

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/1597*

10 May 1991

Special Distribution

Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 4:4

Extension and modification of the bilateral agreement between the United States and Peru

The Textiles Surveillance Body received a notification from the United States of an extension with modifications of its agreement with Peru. The agreement which was scheduled to expire on 30 April 1989, was extended to 31 December 1991 and the modifications applied from 1 May 1989.¹

The TSB, pursuant to its procedures regarding notifications made under Article 4,² has examined the relevant documentation and is forwarding the³ text of the notification to participating countries for their information.

¹The bilateral agreement and previous modifications are contained in COM.TEX/SB/1066 and Corr.1, 1148, 1292 and 1512.

²See COM.TEX/SB/35, Annex B.

³For the TSB's observation on this notification, see COM.TEX/SB/1604.

*English only/Anglais seulement/Inglés solamente
91-0637

COM.TEX/SB/1597

Page 2

Letter from the Embassy of the United States of America

Note No: 769

26 July 1989

Excellency,

I have the honour to refer to the Arrangement Regarding International Trade in Textiles, with annexes, done at Geneva on 20 December 1973 and extended by protocols adopted respectively on 14 December 1977, 22 December 1981 and 31 July 1986, at Geneva (hereinafter referred to as the Arrangement) and to the Agreement between the Governments of Peru and the United States of America relating to trade in Cotton, Wool and Man-Made Fibre Textiles and Textile Products manufactured in Peru and exported to the United States done by exchange of notes in Lima on 3 January 1985, as amended (hereinafter referred to as the Agreement).

His Excellency
Guillermo Larco Cox
Minister of Foreign Relations
Palacio Torre Tagle
Lima

I have further the honour to refer to discussions between representatives of the Governments of Peru and the United States held in Lima on 9 and 10 February 1989 concerning the Agreement. As a result of these discussions and under Articles 4 and 6 of the Arrangement, I have the honour to propose, on behalf of the Government of the United States, the amendment and extension of the Agreement, the amended text of which is as follows:

AGREEMENT TERM

1. The term of this Agreement will be the period from 1 May 1984 through 31 December 1991. Each "agreement period" shall be a twelve-month period from 1 May of a given year to 30 April of the following year, except the period 1 May 1989 to 31 December 1989 will constitute an "agreement period" of eight months and calendar-years 1990 and 1991 will constitute twelve-month "agreement periods".

Coverage of agreement and classification by fibre

2 (a) The textiles and textile products covered by this Agreement are those set forth in Annex A. The system of categories and the rates of conversion into square meters listed in Annex A shall apply in implementing this Agreement.

(b) Tops, yarns, piece goods, made-up articles, garments and other textile manufactured products, all being products which derive their chief characteristics from their textile components of cotton, wool or man-made fibre or blends thereof, in which any or all of those fibres in combination represent the chief weight of the product, are subject to this Agreement. For the purposes of this Agreement, textile products covered by this paragraph shall be classified as:

(i) Cotton textiles if the product is in chief weight of cotton, or if the cotton with wool and/or man-made fibres in the aggregate equal or exceed 50 per cent by weight of the component fibres thereof and the cotton component equals or exceeds the weight of each of the total wool and/or man-made fibre components, unless the product is a woven fabric in which wool equals or exceeds 36 per cent by weight of all fibres, in which case the product will be a wool textile.

(ii) Wool textiles, if the product is in chief weight of wool, or, in the case of products which are chief weight of silk or non-cotton vegetable fibres, wool exceeds 17 per cent by weight of all fibres.

(iii) Man-made fibre textiles, if the product is in chief weight of man-made fibres, or if the man-made fibres in combination with cotton and/or wool in the aggregate equal or exceed 50 per cent

by weight of the component fibres thereof and the man-made fibre component exceeds the weight of the total wool and/or cotton component, unless:

(a) the product is knitted or crocheted apparel in which wool equals or exceeds, 23 per cent by weight of all fibres, in which case, the product will be a wool textile; or

(b) the product is apparel, not knitted or crocheted, in which wool equals or exceeds 36 per cent by weight of all fibres, in which case the product will be a wool textile; or

(c) the product is a woven fabric in which wool equals or exceeds 36 per cent by weight of all fibres, in which case the product will be a wool textile.

Coverage under this paragraph is intended to be identical with the terms of Article 12 of the Arrangement Regarding International Trade in Textiles, and in conformance with paragraph 24 of the 31 July 1986 Protocol of Extension. In the event of a question regarding whether a product is covered by this Agreement by virtue of being chief weight cotton, wool and man-made fibre, the chief value of the fibres may be considered.

Handloom- Folklore - Cottage industry exemption

3. In conformity with Article 12, paragraph 3 of the Arrangement, this Agreement shall not apply to exports of handloom fabrics, folklore products, cottage industry products, or handmade products, of Peru. Handloom fabrics, folklore products, cottage industry products, or handmade products, of Peru shall be properly certified under arrangements to be established between the two Governments.

Specific limits

4. Commencing with the first agreement period and during each subsequent agreement period, the Government of Peru shall limit annual exports from Peru to the United States of cotton, wool and man-made fibre textiles and textile products of Peru to the specific limits set out in Annex B, as such specific limits may be adjusted in accordance with paragraph 5. The specific limits in Annex B include growth, but do not include flexibility under paragraph 5.

Flexibility (swing)

5. During any agreement period the specific limits set out in Annex B may be exceeded by not more than seven (7) per cent swing (five per cent for wool categories), provided that a corresponding reduction in square meters equivalent is made in one or more other specific limits during the same agreement period. The Government of Peru shall indicate to the Government of the United States the specific limits it intends to increase and which it wishes to decrease.

Flexibility (carryover/carry forward)

6. (a) The extent to which any specific limit set out in Annex B may be exceeded in any agreement period by carry forward (borrowing a portion of the corresponding limit from the succeeding agreement period) and/or carryover (the use of any unused meterage (shortfall) of the corresponding limit from the previous period) is eleven (11) percent, of which carry forward shall not constitute more than seven percent.
- (b) For purposes of this Agreement, a shortfall occurs when exports of textiles or textile products of Peru to the United States during an agreement period are below any specific limit as set out in Annex B or, in the case of any limit decreased pursuant to paragraph 5, when such exports are below the limit as decreased.
- (c) No carryover shall be available for application in the first agreement period. No carry forward shall be available for application in the last agreement period.
- (d) The Government of Peru will notify the Government of the United States when it wishes to use unused meterage (shortfall) available in categories for carryover, or for use by other categories for swing; subject to the provisions set out above.

Designated consultation levels

7. (a) The categories listed in Annex C are subject to the annual designated consultation levels specified therein. The cotton apparel and wool product group levels listed in Annex D shall be treated as designated consultation levels.
- (b) If the Government of Peru wishes to export textile products to the United States in excess of the applicable designated consultation levels, the Government of Peru shall request the higher levels. The Government of the United States shall consider such requests sympathetically. The Government of the United States shall give favourable consideration to a request from the Government of Peru to increase the wool group limit to accommodate exports of hand knit alpaca sweaters. The Government of the United States shall respond promptly and make every effort to resolve the issue within 30 days of the initial request. If the Government of the United States is unable to comply fully with the request due to problems of market disruption, as described in Annex A of the Arrangement, or the real risk thereof, in a category or product subject to such request, the Government of the United States will so inform the Government of Peru. The Government of the United States will supply data which form the basis of the position it has taken. Until a mutually satisfactory change in the consultation level in question is established, shipments shall not exceed the existing consultation level.

Consultation mechanism

8. (a) In the event that the Government of the United States believes that imports of cotton, wool or man-made fibre textiles or textile products of Peru in any category or any product not covered by specific limits or designated consultation levels listed in Annex C are, due to market disruption or the real risk thereof, threatening to impede the orderly development of trade between the two countries, the Government of the United States may request consultations with the Government of Peru with a view to avoiding such market disruption or the real risk thereof. The Government of the United States will provide the Government of Peru, at the time of the request, with a detailed and factual statement of reasons for its request for consultation which, in the view of the Government of the United States demonstrates:

- (i) The existence or the real risk of market disruption; and
- (ii) The rôle of products of Peru in that disruption or real risk of disruption.

(b) The Government of Peru agrees to consult with the Government of the United States within 30 days of receipt of the request for consultations. Both sides agree to make every effort to reach agreement on a mutually satisfactory resolution of the issue within 90 days of the receipt of such request, unless extended by mutual agreement.

(c) During the 90-day consultation period, the Government of Peru agrees to hold its shipments to the United States of cotton, wool or man-made fibre textiles or textile products subject to these consultations to a level no greater than 35 per cent of the amount entered, as reported in the US General Import Statistics, during the first 12 of the most recent 14 months preceding the month in which the request for consultations was made.

(d) If no mutually satisfactory solution is reached during these consultations, the Government of the United States may establish annual specific limits for shipments of cotton, wool and man-made fibre products in the product or categories concerned for the duration of the Agreement. The amount will not be less than the the amount, as reported in the US General Import Statistics, entered during the first 12 of the most recent 14 months preceding the month in which the request for consultations was made, plus 20 per cent for cotton and man-made fibre product categories and six (6) per cent for wool product categories.

(e) The first term of any specific limit established under sub-paragraph 8(D) will begin on the first day following the conclusion of the consultation period and end on the last day of the agreement period in which the specific limit was established. If a specific limit is established during an agreement period, that limit and any applicable swing or carry forward will be pro rated to

correspond to the period of time remaining in the current agreement period. Carryover will not be available in the first agreement period. For each remaining agreement period any specific limit will be increased by six (6) per cent per agreement period in the case of cotton and man-made fibre product categories and by one (1) per cent in the case of wool categories.

Overshipment charges

9. (a) Products of Peru shipped in excess of authorized limits in any agreement period may be denied entry into the United States. Any such shipments denied entry may be permitted entry into the United States and charged to the applicable limit in the succeeding agreement period. The Government of the United States shall inform the Government to Peru of any such charges.

(b) Products of Peru shipped in excess of authorized limits in any agreement period will, if allowed entry into the United States during that Agreement period, be charged to the applicable limit in the succeeding agreement period.

(c) Any action taken pursuant to this paragraph will not prejudice the rights of either Government regarding consultations.

Spacing provision

10. The Government of Peru shall use its best efforts to space exports of its products to the United States within each category, sub-category, or part category evenly throughout each agreement period, taking into consideration normal seasonal factors.

US assistance in the implementation of the limitation provisions

11. The Government of Peru shall administer its export control system under this Agreement. The Government of the United States may assist the Government of Peru in implementing the limitation provisions of this Agreement by controlling imports, by the date of export, of textiles and textile products covered by this Agreement.

Exchange of data

12. The Government of the United States of America shall promptly supply the Government of Peru with data on monthly imports of cotton, man-made fibre and wool textiles and textile products of Peru into the United States. The Government of Peru shall promptly supply the Government of the United States with data on monthly exports of cotton, man-made fibre and wool textiles and textile products of Peru to the United States. Each Government agrees to supply promptly any other available statistical data necessary to the implementation of this Agreement.

Mutually satisfactory administrative arrangement

13. Mutually satisfactory administrative arrangements of adjustments may be made to resolve minor problems arising in the implementation of this Agreement, including differences in points of procedures or operation.

Consultation on implementation questions

14. The Government of the United States and the Government of Peru agree, upon the request of the other, to consult on any question arising in the implementation of this Agreement.

Right to propose revisions to the agreement

15. The Government of the United States and the Government of Peru may at any time propose revisions in the terms of this Agreement. Each agrees to consult promptly with the other about such proposals with a view to making such revisions to this Agreement, or taking such other appropriate action as may be mutually agreed upon. The Agreement is subject to both parties being free to request, at any time, consultations with a view to proposing revisions in the light of any successor to the current Arrangement.

Consultations in case of inequity vis-à-vis a third country

16. If the Government of Peru considers that, as a result of limitations specified in this Agreement, Peru is being placed in an inequitable position in relation to a third country, the Government of Peru may request consultations with the Government of the United States with a view to taking appropriate remedial actions, such as a reasonable modification of this Agreement.

Article 3 of the Arrangement

17. For the duration of this Agreement, the Government of the United States shall not invoke the procedures of Article 3 of the Arrangement to request restraint on the exports of cotton, wool, and man-made fibre textiles and textile products of Peru covered by this Agreement to the United States. The Government of the United States and the Government of Peru reserve their rights under the Arrangement with respect to textiles and textile products not covered by this Agreement.

Correct category/correct quantity visa system

18. Both Governments agree to maintain a correct category/correct quantity visa system.

Provision for textile agreements: Harmonized Commodity Code

19. On 1 January 1989, the Government of the United States implemented the Harmonized Tariff Schedule ("HTS"). Because HTS numbers are subject to revision, it is possible that future revisions may result in some changes in the United States category system of textile products as presently covered by this Agreement. If such changes are made during the term of

this Agreement, the Government of the United States and the Government of Peru will consult with the view of reaching a satisfactory resolution of issues concerning categories covered by this agreement. The Government of Peru recognizes that, should there be no resolution in such consultations, the Government of the United States reserves its rights to make such adjustments to Annexes A, B, C and D as necessary to bring it into conformity with the HTS, if revised. The intent of any such changes on the part of the Government of the United States will solely be to align the current category system and limit with the revised HTS and not to diminish or alter overall trade in textiles and apparel with Peru.

Commercial sample exemption

20. Properly marked commercial samples valued at US\$250 or less, and items for the personal use of the importer and not for resale, regardless of value, need not be accompanied by an export visa and will not be subject to the limits established under this Agreement.

Exchange of information

21. Each Government agrees to supply any information within its possessions reasonably believed to be necessary to the enforcement of this Arrangement requested by the other Government.

Right to terminate the Agreement

22. Either Government may terminate this Agreement, effective at the end of any agreement period, by written notice to the other Government, to be given at least 20 days prior to the end of such agreement period.

If the foregoing conforms with the understanding of the Government of Peru, then this note and your Excellency's note of confirmation on behalf of the Government of Peru shall constitute an Agreement between our two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

ANNEX A

Categories numbered in the:

200 series are of cotton and/or man-made fibre.

300 series are of cotton.

400 series are of wool.

600 series are of man-made fibre.

<u>Category</u>	<u>Description</u>	<u>Conversion Factor to square metres</u>	<u>Unit</u>
<u>Yarn</u>			
200	Sewing thread and yarns, put up for retail sale	6.6	kg.
201	Speciality yarns	6.5	kg.
300	Carded yarns	8.5	kg.
301	Combed yarns	8.5	kg.
400	Wool yarn	3.7	kg.
600	Textured filament yarns	6.5	kg.
603	Yarn containing 85% or more by weight artificial staple fibre	6.3	kg.
604	Yarn containing 85% or more by weight synthetic staple fibre	7.6	kg.
606	Non-textured filament yarn	20.1	kg.
607	Other staple fibre yarn	6.5	kg.
<u>Fabric</u>			
218	Yarns of different colours	1.0	m ²
219	Duck	1.0	m ²
220	Fabric of special weave	1.0	m ²
222	Knit fabric	12.3	kg.
223	Non-woven fabrics	14.0	kg.
224	Pile and tufted fabrics	1.0	m ²
225	Denim	1.0	m ²
226	Cheesecloth, batistes, lawns or voiles	1.0	m ²
227	Oxford cloth	1.0	m ²
229	Special purpose fabric	13.6	kg.
313	Sheeting	1.0	m ²
314	Poplin and broadcloth	1.0	m ²
315	Printcloth	1.0	m ²
317	Twills	1.0	m ²
326	Sateens	1.0	m ²
410	Woven fabrics containing	1.0	m ²
414	Other wool fabrics	2.8	kg.
611	Woven fabrics containing 85% or more by weight artificial staple fibres	1.0	m ²
613	Sheeting	1.0	m ²
614	Poplin and broadcloth	1.0	m ²

<u>Category</u>	<u>Description</u>	<u>Conversion Factor to square metres</u>	<u>Unit</u>
<u>Fabric (cont'd)</u>			
615	Printcloth	1.0	m ²
617	Twills and sateens	1.0	m ²
618	Woven artificial filament	1.0	m ²
619	Polyester filament fabric, less than 5 oz. per SYD.	1.0	m ²
620	Other synthetic filament fabric	1.0	m ²
621	Impression fabric	14.0	kg.
622	glass fibre fabric	1.0	m ²
624	Woven man-made fibre fabric, containing more than 15 per cent but less than 36 per cent wool Staple /filament combination:	1.0	m ²
625	Poplin and broadcloth	1.0	m ²
626	Printcloth	1.0	m ²
627	Sheeting	1.0	m ²
628	Twills and sateens	1.0	m ²
629	Other	1.0	m
<u>Apparel</u>			
237	Playsuits, sunsuits, etc., cotton and man-made fibre	19.2	Doz
239	Infants' apparel	6.3	kg.
330	Handkerchiefs	1.4	Doz
331	Gloves and mittens	2.9	Dpr
332	Hosiery	3.8	Dpr
333	M and B suit-type coats	30.3	Doz
334	Other M and B coats	34.5	Doz
335	W and G coats	34.5	Doz
336	Dresses	37.9	Doz
338	M and B knit shirts	6.0	Doz
339	W and G knit shirts and blouses	6.0	Doz
340	M and B shirts, not knit	20.1	Doz
341	W and G shirts and blouses, not knit	12.1	Doz
342	Skirts	14.9	Doz
345	Sweaters	30.8	Doz
347	M and B trousers, slacks and shorts	14.9	Doz
348	W and G trousers, slacks and shorts	14.9	Doz
349	Brassières and body supporting garments	4.0	Doz
350	Dressing gowns, etc.	42.6	Doz
351	Nightwear and pyjamas	43.5	Doz
352	Underwear	9.2	Doz
353	M and B down-filled coats	34.5	Doz
354	W and G down-filled coats	34.5	Doz
359	Other cotton apparel	8.5	kg.
431	Gloves and mittens	1.8	Dpr
432	Hosiery	2.3	Dpr
433	M and B suit-type coats	30.1	Doz

<u>Category</u>	<u>Description</u>	<u>Conversion Factor to square metres</u>	<u>Unit</u>
	<u>Apparel</u> (cont'd)		
434	Other M and B coats	45.1	Doz
435	W and G coats	45.1	Doz
436	Dresses	41.1	Doz
438	Knit shirts and blouses	12.5	Doz
439	Infants' wear	6.3	kg.
440	Shirts and blouses, not knit	20.1	Doz
442	Skirts	15.0	Doz
443	M and B suits	3.76	Nos
444	W and G suits	3.76	Nos
445	M and B sweaters	12.4	Doz
446	W and G sweaters	12.4	Doz
447	M and B trousers, slacks and shorts	15.0	Doz
448	W and G trousers, slacks and shorts	15.0	Doz
459	Other wool apparel	3.7	kg.
630	Handkerchiefs	1.4	Doz
631	Gloves and mittens	2.9	Dpr
632	Hosiery	3.8	Dpr
633	M and B suit-type coats	30.3	Doz
634	Other M and B coats	34.5	Doz
635	W and G coats	34.5	Doz
636	Dresses	37.9	Doz
638	M and B knit shirts	15.0	Doz
639	W and G knit shirts and blouses	12.5	Doz
640	M and B shirts, not knit	20.1	Doz
641	W and G shirts and blouses, not knit	12.1	Doz
642	Skirts	14.9	Doz
643	M and B suits	3.76	Nos
644	W and G suits	3.76	Nos
645	M and B sweaters	30.8	Doz
646	W and G sweaters	30.8	Doz
647	M and B trousers, slacks and shorts	14.9	Doz
648	W and G trousers, slacks and shorts	14.9	Doz
649	Brassières and body supporting garments	4.0	Doz
650	Dressing gowns, etc.	42.6	Doz
651	Nightwear and pyjamas	43.5	Doz
652	Underwear	13.4	Doz
653	M and B down-filled coats	34.5	Doz
654	W and G down-filled coats	34.5	Doz
659	Other man-made fibre apparel	14.4	kg.

<u>Category</u>	<u>Description</u>	<u>Conversion Factor to square metres</u>	<u>Unit</u>
<u>Made-up and Miscellaneous Textiles</u>			
360	Pillowcases	0.9	Nos
361	Sheets	5.2	Nos
362	Bedspread and quilts	5.8	Nos
363	Terry and other pile towels	0.4	Nos
369	Cotton manufactures, not specified, nspf	8.5	kg.
464	Blankets	2.4	kg. 2
465	Floor coverings	1.0	m 2
469	Wool manufactures, nspf	3.7	kg. 2
665	Floor coverings	1.0	m 2
666	Other furnishings	14.4	kg.
669	Man-made fibre manufactures, nspf	14.4	kg.
670	Flat goods, handbags, luggage	3.7	kg.

ANNEX B

Specific Limits

Category	Unit	5/1/89- 12/31/89	1/1/90- 12/31/90	1/1/91- 12/31/91
219	M ²	9,533,419	15,158,135	16,067,623
220	m ²	5,910,945	9,398,401	9,962,304
226/313	m ²	11,146,747	17,723,326	18,786,726
(226 (Sublimit)	m ²	2,102,362	3,342,755	3,543,320)
315	M ²	2,787,091	4,431,475	4,697,364
317/326	m ²	11,761,525	18,700,825	19,822,874
(326 (Sublimit)	m ²	4,738,055	7,533,508	7,985,518)
338/339	Doz	440,260	700,000	742,000
(338-S/339-S (Sublimit on other than tanks and T's)	Doz	314,465	500,000	530,000)

ANNEX C

Designated Consultation levels

Category	Unit	5/1/89- 12/31/89	1/1/90- 12/31/90	1/1/91- 12/31/91
300/607-K	KG	1,209,580	1,814,369	1,814,369
301	KG	755,987	1,133,981	1,133,981
410	m ²	891,869	1,337,804	1,337,804

Note: 607-K part category comprises man-made fibre yarn containing less than 85 per cent by weight synthetic or artificial staple fibre, not mixed mainly or solely with wool or fine animal hair.

ANNEX D

Group levels

Category	Unit	5/1/89- 12/31/89	1/1/90- 12/31/90	1/1/91- 12/31/91
Wool	M ²	2,508,382	3,762,573	3,762,573
Cotton Apparel Group	M ²	9,754,819	14,632,229	14,632,229

Notes: A) The Wool group includes all 400 series categories except Category 410.
B) The Cotton Apparel Group includes categories 237, 239, and all categories 330-359 except 338 and 339.