

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/1779\*

24 August 1992

Special Distribution

### Textiles Surveillance Body

#### ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

##### Notification under Article 4:4

##### Bilateral agreement between the United States and Costa Rica

The Textiles Surveillance Body received a notification from the United States of an agreement concluded with Costa Rica for the period 1 January 1992 to 31 December 1993.<sup>1</sup>

The TSB, pursuant to its procedures regarding bilateral agreements notified under Article 4,<sup>2</sup> examined the relevant documentation, including two earlier memoranda of understanding between the parties

The TSB is forwarding the text of the notification together with the two memoranda of understanding to participating countries for their information.

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<sup>1</sup>The previous agreement contained in COM.TEX/SB/1387 expired on 31 December 1988.

<sup>2</sup>See COM.TEX/SB/35, Annex B.

\*English only/Anglais seulement/Inglés solamente  
92-1129

**BILATERAL TEXTILE AGREEMENT  
BETWEEN  
THE UNITED STATES AND COSTA RICA**

The Government of the United States and the Government of Costa Rica, noting the Agreement Regarding International Trade in Textiles (hereinafter referred to as the Arrangement with Annexes, done at Geneva on 20 December 1973, as extended);

Noting discussions between representatives of the Government of Costa Rica and the Government of the United States of America in San Jose 1-3 October 1991, and subsequent discussions in Washington, D.C. from 27-28 January, and 19-20 March 1992 concerning exports of cotton, wool, and man-made fibre textile products of Costa Rica exported to the United States;

Have agreed as follows:

**Agreement Term**

1. The term of this Agreement will be the period from 1 January 1992 through 31 December 1993. Each "Agreement Period" or "Agreement Year" shall be a twelve-month period from first January of a given year to thirty-first December of the same year for the Categories 340/640, 342/642, 347/348, 443, and for such other categories and limits as may come under this agreement as a result of subsequent amendment. Exports are subject to limits or levels for the year in which exported.

**Coverage of Agreement and Classification by Fibre**

2. The textiles and textile products covered by this Agreement are those summarized in Paragraph 3 (D), as subject to amendments. The system of categories and the rates of conversion into square meters equivalent (SME) listed in Paragraph 3 (D), as subject to amendment, shall apply in implementing this agreement.

3. (A) Tops, yarns, piece goods, made-up articles, garments, and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibres, silk blends, non-cotton vegetable fibres, or blends thereof, in which any or all of these fibres in combination represent the chief weight of the product, are subject to this Agreement. Components of an article which are not considered relevant to the classification under the General Rules of Interpretation or the Legal Notes to Section XI of the Harmonized System are likewise to be disregarded here.

(B) For the purposes of this Agreement, textile products covered by sub-paragraph (A) above shall be classified as:

(i) Man-made fibre textiles, if the product is in chief weight of man-made fibres, 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;

(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.

(ii) Cotton textiles, if not covered by (i) and if the product is in chief weight of cotton, 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.

(iii) Wool textiles, if neither of the foregoing applies, and the product is in chief weight of wool.

(C) Coverage under this paragraph is intended to be identical with the terms of Article 12 of the Arrangement 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 of cotton, wool, or man-made fibre, the chief value of the fibres may be considered.

(D) For the purposes of this agreement, the following categories, as defined below, are covered by this agreement. If both countries agree to put new categories under quota, both parties shall amend relevant paragraphs of the agreement and the Visa Arrangement as necessary to include additional categories.

Category	Description	Categories Merged/ Agreement Designation	Conversion Factor
340	Men's and boys cotton shirts, not knit	340/640	20.1
342	Cotton skirts	342/642	14.9
347	Men's and boys' cotton trousers/slacks/shorts	347/348	14.9
348	Women's and girls' cotton trousers/slacks/shorts	347/348	14.9
443	Men's and boys' wool suits	n.a	3.76
640	Men's and boys' mmf shirts, not knit	340/640	20.1
642	Mmf skirts	342/642	14.9

#### Protection of Rights

4. Introduction of changes (such as changes in practices, rules, procedures, categorization of textile products, including those changes relating to the Harmonized System) in the implementation or interpretation of this bilateral textile agreement, which have the effect of upsetting the balance of rights and obligations between the parties concerned, or which affect the economic content of this bilateral agreement, or which affect

the ability of a party to use or benefit fully from this bilateral agreement, or which disrupt trade, shall be avoided as far as possible. Where such changes are necessary, parties agree that the party initiating any such changes shall, wherever possible, inform and initiate consultations with the affected party prior to the time that such changes may affect the trade in question, with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustments. Parties further agree that where consultation prior to the implementation of any such changes is not feasible, the party initiating such changes will consult, as early as possible, with the affected party with a view to reaching a mutually satisfactory solution regarding appropriate and equitable adjustments. Any disruption under this provision may be referred to the TSB, or other appropriate successor monitoring body, for recommendation.

#### **Guaranteed Access Level**

5. The products and categories listed as Guaranteed Access Levels in Annex B are those which the Government of Costa Rica intends to export to the United States under the Caribbean Basin Textile Special Access Program. these products, which will be:

- Assembled in Costa Rica of US formed fabrics, cut in the United States for re-export to the United States under contracts governed by HTSUSA 9802.00.8010 or
- Assembled in Costa Rica of US formed fabrics, cut in the United States and then subject to bleaching, acid washing, stonewashing, garment dyeing, or permapressing in Costa Rica following assembly, for re-export to the United States under contracts governed by the statistical headnote under Chapters 61 and 62 of the Harmonized Tariff Schedule of the United States annotated, as implemented by the Government of the United States requiring the use of the statistical prefix "H" are subject to the annual guaranteed access levels specified in Annex B.

(A) If the Government of Costa Rica wishes to apply for a new Guaranteed Access Level or to export textile products under the Caribbean Basin Textile special Access Program in excess of the existing Guaranteed Access Level, the Government of Costa Rica shall submit a request for new or increased levels. The Government of the United States shall consider such requests sympathetically and respond promptly within 30 US working days of the receipt by the Government of the United States in Washington of the initial request. Among other, factors, the Government of the United States will take into consideration export performance, current levels of exports, unused production capacity, expected new investment, and the potential for market disruption, taking into account the United States content of the product.

(B) If the Government of the United States fails to reply within 30 US working days, the request of the Government of Costa Rica becomes the new Guaranteed Access Level. 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 Costa Rica within

30 US working days. In this case, until a mutually satisfactory change in the GAL in question is established, shipments shall not exceed the existing GAL. The United States response will be supported by data which form the basis of the position it has taken. Either government may request consultations to discuss such requests for increases in GALs.

#### **Specific Limits**

6. The categories and products in Annex A are those which the Government of Costa Rica intends to export to the United States which are not eligible for the Caribbean Basin Special Trade Access Program and are subject to specific limits.

#### **Flexibility Adjustments**

7. (A) (i) The specific Limits set out in Annex A do not include any adjustments permitted under paragraph 7.

(ii) During any Agreement Period, the Specific Limits set out in Annex A may be increased by not more than seven per cent swing, except for Category 347/348 which may receive 7.5 per cent swing, provided that a corresponding reduction in square meters equivalent is made in one or more other specific limits during the same Agreement Period. Swing, if available, is additional to other available carryover and/or carry forward.

(iii) No Specific Limits may be decreased pursuant to paragraph 7 (A) (ii) to a level which is below the level of exports charged against that Category's limit for that Agreement Period.

(iv) The Government of Costa Rica shall indicate to the Government of the United States the specific limits it would like increased and those which it would like decreased by commensurate quantities in square meter equivalents.

(B) (i) The extent to which any Specific Limit set out in Annex A may be exceeded in any Agreement Period by carry forward (borrowing a portion of the corresponding Specific Limit from the succeeding Agreement Period) and/or carryover (the use of any unused meterage (Shortfall) of the corresponding Specific Limit for the previous Agreement Period) is 11 per cent, of which carry forward shall not constitute more than 6 per cent.

(ii) No carryover shall be available for application in the first Agreement Period. No carry forward shall be available for application in the final Agreement Period.

(iii) In the 1992 agreement period only, Category 347/348 will be eligible for up to 33,730 dozen carryover from the previous agreement period.

(C) For the purposes of the Agreement, a shortfall occurs when exports of textiles or textile products of Costa Rica to the United States during any agreement period are below any specific limit as set out in Annex A (or, in the case of any limit decreased pursuant to paragraph 7, when such exports are below the limit as decreased).

(D) The Government of Costa Rica 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 carry forward, subject to the provisions set out above. To the extent that such adjustments are actually utilized, they will be implemented by means of carryover and carry forward, in that order. Any unused carry forward will be re-credited to the following period's limit. This procedure will not prejudice the outcome of any consultations that may be held between our Governments concerning the amounts of available carryover and carry forward.

#### **Other Categories**

8. Categories and products not listed in Annex A or in Annex B (Guaranteed Access Levels) as subject to amendment of this agreement, are free of all restrictions at this time; however, the Government of the United States and the Government of Costa Rica reserve their rights in accordance with Paragraph 21 of this agreement.

#### **Overshipment Charges**

9. (A) Products of Costa Rica shipped in excess of authorized limits in any Agreement Period may be denied entry into the United States. Any such shipment denied entry may be permitted into the United States and charged to the applicable limit in the succeeding Agreement Period.

(B) Products of Costa Rica shipped in excess of applicable 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 sub-paragraph 9 (A) and 9 (B) above, will not prejudice the rights of the other side regarding consultations.

(D) The United States Government will notify the Government of Costa Rica when the quota fill rate reaches 95%. If the Government of Costa Rica finds that there is a data discrepancy between the United States Government data and the Government of Costa Rica export data, the Government of Costa Rica will request consultations. The United States Government agrees to consult as promptly as possible to resolve any data errors. When the merchandise entered against the quota reaches a level where the quota can be filled, the United States Government agrees to offer an additional two working days before finalizing the closure of the category.

### **Spacing Provisions**

10. The Government of Costa Rica 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.

### **Implementation of the Limitation Provisions**

11. The Government of Costa Rica shall administer its export control system under the Agreement. The Government of the United States will control by the date of export, imports of textile products covered by this Agreement.

### **Correct Category/Quantity Visa System**

12. (A) The provisions of the Visa Arrangement will govern the licensing and/or certification of exports of all textile and apparel products from Costa Rica to the United States which are subject to this agreement. Visas issued for a particular agreement year shall be valid only for apparel products exported during that agreement year.

(B) The parties recognize that under the agreement the purchase of textile products to be delivered subject to the restrictions under the agreement implied that the delivery of goods will be accompanied by a visa.

### **Commercial Samples and Personal Shipments**

13. Properly marked commercial sample shipments, 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 shall not be subject to the limits established under this Agreement.

### **Exchange of Information**

14. Subject to domestic laws, at the request of the other government, each government agrees to supply any information within its possession reasonably believed to be necessary for the enforcement of this agreement.

### **Exchange of Data**

15. (A) The Government of the United States shall promptly supply the Government of Costa Rica with data on monthly imports of cotton, man-made fibre wool, silk blend and non-cotton vegetable fibre textiles and textile products of Costa Rica into the United States.

(B) The Government of Costa Rica shall promptly supply the Government of the United States with data on monthly exports of cotton, man-made fibre, wool, silk blend and non-cotton vegetable fibre textiles and textile products of Costa Rica to the United States.

(C) The US Government and the Government of Costa Rica agree to exchange namesake data via computer diskette as agreed in a subsequent technical letter.

(D) Any discrepancy noted by one party between import and export data shall be notified to the other party. Both parties agree that when such discrepancies are so notified they will hold consultations as promptly as possible to resolve such discrepancies.

#### **Cooperation in the Prevention of Circumvention and Fraud**

16. (A) The Governments of the United States of America and Costa Rica shall cooperate to prevent circumvention of the Agreement.

(B) Subject to domestic laws, the competent authorities of both parties shall cooperate in ensuring that the Agreement is not circumvented by transshipment, rerouting, misdescription, under-invoicing or by whatever means. To this end, the competent authorities of the Government of Costa Rica and those of the United States shall assist each other:

(i) In obtaining, to the extent possible, documents, correspondence, and reports considered relevant to investigations;

(ii) by providing for plant visits and inspections, on a voluntary basis, whether by prior notification or impromptu, by authorized personnel; and

(iii) by facilitating personal interview designed to ascertain needed facts.

(C) Both Governments will provide each other, to the extent legally permissible, with facts and evidence of instances of fraud and circumvention considered necessary by either party to effectively lend assistance in their investigations.

#### **Mutually Satisfactory Administrative Arrangement**

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

#### **Consultation on Implementation Questions**

18. The Government of the United States and the Government of Costa Rica each agree to consult upon the request of the other on any question arising in the implementation of this Agreement.

#### **Right to Propose Revisions to the Agreement**

19. The Government of the United States and the Government of Costa Rica may at any time propose revisions to 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.



**Consultation in Case of Inequity  
Vis-à-Vis a Third Country**

20. If the Government of Costa Rica considers that, as a result of limitations specified in this Agreement, it is being placed in an inequitable position in relation to a third country, the Government of Costa Rica 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.

**Reservation of Rights**

21. The Government of the United States and the Government of Costa Rica each reserve their rights under the Arrangement with respect to textile products not subject to this Agreement.

**Right to Terminate the Agreement**

22. Either Government may terminate this Agreement, effective at the end of an Agreement Period, by written notice to the other Government, to be given at least 90 days prior to the end of such Agreement Period.

**Entry into Force**

23. This agreement will enter into force upon signature.

DONE at Washington, in duplicate, this twentieth day of March, 1992.

For the Government of  
the United States

For the Government of  
Costa Rica

ANNEX A - SPECIFIC LIMITS

Category	Quota Units 1/1/92-31/12/92	Quota Units 1/1/93-31/12/93	Growth Rate	Swing
340/640	668,685 dozen	725,924 dozen	6%	7%
342/642	246,851 dozen	267,979 dozen	6%	7%
347/348	1,071,165 dozen	1,223,341 dozen	6%	7.5%
443	200,000 units	202,000 units	1%	7%

**ANNEX B - GUARANTEED ACCESS LEVELS**

<b>Category</b>	<b>Quota Units 1/1/92-31/12/92</b>	<b>Quota Units 1/1/93-31/12/93</b>
340/640	650,000 dozen	650,000 dozen
342/642	250,000 dozen	250,000 dozen
347/348	1,500,000 dozen	1,500,000 dozen
443	200,000 units	200,000 units

MEMORANDUM OF UNDERSTANDING

As a result of consultations held in San Jose on 6, 7 and 8 February 1989 between representatives of the Government of Costa Rica and the Government of the United States of America, the following understandings were reached concerning exports of certain apparel products from Costa Rica to the United States.

1. The current US restraint on Costa Rica's exports of cotton trousers, slacks, and shorts (Category 347/348) will be replaced with the following Designated Consultation Level (DCL), Specific Limits, or Guaranteed Access Levels (GAL) during the period beginning 1 January 1989 and extending through 31 May 1992.

<u>Period</u>	(in dozens) <u>Specific Limit</u>	<u>DCL</u>	<u>GAL</u>
1 January 1989 31 May 1989	_____	750,000	_____
1 June 1989 31 May 1990	850,000	_____	1,000,000
1 June 1990 31 May 1991	901,000	_____	1,000,000
1 June 1991 31 May 1992	955,060	_____	1,000,000

Costa Rica noted that the above levels were agreed to in recognition of the special conditions applicable to the production, assembly and trade in cotton trousers between the United States and Costa Rica.

It is understood that in order to facilitate trade, the United States will implement the DCL for the first period noted above as soon as possible.

It is further understood that the United States will consider most sympathetically a request to adjust this DCL should Costa Rica express a need to export quantities in excess of the above DCL.

The above specific limits will be accorded swing of 7.5 per cent, and carryover and carry forward as permitted in the previous Costa Rica/United States Bilateral Textile Agreement.

2. The two governments agreed to a limit on exports of men's and boys' cotton and/or man-made fibre non-knit shirts (Category 340/640) at the following specific limits and GAL's during the three year period 1 June 1989 through 31 May 1992.

<u>Period</u>	(in dozens) <u>Specific Limit</u>	<u>GAL</u>
1 June 1989 31 May 1990	575,000	650,000
1 June 1990 31 May 1991	609,500	650,000
1 June 1991 31 May 1992	646,070	650,000

The above limits shall benefit from the flexibility as detailed in the previous Costa Rica/United States Bilateral Textile Agreement.

3. Reference was made to the "Memorandum of Understanding" of 21 December 1988 concerning limits on Costa Rican export of Category 342/642 skirts to the United States and both parties agreed to amend the Memorandum by adding a new period from 1 June 1991 through 31 May 1992 with a specific limit of 238,500 dozens and a GAL of 250,000 dozen.

4. The Government of Costa Rica requested full access to information regarding US export data including data on US file ITA Form 370-P. The United States agreed to provide the best available data on that issue.

5. Attached to the "Memorandum of Understanding" (MOU) is a copy of a draft "Standard Agreement" prepared by the United States. Both governments agreed that the provisions as presented in this draft standard agreement, including the consultation mechanism, will form the basis for a new Bilateral Textile Agreement with agreed adjustments and modifications. The United States agrees to include in the Agreement text a comprehensive definition of what factors determine whether a product is eligible for shipment under the Guaranteed Access Level.

6. The Government of the United States proposed a comprehensive visa arrangement. The Government of Costa Rica agreed to study this proposal. In any event, both Governments agreed to establish a visa arrangement covering at least those products and categories covered by the Agreement.

For the Government of the  
Republic of Costa Rica

For the Government of the  
United States of America

MEMORANDUM OF UNDERSTANDING

Representatives of the Governments of Costa Rica and the United States met in Washington 2-4 November and again 12-13 December to discuss exports of Costa Rican textile and apparel products to the United States. As a result of those negotiations, the governments agreed to establish the following specific limits and guaranteed access levels on Costa Rican exports of Category 342/642 skirts to the United States for the three-year period 1 June 1988 to 31 May 1991.

<u>Period</u>	<u>Specific Limit</u>	<u>Guaranteed Access Level</u>
1 June 1988 31 May 1989	247,000 dozen	- 0 -
1 June 1989 31 May 1990	212,264 dozen	250,000 dozen
1 June 1990 31 May 1991	225,000 dozen	250,000 dozen

These limits shall benefit from normal flexibility as detailed in the current United States-Costa Rican Bilateral Textile Agreement.

These limits include all appropriate adjustment for migration resulting from implementation of the harmonized system by the United States.

The parties further agreed to reaffirm, as stated in the Bilateral Textile Agreement, that:

The Government of Costa Rica and the Government of the United States may at any time propose amendments in the terms of this Agreement. Each agrees to consult promptly with the other about such proposals with a view to making appropriate amendments to this Agreement, or taking such other appropriate action as may be mutually agreed upon.

The parties agreed that in order to facilitate trade, the United States will implement the specific limit for the first Agreement period based upon this Memorandum. Both sides also agreed to formally exchange diplomatic notes to confirm the provisions of this Memorandum.

For the Government of the  
Republic of Costa Rica

For the Government of the  
United States of America