

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/137  
28 November 1975

Special Distribution

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Textiles Surveillance Body

## AUSTRALIAN RESTRICTIONS UNDER ARTICLE 3:5 ON IMPORTS FROM THE PHILIPPINES

### Findings and Recommendations

1. At its meeting of 15-18 September the TSB considered the unilateral measures taken by Australia with effect from 1 July 1975 to restrict imports of knitted tops (cardigans, outerwear, shirts, blouses and like garments - Australian tariff item ex 60.05); knitted and woven dresses (ex 60.05, ex 61.02) and woven blouses and shirts for women, girls and infants (ex 61.02, ex 61.04) from the Philippines. These measures had been imposed following the breakdown of bilateral consultations requested by Australia in April under Article 3 of the MFA. At that meeting it was the consensus within the TSB that an attempt at conciliation should be made and that Australia and the Philippines should hold further consultations, having due regard to the relevant provisions of the Arrangement, including those of Article 6 and Annex A, with a view to reaching a mutually acceptable solution by 30 October 1975, at which time a report on the results achieved should be presented to the TSB.<sup>1</sup>
2. On 23 October Australia and the Philippines reported that in a further series of negotiations held in Canberra it had proved impossible to reach a mutually acceptable solution. The TSB, which had maintained close contact with both parties since the original notification of the measures, greatly regretted the breakdown of these negotiations.
3. In a series of meetings commencing on 10 November the TSB, in accordance with the provisions of Article 3:5(iii), resumed its examination and on 26 November reached its conclusion with respect to this case as set out below.
4. In its final approach to the case, and in accordance with its normal practice of treating each case on its own merits, the TSB took the view that it would not be constructive to disregard the totality of the evidence in its hands and adopt too rigid an attitude as to the dates on which that evidence became available either to the TSB or the parties concerned.

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<sup>1</sup> See COM.TEX/SB/116.

5. The evidence available relevant to the situation which existed prior to Australia's request for consultations with the Philippines in April does not appear to demonstrate the existence of serious damage to domestic producers or actual threat thereof caused by imports of all of the three categories of products covered by Australia's Article 3 action.
6. While evidence not available until November has shown that developments subsequent to the original consultations appear to lend credence to Australia's concern at the time of the consultations that a further increase in imports of knitted tops would constitute an actual threat of serious damage, the later evidence is insufficient to substantiate the existence of serious damage or actual threat thereof arising from imports of the other products concerned from the Philippines.
7. While considering that, in some circumstances, small quantities of imports can be instrumental in causing or actually threatening serious damage, the evidence for the relevant period is insufficient to demonstrate that the quantitative increase in imports of products other than knitted tops from the Philippines had reached a level which caused or threatened serious damage.
8. The TSB took note of the fact that during the twelve-month period preceding the introduction of restrictions on imports from the Philippines in July, Australia had concluded agreements under Article 3 with several other exporting countries to limit their exports of such products to Australia.
9. While not wholly accepting the interpretation put on Article 6 by the Philippines in the course of the consultations and negotiations, there was no evidence that Australia, in the original consultations requested by it, in the decision to import the restrictions, or in the second round of consultations undertaken in October at the request of the TSB, took the provisions of Article 6 fully into account. The TSB is of the view that, if the purposes of Article 6 are to be served, care must be taken by both participating importing and exporting countries to avoid extreme interpretations of the provisions of the Article.
10. The TSB believed that the possibility still existed for further useful negotiations between the parties concerned aimed at reaching a solution that would be consistent with the Arrangement. The TSB recommended that, in view of the fact that its final findings were based on the totality of the evidence available in November 1975, the parties concerned should likewise take due regard of this evidence in any further negotiations.
11. The TSB recommended that the participating countries concerned should review the measures taken as required by Article 3:5(iii) in the light of the above findings.