

CORRIGENDUM

PLEASE NOTE: The penultimate sentence of paragraph 30 should read:
" ... 9.30 a.m. on 31 October 1989 ..."

GENERAL AGREEMENT ON

RESTRICTED

COM.TEX/W/220

13 October 1989

TARIFFS AND TRADE

Special Distribution

Textiles Committee

DRAFT

REPORT OF THE COMMITTEE MEETING HELD ON 9 OCTOBER 1989

Chairman: Mr. A. Dunkel

1. The Textiles Committee held its seventh meeting under the 1986 Protocol of Extension on 9 October 1989. The agenda for the meeting, set out in GATT/AIR/2838 of 14 September 1989, was adopted as follows:
 - A. The Major Review of the operation of the Arrangement as extended by the 1986 Protocol, required by Article 10:4 of the Arrangement.
 - B. Progress of the work in the Negotiating Group on Textiles and Clothing.
 - C. Other business.
2. The Chairman informed the Committee that, as of the date of the Committee's meeting, forty parties, counting the EEC as a single signatory, had accepted the MFA as extended by the 1986 Protocol. The list of members is set out in document COM.TEX/52/Rev.3.
 - A. Major Review of the Operation of the Arrangement
3. The Chairman noted that the Committee was required under Article 10:4 of the MFA to carry out the major review of the Arrangement during the third year in the light of its operation in the preceding years. He recalled that, at the Committee's meeting last December, it was decided to conduct this Review in October 1989 before the meeting of the CONTRACTING PARTIES in order for them to have the benefit of the Committee's report on

such a review. He went on to say that, to assist in the Major Review, the Committee had before it a report by the Textiles Surveillance Body covering the period 1 August 1986 to 30 June 1989 (COM.TEX/SB/1490 and Add.1), as well as a report by the Secretariat on the recent developments in demand, production and trade in textiles and clothing (COM.TEX/W/219). Also, the Committee would be briefed on the progress of the work in the Sub-Committee on Adjustment. The Chairman suggested that the three subjects be taken up together and invited Ambassador Raffaelli, Chairman of the TSB, to introduce the Body's report and Mr. Mathur, Chairman of the Sub-Committee on Adjustment, to make his progress report.

4. The Chairman of the Textiles Surveillance Body, referring to the question of information required to be notified to the Body under Articles 2 or 11, noted that paragraph 4.169 of the report listed six countries which had not submitted information throughout MFA IV. He informed the Committee that after the circulation of the TSB's report, Colombia and Egypt had provided their submissions. As regards notifications under Article 2, he said that although China had acceded to the Arrangement in January 1984, the notifications of its restrictive measures in force were still being made under Article 2. Since its accession, China had submitted five notifications and had provided, when so requested, additional information and clarifications. Nevertheless, the TSB had not yet been able to determine whether or not all restrictions maintained by China were in conformity with the Arrangement. This was due, inter alia, to China not yet having made its import régime fully clear to the Body and to the fact that new import restrictions were introduced after China's accession to the MFA. He said that the TSB had directed him to state that, in its next annual report, the Body would hope to offer, with the help of the Chinese government, a clear and full picture of this matter, so as to be able to consider China's obligation under Article 2 as having been definitively satisfied. Also with regard to Article 2 notifications, he said that the Dominican Republic had, since 1979, notified its restrictions on imports of textile products to the TSB but such measures had never been notified to the GATT under the relevant

provisions of the General Agreement, nor were they liberalized under the terms of Article 2:2 of the Arrangement.

5. He also informed the Committee that the TSB was concerned by the fact that certain restrictions, the existence of which was widely acknowledged, had not been notified to the TSB; the explanation being that they did not flow from governmental decisions. It was felt that these measures were in contradiction with paragraph 26 of the 1986 Protocol and clouded the transparency sought by Article 11.

6. Turning to the status of restrictions maintained by participating countries, he pointed out that those notified by importing participants under the MFA were described in Chapters 4 and 5, and summed up in Chapter 6. Referring to notifications by the other participants, he noted that ten participants (eight exporting and two importing) maintained no restrictions while others maintained restrictions in very few cases, and some of those were not quantitative restrictions. In this regard he mentioned, by way of explanation, the situations in Mexico, Turkey, Switzerland, Guatemala and Korea.

7. He observed that this would indicate that there was a clear movement towards liberalization of textile imports on the part of several exporting countries, and noted that out of the thirty-two countries which were restrained under the MFA (thirty-one exporting countries plus Japan), fourteen placed no restrictions at all on imports of MFA products or only minimal restrictions; adding Switzerland, there were fifteen in all. Of the remaining twenty-five participating countries, seven were importing countries which used the MFA and eighteen were exporting countries. He pointed out that the analysis of the implementation of MFA IV by the seven importing countries that use the MFA was to be found in Chapter 6, which he stressed must be considered in its entirety.

8. He urged all countries appointing TSB members for 1990 to take into account the heavy workload that would exist during the final year of the Uruguay Round.

9. The Chairman of the Sub-Committee on Adjustment noted that the last time he reported to the Textiles Committee, almost a year ago, he presented the Report of the Sub-Committee on Adjustment as contained in COM.TEX/58, which reviewed developments in this area generally up to 1986. At that time he noted that "the updating of the Sub-Committee's report could be usefully taken up in the context of any arrangement that might be considered necessary and appropriate for a review of the operation of the MFA in the year 1990". He also recalled that in his last report he had mentioned that paragraph 63 of COM.TEX/58 contained some general observations on how that report could be improved in any further exercise of this nature. Among these observations was a suggestion that "to better evaluate the criteria in paragraph 4 of the 1986 Protocol regarding increased effective access in overall terms, importing members could provide, where possible, indications of whether changes in their share of imports from other members resulted from changes in import quotas, changes in the effective utilization of these quotas, changes in imports of non-restricted textiles and clothing items or some other factors". These members were also requested to "relate their textiles and clothing imports to developments in the domestic market for textiles and clothing, where possible".

10. He advised that the Secretariat, bearing this in mind, had engaged in the process of updating the Sub-Committee's report. In this regard, all available material for each participating country had been compiled, indicating the gaps and lacuna therein. Such material had been sent to the respective MFA participants in May 1989, requesting that the appropriate information be made available to the Secretariat by 31 July 1989. However, by the end of the summer break, very few submissions had been received, and therefore a reminder was sent to participants in mid-September. He advised that, to date, submissions had been received from only eleven countries, out of forty. He thus urged those participating countries which had not provided the required information to do so without further delay. He recognized that the compilation of this information involved considerable work for national authorities at a time when their attention was engaged by policy issues relating to the future régime for textiles and clothing and

by the Uruguay Round negotiations in general. Nevertheless, it seemed to him that the effort was worth making, not only in terms of existing decisions by the Textiles Committee, but because this information would be of value for all participants in obtaining a detailed picture of developments affecting trade, production and employment, etc., in textiles and clothing, both at a national and global level. He felt that this picture would be helpful both for assessing how certain provisions of the MFA bearing on questions of adjustment in the textiles industry had worked, and for looking at broader issues relating to future policies.

11. The representative of Indonesia speaking on behalf of the International Textiles and Clothing Bureau, commenting on the operation of MFA IV, pointed out that: (a) the overall number of agreements remained more or less the same as under MFA III, however, the number of agreements concluded by Canada, Norway, Sweden and the United States had all been on the increase; (b) product coverage had been further expanded both in terms of fibres and products, notably in agreements concluded by Canada and the United States; (c) the objective of avoidance of disruptive effects on individual lines of production in both importing and exporting countries had not been met by Canada and the United States, the only countries applying aggregate and group limits on several exporting countries; (d) although there was no provision in the 1986 Protocol for cut-backs, in Chapter V of the TSB's report there were numerous instances of cut-backs in base levels involving Canada, the European Communities and the United States; they felt that such cut-backs were not in conformity with the MFA or the Protocol; (e) the base levels for most of the restraints had been improved though at varying degrees, flexibility provisions had been generally improved, importers excluding the MVP countries had generally accorded the minimum rates for swing and carryover/carry forward, except against major suppliers; (f) there had been a greater number of unilateral actions under Article 3 and frequent use of consultation mechanisms leading to automatic imposition of limits and their subsequent prolongation. The restraint levels were usually far below current trade levels and the proliferation of such measures was definitely disruptive of trade.

12. He drew attention to Article 9 of the MFA which states that "participating countries shall as far as possible, refrain from taking additional measures, which may have the effect of nullifying the objectives of this Arrangement" and in this regard he pointed to the growing tendencies for anti-dumping measures to be initiated on textile products from several developing exporting countries. He felt that the TSB could be involved if actual anti-dumping actions were taken.

13. Referring to the report by the Secretariat on demand, production and trade in textiles and clothing (COM.TEX/W/219), he felt that it did not provide a balanced picture. In this respect he pointed out that, when considering the main factors which determined the state of the industry (turnover, shipments, production, producer prices, profits, investment and capacity utilization), the performance and profitability of most textile and clothing enterprises in the importing countries had continued to improve in 1988. This was due to the continuation of the following three major structural trends in the production pattern: (i) upgrading through a shift to higher valued products; (ii) product diversification in both textiles and clothing in order to adapt to rapidly changing consumer preferences; and (iii) the shift from large scale mass production to more specialized, varied and sophisticated articles including increased specialization and sub-contracting in smaller production units. He also referred to major shifts in the cost structures which had benefited many enterprises in the importing countries. He said that the labour content had continued to decline as a result of technological advances and sustained investment in labour-saving equipment and that manufacturing costs had continued to decline in relative importance as compared to product quality and customer service. Taking all of these developments into account, he concluded that while the state of textile industries in the developed countries had improved, the operation of the MFA had become more restrictive.

14. A number of participants spoke in support of the statement made by the representative of Indonesia on behalf of the ITCB.

15. The representative of Brazil, referring to the report of the TSB, identified some favourable features in the operation of MFA IV, such as increases in base levels, improvements in flexibilities and additional access for some specific products. He pointed out, however, that these positive elements were outweighed by negative factors which included greater recourse to unilateral measures, application of aggregate or group limits, introduction of restraint levels on products with little or no previous trade, imposition of quotas on exporting countries with minute shares in total imports, increase in product coverage in certain agreements, application of cutbacks, attempts to dilute the causal link between imports from particular sources in particular products and the alleged existence of injury, and in one case, the introduction of provisions which were not in conformity with the MFA.

16. He said that while the MFA was intended to preserve a delicate balance of rights and obligations based on clearly defined rules, in practice some importing countries had resorted to the approach that bilateral agreements needed to be more liberal than individual quota restrictions only on overall terms and that Article 4 agreements could encompass any arrangements as long as they were mutually satisfactory to the parties concerned. Under such justification, importing countries had introduced cutbacks, reduced growth rates, limited flexibilities or even restrained products in which there was little or no trade. Consequently, it was necessary to have an active TSB, preserving and watching over the delicate balance of rights and obligations to ensure that exporting countries were protected from being pressured into accepting inadequate restraint measures. Otherwise, the exporting countries would not only continue to face intensive restrictions but would also be subjected to arbitrary and unilateral interpretations of the main provisions of the MFA.

17. Referring to the Secretariat report on demand, production and trade in textiles and clothing, he endorsed the view that it did not provide a balanced picture and pointed out that the country grouping set out on page 24 of that report for Latin America should be sub-divided to separate those countries which were beneficiaries of the preferential conditions

accorded to them in the United States' market from others which were not accorded such a preferential trade.

18. The representative of Korea, expressed concern about recent developments concerning anti-dumping measures which had been taken in respect of exports of certain textile products from a number of developing countries, including Korea. He pointed out that the products involved in the anti-dumping actions were covered by bilateral agreement concluded under the MFA between Korea and the United States. In this regard, he drew the Committee's attention to Article 9 of the MFA and paragraph 26 of the 1986 Protocol, which provide that participants should refrain from taking measures on textiles covered by the MFA, outside the provisions of the Arrangement, before exhausting all relief measures provided therein. He said that anti-dumping actions on products covered by bilateral agreements under the MFA would not only be inconsistent with MFA provisions but also would constitute a challenge to the Uruguay Round negotiations. He expressed the hope that the United States authorities would take into account these considerations in deciding on the initiation of such anti-dumping investigations.

19. The representative of India, stated that, in conducting the review, participants must bear in mind a number of criteria which had been recognized and incorporated as integral parts into the 1986 Protocol and the Arrangement. In this regard, he recalled that one of the basic objectives of the MFA was the reduction of trade barriers and progressive liberalization of world trade; however, it was clear from the TSB report that this objective had not been achieved. On the contrary, he noted that the number of bilateral agreements and the number of specific products under restraints had increased over the last three years, as compared to MFA III. He further commented that the objective of equitable development of this trade was far from realization as restraints had continued to be applied almost exclusively on products from developing countries. He noted with concern that, out of 114 restraint agreements concluded, ninety-four were with developing countries, thus clearly demonstrating that the brunt of restraint measures continued to be borne by developing countries.

Furthermore, the requirements of avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries as envisaged in Article 2 had also not been realized in the agreements of the United States and Canada, which applied aggregate and group limits with respect to a number of exporting countries. He pointed out that the disciplines pertaining to market disruption or real risks thereof had not been observed; there had been an increase in restrictions on products of new fibres even when there were no imports or they were at negligible levels, and price clauses had been included in some bilateral agreements in contravention of the provisions of the MFA.

20. He informed the Committee that, despite the provisions of the MFA relating to developing countries' exports of handloom fabrics of the cottage industry, hand made cottage industry products made of such handloom fabrics and traditional folklore handicraft textile products, a large number of handloom consignments from India had been stopped by the United States in violation of the bilateral agreement between the two countries. In his view, such actions defeated the very purpose of providing an exemption for such products. He pointed out that the cut-backs in base levels of quotas as reported by the TSB were in contravention of both MFA and the 1986 Protocol. He further noted that the TSB had cited a large number of unilateral actions and frequent use of consultation mechanisms leading to automatic imposition and subsequent prolongation of restriction. He commented that the proliferation of such restrictive measures was disruptive to trade and reduced certainty and predictability in conducting international commerce.

21. He also noted that the special treatment envisaged in the 1986 Protocol for small suppliers, new entrants, LLDCs and the export of cotton textiles by cotton producing countries had been largely ignored. He also observed that the main determinant of the health of the industry, i.e., turnover, shipments, production, price, profits, investment, and capacity utilization, had shown an encouraging and promising trend in most importing countries; nevertheless, the operation of the MFA continued to move in a restrictive direction. This, he felt, should be recognized by

the Committee and appropriate steps taken to correct such distortions urgently.

22. The representative of Pakistan considered that the objective of the review should be to assess whether the goals of the MFA were being achieved and if not, to determine the reasons and the corrective action required. He said that he shared the view of other speakers that there had been some marginal improvements in the bilateral agreements negotiated under MFA IV, but these were outnumbered by negative factors. In many cases, he pointed out, the improvements in the bilateral agreements had been neutralised or nullified by a series of subsequent amendments to those agreements. He drew particular attention in this regard to the conclusions of the TSB, in Chapter 6 of its report and emphasized that, in overall terms, the objectives of achieving the reduction of barriers to trade and the progressive liberalization of world trade had not yet been achieved and that restraints under the MFA continued to be applied almost exclusively to products from developing countries. He also referred to MFA Article 1:3 and stated that a principle aim of the MFA as set out in this article had not materialized.

23. Referring to the principle of market disruption, he said that this concept was founded on the idea of "low-cost". He pointed out that a whole group of developing exporting countries had been labelled as low-cost suppliers and hence responsible for disrupting the textile markets in the developed importing countries. He considered that the low-cost idea had no basis in reality and was devoid of any economic rationale. He further pointed out that wages constituted but a small proportion of the total cost structure in the production and marketing of textile products and in the case of developing countries, the so-called low-wage effect was more than offset off by high capital costs and lower productivity. This he said, had been amply demonstrated by empirical studies. On this basis, he concluded that the MFA had failed to serve the purpose which it was intended and should be phased out within a reasonable period of time. Also with reference to the TSB report, he noted the reference in paragraph 3:39 to the existence of aggregate and group limits in a number of bilateral

agreements. In this regard he drew attention to the Body's conclusion that such provisions were inconsistent with the Arrangement if they did not ensure the expansion and orderly development of trade in the products covered by such limits thereby leading to a situation of disruption of export trade. He wondered if, in these circumstances, the TSB should again review the agreements which contained group and aggregate limits to test these criteria. Referring to paragraph 4.169, which relates to the submission of information to the TSB, he pointed out that Pakistan did not maintain any restrictions under the MFA and that any measures in effect were in relation to balance of payments difficulties and these had been reviewed earlier this year by the appropriate GATT Committee.

24. The representative of China, referring to their notifications under Article 2 of the MFA, emphasized that efforts had been made by his country to clarify the issues, both in the form of written notifications and oral presentation and in discussion with TSB members. While he felt that China's obligation under Article 2 had been met, his delegation would nevertheless continue to submit notifications as requested, so as to facilitate further consideration by the TSB.

25. The representative of Hong Kong, recalled the provisions of Article 9 of the MFA, as well as paragraph 26 of the 1986 Protocol of Extension and said that, notwithstanding these commitments, anti-dumping proceedings had recently been initiated by at least two importing participants against textile products from developing exporting countries, whose products were already subject to restrictions under the MFA. He pointed out that Hong Kong had been named in anti-dumping cases in the EEC and in the United States. While not going at this stage into specific details of the cases, he expressed Hong Kong's concern over these developments, particularly in view of the aspect of "double jeopardy". He noted that there was considerable commonality in the elements that gave rise to serious damage in the MFA context and the elements that cause material injury in the context of anti-dumping provisions. It was therefore the view of Hong Kong that the injury which might otherwise have been attributed to anti-dumping would be dealt with in the MFA measures. In

this regard he pointed out that, by virtue of the MFA restrictions in place, there was in fact a cap on the ability of exporters to increase significantly their exports of the so-called dumped products, due to the overall limits on each product category and on the quota entitlement of individual exporters. Furthermore, he pointed out that in Hong Kong the textiles industry comprised a large number of small manufacturers and it was inconceivable that these exporters could use the economy of scale to engage in price discrimination, especially since they did not have a protected domestic market in Hong Kong nor did they receive any subsidies. Consequently, there was no incentive for an exporter to dump goods. In his view, pursuant to paragraph 26 of the 1986 Protocol, the importing countries should first consider if the MFA was sufficient to deal with the injury and, if not, request consultations with the exporting participants concerned. In addition, the importing countries contemplating anti-dumping actions should have full regard to the standstill commitments in the Punta del Este declaration. He reserved Hong Kong's right to revert to this matter in this Committee or in the TSB, if further circumstances so warranted.

26. The spokesman for the EEC, referring to the important rôle of the TSB in the operation of the MFA pointed out that it would be a reference and a model for such a body within the framework of any future régime for trade in textiles and clothing. He noted, however, that in its report, the TSB had not been able to determine to what extent the changes that had taken place in the functioning of MFA IV, vis-à-vis previous protocols, were attributable to the underlying economic factors relevant to trade in textiles and clothing, or to the attitude of governments, or both. This, he considered to be fully understandable as the domestic situations varied considerably from one country to another. He explained that the Community, for its part, had demonstrated willingness to open its market within the economic situation prevailing in this sector, and to contribute to the effective reduction of obstacles to trade while not impeding the adjustment process of its industry. In his view the results were positive under MFA IV: the treatment of the least-developed countries had been more favourable, special consideration had been given to small suppliers and new

entrants; all of the current bilateral agreements contained more favourable provisions than the previous measures; some bilateral agreements had not been renewed but replaced by consultation mechanisms; and certain quantitative limits had not been renewed with respect to some small suppliers or new entrants. He stressed that the Community had engaged in a progressive process of liberalization of its import régime for textiles and clothing including a 25 per cent liberalization of previously existing trade restrictive practices. This had resulted in a substantial increase in imports from developing countries. These steps could be elements to be taken into account in developing the transitional régime under discussion in the framework of the Uruguay Round. He stressed, however, that the current liberalization process could not be pursued without a strengthening of GATT rules and disciplines.

27. With respect to the Secretariat report on demand, production and trade, the spokesman for the EEC noted that it showed that adjustment efforts made by the industry had to be pursued. Furthermore, it demonstrated the situation of the Community in world trade, being the largest importer and exporter of textiles and clothing. In consequence of this, the Community bore responsibilities both with respect to the multilateral trading system and to its own industry, which it was ready to face. In this respect he recalled that this sector employed three million people in the Community, and that employment was still declining, though at a reduced rate. Production had tended to stabilize around 1986 levels for textiles, but clothing production continued to fall. Despite structural adjustment efforts, this sector remained economically, socially and politically sensitive in the Community and this also had to be taken into account in the ongoing negotiations. He stated that the Community was, nevertheless, participating in the Uruguay Round negotiations with determination, the objective being the progressive integration of the textiles and clothing sector into the GATT.

B. Progress of the Work in the Negotiating Group on Textiles and Clothing

28. The Chairman recalled that this agenda item had originated with a decision by the Committee at its annual review meeting in December 1987, and that it was first placed on the agenda for the review in December 1988. At that time, he had reported on the outcome of the Montreal meeting, that a consensus had not been achieved on a decision for textiles and clothing and that further consultations were needed to see if some common ground could be found. It was not his intention to dwell on the ensuing discussions leading to the April TNC Decision, but rather to centre on the present and the future outlooks. In this respect it was his understanding that the work in NG4 had been slow at first but had gained impetus following the recent submission of a number of detailed proposals. Specifically, the Negotiating Group had received proposals from the group of developing countries, members of the ITCB, the European Economic Community and Switzerland, as well as a number of policy statements, including submissions from the Nordics and most recently from the United States. The Chairman considered, therefore, that the scene was set to gradually and progressively enter into the intensive negotiating phase. It was his understanding that the Chairman of the Group intended to put forward suggestions in terms of structuring the work in order to facilitate the discussions in this Group. In concluding, he urged in his capacity as the Chairman of the TNC, all participants to bear in mind not only the letter of the terms of reference of this Negotiating Group but also the spirit thereof which required negotiators to seek ways and means to integrate the textiles and clothing sector into GATT.

29. The Committee took note of the Chairman's report.

C. Other Business

30. The Chairman referring to the question of the TSB membership recalled that, at its meeting of 26 July 1989, the Textiles Committee had agreed that, as from 1 January 1990, the TSB would be enlarged from a chairman and

eight members to a chairman and ten members, unless a party to the Arrangement communicated its objection to the amendment not later than 1 December 1989. On the basis of this decision, in conjunction with the decision taken by the Committee at the 26 April meeting, he had been working under the assumption that, if no objection was received by 1 December 1989, there would be no need for a further Textiles Committee meeting, and that the composition of the TSB for the year 1990 would be as agreed at the April meeting, i.e., Brazil, Canada, China, EEC, Indonesia, Japan, Hong Kong, Pakistan, Sweden and the United States. However, in carrying out the usual consultations in preparation for the present meeting, he was made aware that while there was agreement in respect of the composition of the new TSB under the previously mentioned conditions, a doubt still existed among certain members of the Committee in respect of the duration of this new composition. While he assumed that the term of this new composition would be for the year 1990, apparently some other delegations were interpreting the postponement from 1 August 1989 to 1 January 1990, to imply that this would not change the dates decided in April 1989 for the duration of the new TSB, i.e., until 31 July 1990. In these circumstances and in order to give time for further consultations on this matter, he proposed that the present meeting of the Textiles Committee be re-convened at 9 a.m. on 31 October 1989, to settle this question. It was so decided.¹

31. The Chairman also referred to the proposal by the Nordic countries made at the Committee's meeting in December 1988, "that the GATT Secretariat undertake an analysis of the global economic and trade consequences of the dismantling of all restrictions under the MFA and other trade restrictions in this field". This proposal, he recalled, was accepted by the Committee; the deadline being December 1989. He reported

¹An addendum to this report will be issued in regard to this topic immediately following the meeting on 31 October.

that it was not possible for the Secretariat to advance this deadline so that the study could be made available at the present meeting. It would, however, be circulated as originally scheduled by the end of the year.

32. As regards the date of the next meeting, the Chairman drew attention to Article 10:5 of the MFA which provides that: "The Committee shall meet not later than one year before the expiry of this Arrangement in order to consider whether the Arrangement should be extended, modified or discontinued." He pointed out that, in these circumstances, the Committee had to meet before 31 July 1990 and suggested that the date for such a meeting would be fixed in consultation with delegations.

33. The Chairman pointed out that, in view of the fact that the report of the Committee should be circulated at least ten days before the Council meeting scheduled for 7-8 November, it would be made available in draft form soon after the meeting and urged participants expeditiously to make comments if any.