

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

COM.TEX/W/183
31 July 1986
Special Distribution

Textiles Committee

Original: English

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PROTOCOL EXTENDING THE ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

THE PARTIES to the Arrangement Regarding International Trade in Textiles (hereinafter referred to as "the Arrangement" or "MFA")

ACTING pursuant to paragraph 5 of Article 10 of the Arrangement, and

REAFFIRMING that the terms of the Arrangement regarding the competence of the Textiles Committee and the Textiles Surveillance Body are maintained, and

SUBJECT TO the Conclusions of the Textiles Committee adopted on 31 July 1986

HEREBY AGREE as follows:

1. The Arrangement shall be extended, in accordance with the Conclusions of the Textiles Committee, attached herewith and forming an integral part of this Protocol, for a period of five years until 31 July 1991.
2. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT. It shall be open for acceptance, by signature or otherwise, by the Parties to the Arrangement, by other governments accepting or acceding to the Arrangement pursuant to the provisions of Article 13 thereof and by the European Economic Community.
3. This Protocol shall enter into force on 1 August 1986 for the countries which have accepted it by that date. It shall enter into force for a country which accepts it on a later date as of the date of such acceptance.

Done at Geneva this thirty-first day of July, one thousand nine hundred and eighty-six, in a single copy in the English, French and Spanish languages, each text being authentic.

CONCLUSIONS OF THE TEXTILES COMMITTEE ADOPTED ON 31 JULY 1986

1. The participants in the Arrangement exchanged views regarding the future of the Arrangement.
2. Participants emphasized that the basic objectives of the MFA are to achieve the expansion of trade, particularly for the developing countries, the reduction of barriers to such trade and the progressive liberalization of world trade in textile products, while at the same time ensuring the orderly and equitable development of this trade and avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries.
3. They stressed the importance of promoting liberalization of trade in textiles and clothing. In this connexion, they recognized the need for co-operative efforts by all participants. They agreed that the final objective is the application of GATT rules to trade in textiles.
4. It was reiterated that a principal aim in the implementation of the Arrangement is to further the economic and social development of developing countries and to secure a substantial increase in their export earnings from textile products and to provide scope for a greater share for them in world trade in these products. Participants undertook to contribute to this through improvement in bilateral agreements under this Arrangement, which should provide for increased effective access in overall terms.
5. Attention was drawn to the fact that decline in the rate of growth of per capita consumption in textiles and in clothing is an element which may be relevant to the recurrence or exacerbation of a situation of market disruption. Attention was also drawn to the fact that domestic markets may be affected by elements such as technological changes and changes in consumer preference. In this connexion it was recalled that the appropriate factors for the determination of a situation of market disruption as referred to in the Arrangement are listed in Annex A.

6. The importing participants undertook that where, in their view, a case of market disruption or real risk thereof exists in terms of the definition in paragraphs I and II of Annex A, requests for action under Articles 3 or 4 shall be accompanied by available, specific and relevant factual information as up-to-date as possible, particularly in respect of factors set out in Annex A. In respect of requests made under Article 3, the information should be related, as closely as possible, to identifiable segments of production and to the reference period set out in Annex B, paragraph 1(a). They agreed that actions based on the existence of serious damage to domestic producers or actual threat thereof in terms of paragraph I of Annex A cannot be based solely upon the level of imports or growth thereof. Participants agreed that in determining a situation of market disruption, due consideration has to be given to the evolution of the state of the domestic industry in the importing country, including its export performance and the market share held by this industry.

7. Participants agreed that in examining the factors causing a situation of market disruption, due consideration shall be given to both factors (i) and (ii) indicated in Paragraph II of Annex A.

8. The view was expressed that special difficulties may be created for importing countries which administer restraints imposed under Article 3, paragraph 5 on the basis of date of export when, in the absence of a mutually agreed solution as indicated in Article 3, paragraph 8, an imminent and measurable increase in imports may arise which would cause recurrence or exacerbation of market disruption or impede the steady and orderly development

of trade. It was agreed that in such cases, and after submission to the Textiles Surveillance Body in accordance with Article 3, paragraph 8, the importing country may extend for one further period of twelve months the restraint previously applied. Growth and flexibility shall be accorded to the subsequent twelve-month restraint in accordance with provisions of paragraphs 3 and 5 of Annex B.

9. It was recalled that in exceptional cases where there is a recurrence or exacerbation of a situation of market disruption as referred to in Annex A and paragraphs 2 and 3 of Annex B, a lower positive growth rate for a particular product from a particular source may be agreed upon between the parties to a bilateral agreement. It was further agreed that where such agreement has taken into account the growing impact of a heavily utilized quota with a very large restraint level for the product in question from a particular source, accounting for a very large share of the market of the importing country for textiles and clothing, the exporting party to the agreement concerned may agree to any mutually acceptable arrangements with regard to flexibility.

10. The Committee also confirmed that exporting participants, predominant in the exporting of textile products in all the following fibres (cotton, wool and man-made fibres) covered by the Arrangement, may agree with importing participants to any mutually acceptable solution as regards growth and flexibility; but in no case should such growth and flexibility be negative. Importing participants at the same time recognized the importance to predominant exporting participants of stability in the textile trade and the need to ensure that stability and certainty throughout the full life of their bilateral agreements, keeping in mind also the need for orderly development of trade in textiles.

11. The view was expressed that real difficulties may be caused in importing countries by sharp and substantial increases in imports as a result of significant differences between larger restraint levels negotiated in accordance with Annex B on the one hand and actual imports on the other. When such difficulties arise the exporting and importing countries may consult in order to

arrive at a mutually acceptable solution, including the provision of equitable and quantifiable compensation where appropriate. As regards consistently under-utilized quotas, consideration should be given to their removal upon request. Should a quota that has been removed be re-introduced, the quota level shall fully take into account the previous restraint level.

12. The Committee recognized that participating importing countries having small markets, an exceptionally high level of imports and a correspondingly low level of domestic production are particularly exposed to the problems arising from imports causing market disruption as defined in Annex A and that their problems should be resolved in a spirit of equity and flexibility in order to avoid damage to those countries' minimum viable production of textiles. At the same time, the Committee noted the commitment by those countries to contribute to further liberalization of world trade in textile products. Participants agreed that these countries may apply lower positive growth rates as set out in Annex B and on a mutually acceptable basis lower flexibility than the norms set out in the same Annex, on the understanding that future bilateral agreements shall, depending on the point of departure for each importing country, in respect to growth and flexibility represent meaningful improvements over those agreements previously in place. Participants further agreed that minimum viable production provisions are available only in the circumstances set out in the Arrangement and in this paragraph.

13. The participating countries were conscious of the problems posed by restraints on exports of new entrants and small suppliers, as well as on exports of cotton textiles by cotton producing countries. They re-affirmed their commitment to the letter and intent of Article 6 of the Arrangement and to the effective implementation of this Article to the benefit of these countries.

To this end they agreed that:

- (a) Restraints shall not normally be imposed on exports from small suppliers, new entrants and least developed countries.

- (b) If circumstances oblige the importing country to introduce restraints on exports from the least developed countries, the treatment accorded to these countries should be significantly more favourable than that accorded to the other groups referred to in this paragraph, preferably in all its elements but, at least, on overall terms.
- (c) Where restraints are applied on exports from new entrants and small suppliers, the economic terms relating to growth and flexibility rates should take due account of the future possibilities for the development of trade and the need to permit commercial quantities of imports in order to further the economic and social development of such suppliers.
- (d) Exports of cotton textiles from cotton producing exporting countries should be given special consideration. Where restraints are applied, more favourable treatment should be given to these countries in terms of quotas, growth rates and flexibility, having due regard to the provisions of Annex B. This special consideration should be reflected in the improvements in bilateral agreements foreseen in paragraph 4 above, and should take into account the point of departure for each country, the degree of vulnerability of the industrial sectors concerned in the importing country, as well as the importance of cotton textile exports in the economy of the exporting country concerned.
- (e) The provisions of Annex B relating to exceptional circumstances and cases should be applied sparingly to exports from new entrants, small suppliers and trade in cotton textiles of cotton producing developing countries.
- (f) Any restraints envisaged on exports from new entrants, small suppliers, and cotton textile producing countries shall take into account the treatment of similar exports from other participants, as well as non-participants in terms of Article 8, paragraph 3.

14. The participants recognized that particular problems are created by restrictions on wool products for those wool producing developing countries whose economy and textile trade are dependent on the wool sector, whose total textile exports consist almost exclusively of wool textiles and clothing, and whose volume of textile trade is comparatively small in the markets of the importing countries. It was agreed that, in the application of safeguard measures under the Arrangement, special consideration shall be given to the export needs of such countries when considering quota levels, growth rates and flexibility, so as to ensure overall improved access in the importing country's market, having due regard to the provisions of Annex B.

15. In conformity with the provisions of Article 6, paragraph 6 of the Arrangement for consideration to be given to special differential and more favourable treatment, in the light of the special nature of the trade referred to therein, participants agreed that, in negotiating bilateral restraints account shall be taken of the relative degree to which these exports contribute to situations of market disruption or real risk thereof.

16. Participants agreed to co-operate fully in dealing with problems relating to circumvention of the Arrangement, in the light of the provisions of Article 8 thereof. To this end, it is agreed that such co-operation will include such administrative co-operation and exchange of available information and documents in accordance with national laws and procedures, as are necessary to establish the relevant facts. It was further agreed that the appropriate administrative action referred to in Article 8, paragraph 2, should in principle, where evidence is available regarding the country of true origin and the circumstances of circumvention, include adjustment of charges to existing quotas to reflect the country of true origin; any such adjustment together with its timing and scope being decided in consultation between the countries concerned, with a view to arriving at a mutually satisfactory solution. If such a solution is not reached any participant involved may refer the matter to the TSB in accordance with the provisions of Article 8, paragraph 2.

17. The participants agreed to collaborate in regard to instances of false declarations regarding the quantity and type of textile products presented for import by the exchange of available information and documents in accordance with the national laws concerned, with a view to establishing the relevant facts and enabling the government concerned to take appropriate action under national laws and procedures.

18. Introduction of changes (such as changes in practices, rules, procedures, categorization of textile products, including those changes relating to the Harmonized System) in the implementation or interpretation of bilateral textile agreements or of the Arrangement, which have the effect of upsetting the balance of rights and obligations between the parties concerned, or which affect the economic content of a bilateral agreement, or which affect the ability of a participant to use or benefit fully from a bilateral agreement, or which disrupt trade, shall be avoided as far as possible. Where such changes are necessary, participants agreed that the participant initiating any such changes shall, wherever possible, inform and initiate consultations with the affected participant prior to the time that such changes may affect the trade in question, with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustments. Participants further agreed that where consultation prior to implementation of any such changes is not feasible, the participant initiating such changes will consult, as early as possible, with the affected participant with a view to reaching a mutually satisfactory solution regarding appropriate and equitable adjustments. Any dispute under this provision may be referred to the TSB for recommendation.

19. In pursuance of the objective of trade liberalization embodied in the Arrangement, the Committee re-affirmed the need to monitor adjustment policies and measures and the process of autonomous adjustment in terms of the provisions of Article 1, paragraph 4. To this end, the Committee decided that the Sub-Committee on Adjustment should continue to make a periodic review of developments in autonomous adjustment processes and in policies and measures to facilitate adjustment, as well as in production and trade in textiles, on the

basis of material and information to be provided by participating countries as well as additional material and information obtained by the Secretariat from other sources, and with the help of any supporting analysis by the Secretariat. Attention was drawn to the impact of technological developments on comparative advantage and competitiveness in textile trade. Participating countries were urged to provide the Sub-Committee on Adjustment with all relevant and up-to-date information relating, inter alia, to production and trade, necessary for the Sub-Committee to discharge its function and to report periodically to the Textiles Committee to enable that Committee to fulfil its obligations under Article 10, paragraph 2.

20. The participants re-affirmed the importance of the effective functioning of the Textiles Committee, the Sub-Committee on Adjustment and the Textiles Surveillance Body, in their respective areas of competence. In this context, the participants emphasized the importance of the responsibilities of the TSB as set forth in Article 11 of the MFA.

21. The participants also re-affirmed that the rôle of the TSB is to exercise its functions as set out in Article 11 so as to help ensure the effective and equitable operation of the Arrangement and to further its objectives. In this respect, the Committee recognized the need for close co-operation among participants for the effective discharge of the TSB's responsibilities.

22. Participants agreed that in considering problems arising from the application of bilateral agreements or measures taken under the Arrangement and with a view to discharging its function with respect to the review of such action, the TSB may address problems of interpretation of the relevant provisions of the Arrangement.

23. Taking into account the important rôle of the TSB and in view of the increased membership of the Arrangement, the participants agreed to examine the possibility of an increase in the number of members of the TSB.

24. (i) The Committee acknowledged the concern of some importing countries regarding substantially increased imports of textiles made of vegetable fibres, blends of vegetable fibres with fibres specified in Article 12, and blends containing silk, which are directly competitive with textiles made of fibres specified in Article 12. Accordingly, the Committee agreed that the provisions of Articles 3 and 4 may be invoked with respect to directly competitive imports of such textiles, in which any or all of those fibres in combination represent either the chief value of the fibres or 50 per cent or more by weight of the products, which cause market disruption or a real risk thereof, bearing in mind also the provisions of Article 8, paragraph 3 of the Arrangement.

(ii) In examining the case for market disruption, the Textiles Surveillance Body is instructed to pay particular attention to the evidence demonstrating that these products are directly competitive with products of cotton, wool and man-made fibres manufactured in the importing country concerned.

(iii) It is understood that restraints will not be applied to historically traded textiles which were internationally traded in commercially significant quantities prior to 1982, such as bags, sacks, carpetbacking, cordage, luggage, mats, mattings and carpets typically made from fibres such as jute coir, sisal, abaca, maguey and henequen.

25. In the context of the phasing out of restraints under the Arrangement, priority attention would be given to sectors of trade, e.g., wool tops, and suppliers for which the Arrangement provides for special and more favourable treatment as referred to in Article 6.

26. It was felt that in order to ensure the proper functioning of the MFA, all participants should refrain from taking measures on textiles covered by the MFA, outside the provisions therein, before exhausting all the relief measures provided in the MFA.

27. Participants noted the concern expressed by a number of participants with respect to the problem of infringement of registered trademarks and designs in trade in textiles and clothing and noted that such problems could be dealt with in accordance with the relevant national laws and regulations.

28. Having regard to the stated objectives set out in paragraph 2 above, and on the basis of the elements mentioned in the preceding paragraphs, which supersede in their totality those adopted on 22 December 1981, the Textiles Committee considered that the Arrangement should be extended for a period of five years, subject to confirmation by signature as from 31 July 1986 of a Protocol for this purpose.