

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
COM.TEX/SB/1910
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(94-1210)

Textiles Surveillance Body

REPORT OF THE THIRD MEETING (1994)¹

1. The Textiles Surveillance Body held its third meeting of 1994 on 25 and 26 April.
2. Mr. Saint-Jacques appointed Mr. Ewald Glantschnig (Austria) to replace Mr. Potocnik as his alternate.
3. Present at the meeting were the following members and/or alternates: Messrs. Cheung/Lee, Fujioka, Munir, Prince, Saint-Jacques, Shepherd/Tagliani, Sophastienphong/Pangaribuan, Vanerio, Wang and Wentzel/Luotonen.
4. The report of the second meeting has been circulated in COM.TEX/SB/1900.

Notifications under Articles 3:6 and 11
Jamaica/Canada

5. In response to its invitation to Jamaica and Canada to send delegations to present their respective cases on the measures taken by Canada on imports of underwear from Jamaica,² the Body received a request from Jamaica to defer consideration of the matter in view of ongoing consultations between Jamaica and Canada.
6. During the meeting, the TSB was informed that an agreed solution had been found in the consultations and that it would be notified in due time.
7. The TSB decided, therefore, to agree to Jamaica's request and to await notification of the agreed solution.

Notifications under Article 4
Norway/Hungary

8. The TSB received a notification from Norway of an extension with modifications of its agreement with Hungary for the period 1 January 1994 to 31 December 1997.
9. Under this extension:
 - (a) the product coverage continued to be limited to three categories, all under restraint;

¹Two hundred and eighty-fourth meeting overall.

²See COM.TEX/SB/1900.

- (b) the base levels over previous restraint levels were higher than the applicable growth rates, having been increased by more than 6 per cent in two cases and by less than 6 per cent in one case;
- (c) the growth rates were increased from 3 to 5 per cent;
- (d) swing was increased from 3 to 5 per cent and carryover and carry forward remained unchanged at 10 plus 5 per cent.

10. After its review, the TSB agreed to transmit the notification to the Textiles Committee. (COM.TEX/SB/1901)

Norway/Slovak Republic

11. The TSB received a notification from Norway of an agreement concluded with the Slovak Republic for the period 1 January 1993 to 31 December 1994, which superseded the agreement with the former Czech and Slovak Federal Republic.

12. In this agreement:

- (a) the product coverage was limited to four categories, three of which under restraint and one under a designated consultation level (DCL);
- (b) the base levels were set by taking the Slovak share of the quotas in the former agreement and increasing them substantially more than 6 per cent; the base level of the DCL was increased by less than 6 per cent;
- (c) the growth rate of 3 per cent applied to all four categories;
- (d) swing was set at 3 per cent; carryover and carry forward were applicable at 10 plus 5 per cent;
- (e) provisions concerning circumvention in the superseded agreement were maintained.

13. With respect to the growth and swing provisions, Norway made reference to Annex B and paragraph 12 of the 1986 Protocol of Extension.

14. With respect to the provisions referred to in paragraph 12(e) above, the TSB recalled its view that any action taken by Norway under these provisions does not prejudice the right of recourse to the Body by either party under Article 8 of the MFA and paragraph 16 of the Protocol of Extension.³

15. After its review, the TSB agreed to transmit the notification to the Textiles Committee. (COM.TEX/SB/1902)

Canada/Korea

16. The TSB received a notification from Canada of a further extension with amendments of its agreement with Korea for the period 1 January 1993 to 31 December 1994.

³COM.TEX/SB/1395.

17. Under this extension:

- (a) product categorization under the Harmonized System was introduced;
- (b) a fabric category was added to the product coverage and brought under restraint;
- (c) the 1993 levels for the previously restrained products were given the applicable growth rates over 1992 levels, which had been adjusted to take account of the migration resulting from the new categorization; the base level for the newly restrained category was substantially higher than the rollback level; for one category, additional access was provided for 1993;
- (d) the growth rates remained unchanged; for the new restraint the growth rate was set at 6 per cent;
- (e) all flexibility provisions remained unchanged; for the new restraint, swing was set at 7 per cent, carryover/carry forward at 11/6 per cent and the cumulative use of flexibility limited to 12 per cent.

18. After its review, the TSB agreed to transmit the notification to the Textiles Committee. (COM.TEX/SB/1903)

Circumvention Clause in the Extensions of United States Agreements

19. When reviewing the provisions on circumvention contained in paragraph 18 of the agreement between Korea and the United States, the TSB was informed that similar clauses had been included in agreements concluded by the United States with other MFA participants. For this reason, the Body decided that this would be an initial review and that any conclusions, observations or recommendations arrived at would not necessarily be definitive.

20. In the context of its review, the TSB held a discussion on the conformity of paragraph 18 of the US/Korea agreement with the MFA. In so doing, the TSB agreed that the results of its discussion were without prejudice to the members' views on this matter and on the interpretation of the provisions of Article 8 of the Arrangement and paragraph 16 of the 1986 Protocol of Extension.

21. As the result of its discussion the TSB decided to draw the attention of the parties to the following points regarding the implementation of these provisions:

- (i) the TSB attached particular importance to the need for prompt notification and review of any measures taken under these provisions;
- (ii) with respect to sub-paragraph (d), the TSB recalled once more the importance it attached to cooperation between all parties concerned to establish clearly the relevant facts and emphasized that the provisions of sub-paragraph (d) could not substitute for the right of recourse to the TSB by either party under Article 8:2 of the MFA and paragraph 16 of the Protocol of Extension;
- (iii) with respect to sub-paragraph (e), the TSB was of the opinion that the imposition of charges higher than the amount of circumvented goods represented a serious departure from the intention of Article 8:2. It expressed the view that great care must be taken to ensure that the application of these provisions does not lead to measures going beyond the purpose and intent of Article 8 of the MFA and paragraph 16 of the 1986 Protocol.

The Body understood that any application of these provisions could only be based on previous instances of circumvention which had already been notified to the Body. Moreover, it agreed that if these provisions were ever applied, every instance would be reviewed with particular care. Finally, recalling Article 1:7 of the Arrangement, the TSB considered that these provisions were limited to the area of the MFA and did not lend themselves to application in other fields;

- (iv) the TSB understood that in the introduction of a new restraint as a result of the application of sub-paragraph (f), the relevant provisions of the Arrangement regarding the introduction of restraints should apply. The Body also heard a statement from the United States that the intention was not to double-charge and that charges for any particular consignment of circumvented goods would not be made definitive with regard to the quota of more than one of the parties involved.

22. In making the above observations, the TSB underlined that they applied only during the life of the MFA and that any arrangements that the parties might want to keep in force under the Uruguay Round textile agreement, such as those included in paragraph 19 of the bilateral agreement, fell outside the purview of the Body.

United States/Korea

23. The TSB decided to review other elements contained in the extension of the United States/Korea agreement at its next meeting.

Notifications transmitted under Articles 7 and 8

24. The TSB received notifications under Article 4 of one agreement and four extensions of agreements which concerned countries that had participated in the Arrangement until 31 December 1993, but had not as yet accepted the 1993 Protocol maintaining in force the Arrangement. The TSB decided to transmit these notifications to the Textiles Committee under Articles 7 and 8 on the understanding that it would review any notification under Article 4, after the acceptance of the 1993 Protocol by the countries concerned, at the request of either party involved in the notification. The notifications are listed below.

United States/Guatemala; United States/Romania

25. The United States concluded an agreement with Guatemala for the period 1 January 1993 to 31 December 1994 and extended its agreement with Romania for the period 1 January to 31 December 1994. (COM.TEX/SB/1904 and 1905)

Norway/Czech Republic; Norway/Poland; Norway/Romania

26. Norway concluded an agreement with the Czech Republic for the period 1 January 1993 to 31 December 1994 and extended its agreements with Poland and Romania for the period 1 January 1994 to 31 December 1995. (COM.TEX/SB/1906, 1907 and 1908)

Notification under Articles 7 and 8

United States/Chinese Taipei

27. The TSB received a notification under Articles 7 and 8 from the United States of a bilateral agreement affecting trade in textile products between the United States and Chinese Taipei for the period 1 January 1990 to 31 December 1995.

28. This notification was made pursuant to a request by the Textiles Committee that agreements concluded with non-participants be notified. The TSB agreed to forward the text of the notification to participating countries for their information. (COM.TEX/SB/1909)

Request for Information under Article 11:11, 11:12 and 11:2

29. In order to fulfil its obligations under Article 10:4 and Article 11, paragraphs 11 and 12, the TSB requested the Chairman to invite all participating countries under Article 11:11, 11:12 and 11:2, to report on the status of restrictions maintained by them on textile products covered by the Arrangement and the 1986 Protocol of Extension.