

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MDF/W/24

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Working Party on Textiles and Clothing

OPTION B

Note by the Secretariat

The Working Party has identified three broad options thus far:

- (A) full application of GATT provisions involving a movement towards liberalization.
- (B) full application of GATT provisions as envisaged in Option A, combined with liberalization of trade measures irrespective of their GATT conformity.
- (C) liberalization under existing frameworks.

In response to a request from the Working Party, the Secretariat prepared a note (MDF/W/13), with the help of delegations, intended to facilitate the examination of Option A, indicating the kinds of questions that would arise and what they would involve.

At the Working Party's fourth meeting (3-4 October 1984) suggestions were made that the Secretariat should prepare, with the help of delegations, notes similar to MDF/W/13 on Options B and C. This note deals with Option B.

As with MDF/W/13, the list of possible questions and answers in this note is intended as a basis for discussion; it is not intended to be exhaustive, nor to engage the responsibility of any delegation.

Two points may be recalled. First, Option A (and thus MDF/W/13) is assumed to deal with all trade-related measures affecting textiles and clothing which are inconsistent with the General Agreement (MFA measures, other measures taken outside Article XIX, and so forth).¹ Second, Option B includes Option A. This note does not, however, repeat the material in MDF/W/13. Instead, it focuses on what additional liberalizing steps might be taken by all interested contracting parties. Thus a full discussion of Option B would need to take into account both this note and MDF/W/13. It is also assumed that in all cases, the additional liberalizing steps would take place against the background of relevant GATT provisions and procedures.

¹ Industry-to-industry agreements are not subject to GATT provisions. However, in their decision of 18 November 1960 on restrictive business practices, the CONTRACTING PARTIES recommended "that at the request of any contracting party a contracting party should enter into consultations on such practices on a bilateral or a multilateral basis as appropriate" (see BISD Ninth Supplement, pp. 28-29, for additional details).

1. What categories of trade measures could be considered for liberalization?

Among the categories of trade measures that may affect trade in textiles and clothing, the following six principal categories may be identified. The list is not intended to be exhaustive.

- tariffs (and tariff quotas)
- quantitative restrictions and related measures
- subsidies
- countervailing and anti-dumping measures
- government procurement
- state-trading enterprises

2. What are the possible approaches to liberalization?

As a general point, it may be noted that when the focus is expanded to include not only the issue of phasing out trade measures which are inconsistent with the General Agreement (covered in MDF/W/13), but also the issue of liberalizing measures which are permitted by the General Agreement, the work of the Working Party on Textiles and Clothing becomes more "interdependent" with work going on elsewhere in the GATT.

The possible approaches to liberalization vary according to the restrictive measure in question.

(a) Tariffs (and tariff quotas)

The main liberalizing actions in the case of tariffs are binding at existing levels, tariff reductions without bindings, and bound tariff reductions. Another type of liberalizing action would be the addition of textiles and clothing to GSP schemes.¹ It may be recalled that the data in the Secretariat's study "Textiles and Clothing in the World Economy" indicate that tariffs on textiles and clothing remain significant in a wide range of countries, and that in many countries a majority of these tariffs are not bound.

Tariff liberalization could also attempt to reduce the degree of tariff escalation. The data in the Secretariat's study pointed to considerable escalation in the textile-clothing area, in a wide range of countries.

In the case of tariff quotas, liberalization could involve not only tariff cuts and bindings but also enlargement of the quotas.

Considering that the United States, the EC and Canada linked their Tokyo Round tariff concessions on textile and clothing products to the continued existence of a special arrangement governing trade in these

¹ See, however, MDF/W/22 (p.4) and "Textiles and Clothing in the World Economy" (paragraphs 3.32, 3.33, 3.150, 3.151 and 3.215) for details on current GSP treatment of textiles and clothing.

products (see MDF/W/22, pp.3-4), there is a question as to whether any further reductions and/or bindings of their tariffs would take place on the basis of the pre- or post-Tokyo Round rates. Any significant process of tariff liberalization would necessarily take place on the basis of post-Tokyo Round rates.

If a decision were taken to liberalize tariffs, choices would have to be made about the nature of the tariff-cutting procedures - formula versus item-by-item, how to handle exceptions if a formula approach is used, whether all countries would use the same procedure, and so forth. If there is another major tariff-cutting exercise in the GATT, a decision would also have to be taken as to whether textile and clothing tariffs would be subject to the same procedures as other products; this also raises the more fundamental question of whether tariff negotiations on textile and clothing products could be carried out separately, or as an integral part of a broader tariff-cutting effort involving a wide range of products. In principle, past GATT tariff negotiations have applied to all sectors, though special provisions have been made for agriculture.

(b) Quantitative restrictions and related measures

The main GATT articles which can be invoked to justify quantitative restrictions on textiles and clothing are XII, XVIII, XIX, XX and XXI.

Article XII and Article XVIII: B

The balance-of-payments exemption is currently being invoked by eighteen contracting parties to justify quantitative restrictions on imports of a wide range of products, often including textiles and clothing.¹

Article XVIII: C

Presently being invoked by Indonesia to justify restrictions on imports of textiles and clothing.

The Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted by the CONTRACTING PARTIES on 28 November 1979 reaffirms "that restrictive import measures taken for balance-of-payments purposes should not be taken for the purpose of protecting a particular industry or sector". This endorsement of broadly based restrictions for BOP purposes is subject to the following paragraphs in Articles XII and XVIII: B:

¹The eighteen countries are: Argentina, Bangladesh, Brazil, Colombia, Egypt, Ghana, India, Israel, Republic of Korea, Nigeria, Pakistan, Peru, Philippines, Portugal, Sri Lanka, Tunisia, Turkey and Yugoslavia. Further research would be required to determine the precise degree to which Article XVIII: B measures cover textile and clothing products in each of these countries.

Article XII: 3b

"Contracting parties applying restrictions under this Article may determine the incidence of the restrictions on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential."

Article XVIII: 10

"In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development";¹

It is an open question whether, having regard to the requirements of Articles XII and XVIII: B, it is possible for a contracting party to reduce or remove restrictions on particular products in exchange for reciprocal concessions.

Article XIX

Australia is currently invoking this article to justify restrictions on certain apparel (since March 1975), knitted and woven dresses (since July 1976) and wool worsted yarns (since March 1978).

In the context of implementing Option B, an important question would be how to provide for the degressivity of safeguard measures covered by Article XIX, and the achievement of conditions in which measures can be terminated.

Articles XX and XXI

The Secretariat has no information on the extent to which measures justified under these articles are restricting trade in textiles and clothing.

¹The remainder of paragraph 10 reads as follows: "Provided that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and Provided further that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent, trade mark, copyright or similar procedures."

Similar conditions are contained in Article XII.

(c) Subsidies

Subsidies (governed by Article XVI and, for signatories, the Subsidy Code) appear to be an important source of distortion in the textile and clothing markets of a number of countries (see "Textiles and Clothing in the World Economy", paragraphs 3.224-3.237). Increased discipline in the use of subsidies - for example, agreement on strict time limits for subsidy programmes, agreement to move away from industry-specific subsidies to broadly based subsidies, and so forth - would represent a liberalizing step.

Subsidies are also important in the sense that if there is agreement to liberalize other kinds of trade barriers (VERs, global QRs, tariffs), it may be considered necessary to insure that this process is not offset by an increase in the use of subsidies.

(d) Countervailing and anti-dumping measures

It seems unlikely that measures in these areas affecting trade in textiles or clothing would be treated differently from measures affecting other products. The work being done in the context of the Subsidies and Countervailing Duty Code, and the Antidumping Code, to clarify provisions and procedures related to the use of such measures, would be relevant to textiles and clothing.

(e) Government procurement

A logical extension of the elimination of non-tariff restrictions on textiles and clothing would be to include textiles and clothing among purchases made on behalf of certain entities.

(f) State-trading enterprises

Article XVII contains special rules for three types of state-controlled enterprises: (1) state enterprise; (2) enterprises that have been granted a special privilege, and (3) enterprises that have been granted an exclusive privilege. Such enterprises are not defined in the General Agreement and a clear definition has not evolved in GATT practice. Most notifications to the GATT on state-trading activities refer only to import and export monopolies.

With respect to state-trading enterprises, the main obligations of contracting parties are to follow the principle of non-discriminatory treatment (that is, the enterprises are to base their foreign trade decisions solely on commercial considerations) and to avoid quantitative restrictions made effective through state-trading operations. Import monopolies may not be operated in such a way as to "afford protection in excess of the amount of protection" provided for in the schedule of concessions. That is, any import mark-ups of the monopoly must not be higher than the bound tariff.

In past GATT negotiations, there have been only a few instances (involving wheat, rye and tobacco) in which specific commitments

regarding ¹state-trading operations in market economies have been exchanged.

With one or two possible exceptions, there appears to be relatively little state-trading in textiles and clothing in the market economies at the present time.

3. Liberalization involving certain Eastern trading area countries

As is noted in MDF/W/22 the relations of three Eastern trading area countries, "which are members of the GATT, with the other contracting parties are mainly governed by their Protocols of Accession to the General Agreement. While each of these Protocols contain a provision requiring the contracting parties to gradually abolish prohibitions or quantitative restrictions not consistent with Article XIII, a number of such restrictions continue to apply". (See "Textiles and Clothing in the World Economy", paragraphs 3.219-3.223, for additional details.) Any such restrictions on imports of textiles and clothing from the countries with such protocols could be liberalized under Option B.

It is more difficult to generalize about the modalities for liberalization by these countries. It may be recalled that Hungary's Protocol of Accession involved tariff concessions, while Poland negotiated its accession on the basis of an "import quantity commitment". Romania's Protocol of Accession states that "Romania, on the basis of mutual advantage which is inherent in the General Agreement, will develop and diversify its trade with the contracting parties as a whole, and firmly intends to increase its imports from the contracting parties as a whole at a rate not smaller than the growth of total Romanian imports provided for in its Five-Year Plans."

4. What are the possible elements of a transition period?

Tariff cuts and other liberalizing actions could be phased in over a period of time.

5. How long should a transition period be?

A consideration to bear in mind is that the credibility of any transitional arrangement would be affected not only by the policies applied under that arrangement, but also by the length of the transition period.

Final note: once again it should be recalled that this note considers only those actions under Option B which would be in addition to actions taken to implement Option A; thus a full discussion of Option B would need to take into account both MDF/W/13 and this note.

¹The commitments on wheat and rye concerned maximum permitted mark-ups. The commitment on tobacco, in contrast, involved a commitment by France to import annually through its national tobacco monopoly, a specified quantity of leaf tobacco and cigarettes; these undertakings were "made subject to the application of the provisions of Articles XII and XIV" of the GATT (see GATT, "Consolidated Schedules of Tariff Concessions", Volume 2, January 1952).