

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/879
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Special Distribution

Textiles Surveillance Body

Restrictions by the United States on imports from the Maldives

Report by the TSB

1. At its meetings held on 22-24 June and 18-22 and 27 July 1983¹, the TSB considered a complaint by the Republic of Maldives concerning unilateral restrictions introduced by the United States in September and December 1982 on imports of woollen sweaters from the Maldives, at levels of 15,210 dozen for women's, girls' and infants' sweaters (category 446) for the period 29 September 1982 to 28 September 1983, and 12,756 dozen for men's and boys' sweaters (category 445) for the period 26 December 1982 to 25 December 1983.
2. At the time when the actions were taken, Maldives was not a participant in the Arrangement. Maldives accepted the MFA, as extended by the 1981 Protocol, on 19 April 1983. Notifications by the Maldives and the United States were made under Articles 11:5 and 3:5 of the MFA, respectively, in June 1983.

Part I

3. At the meeting of 22-24 June, the TSB made the following observations and interim recommendation:

The TSB, being informed by the two parties that they had agreed to resume negotiations forthwith with a view to reaching a mutually acceptable solution and to report the results to the TSB prior to its meeting scheduled for 18 July 1983, decided to suspend its consideration of these unilateral restraint actions pending the receipt of the report from the two parties.

The TSB agreed it would give priority review to this report in light of the following interim recommendation:

The parties take full account of all relevant provisions of the Arrangement and the Protocol of Extension, in particular Article 6 of the Arrangement and Paragraph 12 of the Protocol, as well as the stage of development of the Maldives.

Mr. Chau, whilst not dissociating himself from the consensus, would have preferred the TSB to have completed its examination at the current meeting².

¹Hundred and fifty-second and hundred and fifty-third meeting of the TSB respectively.

²COM.TEX/SB/870, paragraphs 6 to 8.

Part II

4. At the meeting of 18-22 and 27 July, the TSB received reports from both parties on the continuation of negotiations following the above interim recommendation. 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". The Republic of Maldives reported that: "The action of 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)".

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

6. 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.

7. 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

8. 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.

9. 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.

10. 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

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

12. 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

13. I would like to express a great regret that the TSB could not build up consensus as to the existence of market disruption and thus were unable to make recommendations to both parties to the dispute in this respect.
14. 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

15. 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

16. 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.

17. 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.