

# GENERAL AGREEMENT ON

## TARIFFS AND TRADE

RESTRICTED

COM.TEX/SB/1836

11 June 1993

Special Distribution

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### Textiles Surveillance Body

#### REPORT OF THE THIRD MEETING<sup>1</sup>

1. The Textiles Surveillance Body held its third meeting of 1993 on 6 and 7 May.
2. Present at this meeting were the following members and/or alternates: Messrs. Abdel-Fattah/Munir, Donaghy/Potocnik, Ishimaru, Luotonen, Prates/Vanerio, Prince/Daly, Radu/Wang, Shepherd, Suboh and Wong.
3. The report of the second meeting has been circulated in COM.TEX/SB/1835.

#### Notification under Articles 8:4 and 11:5

##### Pakistan/United States

4. The TSB continued its examination of the communication by Pakistan with respect to charges made by the United States against 1992 quota limits on Categories 360 (pillowcases) and 361 (bedsheets), on account of alleged circumvention through transshipment.<sup>2</sup>
5. The TSB reiterated its view that circumvention is a practice harmful to importing countries, to countries of origin not responsible for transshipment or re-routing of their exports, and to other exporting countries under quota, as circumvented products may take away market for their restrained products, and to the integrity of the Arrangement.
6. The TSB considered all the information provided to it by both parties in the course of its review of Pakistan's communication.
7. The TSB regretted that the United States and Pakistan had not in their consultations extended to each other the full cooperation which is essential in dealing with problems of circumvention. The TSB reminded both governments of their obligations under Article 8:2 of the MFA and paragraph 16 of the 1986 Protocol of Extension as maintained in force by the 1992 Protocol to exchange available information and documents as are necessary to establish the relevant facts regarding the country of true origin and the circumstances of circumvention. In this regard, the TSB

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<sup>1</sup>Two hundred and seventy-seventh meeting overall.

<sup>2</sup>See COM.TEX/SB/1834 and 1835.

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noted with concern that: (a) the US had not shared all relevant information with the Government of Pakistan in time for the first round of their formal bilateral consultations under paragraph 20 of their agreement; (b) some elements submitted as information by the United States could not be considered either relevant or reliable; (c) Pakistan had not requested, in the manner required by the laws and procedures of the United States Government, from the Government of the United States certain information which could otherwise have been delivered to Pakistan; and (d) Pakistan had not furnished certain information requested by the United States.

8. The TSB also recalled its concern that while consultations formally started under paragraph 20 of the bilateral agreement on 22 April 1992, the United States took the unilateral decision of making adjustments to quotas when a new round of consultations was scheduled within the 120-day consultation period provided for therein.

9. The TSB noted further that the action taken by the United States had been notified under Article 8:4 to the Body in September 1992; in reviewing the notification, the TSB had "taken note of the measure, bearing in mind that it had not been requested to make reports or recommendations thereon",<sup>3</sup> without any further comment or observation.

10. While, on the basis of the information referred to in paragraph 6, the TSB was of the opinion that circumvention had taken place with respect to certain consignments charged to quotas, it was unable to come to an agreed interpretation of the relevant provisions of the MFA and the 1986 Protocol of Extension as maintained in force by the 1992 Protocol regarding the right, or absence thereof, of a party to make adjustments to quotas in the absence of an agreement between the parties concerned, and therefore was unable to reach a consensus on a recommendation.<sup>4</sup>

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<sup>3</sup> COM.TEX/SB/1807.

<sup>4</sup> One member was of the view that, in the absence of consensus on the terms of a recommendation it was procedurally incorrect for the TSB to address, in its text on the case, the matter of occurrence of circumvention. He did not, however, oppose the adoption of this text, and agreed not to pursue circulation of a separate opinion at this time, on the understanding that the TSB would hold a discussion on the matter of circulation of members' individual opinions at an early date.