

GENERAL AGREEMENT ON TARIFFS AND TRADE

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DRAFT REPORT OF THE COMMITTEE MEETING HELD ON 19-20 JANUARY 1984

Chairman: Mr. A. Dunkel

1. The Textiles Committee held its fourth meeting under the 1981 Protocol of Extension from 19-20 January 1984. The agenda for the meeting was:
 - A. Questions relating to developments under the 1981 Protocol extending the Arrangement Regarding International Trade in Textiles, and
 - B. Other business.
2. Before the adoption of the agenda, the Chairman informed the Committee that he had received on 18 January 1984, a letter from the People's Republic of China confirming its notification for accession to the MFA, with reference to the decision taken by the Committee on 15 December 1983. Thus, the effective date of China's accession to the MFA was 18 January 1984. He said that the contents of the communication from China were to be found in document COM.TEX/W/142/Add.1, and he welcomed the Chinese delegation attending the meeting.
3. The agenda was adopted without comment.
 - A. Questions relating to developments under the 1981 Protocol extending the Arrangement Regarding International Trade in Textiles
4. The Chairman invited the representative of the United States to introduce this item.
5. The representative of the United States said that the numerical criteria adopted by the US Government on 16 December 1983, for use in its internal review process, were designed to help it address the problem of facilitating a continuing expansion of trade in textiles while at the same time avoiding unacceptable disruption of the US domestic market. Although the US economy was recovering from the recession of 1981-82 and US production of textiles and apparel was on the increase, US imports of textiles, fibre and apparel increased in 1983 by some 24 per cent over the previous year, bringing the increase in imports into the United States over the past three years to 50 per cent, an increase which far exceeded the growth in the domestic market and which occurred during a period of relatively flat production in the domestic industry. He emphasized that the new criteria in question were for use by the US Government in the initial stages of trying to identify whether

or not imports of particular products from particular sources were causing market disruption or real risk thereof as set forth in the MFA. These criteria did not in anyway modify the United States' application of the procedures of the MFA or the terms of bilateral agreements the United States had negotiated under it. In the past, there had been no set procedure or formula which could enable the United States Government to determine when the import growth of a category was sufficient to trigger a presumption of market disruption, in other words, a situation which would require the Government to review imports in that category and make a decision as to whether action was called for. Lack of a defined standard had led to uncertainty among domestic manufacturers, importers and retailers as to when consultation calls might be considered. Under the new procedure, greater certainty for all parties affected was achieved.

6. He then gave an explanation on how the new guidelines would operate. First, the Committee for the Implementation of Textiles Agreements (CITA) would examine any category when the following specific criteria were met:

(a) Total growth in imports in that product or category was more than 30 per cent in the most recent year, or the ratio of total imports to domestic production in that product or category was 20 per cent or more; and

(b) imports from the individual supplier equalled one per cent or more of total US production of that product or category;

(c) in the case of major suppliers covered by export authorization arrangements, E-system calls would be made when export authorizations issued in a product or category reached 65 per cent of the minimum formula level (MFL), and in the opinion of the Chairman of CITA would exceed the MFL, and was in a category with an import to production (i/p) ratio of 20 per cent or more, or in categories in which there was a 30 per cent or greater increase.

7. He further explained that after a decision was taken by CITA to examine a certain case, an internal examination process would follow. This process would determine if the original presumption of market disruption which triggered the examination was valid. If conditions indicated that there was market disruption or threat thereof in terms of the MFA and/or the pertinent bilateral agreement, then a consultation call would be made, otherwise the case would be dropped. Before any consultation took place, the United States would provide the exporting government, in accordance with relevant provisions of the MFA or the bilateral agreement, with market statements giving the reasons why consultations were sought.

8. The representative of the United States reiterated that the numerical criteria were not new in the sense of introducing new concepts into the MFA. The criteria concerned rates of growth and absolute quantities of imports and the relation of imports to domestic products, all these were factors among those set out in Annex A of the MFA. In deciding when to make calls,

preparing market assessments, conducting bilateral consultations and discussing with MFA partners, the United States would base its calls on the criteria of market disruption contained in Annex A of the MFA. This reflected that notwithstanding the use of internal procedures, the MFA remained the governing framework within which the US textile trade policy was conducted. He concluded his statement by saying that it was not possible to predict with precision the specific effects of the new procedures. The United States remained committed to the MFA, and it intended fully to abide by its obligations under the MFA and its bilateral agreements. The text of his statement is attached in Annex 1.

9. The representative of Pakistan, speaking on behalf of a group of developing exporting countries, said that the United States' announcement of its new "textiles trade policy and procedure" on 16 December 1983 was put into immediate operation which had already resulted in the receipt of a number of calls by developing exporting countries. This new policy which established "presumption of market disruption or threat thereof" had caused deep concern and great uncertainty among the developing exporting countries.

10. He said that in the view of developing exporting countries, the US policy ran counter to the commitments given at the highest level in many international forum to resist protectionist pressures. In particular, it violated the commitments undertaken during the GATT Ministerial meeting to give fullest consideration to the objectives of trade liberalization and expansion, to pursue measures aimed at liberalization of trade in textiles and clothing, and to adhere strictly to the rules of the MFA.

11. The new policy also clashed with the MFA, the objective of which was to achieve the expansion of trade, reduction of such barriers to trade and the progressive liberalization of world trade in textile products while ensuring orderly and equitable development and avoidance of disruptive effects. The Protocol of 1981 had confirmed the conviction of the parties that any serious problem could be resolved through the discipline of Annex A and Articles 3 and 4 of the Arrangement, which stipulated in considerable detail the procedures for making calls for restraint. The unilateral declaration of additional criteria establishing trigger points on the basis of a new concept of presumption of market disruption or threat thereof, both for calls made under Article 3 and those made under the export authorization arrangements, introduced totally new concepts and procedures, alien to the MFA. It amounted to a declaration by the United States not to abide by the MFA in making the calls.

12. The new policy also unsettled existing bilateral agreements which fully provided for the relief to which the United States' industry was entitled under the MFA in a period of recession. The new US textiles policy came at a time when the US domestic textiles production was increasing and capacity utilization was at a high level. It showed that two crucial factors in Annex A, namely production and utilization levels, had been ignored. Thus, the US policy made it almost impossible to implement the MFA in the spirit in which it was negotiated and tilted the balance of rights and obligations further

away from the interests of exporting countries, which had traditionally been singled out for discriminatory treatment even in terms of the Arrangement which was a derogation from GATT. Developing exporting countries did not account for the larger share of the substantial increase of imports into the United States in 1983, yet they were now obliged to take on a heavier burden of providing relief and protection to the United States textiles and apparel industry. Such a burden was heaviest on the small suppliers and new entrants who would be prevented from expanding their exports. The new approach to addressing the concern of the US textiles and apparel industry was a reversal of the US commitments to let her recovery make the fullest possible contribution towards an open and liberal trading system. A dangerous precedent had been set for imposition of unilateral interpretations affecting the substance of mutual rights and obligations under the MFA. Such initiatives, if not challenged or reversed, could be followed by other parties in the textile or in other sectors. There were therefore broader implications going beyond the MFA into the international trading system as a whole.

13. In conclusion, the representative of Pakistan requested the Committee to take a serious view of the unilateral introduction of the additional criteria set up by the United States, and to take necessary action to ensure the faithful implementation of the MFA. The text of his statement is attached in Annex 2.

14. The statement by the representative of Pakistan was endorsed by the delegates from developing exporting countries whose statements are summarized below. In addition, the representatives of Colombia, Mexico and Romania spoke mainly to support the views expressed by the representative of Pakistan. A number of other representatives also expressed views on the matter.

15. The representative of Japan said that it was imperative for developed countries to resist protectionism particularly during periods of economic recovery. He said that Japan was very concerned with several features of the additional criteria introduced by the United States. First, the criteria were characterized by predetermined indicators of 30 per cent, 20 per cent and one per cent. These figure indications were alien to the determination of market disruption or threat thereof and would have to work independently of the original intention of the Arrangement. The second feature of these criteria was its element of automaticity which contradicted the spirit of the MFA which paid special attention to the avoidance of automatic, subjective and emotional judgement on the determination of market disruption. The third feature was that these criteria referred only to factors of import and production, disregarding other essential factors such as export performance, profit, turnover, employment, etc. In the light of the Japanese experience, the import over consumption ratio would be more appropriate than the import over production ratio because increase in imports and production usually ran parallel to increase in consumption.

16. He said that Japan was both an exporting and importing country in textiles and clothing. On the importing side, Japan had consistently refused to introduce any restrictive measure under the MFA despite strong pressure from domestic industry. The Government had also refused to establish criteria for monitoring imports because it believed that any such criteria would have a restrictive effect and would interfere with the autonomous structural adjustment processes. On the exporting side, it was Japan's policy to take into account the orderly development of trade in textiles. Since 16 December 1983, Japan had received three calls for consultation. It was the intention of the Japanese Government to request the United States to provide justifications and reasons for the calls.

17. The representative of Japan warned that there might be a danger of such measures spreading to other importing countries and also to other sectors. He noted the statement by the representative of the United States to the effect that the new criteria were for use by the US Government in trying to identify whether or not imports of particular products from particular sources were causing market disruption or threat thereof, and that these criteria did not in any way modify its application of the procedures of the MFA or the bilateral agreements. He appealed to the United States authorities that before making any consultation calls, they should carefully examine the justification for such calls on the basis of the data concerning elements of market disruption and not solely on the basis of import statistics.

18. The representative of India said that while the full implication of the new US policy was still not clear, what was quite clear was that the so-called additional criteria violated the provisions and procedures of the MFA and bilateral agreements concluded under it. The very announcement itself had a disruptive effect on trade leading to uncertainty and instability. The provisions of the MFA clearly provided for a case-by-case examination in order to determine whether imports in a particular category from a particular source were causing market disruption. Market disruption, or the threat thereof, had to be demonstrated in terms of clearly established criteria and disciplines provided under Annex A of the Arrangement, and could not be based on mere allegation or conjecture. The use of trigger points in the new US policy was alien to, and clashed with, the concept of market disruption as contained in Annex A, which was not only integral but fundamental to the MFA. Any unilateral or arbitrarily taken decision which sought to modify the international obligations of the signatories to the Arrangement could seriously prejudice and undermine the delicately negotiated balance between rights and obligations under the Arrangement. But when such a decision was taken by a major trading country such as the US, the consequences for the entire framework of the GATT were exceptionally serious. He concluded his statement by saying that his delegation reserved all its rights under the MFA and the GATT.

19. The representative of Egypt said that the US announcement of 16 December 1983 had caused deep concern among developing exporting countries. Greater concern had been added when the new US policy was put

into operation and calls had been addressed to many developing exporting countries including Egypt. He recalled that towards the end of 1983, when the normal evaluation of the operation of the Arrangement was made, developing countries found very few items that could be ascribed on the credit side of the profit and loss account. One of these items included the commitments undertaken by developed countries to resist protectionist pressures and to give full consideration to the objective of trade liberalization. The recovery from the recession in the developed economies, particularly in the US, gave rise to justified expectations by the developing countries that 1984 would be a better year, bringing about a less restrictive market for their products, especially textiles. In the context of these expectations, and the firm commitments by developed countries, one could easily see the disappointment of developing exporting countries resulting from the recent announcement by the US on its trade policy and procedures.

20. He said that Annex A explicitly excluded the determination of market disruption based on allegation, conjecture or mere possibility and thus no presumption should be made on market disruption. Furthermore, there was no reference in Annex A to the so-called ratio of imports to domestic production. The new US policy and its application therefore ran against the provisions of the MFA by introducing the new concept of presumption of market disruption based on the use of trigger points. He asked why among so many international agreements, the MFA was the only one gifted with so many mysterious concepts, such as reasonable departure, anti-surge, basket exit and now presumption of market disruption. Finally, he said that all parties to the MFA were expected to adhere to their commitments to ensure an effective and faithful implementation of the Arrangement including Article 6, as well as Paragraph 12 of the Protocol. He reserved his delegation's rights to come back to this matter at any moment.

21. The representative of Hungary drew attention to the fact that the MFA represented a major departure from the GATT principles and managing the operation of this Arrangement both internationally and internally warranted a great deal of responsibility from the signatories, in particular major trading nations like the US. He deemed it necessary to emphasize the discretion of responsibility because the new US trigger criteria seemed to be inconsistent with Articles 3 and 4 and Article A of the MFA. He expressed his hope that the US delegation would faithfully report back to Washington about the international reaction to this American measure. He also expressed the hope that the American authorities would draw the necessary conclusions and do the utmost to observe their obligations under the MFA.

22. The representative of the United Kingdom on behalf of Hong Kong said that the right of the US to make consultation calls in accordance with the terms of the MFA and bilateral agreements was not in dispute. What was questionable was whether the US was acting in conformity with the MFA in unilaterally adopting new criteria for the making of calls and then in actually making calls under those new criteria. He noted the explanation given by the US delegation that the new criteria were merely internal guidelines under which internal action would be initiated which might or

might not lead to the establishment of limits. However, he did not believe that the new US criteria could be regarded as internal when they had been announced publicly and had already been acted upon in a manner that had both a practical and a legal effect internationally: a practical effect in that once calls were made, they were disruptive to trade whether or not they would ultimately result in the establishment of limits; a legal effect in that the making of a call immediately gave rise to an obligation on the exporting party to restrain trade for the time necessary to consult on whether a limit should be established.

23. He said that the MFA and the bilateral agreements were quite clear as to the basis on which consultation calls should be made. The importing country had to be of the opinion that market disruption in terms of Annex A and the MFA existed or that there was a real risk of it. There was nothing in the MFA or the bilateral agreement about presumption of market disruption. That was a totally new concept introduced for the first time by the US and implemented immediately to produce the large number of calls made by the US at the end of 1983. This concept of presumption of market disruption had no status under the MFA; it was alien to the MFA; and it conflicted with the provisions of Annex A.

24. He noted the assurance given by the US that it intended to abide fully by its obligations under the MFA and bilateral agreements. However, from what was also said by the US delegate, it seemed clear that in respect of E-system suppliers, calls would be made on the basis of the new criteria and only later would information be provided to the supplier relating to MFA market disruption criteria. There was no assurance that MFA criteria would be applied before the call was made. The absence of such an unambiguous assurance could only leave in doubt the US intentions as to that country's future compliance with the MFA in the making of consultation calls. It would be a matter of great regret if that doubt could not be dispelled at the Textiles Committee Meeting. Lack of a clear assurance underlined the importance of keeping this matter under review. Hong Kong therefore reserved its rights under the Arrangement.

25. The representative of the People's Republic of China expressed his thanks to all representatives for their support to China's accession to the MFA. He stated that the new US criteria had the effect of increasing protectionism and was contrary to Articles 1 and 3 of the MFA as well as the provisions of Annex A and the 1981 Protocol extending the Arrangement. He informed the Committee that shortly after the signing of the Sino-US bilateral textile agreement, the US had imposed anti-dumping duties on two categories imported from China and had called for consultation on nine new categories of products. China was now following closely developments on the new criteria. He had no wish to see this problem influencing the development of trade between China and the US.

26. The representative of Poland said that he shared many of the critical comments made by various members of the Committee in response to the US initiative. He said that his Government wished to reserve all its MFA and GATT rights. The representative of Czechoslovakia spoke along the same line at a later stage.

27. The representative of Korea said that he believed that the new American textile policy represented a departure from the MFA and existing bilateral agreements as well as violating the well-known US commitment against protectionism. Korea attached great importance to the very crucial provisions for consultations laid down in the MFA. He pointed out that the establishment of a trigger point not in conformity with Article 3 and Annex A would be a very serious derogation. He suggested that the Textiles Committee should request the TSB to carry out thorough examination of the matter and to report to the Committee. He also reserved his delegation's rights under the MFA.

28. The representative of Sri Lanka said that the application of the new criteria would only result in more restrictions and thereby freeze the exports of late comers. The new US measures took place against a background of increasingly strong commitments against protectionism. There were commitments on a standstill, and even a rollback, of protectionist measures and practises. Paradoxically, though recovery was said to be underway and a relaxation of protectionist measures was expected, new forms of protectionist measures were being introduced. No matter how one might try to sugar-coat the impact of the new measures, there was no doubt that the basic purpose was restrictive.

29. The representative of Bangladesh said that he was particularly concerned at the possible implication of the US policy on smaller nations and new entrants. It would provide a serious disincentive to the poorer countries to develop their capacities in the textiles sector, a sector in which they had comparative advantage. This would be damaging the legitimate interests of these countries and it would be contrary to the commitments made in their favour in all the international forum. He said that the policy should be reconsidered in the light of the interest of liberalizing world trade and to contribute to the greater international economic co-operation.

30. The representative of Uruguay started his intervention by congratulating China on its joining the Multifibre Arrangement. He said that the US administration, like any other administration, was free to define guidelines or criteria as long as they were in conformity with the provisions of the MFA and the GATT. That was why members of the Committee viewed with utmost concern the adoption of the new criteria and the impact of their application both domestically and in a bilateral or multilateral context. If the US measures had the effect of intensifying existing import restrictions, then such an action would be inconsistent with the obligations under the GATT. Although he recognised that the new guidelines were not additional criteria to the MFA, it was understood that they would necessarily have an impact on bilateral and other discussions and give rise to further anxiety. The United States had already made further calls which were bound to disturb the scene of international trade in textiles.

31. The representative of Peru said that the developing exporting countries were confronted yet again with a situation in which the United States made protectionist demands on its partners. The inconsistency between what the US preached and what they actually did put severe constraints on the economies of developing countries. She urged the United States to review the directives.

32. The representative of Brazil recalled that during the Textiles Committee meeting in December 1983, he had stressed one point concerning the proliferation of consultation calls by developed signatories of the MFA based upon insufficient demonstration of market disruption or threat thereof. He had also pointed out during that meeting that what should be the exception had become the rule, and he had asked the Committee to take a serious view of such developments. Despite the indications given by the US delegation that the additional criteria announced on 16 December 1983 were exclusively for internal use, and that they would not be raised or used in any way in the context of consultations or negotiations for the possible introduction of new restraints, his delegation remained concerned. The guidelines indeed introduced a new element of automaticity and hence of rigidity. Domestic industries could rest assured that they would not have to initiate any investigation since the Government would be doing that for them automatically once predetermined criteria were met. This contained an in-built danger as the additional criteria could be a powerful weapon in the hands of domestic industries. The prevention of excessive use of such measures would be difficult, especially in a pre-election year.

33. He said that he had witnessed, for the duration of the MFA since 1974, a trans-Atlantic contest of creativity in protectionism for trade in textiles. There were first of all comprehensive agreements, then there were automatic basket extractors, and then there were anti-surge mechanisms - all features whose objective was to throw market disruption demonstration into the waste-paper basket. Reference to these sad historical elements was necessary because the new US initiative had a similar potential for ignoring the requirement to demonstrate market disruption. He concluded his statement by formally reserving Brazil's rights under the MFA and the GATT to revert to this question both in Textiles Committee and in TSB.

34. The representative of the EEC started his intervention by referring to two quotations from the statement of the United States delegate, namely "We remain committed to the MFA, and we intend to fully abide by our obligation under the MFA and our bilateral agreements" and "It is not possible at present to predict with precision the specific effects of the new procedures" and said that he would try to amplify on these two quotations, be they statements of intent or professions of faith. He said that he had no intention of levelling criticism at the United States, and that he would locate the debate at the level which it deserved, although some doubts and concern expressed by the representative of Pakistan met to a large extent with the EEC's general sympathy. He said that it was unusual for domestic decisions, or a set of domestic criteria, to be brought out into the public. The United States was to be commended for a frank and measured contribution

to the discussion. He said that he had detected several encouraging and positive signals in the statement by the United States representative. First, the US had offered an opportunity for discussing an internal policy. Secondly, an important delegation had made the trip from Washington and the composition of the delegation showed that the US administration intended to allow the Chairman of CITA to acquaint himself with the type of discussions taking place in Geneva. The third point was that the US did not describe the measures as definitively unilateral. It seemed that a dialogue had been offered. A dialogue, by definition, meant a two-way exchange of views, with a possibility of convincing and swaying one another's partners, of getting the others to agree to some points and to review one another's positions.

35. He said that the administrative measures were a tool. Some tools which were geared to liberal trade could be used in a protectionist manner and vice versa some protectionist tools might be applied to liberal policies. It therefore depended on how the tool was used; excess in its application could have a boomerang effect. It was understandable that the administrative measures had been structured to respond to internal pressures in an electoral year, but if the EEC were to do the same, the kind of threat or pressures from electoral lobbies would be severe indeed as there were elections practically every other month in the ten member States of the EEC. He stated that he was prepared to wait and see the net result of this instrument which was designed basically to restrain the growth of imports, a threat to the liberalization of trade which was a common goal of all.

36. He said that the measures therefore had to be used prudently, in the full consciousness of what he referred to as its "natural limits". There were four such limits. First, there was the sense of responsibility of the United States. If the rest of the world started to wonder as to the discrepancy between fine words and actions by the United States in the trade sphere, then there was indeed a problem. Secondly, there was the problem of trade diversion. The international trade in textiles and apparel was a closed sphere in which very delicate balances had to be achieved. A reduction in one country's imports would inevitably lead to an increase in another's; similarly, if one country exported more to a market, others would export less. A reduction in the United States import growth would inevitably lead to higher growth in other markets and if this was unreasonably high, then an escalation of protective measures was an inevitable consequence. The third natural limit was the aspect of contagion. In an election year, one tried to please one and all. The risks of contagion creeping into other sectors of industry was high. The fourth natural limit was that any excessive implementation of this instrument might lead to reprisals or countermeasures. Only a responsible implementation of the instrument could avoid this kind of chain reaction.

37. Commenting on a remark by the representative of Brazil regarding trans-Atlantic escalation of protectionism, the representative of the EEC pointed out that the EEC imported 1,500,000 million tons or \$15 billion of textiles in 1982. It started from \$4.6 billion in 1973. So in less than ten years, imports by value grew more than three-fold. In the United States,

growth was equally rapid, but it started from a smaller base (\$3.5 billion to \$10.5 billion in 1982). The most important comparison was that the industrial situation of the EEC's textiles industry was not yet enjoying economic recovery. Closures of plants and painful restructuring was still taking place while unemployment was still increasing. The United States should therefore take into account the state of health of the economy in its textiles sector rather than listening to the siren song of the protectionist lobby. He concluded his statement by saying that the EEC would wish to give the United States the benefit of the doubt on this new measure, and would only make a judgement on the results. The EEC wished to support the more responsible elements of the United States administration who maintained their commitment to trade liberalization.

38. The representative of Sweden, speaking on behalf of the Nordic countries, members of the MFA, said that it was clear that the US announcement in December had created great concern. He noted with interest that an examination of individual cases was expected to be undertaken when a level of imports equivalent to 20 per cent of US production was reached. He found it rather surprising that the automaticity within the procedures would be released at such a low level. In some countries, much higher levels, for example 60 per cent or 80 per cent of imports in relation to total supply, were generally considered to call for particular attention. There were indications that the US production had increased substantially. This development should be taken into account in the process of internal considerations on whether to start a procedure aimed at specific restrictive measures. He said that he subscribed to many of the views expressed concerning the risks of trade diversion and contagion. The US decision did not seem to be in line with the general US trade policy efforts to achieve roll-back and further liberalization of trade. He expressed the hope that the implementation of the guideline would be in the spirit of other US commitments, in particular the decision taken by Ministers in 1982. He emphasized that the biggest trading nations had a special responsibility to lead all nations towards a more healthy world economy. When a certain recovery was reported to be under way, measures which might halt such a recovery were highly undesirable and would not serve the interest of any nation.

39. The representative of Canada welcomed the clarification by the United States on its procedures for addressing import increases of textiles. He said that the introduction of additional criteria had a restrictive effect on trade. The concern arising from this type of action was compounded by the leading rôle played by the United States in the development of world trade. Prudence and caution should therefore be exercised in their application. He noted the statement by the US delegation that the MFA was the governing framework in which the US textiles policy was conducted and that whatever decision the government might take as a result of internal utilization of these criteria would be based on the MFA, particularly Annex A. He took this statement as an assurance that the United States would continue to live up to the letter and spirit of the MFA and a reaffirmation by the US of the right of any party to have recourse to its provisions should a government consider its rights had been adversely affected. He expressed the hope that this would alleviate some initial concerns about the effects of the US guidelines.

40. The representative of Turkey said that the explanation given by the representative of the United States had been unable to dispel his concern especially as Turkey was the recipient of one of the calls. He pointed out that the US criteria did not contain any provision which might protect new and developing entrants into the US market and whose share of that market was exceedingly small.

41. The representative of Indonesia informed the meeting that her country was among those which had received consultation calls from the United States. She noted the assurances given by the US delegation and reminded the US delegation of the commitments undertaken during the Ministerial meeting to resist protectionist pressures and to further liberalize and expand trade in textiles.

42. The representative of Switzerland said that he shared many of the views and concerns expressed by other delegations, especially the problem of trade diversion raised by the representative of the EEC. He said that trade diversion was a kind of harassment, especially to countries like Switzerland, which was characterized by an absence of restraints on textiles. When a country like the US, which acted as a champion and spokesman for free trade, adopted such measures, the pressures put on countries maintaining free trade or open market was severe indeed. The MFA constituted a delicate balance between rights and obligations. The maintenance of this very delicate balance was of crucial importance to the weaker members of the Arrangement.

43. The representative of Austria said that he was surprised that the United States announced the new measures one day after the last meeting of the Textiles Committee. Despite difficulties in its textiles sector, Austria maintained a liberal régime. He expressed the hope that stronger trading partners like the United States would also maintain a liberal trading system and would fully comply with the provisions of the MFA and of the GATT.

44. The representative of Yugoslavia proposed that the Committee should make a recommendation to developed countries, especially the United States, that in their textile trade policy and the implementation of such a policy, they should try to contribute to the efforts of GATT and the International Monetary Fund in trying to find solutions to help developing countries with balance of payment difficulties. She said that the textile export earnings were very important to those countries.

45. In response to the statements by various delegations, the representative of the United States said that he had taken note of the remarks made by all representatives and that these remarks would be duly reported to his Government. He reiterated that his delegation believed that their internal measures, which were not textile policy but only internal guidelines, were indeed consistent with the MFA. The reviews and the subsequent actions undertaken would follow the procedures of the MFA and the bilateral agreements. He informed the meeting that roughly 70 per cent of the increase in the US imports of textiles and apparel was from developing countries, roughly 10 per cent from Japan and less than 20 per cent from other developed countries.

46. The representative of Pakistan thanked all the delegations which supported the position of the developing exporting countries. He said that there was indeed fairly wide and deep concern regarding the US measures, even in unofficial circles. A press report of the textile industry in the Federal Republic of Germany said that there was no international legal basis for the implementation of such a set of measures, that should these measures be fully enforced, it could lead to an uncontrollable escalation of illegal trade restrictions with dire consequences for the developing countries. A paper prepared by the US National Retail Merchants Association said that this new programme would virtually eliminate the ability of potential new supplier countries to produce textile and apparel products for the American market, that many apparel and textile products would soon be in very short supply and steep increases in wholesale prices of those products could be anticipated. It further commented that the US political climate had shifted radically away from a general commitment to open trade to a consistent broad policy of protection for many domestic industries.

47. He made a few additional comments. First, he said that he never realized that within twenty four hours of the last Textiles Committee meeting, developments could take place which unsettled the set of relations which all parties had been working for. Secondly, he did not believe that one could explain away the new US announcement as purely internal procedures, particularly as the line between the procedures and policies was always very thin. This was particularly true in the case of the MFA. When calls were issued, the internal procedures automatically became external, so it could not be claimed that procedures had no impact on policy. The net effect of the US announcement was that whereas the predictability for the US industry had increased, the predictability for the exporting countries and the stability for the export prospects had decreased. He reiterated that some concrete actions by the Textile Committee were necessary.

48. The Chairman concluded the discussions as follows:

- (a) The Committee reviewed developments in international trade in textiles and clothing since its last meeting on 15 December 1983. In particular the Committee considered trade implications of certain new elements of the United States textile import programme, announced on 16 December 1983.
- (b) The delegation of the United States informed the Committee that the United States had developed additional criteria as part of its internal guidelines for examining possible cases of market disruption or risk thereof. The United States stressed that these guidelines were for internal use only and did not in any way modify the MFA or existing bilaterals.
- (c) Serious concerns were expressed regarding these measures and their implications.

- (d) Representatives of developing countries, exporters of textiles and clothing said that the announcement itself had a disruptive effect on trade leading to uncertainty and instability both on a short and long term basis. They further maintained that the new policy announcement introduced the concept of "presumption" of market disruption based on the use of trigger points which invalidate the existing system enshrined in the Arrangement for calling an exporting country for consultations. They said that the use of trigger points is alien to and clashes with the concept of market disruption as contained in Annex A which is not only integral but fundamental to the MFA.
- (e) Representatives of a number of importing countries also expressed concern about the possible effects of the United States administrative measures on international trade, and they urged the United States to exercise prudence when implementing the United States import programme bearing in mind the wider implications for world trade in textiles.
- (f) The Committee took note of the assurance given by the United States delegation that any requests for consultations emanating from the internal review would be made in accordance with the provisions of the Multifibre Arrangement and relevant bilateral agreements. The United States would base its calls and any ensuing actions on the criteria of market disruption contained in Annex A of the MFA and in accordance with the relevant provisions thereof and the bilateral agreements negotiated thereunder. The Committee also noted the statement by the United States delegation that notwithstanding the use of internal procedures, the MFA remained the governing framework within which the United States textile trade policy is conducted.
- (g) The Committee decided to keep all matters covered at this session and other relevant elements under review.

B. Other business

49. The representative of Pakistan, on behalf of a group of developing countries, exporters of textiles and clothing, recalled that the group had made certain proposals during the Textiles Committee held on 15 December 1983 (see paragraph 18 of COM.TEX/W/148). These proposals contained some guidelines for the Textiles Surveillance Body to follow in future reports and which would enable the Textiles Committee to come to a judgement on certain aspects relating to the implementation of the MFA. While he understood that there were definite constraints for the Committee to take up all the issues

at the present time, he proposed that the Committee should conclude by saying the following on the one issue which was of great importance:

"The Textiles Surveillance Body should present to the Textiles Committee, in its report for the major review, a review of the way in which the consultation provisions of the agreements concluded under the 1981 Protocol of Extension have been applied. This review will necessarily be based on the notifications to the Body of new restraints introduced in accordance with those consultation provisions; it will contain numerical elements that allow the Textiles Committee to judge the impact of the application of those provisions on the access offered to the exporting country in the market of the importing country."

50. The Committee accepted the proposal by the representative of Pakistan and adopted the conclusion he suggested.

51. The representative of the EEC said that he did not oppose the consensus. He would like to point out, in passing, that it was not customary in this Committee, or in other GATT bodies, to adopt hasty conclusions when substantive matters were discussed under Other Business.

ANNEX 1

Statement by the Representative of the United States

It is often said we live in a fast-moving world. Even in this atmosphere I must say that after just having returned from a Textiles Committee meeting in December, I am somewhat surprised to find myself so quickly back in Geneva.

Nevertheless, we are here. We are here because of our strong commitment to the concept of openness, co-operation and transparency in GATT proceedings. We would hope that similar transparency will also be reflected in areas of concern to us all with respect to the policies and administrative practices of other members of this Committee. New rules on import licensing and other measures which affect textile and apparel exports from my country into other markets are of course of as much concern to my Government as our procedures are to other governments.

Perhaps, however, before proceeding to a discussion of our new administrative procedures, I might take a few minutes to note the background against which these measures were developed.

In the December meeting of this Committee, several speakers noted what they viewed as an unusually harsh implementation of the MFA by importing countries. I personally found these comments interesting when viewed against actual trade performance in the US market. For in 1983, US imports of textiles, fibre and apparel, far from being throttled by harsh implementation procedures, actually increased by some 24 per cent over the previous year. This brings the increase in imports into our market over these past three years to just about 50 per cent, an increase which far exceeds growth in our domestic market and which has occurred during a period of relatively flat production in the US.

One of the objectives of the MFA is to facilitate the orderly expansion of trade in textiles. As the figures I have just cited clearly show, US policies have certainly contributed to the expansion of import trade as far as our own markets are concerned. Whether the expansion has been orderly is quite another question. The numerical criteria adopted on December 16 for use in our internal review process are designed to help us address the very important problem of facilitating a continuing expansion of trade in textiles while at the same time avoiding unacceptable disruption of our domestic market. And here, I must emphasise that we consider this to be a very serious problem. It is a problem which we must and will address. We will address it by actions in conformity with the MFA and our bilateral agreements. But we will address it, and we believe that the new criteria we have adopted for our internal review process will help us do that.

Let me now discuss briefly the criteria in question and in doing so let me begin by making clear that these new criteria are for use by the US

Government in the initial stages of trying to identify whether or not imports of particular products from particular sources are causing market disruption or real risk thereof as set forth in the MFA. These criteria do not in any way modify our application of the procedures of the MFA or the terms of bilateral agreements we have negotiated under it. The new criteria will require us to examine imports of particular products in a more systematic and rigorous manner, but they do not change our basic commitment to implement our program in accordance with the MFA and our bilateral agreements.

Let us consider how the process will work:

In the MFA system, requests for consultations to discuss possible quantitative limits may be issued (a) when imports in a particular product from a particular country have risen sharply, and (b) when market conditions indicate that this increase is disrupting or threatening to disrupt the importer's market.

In the past in the US there has been no set procedure or formula which would indicate when the import growth of a category was sufficient to trigger a presumption of market disruption, i.e. to require the Government to review imports in that category and make a decision as to whether action is appropriate. Lack of a defined standard led to a lack of certainty among affected domestic manufacturers, importers and retailers as to when calls might be considered. There was also deep concern among the US domestic textile industry that calls were not being made in a timely fashion due simply to lack of defined standards acceptable to all US Government agencies. Now under the new procedures, there should be greater certainty for all as to when particular imports from particular sources will be examined.

Under the new guidelines, the Committee for the Implementation of Textile Agreements (CITA) is obliged to examine any category when specific criteria are met:

1. Total growth in imports in that product or category is more than 30 per cent in the most recent year, or the ratio of total imports to domestic production in that product or category is 20 per cent or more, and
2. Imports from the individual supplier equal one per cent or more of total US production of that product or category.

In the internal examination process it will be determined if the original presumption of market disruption which triggered the examination is valid. If conditions indicate that in reality no market disruption or threat exists in terms of the MFA and/or the pertinent bilateral agreement, then the call (i.e. the request for consultation) will not be made. If, however, market conditions indicate that there is market disruption or threat thereof, the call will be made.

^In the case of major suppliers covered by export authorization arrangements, E-system calls on each supplier will be made on any product or

category when export authorizations issued in that particular product or category reach 65 per cent of the minimum formula level (MFL), and in the opinion of the Chairman of the Committee for the Implementation of Textile Agreements would exceed the MFL, and is in a category with an import to production (I/P) ratio of 20 per cent or more, or in categories in which there is a 30 per cent or greater increase.

Before any consultation takes place, we will provide the exporting government, in accordance with the relevant provisions of the MFA or our bilateral agreements, with market statements giving the reason why in our view market disruption or the threat thereof exists with respect to the category for which we are seeking to consult.

These new procedures are designed to provide greater certainty concerning how CITA conducts its activities. As I said earlier, however, and as I wish to stress again, these criteria are new, only in the sense that they provide numerical standards for our internal use in selecting categories for further review. They are not new in the sense of introducing any new criteria or concepts into the MFA. The criteria concern rates of growth and absolute quantities of imports and the relation of imports to domestic production - factors which are among those set out in the MFA to be considered in evaluating the possibility of market disruption or real risk thereof.

In deciding when to make calls, preparing our market assessments, conducting bilateral consultations, and discussing our action with our MFA partners, we will continue to base our calls on the criteria of market disruption contained in Annex A of the MFA. This reflects our recognition that, notwithstanding the use of internal procedures, the MFA remains the governing framework within which our textile trade policy is conducted.

I hope I have been able to make clear that we have a major and continuing problem with respect to the rate of growth of imports into our market, an increase of some 50 per cent over the past three years and 24 per cent this year alone. Our economy is now recovering from the recession of 1981-82 and US textile and apparel production is indeed on the increase. But it has not, and is not likely to, increase at a rate anywhere near the rate of increase in imports we are now experiencing. We will be taking measures to deal with this situation. We will be seeking additional restraints with our trading partners. The new criteria we are now using should facilitate that process.

It is not possible to predict with precision the specific effects of the new procedures. However, we wish to stress that our motivation in adopting the new procedures was to better focus our attention on the areas where market disruption or real risk thereof are likely to exist. We remain committed to the MFA, and we intend fully to abide by our obligations under the MFA and our bilateral agreements.

ANNEX 2

Statement by the Representative of Pakistan (on behalf of developing countries, exporters of textiles and clothing)

Allow me first of all to thank you for having convened this emergency meeting of the Textiles Committee. We also wish to thank all the participating countries, particularly the United States for having agreed to meet at such short notice to join in a common review of recent developments under the 1981 Protocol extending the Arrangement Regarding International Trade in Textiles.

The developing exporting countries requested the Textiles Committee to meet in view of an important development which took place only one day after the Textiles Committee last met to hold its annual session. On 16 December 1983 the United States made an announcement regarding her "textiles trade policy and procedures". Soon after the announcement, the new policy was put into operation and calls have already been addressed to many developing exporting countries on a large number of products exported under the MFA.

According to the 16 December announcement, the United States will follow the so-called additional criteria to establish "presumption of market disruption or threat thereof".

The announcement of a new textiles trade policy by the United States, which is a major importing country, has caused deep and wide concern among the developing exporting countries. Both the official and the trade circles in our countries are naturally worried about the uncertainty which has been created for export trade on immediate, short or long term basis.

In our view, the new policy violates commitments undertaken during the GATT Ministerial Meeting to resist protectionist pressures, to give fullest consideration to the objectives of trade liberalization and expansion, to pursue measures aimed at liberalization of trade in textiles and clothing and to adhere strictly to the rules of the MFA. It also runs counter to the commitments given elsewhere at the highest level for resisting protectionist pressures.

The parties to the MFA had entered into firm commitments to regulate textiles trade on the basis of objectives and disciplines established under the Arrangement. The objective of the Arrangement is to achieve the expansion of trade, reduction of such barriers to trade and the progressive liberalization of world trade in textile products while ensuring orderly and equitable development and avoidance of disruptive effects. The Protocol of 1981 has confirmed the conviction of the parties that any serious problem could be resolved through the discipline of Annex A and the procedures of Article 3 and 4 of the Arrangement. The Arrangement stipulates in considerable detail the procedures for making calls for restraints in terms of Article 3 and determination of a situation of market disruption or actual

threat thereof in terms of Annex A. These two elements are the fundamental basis of the Arrangement.

It is therefore most disturbing to the developing exporting countries, who have traditionally been singled out for discriminatory treatment even in terms of the Arrangement which is a derogation from GATT, to be faced with the unilateral declaration of so-called additional criteria establishing trigger points for calls for restraints on the basis of new concept of presumption of market disruption or threat thereof and totally new procedures. Both the concept and the procedures enunciated in the US trade policy announcement are not only alien to the Arrangement and provisions of bilateral agreements, but violently clash with these.

Furthermore, since a substantial increase of 23 per cent of imports into the United States in 1983 is given as the main reason for the new policy, it is disturbing that developing exporting countries, which did not account for the larger share of that increase, should apparently once again be the ones to be affected by the so-called additional criteria.

The new US textiles trade policy raises a series of problems for a faithful implementation of the MFA, makes it almost impossible to implement MFA in the spirit in which it was negotiated and tilts the balance of rights and obligations further away from the interests of exporting countries. The new approach to address the concerns of the US textiles and apparel industry will definitely give a protective and retrogressive orientation to the US textiles policy. We see it as a reversal to US commitment to let her recovery make the fullest possible contribution towards an open and liberal trading system. A dangerous precedent has been set for imposition of unilateral interpretations, approaches substantially affecting the substance of mutual rights and obligations, under the MFA. It is evident that this new policy is particularly directed against developing exporting countries obliging them to take on a heavier burden of providing relief and protection to the US textiles and apparel industry. The burden will also be heaviest on small suppliers and new entrants who will be prevented from expanding their exports. Such initiatives, if not challenged or reversed, could spread and be followed by other parties in the textile, or even other, sectors. As such, there are broader implications going beyond the MFA onto the international trading system as a whole. It undermines the mutually agreed disciplines on which the MFA securely rests and which need reinforcement rather than erosion because only through strict observance of multilateral disciplines will the international trading system be sustained.

Although the US announcement of 16 December distinguishes between calls made under Article 3 and those made in respect of exporters with Export Authorization arrangements providing different criteria, the fact is that the MFA obligations of the US are similar in each case. Articles 3 and 4 of the Arrangement leave no room for action outside Annex A for determination of market disruption for the purpose of making calls. Since the so-called additional criteria are not contained in Annex A, and since they can give rise to calls in circumstances where market disruption in terms of Annex A

does not exist, the US announcement amounts to a declaration not to abide by the MFA in the making of calls.

The new US policy establishes different criteria which invalidate the existing system enshrined for calling an exporting country for consultations in a situation of market disruption or threat thereof. What is further worrisome is that the new trigger system would be based on a new concept of presumption of market disruption or threat thereof which is not recognized by the MFA, is alien to it and clashes with the concept of market disruption as enshrined in Annex A which is not only integral, but fundamental to MFA.

The new protectionist orientation given to the United States textiles policy unsettles the bilateral agreements which had been negotiated by the developing exporting countries, fully reflecting the relief to which the United States' industry was entitled under MFA in a period of recession. It comes at a time when the United States' domestic textile production is increasing and capacity utilization is at a high level. The additional protection is thus being given in disregard of the two crucial factors in Annex A, mainly production and utilization levels. The only objective could be to denude the existing bilateral agreements of whatever liberal elements they had.

We request the Textiles Committee to take a serious view of unilateral introduction of the so-called additional criteria set up by the United States to address the textiles industry's concerns. The parties to the Arrangement can address the problems of their industry and even protect it to the extent which is allowed for by the Arrangement. In our view, the so-called additional criteria afford the US textiles industry far more protection than it is entitled to under the MFA. Moreover, the so-called additional criteria are liable to be exploited by the protectionist lobbies and are capable of being expanded in the course of time.

In conclusion we would expect the Textiles Committee to take necessary actions to ensure the faithful implementation of the MFA.