

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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COMMUNICATION FROM THE EUROPEAN COMMUNITIES

The following communication has been submitted by the delegation of the European Communities for circulation to the members of the Negotiating Group on Textiles and Clothing.

Introduction

1. The European Community's communication of 24 May 1988 outlined a number of key elements to help get the negotiations off to a smooth start, in accordance with the very clear indications in the Punta del Este mandate.
2. This new communication carries on from the previous one, and sets out an overall approach for establishing the broad lines of the future framework for international trade in textiles,* demonstrating thereby the European Community's willingness and determination to get the substantive negotiations off to a dynamic start.
3. Full compliance with all the elements of the Punta del Este Declaration - and in particular with the parallelism between the gradual integration of textiles into GATT and the application of strengthened rules and disciplines within GATT - remains a vital condition for the success of this ambitious venture.
4. The Community is ready to grant special treatment to the least-developed countries.
5. This communication looks at the organization of the general framework for the transition towards the integration of textiles into a strengthened GATT (see I below). It then examines specific techniques and modalities for integrating the sector into GATT (see II below). Lastly, it sets out our views on the necessary strengthening of GATT rules and disciplines, which is a vital basis for the integration process (see III below).

* Except where otherwise indicated, the term "textiles" includes both textiles and clothing.

I. Organization of the general framework for integration into a strengthened GATT

1. The transition towards the integration of the textiles sector into a strengthened GATT must include both the progressive elimination of existing restrictions and the implementation of strengthened GATT rules and disciplines.
2. A process of integration of this type, covering the two components - the progressive elimination of restrictions and the application of strengthened rules and disciplines - needs to be organized within a general framework.
3. In order to ensure lasting results, the transition should be progressive, i.e., by successive steps towards the agreed final objective and should be gradual, i.e., consist of intermediate steps.
4. The number, duration and substantive content of these intermediary steps need to be determined during the negotiations.
5. As regards the substantive content, each step must include synchronized elements of the two components and must reflect the co-ordinated efforts of all the participants.
6. The duration of the transition will be determined by various political and economic considerations.

A number of preliminary points can already be made at this stage as regards dates for beginning and the end of the integration process.

- (a) It should first of all be stressed that, given the principle that the negotiations should be global, the integration process, referred to specifically in the Punta del Este mandate, cannot begin before the Uruguay Round has officially been concluded. In line with the Punta del Este Ministerial Declaration, the negotiations should be completed within four years, i.e., before the end of 1990.

The MFA, the future of which is so closely linked to our negotiations, will expire at the end of July 1991. It seems clear that international trade in textiles cannot become subject to all of the GATT general rules, immediately from 1 August 1991. Given the economic and political constraints, MFA IV will have to be followed, as from 1 August 1991, by arrangements whose precise content must be negotiated in the light of the situation prevailing at that time. It should also be borne in mind that Article 10(5) of the MFA lays down that the Textiles Committee "shall meet not later than one year before the expiry of this Arrangement in order to consider whether the Arrangement should be extended, modified or discontinued". This meeting must therefore be held before the end of July 1990, i.e., within one year from now.

Since the Uruguay Round negotiations are due to be concluded sufficiently in advance of the expiry of the current MFA, the beginning of the process of integrating the textile sector into GATT, which is the subject of our present negotiations, could therefore coincide with the entry into force of the post-MFA IV arrangements.

(b) Deciding on a date for the completion of the integration process will be one of the most sensitive aspects of the negotiations due to the major importance of the textiles industry for the economies of many countries and to the impact which this date will have on businesses, and in particular on their investment activity. This problem can only be examined in detail once the Uruguay Round is drawing to a close and an overall view of the negotiations is possible.

7. Movement through the successive steps of the transition process should take place subject to multilateral verification that commitments undertaken are being fulfilled.

8. A specific body should be set up to monitor the integration process. It would need appropriate powers, including powers to verify that commitments undertaken have been respected. The rôle and composition of that body could draw on the precedent of the current Textiles Surveillance Body (TSB).

II. Integrating the textiles sector into the GATT framework

A. General considerations

1. The integration process provided for in the Punta del Este Declaration must lead to a situation where eventually the general GATT rules apply to international trade in textile products. This entails the progressive elimination of trade restrictions incompatible with the GATT rules such as they will emerge from the Uruguay Round negotiations.

2. The objective of the negotiations is the integration into GATT of the textiles sector. It is not limited therefore merely to restrictions under the MFA, but covers all other restriction which are incompatible with GATT and which affect the patterns of trade in this sector. These other restrictions still have to be identified in detail and are not specifically dealt with in this communication.

The Community has already made contributions to a real lowering of trade barriers.

The customs tariffs it applies to textiles are low and a substantial proportion of its textiles' imports are covered by the GSP.

In the 1986 negotiations on the renewal of the Multi-fibre Arrangement and the related bilateral agreements, the Community proposed, inter alia, more favourable treatment for the least-developed countries and special treatment for small exporters and newcomers.

All the bilateral textiles agreements negotiated by the Community with its partners in 1986 include provisions which are more favourable for exporting countries than those in previous agreements.

Moreover, the Community agreed that a number of agreements expiring in 1986 should not be renewed and should be replaced by an exchange of letters simply laying down a consultation mechanism. When renewing agreements with a number of countries, small or new exporters, the Community did not ask for existing quantitative restrictions to be continued.

From the beginning of the Uruguay Round, the Community has thus begun a progressive liberalization of its textile trade arrangements. This has resulted in major increases in imports into the Community from all textile-exporting developing countries. It might be difficult to pursue this process without a substantial strengthening of current GATT rules and disciplines.

4. Appropriate modalities must be formulated to ensure the achievement of this component of the negotiating objective, i.e., the integration of the textiles sector into GATT. One can distinguish two sorts of modalities between which there is a clear political link:

- (i) modalities for the progressive elimination of restrictions (see B below); and
- (ii) modalities for a specific transitional safeguard mechanism (see C below), to be available only for the duration of the integration process.

B. Progressive elimination of restrictions

1. As shown in the Canadian communication of 28 September 1988, there are two basic techniques for eliminating existing restrictions. The first consists in taking existing restrictions as a starting point and looking at ways of reducing and progressively eliminating them. The second consists in converting the restrictions into other forms of protection (e.g., tariffs) reproducing in a transparent way the current state of restrictions, and then trying to reduce and progressively eliminate these newly created restrictions. The first of these techniques would permit the negotiations of a transitional régime which would be modelled on existing rules and mechanisms and which should allow for a progressive adjustment towards the final goal of the application of the general GATT rules.

2. There have been several contributions from other participants in the negotiations regarding possible modalities for progressively eliminating MFA restrictions. They have set out a number of options, not all of which are necessarily mutually exclusive, and which could be looked at together. The Community is willing to play a constructive rôle in any such examination.

3. In the context of the process of eliminating existing restrictions, the Community will be in a position to make a specific contribution as a result of the creation of the Single European Market without internal frontiers.

4. The measures finally decided for the progressive elimination of restrictions following the examination in paragraph 2 above should be spread out over the various intermediate steps of the integration process, taking into account particularly the situation of the industries concerned.

5. The least-developed countries should be eligible for special measures compared with other textile-supplying countries.

C. A specific transitional safeguard mechanism

1. It is vital that a transitional safeguard mechanism be available in order to enable the progressive integration of the textiles sector into a strengthened GATT.

This mechanism is also needed to ensure the orderly development of trade, to avoid the disruption of markets and to allow the restructuring of the industry to continue.

2. This safeguard mechanism should be developed in the light of the experience gained in the application of Articles 3 and 4 of the current MFA. (This implies the examination of several possibilities some of which are not mutually exclusive.)

Should the market be disrupted by imports of a specific textile product from one or more countries, the mechanism should allow for consultations to put an end to the disruption. Should agreement not be reached during these consultations, the importing country should be able, for a limited period, to restrict those textile imports causing the disruption of the market. Special provisions should be provided for situations requiring urgent action.

To avoid the disadvantages which would arise from too frequent an application of safeguard measures, it should also be possible to conclude bilateral agreements. Such agreements should not only remove the real danger of market disruption but also ensure the smooth growth and development of trade in textiles.

3. This transitional safeguard mechanism should in any case be more flexible than the present régime and should in particular take account of the differing economic and trade positions of the countries concerned.

4. The specific safeguard mechanism should be of strictly limited duration, not exceeding that of the transitional phase planned for the integration of textiles into GATT. This mechanism will in due course give way to the new general safeguard discipline to be agreed in the course of these negotiations (see III.C). The possibility of relaxing the transitional safeguard mechanism during the integration process should be examined.

5. As a general rule, the specific transitional safeguard mechanism should not be applied to the least-developed countries.

6. Measures taken under the mechanism should be monitored by the surveillance body referred to at I(8) above.

III. Strengthening the GATT rules and disciplines as a vital basis for the integration process

1. Strengthening the GATT rules and disciplines should ensure:

- the effective and lasting opening-up of markets involving contributions from all the negotiating partners, particularly as regards tariffs, non-tariff measures, and derogations for balance-of-payments and infant industry reasons (see A below);
- the creation of fair competitive conditions, particularly as regards subsidies, dumping, access to raw materials and the protection of intellectual property (see B below);
- improved safeguard discipline (see C below).

This contribution gives only an initial indication of the objectives envisaged by the Community regarding each of the above subjects. These are suggestions for discussion within the Textiles Negotiating Group.

2. The new tighter rules and disciplines which will emerge from the negotiations will be applied across the board. They will therefore need to be negotiated primarily within the specific negotiating groups responsible for each area. The Textiles Negotiating Group will nonetheless have to follow other groups' negotiations very closely and, where necessary, itself discuss the guidelines and developments regarding issues of major importance to the sector.

The arrangements for the negotiations notably in part I.G of the Punta del Este Declaration include general provisions for the inter-relationship between the different negotiating areas. The Textiles Negotiating Group will therefore have to "take into account relevant aspects emerging in other groups". But its link with the work of other groups is made more explicit by the specific reference to textiles in the Punta del Este Declaration, whereby the sector is to be integrated into GATT "on the basis of strengthened GATT rules and disciplines ...". It will be for the Textiles Negotiating Group to assess whether the planned strengthening of GATT rules and disciplines represents a basis for integrating the sector into GATT, so that a timetable can be fixed on that basis for the synchronized implementation of balanced undertakings from all the participants.

A. Contributions by all participants towards opening up the markets

Contributions from all those involved, including from the textile-exporting countries according to their level of development, must ensure better access to markets through action on:

- tariffs and non-tariff measures;
- derogations for balance of payments and infant industry reasons.

1. Tariffs and non-tariff measures

In order to ensure a real and lasting opening up of the markets of all contracting parties, close co-ordination is essential between tariffs and non-tariff negotiations in order to avoid tariff concessions being nullified or undermined by non-tariff measures. The Community is developing such a co-ordinated approach in new communications to the negotiating groups specifically concerned.

(a) Tariffs

The fact that tariffs for textiles remain higher and less frequently bound compared to other industries gives some countries a certain degree of protection and flexibility of action equivalent to quantitative restrictions, which other countries can obtain only by recourse to the provisions of the MFA or GATT Article XIX. This situation is all the more unfair in that the competitiveness of the protected industries is often borne out by a rapid increase in their exports. All the participants should therefore contribute towards redressing the current imbalances. Within the framework of the Negotiating Group on Tariffs, the Community has just proposed a general approach to the tariff issue.

In this general context, a special effort is needed to reduce and harmonize tariffs in the textiles sector, which has become competitive in a number of countries. The levels of the duties to be bound should at any rate leave open real import opportunities.

2. Non-tariff measures

In a number of countries, imports of textile and clothing products are seriously hindered by non-tariff measures, in such forms as excessive customs and administrative formalities, discretionary licensing, prior import deposits and discriminatory charges. An absolute ban can sometimes prevent importation altogether. Lastly, an opaque discretionary system for issuing foreign exchange can have an effect equivalent to prohibition and make quotas unusable.

The Community expects all partners to make genuine progress in eliminating and liberalizing non-tariff measures. As for measures which will remain applicable, greater transparency and the elimination of discretionary or discriminatory elements are essential. Suitable provisions should also be introduced to ensure that progress already achieved is not subsequently nullified or undermined by the new measures.

Within the framework of the Negotiating Group on Non-Tariff Measures, the Community has already stressed its interest in eliminating or scaling down non-tariff measures and in establishing multilateral disciplines in this area.

3. Derogations for balance of payments and infant industry reasons

Recourse to certain provisions of the General Agreement, in particular Articles XII and XVIII, and to the Decision of 28 November 1979 on safeguard action for development purposes, which provide for exceptions to

the disciplines of the Agreement for countries with balance-of-payments difficulties, or for the promotion of infant industry, can worsen the international trade situation, particularly in the textiles sector. Recourse to the derogations for infant industry is scarcely compatible with the "mature" character of the textiles sector in almost all countries. The current situation can lead to the creation or maintenance of excess production capacity running counter to the aim of an optimum international distribution of production.

It also involves a risk of unfair competition based on profits accruing from excessive protection of the domestic market.

Invocation of the balance-of-payments derogations can lead to distortions and the Community has already indicated the elements of the strengthened discipline which must be introduced into the working of these provisions in order to remedy such difficulties.

B. Creating fair conditions of competition

Substantial improvement is needed in:

- (i) anti-dumping and anti-subsidy procedures;
- (ii) access to raw materials;
- (iii) protection of intellectual property, particularly trademarks, designs and models.

1. Dumping and subsidies

The relevant GATT disciplines should be adapted to make the required redress more effective in those sectors which are still characterized by:

- seasonal factors and fashion, which provoke rapid changes in products; and
- a multiplicity of products, processing phases, producers and exporters.

(a) Dumping

The required adaptation should take account of the specific characteristics mentioned above and should include, inter alia, the following elements:

- provisions aimed at avoiding that the large number of products and of parties involved prevent a rapid opening, and an efficient execution, of investigations;
- provisions aimed at avoiding that exporters making massive imports in anticipation of anti-dumping measures take advantage of the fact that anti-dumping investigations may take a considerable time before measures, even on a provisions basis, are taken;

- international progress on provisions to prevent the circumvention of anti-dumping measures.

Some of these points were brought up in the Community's memorandum of 21 March 1988 to the Negotiating Group on MTN Agreements and Arrangements. Additional elements will be provided very shortly.

(b) Subsidies

All participants will have to comply more fully with the obligations arising from the improved subsidy disciplines, according to the level of their competitiveness.

The Community will make its position known at a later stage.

2. Access to raw materials

It is now unusual for the production or marketing of raw materials in textile-exporting countries to be so arranged as to make those raw materials available to domestic producers at prices lower than those prevailing on the world market for raw materials of equivalent quality.

At production stages where the part of raw materials in total production costs is high, this is likely to distort competition to an extent which negates all the efforts towards structural adjustment undertaken in importing countries.

If fair conditions of competition are to be created, it is therefore vital that textile-exporting countries ensure that there are no artificially-created price differences between raw materials for local production and those for export.

3. Protection of trademarks, designs and models

Considerable resources go into the conception and execution of new designs and models. This expenditure should be seen as genuine intangible investment. Only a small number of designs and models enjoy commercial success and it is these which are copied, often using lower quality materials. In addition to the direct commercial injury, this causes serious injury to the brand image of the company which produced the original design or model.

To remedy the situation, all the participants should subscribe to effective protective rules with a view to their incorporation into national law.

The Community has presented the Negotiating Group on Trade-Related Aspects of Intellectual Property Rights with initial proposals on commercial trademarks, designs and models, regarding both substantive standards and their enforcement.

This field is of particular importance to all textiles producers and it is therefore essential that the negotiations on trade-related aspects of intellectual property rights produce substantial results.

C. Safeguards

The Community has just presented a communication to contribute to the efforts under way to produce a new general discipline on safeguards. It emphasizes the importance for textiles of achieving strengthened GATT rules and disciplines. This new discipline will also apply to the textiles sector, as soon as it is definitively integrated into GATT. Care must therefore be taken to ensure that the improved rules will serve, in due course, to solve also the problems arising in the textiles sector.