

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Textiles Committee

Original English

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Proposal for a Protocol Extending the Arrangement Submitted by Developing Exporting Countries, Participants in the Arrangement

Following is a proposal submitted by developing exporting countries, participants in the MFA, for a Protocol of Extension and Conclusions of the Textiles Committee.

THE PARTIES to the Arrangement Regarding International Trade in Textiles (hereinafter referred to as "the Arrangement")

ACTING pursuant to paragraph 5 of Article 10 of the Arrangement, and

REAFFIRMING that the terms of the Arrangement regarding the competence of the Textiles Committee and the Textiles Surveillance Body are maintained, and

CONFIRMING the understanding set forth in the Conclusions of the Textiles Committee adopted on _____ 1981, a copy of which is attached herewith,

HEREBY AGREE as follows:

1. The period of validity of the Arrangement set out in Article 16, shall be extended until _____.
2. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT. It shall be open for acceptance, by signature or otherwise, by the Parties to the Arrangement, by other governments

accepting or acceding to the Arrangement pursuant to the provisions of Article 13 thereof and by the European Economic Community.

3. This Protocol shall enter into force on 1 January 1982 for the countries which have accepted it by that date. It shall enter into force for a country which accepts it on a later date as of the date of such acceptance.

Done at Geneva this _____ day of _____ one thousand nine hundred and _____ in a single copy in the English, French and Spanish languages, each text being authentic.

CONCLUSIONS OF THE TEXTILES COMMITTEE ADOPTED
ON _____ 1981

1. The participants in the Arrangement exchanged views regarding the future of the Arrangement.
2. Members of the Textiles Committee recognized that there continued to be a tendency for an unsatisfactory situation to exist in world trade in textile products, and that such a situation, if not satisfactorily dealt with, could work to the detriment of countries participating in international trade in textile products, whether as importers or exporters or both. It could adversely affect prospects for international co-operation in the trade field and could have unfortunate repercussions on trade relations in general, and the trade of developing countries in particular.

Market disruption

3. The Committee discussed the functioning of the Arrangement in the recent past and recognized the need for restoring discipline in its operation in the future. The participants agreed that the provisions of

Annex A and the procedures of Articles 3 and 4 of the Arrangement should be carefully and scrupulously observed in every instance of invocation of safeguard measures.

4. It was noted, that actions under Articles 3 and 4 to temporarily restrain trade in textiles products could only be taken if there existed a situation of market disruption or real risk thereof. It was also noted that Article 6:1 required that in the application of such restrictions developing countries shall be given more favourable terms than other countries.

5. With respect to the definition of market disruption contained in Annex A of the Arrangement, it was observed that difficulties had arisen as to its application in practice, leading to misunderstandings between exporting and importing participants, and generally hindered efficient operation of the Arrangement. With a view to overcoming these difficulties, it was agreed that the following interpretative rules would be followed:

(a) having regard to the elements contained in Annex A I and II and the requirements of Article 3.2 that restraints must be limited to precise products, the Committee agreed that

- (i) any given volume of imports of any single product or of any group of products would not of itself be disruptive;
- (ii) the total volume of imports of any single product or of any group of products in relation to consumption of those products in the market of the importing participant could not of itself be considered to constitute a measure of market disruption.

(iii) there was no basis for classifying any participant or group of participants as "low cost suppliers" merely by virtue of the ability of those participants to supply any single product or group of products at prices substantially below those prevailing in the market of the importing participant when those prices were derived from the comparative advantage of such participants to supply such products;

(iv) where prices were derived other than from the comparative advantage of those suppliers, then participants may have recourse to such other multilateral instruments as may be appropriate for such situations;

(v) consequently, restraints may be imposed under the provisions of Article 3.5 in respect of any single product or group of products from any particular participant only where it could be shown that those products and that participant were the cause of market disruption; there would be thus no basis for the imposition of restraints on any single product or group of products from a number of supplying participants taken as a whole by virtue of the total volume of such products from such supplying participants.

(b) No supplier shall be deemed to be causing market disruption before it had exceeded the level of imports of the particular product concerned from any other non-restrained source.

(c) For an importing country to take action under Article 3, it is required to submit to the TSB and the exporting countries concerned convincing evidence that market disruption is in evidence.

- (d) In any bilateral agreement concluded or to be concluded under Article 4 where the growth rate offered for any particular product was only 6 per cent, being thus inconsistent with Article 4.3 in that it would not be more liberal than measures provided for in Article 3, the importing participant would submit convincing evidence to the TSB and the exporting participant concerned that a situation of actual market disruption existed in respect of such a product.
- (e) The detailed factual statement of reasons and justification for the request for action under Article 3 and 4 would contain evidence referring to the specific products under consideration and not only information of a general and universal nature.
- (f) Evidence would be provided that serious damage was being suffered by domestic producers.
- (g) It would be clearly indicated that the source of such disruption or recurrence of disruption was not due to technological changes, changes in consumer preferences or similar factors.
- (h) It would be shown that the source of the disruption or of its recurrence was a sharp and substantial increase or imminent increase of imports of particular products from particular sources.
- (i) Restraint measures could not be applied by an importing country unless it were established that a situation of real risk of market disruption/ market disruption/ recurrence of market disruption, existed. When an exporting participant was unable to accept the claim of the importing participant that there existed a situation of market disruption, a real

risk thereof, or a recurrence of market disruption, caused by import from that exporting participant, the exporting participant could refer the case to the TSB as regarded the validity or otherwise of the claim made by the importing participant. While the matter was being considered by the TSB, the importing participating country would refrain from taking any restrictive measures.

(j) Restraint measures applied by an importing country under Article 3 shall not be in force for more than twelve months. Should an importing country wish to extend the measure, it would be required to establish the existence of market disruption de.novo.

(k) The evidence of real risk of market disruption/market disruption/recurrence of market disruption shall be periodically reviewed through bilateral consultations and by the TSB in periods of not less than two years in order to assess whether the situation of disruption had ceased to exist and whether restraints were in consequence to be removed or higher growth rates to be introduced.

(l) If the periods referred to in paragraph 1 of Annex B were adverse for a particular exporting country due to certain reasons, its base level could then be established taking into consideration its share in world exports of the product in question.

Minimum viable production

6. The Committee noted that Article 1, paragraph 2 and Annex B, paragraph 2, of the Arrangement permitted participants, having small markets, an exceptionally high level of imports and a correspondingly low level of domestic production to apply positive growth rates lower

than 6 per cent, in order to prevent damage to their minimum viable production. In such cases no supplier would be deemed to be causing damage to the minimum viable production of another participant before it exceeded the level of imports from any other unrestrained source. Restrictions would first be applied to the largest suppliers to the market on the basis of non-discrimination between developed and developing countries. Such lower positive growth rates, in any case, could not be inferior to 3 per cent per year.

7. It was recognized that the continuance of damage to the minimum viable production would be periodically reviewed through bilateral consultations and by the TSB in periods of not less than two years in order to assess whether restraints could be removed or a higher growth rate introduced without causing such damage.

Adjustment

8. The Committee, reaffirming Article 1, paragraph 4 of the Arrangement, and taking into consideration the temporary nature of the Arrangement, agreed that importing participants having recourse to Article 3 or 4 of the Arrangement would place before the Textiles Committee a definite, detailed and time-bound programme for the implementation of adjustment measures, including phasing out of restrictive measures, which they intend to implement for the duration of the Arrangement. Adjustment measures and trade liberalization shall encourage business to move progressively from production of products under restraint into more viable lines of production.

9. It was agreed that the Textiles Surveillance Body would carry out such analytical and empirical studies as might be necessary for assessing the pace, extent and direction of the adjustment policies, both governmental and autonomous - and trade liberalization measures and also for determining the relative long-term and short-term costs/benefits both to the importing countries and the supplying countries in the context of the provisions of Articles 1.2 and 1.3.

10. It was further agreed that the Textiles Surveillance Body would submit its report on the progress of effecting adjustment measures and the related cost/benefits analyses as envisaged in paragraphs 8 and 9 above to the Textiles Committee every twelve months.

11. The Committee decided that a sub-committee be established by the Textiles Committee to undertake continuous review of the progress of implementation of adjustment measures and trade liberalization policies as envisaged in Article 1.4 of the Arrangement. The Textiles Committee would review the matter and report on it to the GATT Council.

Phasing out of restraints

12. Having regard to Article 1, paragraph 2 and Article 6, paragraph 1 of the Arrangement and in order, in particular, to achieve the objective of progressive liberalization of trade in textiles,

(a) Participating countries having recourse to either Article 3 or Article 4 of this Arrangement agreed to undertake a phased elimination of restrictions.

(b) In pursuance of this policy, participating countries agreed that exports from small suppliers and new entrants shall forthwith cease to be subject to any restrictions. Exports of wool tops shall likewise

cease to be subject to any restrictions as they are primary products. Exports from other suppliers currently under restraint shall be progressively liberalized within the lifetime of the Arrangement through bilateral consultations.

(c) Participating countries, noting that any reduction in access rights could not be in conformity with the MFA, affirmed that in the implementation of the programme of elimination of restrictions, the access rights as defined in Annex B of other restrained suppliers cannot be reduced.

(d) Participating countries also agreed that phased elimination of restrictions should liberalize trade in whole sectors or categories of products, priority being given to cotton textiles.

Article 6

13. Reaffirming the need for special treatment for new entrants, small suppliers and exporters of cotton textiles, it was agreed that:

(a) Restraints on exports of these textiles and clothing products of participating countries in respect of which they are new entrants would not be applied under Article 3, nor could such exports be included in bilateral agreements concluded under Article 4.

(b) Restraints would not be imposed on the exports of countries covered by Article 6, paragraph 4 of the Arrangement.

(c) Exports from small suppliers could not in any circumstances be judged to present a real risk of market disruption. Restraints would not be applied either under Article 3 or Article 4 on the exports of small suppliers, i.e. those covered by paragraph 3 of Article 6.

The term "small suppliers" shall be interpreted as being "country specific" and not product or category specific. It was further agreed that the term "small supplier" shall be interpreted in a liberal rather than a restrictive sense. In any event, should conflicting views arise as to the classification of a particular country, any determination by the importing country would not be made unilaterally.

(d) For the purposes of paragraph 3 of Article 6, shares in imports of textiles and those of clothing would be taken separately.

Textile Surveillance Body

14. The participants recognized that at present, the effective functioning of the Arrangement depends on their willingness to abide by its provisions. The participants reaffirmed that the rôle of the Textiles Surveillance Body is to ensure the effective and equitable operation of the Arrangement with the aim of furthering the objectives of the Arrangement. The participants agreed that the existing surveillance mechanism would be more effective if its working methods were improved.

15. The Committee agreed that in the event of the TSB being unable to make recommendations or findings in regard to any matter submitted to it under the terms of Article 11, such matter would be then referred to the Textile Committee or to the GATT Council through normal GATT procedures, taking into consideration the relevant procedures and provisions of the Understanding regarding Notification, Consultations, Dispute Settlement, adopted by the CONTRACTING PARTIES of the GATT on 20 November 1979.

Final provisions

16. All participants saw mutual co-operation as the foundation of the Arrangement and as the basis for dealing with problems in a way which would promote the aims and the objectives of the MFA. Participants emphasized that the primary aims of the MFA are to ensure the expansion of trade in textile products, particularly for the developing countries, and progressively to achieve the reduction of trade barriers and the liberalization of world trade in textile products while, at the same time, avoiding disruptive effects on individual markets and on individual lines of production in both importing and exporting countries. In this context, it was argued that in order to ensure the proper functioning of the MFA, all participants should exhaust all the relief measures provided in the MFA before resorting to other outside provisions.

17. It was agreed that these conclusions of the Textile Committee supersede in their totality the conclusions adopted by the Textile Committee on 14 December 1977.