

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
COM.TEX/SB/1873
22 November 1993
Special Distribution

(93-1993)

Textiles Surveillance Body

**REPORT OF THE TEXTILES SURVEILLANCE BODY
TO THE TEXTILES COMMITTEE**

1993

I. Introductory remarks

1. This report is submitted by the Textiles Surveillance Body to the Textiles Committee pursuant to the provisions of Articles 10:4 and 11:12 of the Arrangement Regarding International Trade in Textiles (MFA). It covers the period 1 August 1992 to 31 July 1993, during which the TSB held eleven meetings; the reports of these meetings are contained in COM.TEX/SB/1804, 1807, 1808, 1815, 1816, 1834, 1835, 1836, 1857, 1864 and 1872.
2. The previous report of the TSB to the Textiles Committee on the operation of the Arrangement, contained in COM.TEX/SB/1799 and Add.1, covered the six-year period of MFA IV from 1 August 1986 to 31 July 1992. It included an overview of the operation of the Arrangement, as well as some considerations on its implementation by participating countries.
3. On 31 December 1992, forty-two signatories participated in the Arrangement under the 1991 Protocol: Argentina, Austria, Bangladesh, Brazil, Canada, China, Colombia, Costa Rica, the Czech and Slovak Federal Republic, the Dominican Republic, the EEC, Egypt, El Salvador, Fiji, Finland, Guatemala, Honduras, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macau, Malaysia, Mexico, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Switzerland, Thailand, Turkey, United States, Uruguay and Yugoslavia.
4. On 31 July 1993, the MFA IV as extended and maintained in force by the 1992 Protocol, had forty-four participants: those listed above less the Czech and Slovak Federal Republic and Yugoslavia, plus the Czech Republic, Lesotho, Paraguay and the Slovak Republic.
5. The TSB continued to work under the Chairmanship of Ambassador Marcelo Raffaelli. The membership of the Body is listed in Annex I.

**Closing Date:
31 July 1993**

II. Notifications reviewed by the TSB

A. Unilateral measures and matters referred to the TSB

6. The TSB received notifications of unilateral measures, and matters referred to the Body for its appropriate recommendation or observation. They are listed below, with the TSB recommendation in each case. The relevant TSB report is mentioned after each case.

(a) Unilateral measures taken under Article 3:5

7. The TSB received three notifications from the United States. These concerned:

- (i) Bangladesh, with respect to cotton and man-made fibre dressing gowns (Category 350/650) for the period 30 August 1992 to 29 August 1993. The TSB agreed to defer its examination of the measure, notified in December 1992, at the request of Bangladesh with the concurrence of the United States, in view of forthcoming consultations. In January 1993, the TSB was informed that consultations were ongoing, and in March again agreed to defer its examination of the case because consultations were still ongoing. In May 1993, Bangladesh requested the Body to defer again its examination of the case, in view of further consultations scheduled for June. The United States concurred with this request, and the TSB agreed to it. (COM.TEX/SB/1816, 1834 and 1857)
- (ii) Guatemala, with respect to cotton and man-made fibre shirts (Category 340/640) for the period 22 June 1992 to 21 June 1993. The measure was notified in October 1992. In November 1992, the United States informed the TSB that an agreed solution had been found. (COM.TEX/SB/1808 and 1815)
- (iii) Costa Rica, with respect to wool trousers for men and boys (Category 447) for the period 25 February 1993 to 24 February 1994. The TSB invited the parties to present their cases at its meeting in September 1993. (COM.TEX/SB/1872)

(b) Emergency measure taken under Article 3:6

8. Canada notified that, while awaiting consultations which should take place before 31 July 1993, it had taken an interim measure, under Article 3:6, on imports of underwear from Jamaica. The TSB took note of this notification. (COM.TEX/SB/1872)

(c) Matters referred to the TSB

(i) Matter referred under Articles 8:4 and 11:5

Pakistan/United States

9. In January 1993, the TSB received from Pakistan a notification under Articles 8:4 and 11:5 referring 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.

10. Pakistan and the United States sent delegations which presented their respective cases to the TSB at the meeting held on 3 and 5 March 1993.

11. In reviewing this case, the TSB considered 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.

12. The TSB noted with concern that while consultations formally started 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 in the bilateral agreement.

13. The TSB refrained - on an extraordinary basis, and without prejudice to the interpretation of the relevant provisions of the MFA and the 1986 Protocol of Extension - from making a recommendation within the period mentioned in Article 11:7, in view of its intention to seek further clarification from the United States on this matter at its next meeting starting on 31 March 1993. The TSB decided to invite both parties to send delegations to that meeting. (COM.TEX/SB/1834)

14. At its meeting from 31 March to 2 April 1993, the TSB received further clarification from the United States on this matter and heard additional statements from the delegations sent by Pakistan and the United States.

15. In view of the amount of information received at the meeting, the TSB decided to continue its consideration of the matter at its next meeting starting on 6 May 1993. To this end, it again invited both parties to send delegations to that meeting. (COM.TEX/SB/1835)

16. At its meeting of 6 and 7 May 1993, 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.

17. The TSB considered all the information provided to it by both parties in the course of its review of Pakistan's communication.

18. The TSB regretted that the United States and Pakistan had not in their consultations extended to each other the full co-operation 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 noted with concern that:

- (a) the United States 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.

19. 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.

20. 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"¹, without any further comment or observation.

21. While, on the basis of the information referred to in paragraph 17, 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.² (COM.TEX/SB/1836)

(ii) Matter referred under Articles 11:4 and 11:5

Indonesia/EEC

22. In November 1992, the TSB received a communication from Indonesia in which it referred to the Body under Article 11, paragraphs 4 and 5, a restraint introduced by the EEC on cotton yarn (Category 1) when imported from Indonesia. The restraint was introduced pursuant to the consultation provisions of their bilateral agreement. The TSB agreed to invite Indonesia and the EEC to send delegations to its next meeting. In December 1992, however, the TSB was informed that a mutually satisfactory solution had been found by the parties. (COM.TEX/SB/1815 and 1816)

(iii) Matter referred under Article 11:5

Brazil/United States

23. In accordance with its recommendation made on 31 July 1992 (for details see COM.TEX/SB/1799, paragraphs 2.25 to 2.29), the TSB heard reports from the parties on the consultations recommended by the Body regarding the restraint introduced by the United States on men's and boy's suits (Category 443). The TSB was informed that the consultations held on 10 September 1992 had not resulted in any agreed solution. (COM.TEX/SB/1804)

24. In October 1992, the TSB reverted to the matter at the request of Brazil, and heard presentations from both parties.

¹COM.TEX/SB/1807.

²One 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.

25. The TSB recalled its previous review of the matter and decided not to address again the question of real risk of market disruption; it expressed concern, however, that its recommendation, which was limited to Category 443, had been given divergent interpretations by the parties.

26. In view of its concern regarding the different interpretations given to its recommendation, and of the fact that a restraint on the Brazilian product was already in application, the TSB reiterated that the parties should review the situation urgently, so as to find a mutually agreed solution for this category. Should such a solution involve a restraint level, such level should be agreed taking into account, inter alia:

- (a) that the Body had not reached a conclusion on the existence of real risk of market disruption;
- (b) the evolution of the market situation in the United States, including the evolution of imports from both restrained and unrestrained suppliers; and
- (c) the TSB's opinion that the restraint level currently in effect should be revised to reflect the equity considerations cited in its previous recommendation.

27. The TSB requested the parties to report back to it no later than 16 November 1992. (COM.TEX/SB/1808)

28. In November 1992, the parties reported that they had been in contact regarding this matter and were hopeful of reaching a satisfactory solution shortly. (COM.TEX/SB/1815)

29. In May 1993, the TSB was informed that the problem had been resolved by the parties. In July 1993, the TSB received a notification from the United States of a decision to revoke, on 2 June 1993, the restraint on Category 443 when imported from Brazil. (COM.TEX/SB/1857 and 1864)

B. Notifications reviewed under Article 4

30. The TSB reviewed thirty-seven notifications under Article 4, of bilateral agreements, amendments and extensions of agreements. The reports of the TSB have outlined the main elements of each notification and observations the Body found appropriate to make in relation to some notifications.

31. The notifications so reviewed, the nature of each and the number of the document containing it, as well as the number of the relevant report on the TSB review, are listed below:

C. Reports received under Article 2

(a) Under Article 2:1

32. In accordance with the requirements of Article 2:1, the TSB received three notifications on the status of restrictions maintained on imports of textile products:

- Fiji notified that it maintained no restrictions on imports of products covered by the MFA. (COM.TEX/SB/1857)
- Honduras reported that it did not apply any quantitative restrictions to imports of textiles or clothing. (COM.TEX/SB/1857)

Importing Participant	Exporting Participant	Nature of Notification	Validity	Document of Notification COM.TEX/SB/-	TSB Report COM.TEX/SB/-
Austria	Hong Kong	Agreement	1.2.93-31.12.94	1860	1864
	India	Amendment	1.1.92-31.12.92	1802	1804
	Korea	Extension	1.1.92-31.12.93	1849	1857
	Thailand	Agreement	1.1.93-31.12.94	1871	1872
Canada	Bangladesh	Extension	1.1.93-31.12.94	1870	1872
	Brazil	Extension	1.1.93-31.12.93	1842	1857
	Czech Republic ¹		1.1.93-31.12.93	1847	1857
	Dominican Rep.	Extension	1.1.93-31.12.93	1861	1864
	Hong Kong	Amendment	1.1.93-31.12.93	1843	1857
	India	Amendment	1.1.92-31.12.92	1809	1815
	Slovak Republic ¹		1.1.93-31.12.93	1848	1857
	Thailand	Amendment	1.1.92-31.12.93	1844	1857
	Turkey	Extension	1.1.93-31.12.93	1845	1857
	Uruguay	Extension	1.1.93-31.12.93	1846	1857
EEC	Argentina	Extension ³	1.1.93-31.12.94 ²	1819	1834
	Bangladesh	Extension ³	1.1.93-31.12.94 ²	1821	1834
	Brazil	Extension	1.1.93-31.12.94 ²	1820	1834
	China	Extension	1.1.93-31.12.94 ²	1839	1857
	Hong Kong	Extension	1.1.93-31.12.94 ²	1840	1857
	India	Extension	1.1.93-31.12.94 ²	1865	1872
	Indonesia	Extension	1.1.93-31.12.94 ²	1866	1872
	Korea	Extension	1.1.93-31.12.94 ²	1858	1864
	Macau	Extension	1.1.93-31.12.94 ²	1859	1864
	Malaysia	Extension	1.1.93-31.12.94 ²	1867	1872
	Peru	Extension	1.1.93-31.12.94 ²	1822	1834
	Romania	Extension	1.1.93-31.12.93	1841	1857
	Singapore	Extension	1.1.93-31.12.94 ²	1868	1872
	Sri Lanka	Extension	1.1.93-31.12.94 ²	1823	1834
	Thailand	Extension ⁴	1.1.93-31.12.94 ²	1869	1872
	Uruguay	Extension ⁴	1.1.93-31.12.94 ²	1824	1834
Finland	Pakistan	Agreement	1.1.92-31.12.92 ¹	1810	1815
	Sri Lanka	Extension	1.1.93-31.12.94	1818	1834
Norway	Macau	Amendment	1.7.92-31.12.93	1803	1804
	Pakistan	Extension	1.1.92-31.12.93	1811	1815
United States	Brazil	Amendment	2.6.93-	1862	1864
	Dominican Rep.	Agreement	1.6.91-31.12.93	1813	1815
	Panama	Agreement	1.4.91-31.3.94	1800	1804
	Thailand	Amendment	25.3.92-31.12.93	1801	1804
	Uruguay	Extension	1.7.92-30.6.93 ²	1812	1815

¹ Conversion of previous agreement with the former Czech and Slovak Federal Republic in agreements for 1.1.93-31-12-93.

² With provision for a further twelve-month extension

³ Agreement without restraints.

⁴ Consultation agreement.

Note: Several extensions listed above also contained amendments.

- Panama notified that it maintains no restrictions on imports of textiles and clothing. (COM.TEX/SB/1834)

(b) Under Article 2:4

China

33. In September 1992, the TSB received from China a notification made under Article 2:4 on the status of restrictions maintained by it and on the evolution of its textile industry; this report was made by China as a non-contracting party.

34. To help it in its review of the notification, the TSB heard technical experts from China, who answered questions and gave additional information.

35. The points listed below include information contained in the notification, as well as additional information and clarification provided by the Government of China:

- (i) China has been in a process of liberalization of its textile import régime since 1982;
- (ii) the application of import licensing to several types of man-made fibres and their products is necessary in order to monitor the impact of imports on China's man-made fibre industry, which was recently established. Such protection is equivalent to that accepted under Article XVIII of the GATT;
- (iii) the fact that importation of certain categories of products is handled by designated corporations (specialized foreign trade corporations) does not imply a restrictive import régime, as the number of such corporations has been expanding and will continue to expand. The establishment of such corporations is not discriminatory, and is based on satisfaction of technical and financial requirements publicly available and set down for the purpose of ensuring the interests both of users in China and of foreign commercial partners;
- (iv) the importation of wool tops and of all man-made fibre products of the polyester and polyacrylic type is subject to approval by approving authorities (either State Planning Commission or Ministry of Commerce). Their rôle is that of a provider of broad directives regarding the general level of imports envisaged for each product category in the light of availability of foreign exchange, industrial and development priorities and the international market situation. After such level is approved, it is pro rated among Provincial Governments, which entrust any foreign trade corporation with the application for import licences on the strength of the documentation issued by the approving authorities. On presentation of such documentation, the Ministry of Foreign Economic Relations and Trade (MOFERT) issues import licenses automatically. Additional imports are allowed without licence in the case of several thousand foreign investment enterprises, for their own use or for outward processing, and of production enterprises with import rights;
- (v) the low figure for imports of clothing originating in Europe and North America (US\$48 million in 1990) as compared to the figures for imports of fibres (US\$1.8 billion) and textiles (US\$2.7 billion) of the same origins in the same year, was explained by the low personal disposable income in China, the possibility of buying cheaper garments of domestic origin and the possibility of buying brand-name products made in China;

- (vi) China is entitled to maintain foreign exchange control, subject to annual review by the International Monetary Fund, under Article 14 of the IMF;
- (vii) despite the justifiability of its textile trade system, China intends to phase out import licensing for textiles and clothing within three years.

36. The TSB was also informed that between 1984, when China acceded to the Arrangement, and the present moment:

- (a) the number of enterprises engaged in imports of MFA products had greatly expanded;
- (b) exchange controls were relaxed. Until 1986, 75 per cent of foreign exchange earned from exports went to the Central Government; in 1992, this figure fell to 20 per cent;
- (c) no new restraints on imports of MFA products have been introduced;
- (d) the number of man-made fibre products subject to import licensing has been reduced.

37. The TSB considered the information contained in the notification and noted in particular the additional information and clarification outlined in paragraphs 35 and 36 above. The Body concluded that China had satisfied the reporting requirements of Article 2, paragraph 4, and that future reports would be submitted pursuant to Article 11, paragraphs 11, 12 and 2.

38. Without prejudice to the ongoing consultations in the Working Party on China's status as a contracting party, the TSB decided to transmit the notification to the Textiles Committee. (COM.TEX/SB/1804 and 1807)

D. Notifications Transmitted Under Articles 7 and/or 8

(a) Concerning participants

(i) Notifications received under Article 4

39. The TSB received some notifications under Article 4, notified before one of the parties had accepted the 1992 Protocol, and decided to forward them under Articles 7 and 8. Such notifications, together with the number of the relevant report of the Body, are listed below:

Importing Participant	Exporting Participant	Nature of Notification	Validity	Document of Notification COM.TEX/SB/-	TSB Report COM.TEX/SB/-
EEC	Colombia	Co-operation agreement	1.1.93-31-12-94	1828	1834
	Guatemala	Co-operation agreement	1.1.93-31-12-94	1829	1834
	Mexico	Co-operation agreement	1.1.93-31-12-94	1830	1834
	Philippines	Extension	1.1.93-31-12-94 ¹	1827	1834
Finland	Singapore	Extension	1.1.93-31-12-93	1826	1834
Norway	Singapore	Extension	1.1.92-31-12-93	1825	1834

¹ With provision for a further twelve-month extension.

(ii) Notifications received under Articles 7 and 8

40. Notifications of agreements which concerned participating countries but contained no restraints were received and transmitted under Articles 7 and 8; they are listed below:

Importing Participant	Exporting Participant	Nature of Notification	Validity	Document of Notification COM.TEX/SB/-	TSB Report COM.TEX/SB/-
Canada	Colombia	Termination of restraint agreement	31.12.92-	1851	1857
Finland	Malaysia	Consultation	1.1.94-31.12.94	1831	1834
	Thailand	Consultation and export authorization	1.1.94-31-12-94	1832	1834

(iii) Notification received under Article 8:4

41. The TSB took note of two notifications received under Article 8:4:

Importing Participant	Exporting Participant	Nature of Notification	TSB Report COM.TEX/SB/-
United States	China	Charges to 1992 limits	1807
	Pakistan	Charges to 1992 limits	1807

(iv) Notification received under Articles 7 and 11:2

42. The TSB received a notification from Canada on its new categorization of textile products adapted to the Harmonized System. (COM.TEX/SB/1850)

(b) Concerning non-participants

43. The TSB received and transmitted a number of notifications concerning measures relating to non-participants, as listed below:

Importing Participant	Exporting Non-participant	Nature of Notification	Validity	Document of Notification COM.TEX/SB/-	TSB Report COM.TEX/SB/-
Canada	Bulgaria	Extension	1.1.93-31.12.93	1863	1864
	Lebanon	Import restraint	1.4.93-	1852	1857
	Nepal	Import restraint	1.4.93-	1853	1857
	South Africa	Agreement	1.1.93-31.12.93	1854	1857
	Syria	Import restraint	1.4.93-	1855	1857
	Vietnam	Extension	1.1.93-31.12.93	1856	1857
Finland	Chinese Taipei	Import licensing	1.2.93-	1833	1834
United States	Mauritius	Extension	1.10.92-30.9.93	1814	1815
	Nigeria	Agreement	1.1.90-31.12.92	1806	1807

E. Status of Restrictions Maintained by Participating Countries Notified under Article 11

44. In response to the request made in 1992 by the TSB for participants to report on the status of restrictions maintained by them on textile products covered by the MFA, the TSB received replies from several countries. The contents of their replies have been summarized in the TSB reports listed below:

Participating Country	Document of Notification COM.TEX/SB/-	TSB Report COM.TEX/SB/-
Argentina	1798/Add.22	1807
Czech and Slovak Rep.	1798/Add.25	1808
Hungary	1798/Add.30	1815, 1816
Mexico	1798/Add.26	1808
Pakistan	1798/Add.29	1815, 1816
Peru	1798/Add.23	1807
Philippines	1798/Add.21	1807
Poland	1798/Add.31	1857
Romania	1798/Add.27	1808
Uruguay	1798/Add.24	1807
Yugoslavia	1798/Add.28	1815

ANNEX I**Membership of the TSB****1 August to 31 December 1992**

Member	Alternate
Mr. Alcides Prates (Brazil)	Mrs. Ana-Maria Duestua (Peru)
Mr. John Donaghy (Canada)	Mr. Johannes Potocnik (Austria)
Mr. Wang Shichun (China)	Ms. Wanda Rosa (Macau)
Ms. Danièle Smadja (EEC)	Mr. Gérard Boisson (EEC)
(replaced by Mr. Gérard Boisson from 16 October)	(replaced by Mr. David Daly from 16 October)
Mr. Andrew Wong (Hong Kong)	Mr. Sang-Hoon Kang (Korea)
Mr. Mohan Kumar (India)	Mr. Maamoun Abdel-Fattah (Egypt)
Mr. Yoji Ishimaru (Japan)	Mrs. Naoko Saiki (Japan)
Mr. Otto Wentzel (Norway)	Mr. Kim Luotonen (Finland)
Mr. Antonio Buencamino (Philippines)	Mr. Malino Pangaribuan (Indonesia)
Mr. Robert E. Shepherd (United States)	

1 January to 31 July 1993

Member	Alternate
Mr. Alcides Prates (Brazil)	Mr. Gustavo Vanerio (Uruguay)
Mr. John Donaghy (Canada)	Mr. Johannes Potocnik (Austria)
Mr. Dorian Prince (EEC)	Mr. David Daly (EEC)
Mr. Maamoun Abdel Fattah (Egypt)	Mr. Munir Ahmad (Pakistan)
Mr. Kim Luotonen (Finland)	Mr. Otto Wentzel (Norway)
Mr. Yoji Ishimaru (Japan)	Mrs. Naoko Saiki (Japan)
(replaced by Mr. Makoto Fujioka from 1 July)	
Mr. Sang-Hoon Kang (Korea)	Mr. Andrew Wong (Hong Kong)
(replaced by Mr. Jae Gil Lee from 18 May)	
Mr. Suboh M. Yassin (Malaysia)	Mr. Thawatchai Sophastienphong (Thailand)
Mr. Vasile Radu (Romania)	(from 25 May 1993)
(replaced by Ms. Wanda Rosa (Macau) from 1 July 1993)	Mr. Wang Shichun (China)
Mr. Robert E. Shepherd (United States)	