-contracting parties

10. The TSB discussed the matter of justification of restrictions by participating countries in the Textiles Arrangement which are not contracting parties to the GATT, in the case that these restrictions were to be maintained in terms of Article 2 of the Arrangement. The discussion hinged, particularly, on what kind of evidence the TSB would wish to be provided with. The countries in question are Guatemala, El Salvador, Colombia and Mexico. It was recognized that it would be inappropriate and unreasonable to expect such countries to justify their restrictions before permanent GATT bodies.

11. The TSB had, therefore, to evolve a procedure for those countries, particularly for Mexico which brought this matter before it, that would result in a treatment analagous, as far as practicable, to that received by contracting parties. Following its discussion, the TSB agreed on a procedure according to which the maintenance of restrictions by Mexico could be assessed on the basis of a memorandum to be submitted by the Mexican authorities in this respect. This is set out in the annex to COM.TEX/SB/27.

12. In compliance with this procedure, Mexico submitted a memorandum to the TSB, and a delegation from the capital presented the case before it and gave the necessary details and clarifications sought from them in this connexion. In considering this case, the TSB bore in mind the standards that would be applied to developing countries which are contracting parties to the GATT. The TSB came to the conclusion that, on the basis of the information submitted to it by the Mexican authorities, Mexico was not required to terminate at the present time existing restrictions on textiles notified by it in accordance with Article 2, paragraph 1. The TSB recommended that the Government of Mexico report before the

end of 1975 on the evolution of the textile industry, and on its relationship to the restrictions then in effect. The assessment by the TSB, and the conclusions arrived at, together with the relevant documentation, are set out in Annex II (A to E) of COM.TEX/SB/30.

13. As regards the three remaining countries, Guatemala and El Salvador notified that they do not maintain quantitative restrictions on imports of textiles in terms of Article 2, paragraph 1. Colombia is currently in the process of provisionally acceding to the GATT. The TSB was, therefore, asked to defer at present the discussion of its case.

B. Contracting parties

14. The TSB will, no doubt, have to address itself to the question of the justification of restrictions on textiles, if these were to be maintained by those participating countries in the Arrangement which are contracting parties to the GATT, but have not hitherto invoked the relevant provisions of GATT for the justification of such restrictions.

V. Notification of existing restrictions

A. Article 2, paragraph 1

15. The TSB continued throughout its meetings to examine the notifications submitted to it by participating countries under Article 2, paragraph 1. Their review by the TSB is mainly to ensure the completeness and adequacy of the information received in the light of the Committee's decision as to the minimum requirements for such notifications.¹ In so doing, the TSB requested the supply of additional information or clarification wherever necessary. All notifications received were reviewed, and have subsequently been circulated to all parties in the COM.TEX/SB/- series of documents², with the exception of two notifications which were found to be lacking certain details. Any supplementary details or clarifications received from participating countries concerned have also been circulated. Additional information is still awaited from others. It was agreed that it would be open to the TSB to revert thereafter to any notification, and to other participating countries to seek any information or clarification through the TSB, or directly from the parties concerned.

¹See COM.TEX/2, paragraph 11.

²For cross reference a checklist is given in the annex to this report; the checklist also includes documents relating to other articles.

16. Among other points raised and discussed in connexion with the review of these notifications were the following:

- (a) It was noted that all existing restrictions, both against participants and non-participants, should be notified.
- (b) The point was made that the notification of these restrictions with regard to non-participants would not necessarily imply that the follow-up actions laid down in paragraphs 2 and 3 of this Article would apply to all such countries because non-participants could not claim rights under the Arrangement.
- (c) It was accepted as a general principle that all such restrictions and restraints should be notified by the importing country. However, where by agreement between the countries concerned, the exporting country notified its export restraints, a cross reference to these should, for reasons of completeness, be also included in the notification of the importing country.
- (d) The question of the scope and type of restrictions required to be notified was discussed. In the light of the views expressed, it was felt that any exploration in depth of this question should be deferred until such time as it was specifically raised before the TSB, or brought to its attention by a member in connexion with a particular notification.
- (e) It would be important, however, for the restraining participating countries, in making their notifications to ensure that all the restrictions in force, particularly those quantitative measures which have a restrictive effect, were included in these notifications.

B. Article 2, paragraphs 2(ii) and 4

17. So far the TSB has received one bilateral agreement notified to it under the provisions of paragraphs 2(ii) and 4 of the Arrangement. This was an interim arrangement reached between the two parties concerned prior to their conclusion of a new bilateral agreement. The TSB, having regard to paragraph 5 of Article 2, and bearing in mind the provisions of Article 4, reviewed this notification and found that the agreement (United States/Egypt) was in conformity with the Arrangement. This has been circulated in COM.TEX/SB/37.

VI. Notification of new restrictions

18. It was suggested that new bilateral agreements and new restrictions imposed on non-participants should be provided by parties to the Arrangement simply as information voluntarily supplied and without other consequences. While

recognizing that paragraph 3 of Article 8 contained no explicit obligation for the reporting of such measures, the TSB requested all parties to the Arrangement to supply this information pending discussion of the matter in the Textiles Committee.

A. Article 3, paragraph 4, agreements

19. The TSB has received so far four agreements notified to it under Article 3, paragraph 4. Prior to its review of these agreements, the TSB had agreed on a procedure to be followed by it in determining the conformity of such agreements with both Article 3 and the other relevant provisions of the Arrangement. This procedure which is set out in Annex A of COM.TEX/SB/35 lists the documentation required to assist in such a review and provides for the supply of additional information and consultations with the parties directly concerned as deemed necessary.

20. In carrying out the review of the notifications received, the TSB had before it the full texts of the agreements negotiated, the evidence supplied in support of the need for the restraints and the additional information or clarifications it had sought from the notifying countries concerned. The TSB examined the relevant documentation and those agreements (Canada/Korea, Australia/Hong Kong, Australia/India) found to be in conformity with the provisions of Article 3, paragraph 4, as well as with the other provisions of the Arrangement, have been circulated in COM.TEX/SB/38, 40 and 41.

21. In the case of one agreement (Canada/Singapore) it was concluded that the evidence provided did not permit the TSB to determine that it was in conformity with the provisions of Article 3, paragraph 4. Since such an agreement between the parties concerned already existed in 1973, the TSB considered the new agreement as being in conformity with the provisions of the Arrangement, particularly with those of Article 3, bearing in mind the terms of Article 2. The Canadian authorities took note of the views of the TSB, and offered some additional comments which are reflected in the cover note to this agreement as set out in document COM.TEX/SB/42.

22. The TSB agreed that it was necessary to review such agreements without undue delay. The view, however, was held that the decision at this stage by the TSB on these agreements would, in no way, prejudice any discussion and/or decision as might be subsequently undertaken by the TSB on the concept of market disruption as defined in Annex A of the Arrangement.

B. Article 3, paragraph 5, unilateral restrictions

23. The only unilateral restraint action notified to the TSB under Article 3 was that taken by Australia with respect to imports from the Republic of Korea of certain textile items, following failure to reach a mutually acceptable agreement between the two Governments. The two parties involved have submitted the required information on the case under consideration.

24. Three meetings were devoted to the examination of this case, in the course of which further details and clarifications of certain points were sought from the two parties concerned. In accordance with Article 11, paragraph 6, and having due regard to the procedure agreed by the TSB on equity in treatment, the two parties, as requested, presented their case before it.

25. Having heard both sides, and the clarifications and details sought from them, and following consultations between the parties concerned and the TSB, both parties agreed to resume the negotiations with a view to reaching a mutually acceptable agreement. Both parties agreed to conduct such negotiations, as soon as practicable, during the month of November with the objective of reaching a prompt conclusion.

C. Article 4, bilateral agreements

26. As early as June, the TSB initiated the discussion on the type of action specifically required of it in Article 4 of the Arrangement. It was agreed that the TSB should review Article 4 agreements to consider whether or not they were consistent with the provisions of this Article. In the light of the views expressed at subsequent meetings, the TSB reached a decision as to the procedure to be followed by it in reviewing these agreements. This procedure, which is set out in Annex B of COM.TEX/SB/35, indicates the type of documentation required to be submitted in this connexion, and provides for the supply of additional information and consultations with the parties concerned if deemed necessary.

27. The TSB received in total six agreements notified to it under this Article. Two had been reviewed prior to this procedure. For this review the TSB had the full texts of these agreements and the additional information it had requested. These agreements (Austria/Egypt, Austria/Korea) have been subsequently circulated in documents COM.TEX/SB/31 and 32. The remaining agreements are still under review by the TSB.

ANNEX

Checklist of Documents on Notifications

I. Article 2, paragraph 1

Argentina	COM.TEX/SB/22	Japan	COM.TEX/SB/36
Australia	COM.TEX/SB/10	Korea, Rep. of	COM.TEX/SB/14
Austria	COM.TEX/SB/16 and Corr.1	Mexico	COM.TEX/SB/28
Brazil	COM.TEX/SB/43	Norway	COM.TEX/SB/15 and Add.1
Canada	COM.TEX/SB/2 and Add.1	Pakistan	COM.TEX/SB/6 and Corr.1
Colombia	COM.TEX/SB/20 and Corr.1	Philippines	COM.TEX/SB/26 and Corr.1
EEC	COM.TEX/SB/17	Poland	COM.TEX/SB/21 and Rev.1
Egypt ¹		Romania	COM.TEX/SB/23
El Salvador	COM.TEX/SB/5	Spain	COM.TEX/SB/25
Finland	COM.TEX/SB/7	Sri Lanka	COM.TEX/SB/8
Guatemala	COM.TEX/SB/12	Sweden	COM.TEX/SB/4 and Add.1
Hong Kong	COM.TEX/SB/33	Switzerland ¹	
Hungary	COM.TEX/SB/24	Turkey	COM.TEX/SB/13
India	COM.TEX/SB/29	United States	COM.TEX/SB/3
Israel	COM.TEX/SB/11 and Corr.1	Yugoslavia	COM.TEX/SB/34

II. Article 2, paragraphs 2(ii) and 4

United States/Egypt COM.TEX/SB/37

III. Article 3

Canada/Korea	COM.TEX/SB/38	Australia/Hong Kong	COM.TEX/SB/40
Australia/India	COM.TEX/SB/41	Canada/Singapore	COM.TEX/SB/42

IV. Article 4

Austria/Egypt	COM.TEX/SB/31	Austria/Korea	COM.TEX/SB/32
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¹ Notification has not been circulated; still under review by the TSB.