

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/880
30 September 1983

Special Distribution

Textiles Surveillance Body

REPORT OF THE THIRTEENTH MEETING (1983)¹

1. The Textiles Surveillance Body held its thirteenth meeting of 1983 on 18-22 and 27 July.
2. Present at this meeting were the following members and/or alternates: Messrs. Bajwa/Puri, Chau, Delgado/Patriota, Keck/Richardson, Kittisataporn/Bondad, Sato, Shepherd and Westlund/MacNeil.
3. The report of the twelfth meeting was approved and has been circulated as COM.TEX/SB/870.
4. The following points were discussed:

Maldives/United States²

5. The TSB reverted to its consideration of the complaint by the Maldives concerning unilateral actions taken by the United States to restrain imports of wool sweaters from the Maldives. The TSB heard reports from both parties on the continuation of negotiations, following the interim recommendation made at the previous meeting.³
6. Both parties reported that it had not been possible to reach a mutually satisfactory solution. The United States reported that: "Given the fact that further negotiations prior to the July 18-22 session of the TSB could not be arranged, the United States Government, in response to the above cited request of the Maldives, and in keeping with the June 24 interim recommendation of the TSB, has taken steps to merge the two categories at a level of 34,000 dozen for the period September 29, 1982 - September 28, 1983".⁴ The Republic of Maldives reported that: "The action by the United States in merging these categories at a level of 34,000 dozen does not alleviate the problems of market access for the Republic of Maldives nor does it reflect the recommendation of the Textiles Surveillance Body (TSB)".

¹ Hundred and fifty-third meeting overall.

² A complete report on the review of the United States/Maldives case conducted at the twelfth and thirteenth meetings of the TSB is contained in document COM.TEX/SB/879.

³ See COM.TEX/SB/870, paragraphs 6 to 8.

⁴ The levels initially introduced were 15,210 dozen for category 446 (WGI wool sweaters) for 29 September 1982 to 28 September 1983, and 12,756 dozen for category 445 (MB sweaters) for 26 December 1982 to 25 December 1983.

7. Following the TSB's consideration of this question, the members expressed the opinions and made the statements set out below.

8. Mr. Keck, Mr. MacNeil, Mr. Sato and Mr. Shepherd could not accept the view that there was no case for market disruption. While their views as to the details of the case differed somewhat, none was able to conclude that market disruption had not been demonstrated.

9. They regretted the inability of the TSB to reach a consensus with respect to this and other aspects of the case under review and, thereby, the inability of the TSB to make recommendations to the parties concerned.

Opinion of Mr. Keck

10. In the TSB deliberations on this question there were two separate though interrelated issues involved. One was the question of market disruption, the other one the recommendation of the TSB to both parties.

11. As regards the question of whether or not market disruption existed, while recognizing that the situation was a complex one, Mr. Keck felt that on the basis of the data provided orally and in writing the case of market disruption could be sustained.

12. The absence of a consensus in the TSB on the question of market disruption in Mr. Keck's view is the more regrettable since it did not permit the TSB to come to a consensus on further recommendations to the parties to find solutions with regard to the relevant provisions of Article 6 of the MFA and paragraph 12 of the Protocol of Extension.

Opinion of Mr. MacNeil

13. Mr. MacNeil noted that it was TSB practice to work to consensus conclusions, decisions and recommendations.

14. He also noted that while considerable evidence had been presented on the key question of whether or not there had been market disruption, the TSB had not been able to arrive at a consensus in this case. While recognizing the complexity and sensitivity of the matter, he himself was satisfied that the case for market disruption was sustained.

Mr. Sato's views

15. I would like to express a great regret that the TSB could not build up a consensus as to the existence of market disruption and thus were unable to make recommendations to both parties to the dispute in this respect.

16. Based upon the available updated data and information, submitted by the delegation of the United States I recognized that the claim for real risk of market disruption had been warranted. At the same time, on the basis of evidence provided I could not be convinced that there was no case for market disruption. Consequently it is my strong desire that both parties should sit down at the negotiating table immediately in order to find a mutually acceptable solution having regard to the relevant provisions, in particular Article 6, of MFA and paragraph 12 of the Protocol of Extension of 1981.

Opinion of Mr. Shepherd

17. Mr. Shepherd concluded that the case for market disruption had been demonstrated. There had been a sharp, and substantial increase in imports from the Republic of the Maldives at prices substantially below those prevailing for goods of comparable quality in the domestic market. This increase occurred in the context of a longer-term increase in imports from all sources. While domestic production had remained relatively stable over the past few years, the market share of the domestic industry had declined substantially, a trend which had continued in the first part of 1983. In these circumstances, restraint action was clearly justified. The level of restraint was, however, a separate issue and it is particularly regrettable that the inability of the TSB to reach a consensus prevented a TSB conclusion in this regard.

Statement by Messrs. Bajwa, Chau, Delgado and Kittisataporn

18. Following the TSB's examination of the evidence submitted to the TSB in writing and orally by the two parties, Messrs. Bajwa, Chau, Delgado and Kittisataporn concluded that:

- (a) the United States had failed to demonstrate the existence of serious damage, or actual threat thereof, to its wool sweaters industry in terms of paragraph I in Annex A of the MFA;
- (b) furthermore, the increases in the level of United States production of wool sweaters between 1980 and 1982, shown in data provided by the United States, constituted clear evidence of a lack of serious damage, or actual threat thereof;
- (c) consequently, a case of market disruption by imports from the Maldives, in terms of the definition of market disruption in Annex A, had not been established; and
- (d) therefore, no justification existed under Article 3 of the MFA for the maintenance of restrictions by the United States on imports of wool sweaters under categories 445 and 446 from the Maldives.

Bearing in mind the Maldives' status as one of the least developed among developing countries, its population of around 160,000, its per capita GNP of US\$140, and the importance of its textile sector to its economy, they noted the failure of the United States to observe the provisions of paragraph III of Annex A.

19. In the light of the above conclusions and in accordance with the provisions of paragraph 5(iii) of Article 3, Messrs. Bajwa, Chau, Delgado and Kittisataporn recommended that the United States immediately terminate the restrictions on imports from the Maldives of wool sweaters under categories 445 and 446, and requested the United States to report forthwith to the TSB on the implementation of this recommendation.

Article 4 notifications

EEC/Uruguay

20. The TSB reviewed a notification by the EEC of a new Article 4 bilateral agreement initialled with Uruguay, in de facto application with effect from 1 January 1983 and valid until 31 December 1986. In this agreement, woollen and worsted fabrics (category 50) were placed under Community restraint, and wool tops (category 46) under restraint in three regions of the EEC.

21. While recalling that paragraph 17 of the 1981 Protocol of Extension referred to wool tops as one of the sectors of trade for which priority attention would be given in the context of the phasing out of restraints under the Arrangement, the TSB found that this agreement was in conformity with Article 4 of the MFA and agreed to transmit the notification to the Textiles Committee (COM.TEX/SB/871).

EEC/Guatemala

22. The TSB began its review of a notification by the EEC of a new Article 4 consultation agreement initialled with Guatemala, in de facto application with effect from 1 January 1983 and valid until 31 December 1986. It was agreed to revert to this notification at a future meeting.

EEC/Philippines

23. The TSB reviewed a notification by the EEC of a new Article 4 agreement with the Philippines, in de facto application with effect from 1 January 1983 and valid until 31 December 1986.

24. In this agreement:

(a) one combined category was newly brought under Community restraint and one new regional restraint was introduced, while one regional restraint was removed;

(b) base levels for two Community restraints and one regional restraint were reduced, and no increases were given for one Community and one regional restraint; however, increases for other categories led to an overall increase in base levels of over 6 per cent;

(c) growth rates within the agreement were 2 per cent in two categories, 3 per cent in two categories, 4 per cent in fifteen categories and 5 per cent in two categories;

(d) compounded growth rates over the life of the agreement were greater than 6 per cent for a number of categories;

(e) swing was established at 5 per cent, with no swing into Group I categories from Groups II and III; carryover and carry forward were established at 5 and 5 per cent respectively; and cumulative use of flexibility was 15 per cent;

(f) possibilities were provided by the EEC for transferring a portion of quotas among ASEAN member countries.

25. The TSB heard statements by the two parties that the reductions in base levels for some categories contained in this agreement had been mutually agreed in return for increases in other categories of interest to the Philippines.

26. With reference to the possibilities provided by the EEC for transferring a portion of quotas among ASEAN member countries, the TSB felt that it would be useful if it could be informed of the utilization of these possibilities.

27. The TSB did not address itself on this occasion to the provisions of Articles 4 and 5 of this agreement, concerning re-imports of textile products after processing and handloom and cottage industry products, respectively.

28. After its review, the TSB agreed to transmit this notification to the Textiles Committee (COM.TEX/SB/872).

EEC/Peru

29. The TSB reviewed a notification by the EEC of a new Article 4 bilateral agreement with Peru, in de facto application with effect from 1 January 1983 and valid until 31 December 1986.

30. The agreement contained three specific limits, on cotton yarn, cotton fabrics and sweaters. While growth rates within the agreement were lower than 6 per cent and lower than those in the previous agreement, base level increases were higher than 6 per cent in two categories and lower than 6 per cent in one category. Moreover, additional annual quotas were established for cotton yarn of 56 English count (94 metric count) in category 1.

31. Swing among categories was 5 per cent. Carryover and carry forward were established at 5 per cent and 5 per cent respectively.

32. The TSB did not address itself on this occasion to the provisions of Articles 4 and 5 of this agreement, concerning re-imports of textile products after processing and handloom and cottage industry products, respectively.

33. After its review, the TSB agreed to transmit this notification to the Textiles Committee (COM.TEX/SB/873).

¹See paragraphs 22 and 23 of the report of the sixth meeting (COM.TEX/SB/841). General observations which apply to Articles 8, 9 and 12 of this agreement are contained in paragraphs 13 to 21 of the same report.

Sweden/India

34. The TSB reviewed a notification by Sweden of a provisional extension of its Article 4 bilateral agreement with India, valid until 30 November 1983. This was the second extension of the agreement in question. The TSB noted that this extension had been agreed pending the conclusion of a new bilateral agreement, and that the growth and flexibility provisions of the agreement applied to the period of extension.

35. As on the previous occasion¹, the TSB decided not to address itself to this provisional extension at this juncture and agreed to transmit the notification to the Textiles Committee for its information (COM.TEX/SB/874).

Sweden/Indonesia

36. The TSB reviewed a notification by Sweden of a new bilateral consultation agreement with Indonesia, concluded under Article 4, valid for the period 1 June 1982 to 31 December 1983, and a subsequent memorandum of understanding in which restraints were introduced on four product groups: shirts, underwear and T-shirts, trousers, and blouses, from 1 August 1982 to 31 December 1983. The TSB agreed to transmit this notification to the Textiles Committee (COM.TEX/SB/875).

Canada/Philippines

37. The TSB reviewed a notification by Canada of a bilateral agreement concluded with the Philippines under Article 4, valid from 1 January 1982 to 31 December 1986. It was agreed to transmit this notification to the Textiles Committee (COM.TEX/SB/876).

Notification under Articles 7 and 8

EEC/Bulgaria

38. The TSB took note of a notification by the EEC of a new bilateral agreement initialled between the EEC and Bulgaria, a non-participating country, in de facto application with effect from 1 January 1983 and valid until 31 December 1986.

39. The TSB agreed to transmit this notification to the Textiles Committee for its information (COM.TEX/SB/877).

Article 11 notifications

Japan

40. The TSB received a notification from Japan concerning the status of restrictions maintained on textiles and clothing products, in reply to the Chairman's letter requesting such information from participants pursuant to

¹See COM.TEX/SB/838, paragraphs 9 and 10. The TSB's observations on the original bilateral agreement are contained in COM.TEX/SB/691, paragraphs 5, 6 and 8.

Articles 11:11, 11:12 and 11:2 of the Arrangement (see COM.TEX/SB/859, paragraph 17). It was agreed to revert to this question at a future meeting.

Canada

41. The TSB received a notification from Canada, pursuant to Article 11:11, 11:12 and 11:2 of the Arrangement, concerning the status of restrictions maintained by it on textiles and clothing products, and agreed to transmit the notification to the Textiles Committee for its information (COM.TEX/SB/878).

Other business

42. The TSB heard a statement by a representative of the Government of Hong Kong concerning the application by the United States of the consultation provisions of the Export Authorization procedures contained in paragraph 7 of the United States/Hong Kong bilateral agreement (COM.TEX/SB/818).