

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/429

4 May 1979

Special Distribution

Textiles Surveillance Body

REPORT OF THE FIFTH AND SIXTH MEETINGS (1979)¹

1. The Textiles Surveillance Body held its fifth and sixth meetings in 1979 from 19 to 21 March and from 26 to 28 March respectively. The sixth meeting was resumed on 4 April. The following members or alternates were present during the two sessions; Messrs. de Gouvion St. Cyr, Hamza², Kujirai, Martin/Patek, Phelan, Suarez, Seng³ and Tsao/Park.
2. The report of the fourth meeting was approved, and has been circulated to the Textiles Committee in document COM.TEX/SB/407.
3. At the outset of the fifth meeting the Chairman informed the members that the Dominican Republic had accepted the Arrangement as extended by the Protocol on 14 March 1979. As of that date, thirty-seven participants had accepted the Protocol.
4. The TSB received, pursuant to its observations regarding the annual breakdown of the EEC's quotas at the regional level⁴, four communications from the Commission of the European Communities concerning the 1979 restraint levels broken down by member States for the agreements previously reviewed (between the EEC and each of Sri Lanka, Argentina, Pakistan and Korea). The TSB agreed to transmit these tabulations to the Textiles Committee as addenda to the following documents: COM.TEX/SB/378, 379, 383 and 389.
5. The TSB also received, for information purposes, two communications from the EEC concerning safeguard measures previously taken with regard to certain textile imports originating in Malta and Greece, respectively. Bearing in mind the request by the Textiles Committee that agreements concluded with, or actions taken against, non-participants should be notified, the TSB agreed to circulate the two communications to participating countries for their information under Articles 7 and 8, see documents COM.TEX/SB/408 and 409.

¹ Eighty-third and eighty-fourth meetings overall of the TSB.

² Attendance in part, fifth and sixth meetings.

³ Attendance in part, sixth meeting.

⁴ See COM.TEX/SB/380, paragraph 14.

6. The TSB received notifications of two new agreements concluded between the United States and each of Colombia and Thailand under Article 4 of the Arrangement. With respect to the latter agreement, the TSB noted that swing had already been included in the specific limits enumerated in Annex B of the agreement. After its review the TSB agreed to circulate the text of these two notifications to the Textiles Committee for information, see COM.TEX/SB/410 and 411. An amendment to the agreement with Thailand was also reviewed by the TSB and circulated in document COM.TEX/SB/412.

7. The TSB also received three notifications from the United States concerning amendments to each of its previous agreements concluded under Article 4 with Hong Kong, Korea and Portugal, on behalf of Macao. The TSB reviewed these amendments and agreed to transmit the text of the notifications to the Textiles Committee for its information, see COM.TEX/SB/413, 414 and 415.

8. The TSB received a notification from Austria extending an Article 4 bilateral agreement with Korea.¹ The TSB noted that the extended agreement provided for a growth of 4 per cent reflecting the special circumstances prevailing in the Austrian market for the products covered by this agreement in terms of paragraph 2 of Annex B.² The TSB also noted that there was no provision for swing between the fabric category and the garment category, nor was there any swing as between this agreement and two other agreements running concurrently between the two parties.

9. The TSB recalled its earlier observations³ with regard to agreed rates of swing lower than those mentioned in paragraph 5 of Annex B, and concluded that they would also be applicable to the agreement in question. The TSB noted that the ceilings for each of the products in the garment category seem to have been established on the basis of an arithmetical formula. After its review the TSB agreed to circulate the text of this agreement to the Textiles Committee for information, see COM.TEX/SB/416.

10. The TSB also received a notification from Austria of an agreement concluded with Hong Kong under Article 3:4 of the Arrangement. Also attached was a copy of a Memorandum of Understanding on a system of export authorization to cover certain textile products exported by Hong Kong to Austria. After its review the TSB agreed to circulate the notification to the Textiles Committee for information, see document COM.TEX/SB/417.

¹For original agreement and amendment see documents COM.TEX/SB/59 and 328.

²In exceptional cases where there are clear grounds for holding that the situation of market disruption will recur if the above growth rate is implemented, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned.

³COM.TEX/SB/69 and 365.

11. The TSB had received a notification from Canada regarding a new Article 4 agreement concluded with Korea. In reviewing this agreement the TSB noted that the restraint levels were based on a product categorization which was different from the classification of Canadian import and Korean export statistics. This made it difficult for the TSB to determine to what extent the new restraint levels compared with the actual level of trade in the proper reference period in terms of Annex B.
12. The TSB also noted that the flexibility provisions in the agreement varied according to the import sensitivity of the products and groups covered therein. The TSB recalled its earlier observations¹ with regard to agreed rates of swing lower than those mentioned in paragraph 5 of Annex B, and concluded that they would also be applicable to the agreement in question.
13. The TSB also noted that the growth provisions in the agreement varied likewise according to the import sensitivity of the products and the groups. With respect to the parties' agreement on growth rates lower than 6 per cent for certain products, the TSB recognized that those lower growth rates reflected the parties' understanding of the existence of the then exceptional circumstances prevailing in the Canadian market in terms of paragraph 2 of Annex B.
14. The TSB, on the basis of the data available, concluded that this agreement provides a net increase in access for Korean exports in 1979, over the projected level of those exports in 1978 under the GATT Article XIX restraint régime in effect in that year. The TSB concluded that the agreement, in overall terms, was consistent with the principles and objectives of Article 4 of the MFA, and agreed to circulate it to the Textiles Committee for information. This has been done in document COM.TEX/SB/418.
15. The TSB also received a communication from Canada concerning an Article 3:6 action with respect to imports from the Philippines of men's structured suits and jackets for the period 1 January to 31 December 1979. This action was notified, for the information of the TSB, as an interim measure pending the outcome of consultations.
16. The TSB considered two notifications made by the European Economic Community under Article 4.4 of the Arrangement of initialled agreements between the EEC and each of Indonesia and Malaysia.
17. The TSB noted that the agreement between the EEC and Indonesia provided for a consultation procedure and that no restraints had been established. The TSB also noted that its general observations and recommendations as set out in COM.TEX/SB/380 and 388 will apply to this agreement, to the extent that such observations are relevant thereto.

¹See COM.TEX/SB/69, paragraph 4, and COM.TEX/SB/365, paragraph 74.

18. During the examination of the restraints contained in Annex 2 of the bilateral agreement between the EEC and Malaysia, the TSB noted, after having heard the explanations given by the member nominated by the EEC, that the limits mentioned in footnote 1 of Annex 2 relating to certain products of categories 7 and 8 which had been established at the request of Malaysia, were compatible with the provisions of Protocol B of the EEC/Malaysia agreement and with Article 12 of the MFA. The TSB noted that its general observations and recommendations, as set out in COM.TEX/SB/380 and 388 will apply to this agreement.

19. After its review of the EEC/Indonesia and EEC/Malaysia agreements, the TSB agreed to transmit the text of these two notifications to the Textiles Committee for the information of the participating countries, see documents COM.TEX/SE/419 and 420.

20. The TSB received a notification from the United States concerning a new and unique Article 4 bilateral agreement with the Philippines covering all textile categories of cotton, wool and man-made fibres. The term of this agreement, which succeeds a previous one, is five years beginning 1 January 1978. In reviewing this agreement, the TSB noted that it differed in concept from Article 4 agreements previously submitted to the TSB in that the agreement included the unusual feature of encompassing all flexibility provisions within the base limits of the agreement and of making all textile categories subject to specific limits. Having due regard to the fact that all textile categories are subject to specific limits in this agreement, the TSB was unable to find that such limitation was specifically foreseen under the provisions of Article 4:2.

21. As regards the limitation on all textile categories mentioned above, the TSB was informed that the parties had agreed that in the cases of those categories which had previously been subject to consultation levels, specific limits were established to ensure that exports in these categories from the Philippines to the United States could expand within a predetermined framework; such specific limits representing levels below which the United States Government had undertaken not to impose restrictions on such exports.

22. The TSB noted that aggregate group and category base levels in the new agreement involved significant increases over the limits set out in the previous one, and that the parties thereto had mutually agreed that such increases accommodated the growth and flexibility provisions of the Arrangement. In addition, the agreement provided for growth of 4 per cent to be applied in the second and each successive year in the manner set out therein. The TSB concluded, therefore, that, in overall terms, the agreement could be regarded as being consistent with the basic objectives and principles of Articles 4 and 1:2 relating to the expansion and orderly development of trade in textiles between the two parties.

23. After its review of the agreement, the TSB agreed to circulate the text of the notification to the Textiles Committee for the information of the participating countries, see COM.TEX/SB/421.

24. The TSB had received a notification from Sweden concerning an Article 4 bilateral agreement with Hong Kong. The TSB noted that most restraint levels in the new agreement involved reductions on the levels set out in the previous agreement and that restraint levels established for new items were lower than those provided for in Annex B of the Arrangement had the roll-back formula thereof been applied. This has resulted in a net reduction in access (i.e. negative growth) and, therefore, constituted a departure.

25. The TSB further noted that the parties had agreed to swing of less than 5 per cent. It recalled its earlier observations that swing was one of the essential elements in agreements under Articles 3 and 4 (COM.TEX/SB/69, paragraph 4). The TSB also recalled its previous observation concerning cases where the exporting country waives its right to swing as a reflection of a mutual recognition of the minimum viable production principle (COM.TEX/SB/365, paragraph 74). The TSB concluded that these observations would also apply to cases with agreed rates of swing lower than those mentioned in paragraph 5 of Annex B of the Arrangement.

26. The TSB noted that the reduction in access, as well as other elements of this agreement, were agreed to by the two parties pursuant to the relevant provisions of the Protocol, in particular paragraph 6 thereof. The TSB also noted that this agreement will expire at the end of March 1979, and had been informed that an understanding on the terms of a new agreement had been reached ad referendum to succeed this one. The TSB is circulating the text of this agreement to the Textiles Committee, (see COM.TEX/SB/422).

27. The TSB has received a memorandum submitted by Bolivia in justification of the restrictions on imports of textiles notified by Bolivia under Article 2:1.¹ The TSB has reviewed this memorandum, together with further information received on Bolivia's economy and development of its foreign trade and balance of payments, and has agreed to circulate this documentation to the Textiles Committee for information. The TSB concluded that Bolivia was not at this stage required to remove its restrictions and requested a report on the evolution of Bolivia's textile industry and its relationship to the restrictions in force by 1 January 1980. The TSB agreed to transmit the text of the memorandum to the Textiles Committee for the information of the participating countries, see COM.TEX/SB/423.

28. The TSB heard presentations by delegations from Canada and Malaysia concerning restrictive measures taken by Canada under the provisions of Article 3:5 of the MFA with respect to imports from Malaysia of worsted spun acrylic yarn. The TSB noted that this action, which was notified to the Malaysian authorities on 22 January 1979, arose from a request made by Canada on 30 August 1978, to Malaysia with a view to concluding an export restraint arrangement regarding this item.

¹This was circulated to the Textiles Committee in connexion with Bolivia's accession to the MFA as COM.TEX/W/54/Add.1.

29. The TSB also noted that at the time the request was made both Canada and Malaysia were not parties to the MFA, and that they subsequently accepted the Protocol on Extension on 24 October 1978 and 19 February 1979 respectively. Malaysia, following its acceptance of the Protocol of Extension, invoked its rights under Article 11:5 requesting the TSB to review the Canadian action.

30. It emerged from the discussion that both parties had agreed to meet on 12 April 1979 with a view to arriving at a mutually satisfactory solution. The TSB noted, that at the time of such forthcoming negotiations, the measure continued to be in force. In the circumstances, the TSB recommended both parties to report on the results forthwith and decided to defer examination of this matter pending the outcome of the negotiations.