

GENERAL AGREEMENT ON TARIFFS AND TRADE

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COTTON TEXTILES COMMITTEE

Paragraph 12 of Record of Understandings Reached by the Committee during its Meeting from 29 January - 9 February 1962

As is stated in a footnote on page 3 of the Record of Understandings (L/1813), the interpretation given in paragraph 12 of the Record has been challenged by Japan and the United Kingdom and consequently this question will be put on the agenda for the next meeting of the Cotton Textiles Committee.

Communications on the subject of paragraph 12 from the delegations of Japan, the United Kingdom and the United States are reproduced below.

I. Communication from the delegation of Japan dated 20 June 1962

"..... I wish to inform you of the position of the Japanese Government as follows:

"1. the deliberate substitution should cover only exceptional cases of evasion of the application of the Long-Term Cotton Textiles Arrangement by manipulation of the ratio of blended cotton or other similar means, and should not be claimed in such cases where an increase in imports of a substitute fiber product is due to a normal change in market conditions.

"2. whether or not a particular case is that of deliberate substitution should not be decided unilaterally by an importing country. Any recommendation of the Cotton Textiles Committee on a particular case should be respected by the countries concerned.

"3. in such a particular case where it is concluded in the Cotton Textiles Committee that deliberate substitution has taken place, the quantity of the substitute product should not be counted against the specified level for the corresponding cotton textile product. There is no need to establish and maintain a separate quota for the substitute product in question."

II. Relevant extract from communication from the United Kingdom delegation dated 19 March 1962

"We do not agree with the understanding in paragraph 12 about the substitution provisions. Our understanding was that the inclusion of the words as provided for in Article 3 meant that the importing country treated the substitute textiles as if they were cotton textiles and could ask for restraint of the substitute textiles to the level of trade in the twelve-month period terminating three months preceding the month in which the request for

consultation was made. In other words, there would be two quotas, one for cotton textiles based on the level of trade in cotton textiles in the twelve-month period, and another for substitute textiles based on the level of trade in substitute textiles in the twelve-month period."

III. Communication from the United States delegation dated 1 August 1962

"... the United States position on this question is as follows:

"1. Paragraph 12, as it appears in the Record of Understandings, is consistent with a statement made to the Cotton Textiles Committee by the United States delegate during the Committee's final session in February 1962 indicating the United States understanding of Article 6(b). The Chairman inquired at that time if there were any objections to this interpretation. No delegate interposed any objection at that time to the interpretation stated in paragraph 12.

"2. With reference to the communication from the delegation of Japan, the United States is in agreement with that portion of numbered paragraph 1 which states that 'deliberate substitution' should cover only cases of evasion of the application of the Long-Term Cotton Textile Arrangement and should not be claimed in any case in which the increase in imports of substitute fiber products is due to a normal change in market conditions. In two other respects, the United States Government does not concur with numbered paragraph 1.

"First, the use of the phrase 'exceptional cases of evasion' in that paragraph is somewhat ambiguous. If its intention is to indicate that cases of deliberate substitution will be exceptional, the United States Government certainly endorses the hope and expectation that such cases will indeed be exceptional. If on the other hand the intention is to state that not all cases of evasion but only exceptional cases of evasion fall within Article 6(b), the United States Government disagrees with this interpretation of deliberate substitution. It believes that all cases of deliberate substitution, whether exceptional or not, are subject to the sanctions of Article 6(b). Second, the United States Government accepts the fact that manipulation of the ratio of blended cotton is one means of bringing about deliberate substitution. However, it also regards it as possible that deliberate substitution could be effected by use of a material not containing any cotton.

"With respect to paragraph numbered 2 of the Japanese delegation's communication, the United States Government gives its assurance that it will give due weight to the recommendations of the Cotton Textiles Committee with regard to cases of deliberate substitution in accordance with Article 6(b) of the Arrangement. Both the language of the Long-Term Cotton Textile Arrangement and the discussions during its negotiation indicate quite clearly that the authority of the Cotton Textiles Committee to make recommendations was not intended to extend to the making of binding

decisions. This is the understanding of the United States Government of the language of Article 6(b) which states that the Cotton Textiles Committee shall make such recommendations to the parties concerned as may be appropriate.

"3. With regard to the communication from the United Kingdom delegation, the United States does not agree that two quotas should be established, one for cotton textiles and one for substitute textiles, in case there is substitution under Article 6(b) of the Long-Term Arrangement. The establishment of separate quotas for substitute textiles would, if there should be a growing number of instances of substitution restrictions, create a series of quotas on an indeterminately broad range of textile products. Such a development is clearly contrary to the intention expressed by the participating countries both during the negotiation of the Long-Term Arrangement and in Article 6(b) itself not to broaden the scope of the Arrangement beyond cotton textiles.

"Furthermore, the creation of a system of separate Article 3 quotas for substitute textiles would act, in the case of restrictions remaining in force longer than one year, to broaden quotas on cotton textiles in excess of the five per cent envisioned in Annex B. This development would result from annual five per cent increases pursuant to Annex B in both the substitute and cotton textile quotas, which by hypothesis are similar articles."