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COMMUNICATION FROM JAPAN

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

The proposal (MTN/GNG/NG4/W35) submitted by Japan at the February meeting presents a scheme during the integration period to achieve a smooth integration of the MFA into GATT. Through this scheme, Japan aims at promoting the liberalization of the textile trade.

Many features of the Japanese proposal have been favourably received by many countries, for example: the abolition of MFA, scope of integration, objective criteria for invoking transitional measures, multilateral surveillance, automatic phase-out mechanism, time span for integration etc. The positive comments have been very much encouraging. At the same time, many questions have been raised, and many requests for clarification have been made.

The purpose of this supplementary paper is to answer these questions raised and, in particular, to clarify how the proposed scheme during the integration period will function, thereby assisting the participating countries in obtaining a deeper understanding of the Japanese proposal.

1. Basic approach of the Japanese proposal

- (1) The Japanese proposal is based on the following three principles as mentioned in "I. General Introduction" of the submission (/W35):
 - (i) The textiles and clothing sector plays an extremely important rôle in the economic and social development of a large number of countries, inter alia, developing countries.
 - (ii) It is necessary to adopt a progressive and pragmatic approach in integrating the textiles and clothing sector into GATT, so that the integration process would be as smooth as possible.
 - (iii) The process of the integration should lead to the liberalization of this sector as a whole.

- (2) On the basis of these three principles, Japan proposed the following scheme during the integration period:
- (i) Abolition of all MFA measures at the end of July 1991.
 - (ii) Establishment of an integration period during which progressive liberalization would take place, and establishment of transitional measures which are designed to deal with the specific problems of the textiles and clothing sector so as to facilitate a smooth integration of the MFA into GATT.
 - (iii) Establishment of a built-in automatic phase-out mechanism in such transitional measures.

2. Abolition of all MFA measures at the end of July 1991

- (1) It is necessary to eliminate all MFA measures at the end of July 1991 for the following reasons:
- (i) Under the present MFA, the interpretation of the criteria for introducing restrictions are left to the discretion of each participating country. One example is Article 4 of the MFA, which stipulates, with regard to bilateral agreements, as follows: "in order to eliminate real risks of market disruption, and on the other hand to ensure the expansion and orderly development of trade in textiles". Interpretation of this clause varies, for instance, some even assert that a bilateral agreement can be concluded "to ensure the expansion and orderly development of trade in textiles," (the latter half of the clause) without the existence of "real risks of market disruption". Thus, danger exists as to a bilateral agreement being concluded solely for the purpose of maintaining orderly development of textile imports, regardless of the real possibility of market disruption.
 - (ii) The integration period should be free from such differences among participating countries in the interpretation of the criteria for implementing restrictions, which in turn, will prevent the abuse of restrictive measures. For this purpose, "serious damage to domestic producers or an actual threat thereof" should be determined based on a set of criteria which include as many objective criteria as possible concerning the various factors, stipulated in Annex A of the existing MFA, in determining "market disruption".
 - (iii) Therefore, at the beginning of the integration period (the end of July 1991) all MFA restrictions should be abolished in principle. Then, transitional measures should be introduced only to those products which are found to satisfy such criteria described above.

- (2) As described above, transitional measures invoked during the integration period must satisfy objective criteria. However, from the standpoint that a progressive and pragmatic approach should be adopted for the integration process, such criteria at the beginning of the integration period (the end of July 1991) should be set at moderate levels which would permit a considerable proportion of the existing restrictions to be switched to transitional measures. Subsequently, the levels should be increased gradually in order to phase-out the measures.

In addition, it is necessary to maintain the principle stipulated in paragraph 4 of MFA Annex B stating that full consideration should be given to the existing restraint level when restrictions are reintroduced. It is not permissible to cut back existing restraint levels.

Furthermore, the Japanese proposal is intended to give realistic consideration to the existing bilateral agreements concluded under Article 4 of the MFA, many of which are effective until the end of 1991. Such bilateral agreements may remain in force until the end of 1991, if both the importing and exporting countries concerned so agree. Consequently, many of the existing agreements can be maintained until their expiry.

- (3) With these elaborations, it should be evident that the Japanese proposal does not aim at radical change but aims at a progressive and pragmatic approach.

3. The criteria for invoking the transitional measures and the duration of measures

[the criteria for invoking the transitional measures]

- (1) Transitional measures will be governed by the concept of "market disruption". Of the factors causing market disruption such as production, imports etc., listed in Annex A of MFA, those which may be quantitatively measured should be established as standardized figures. Even for factors which cannot readily be measured quantitatively, criteria should be established in as objective a manner as possible.

Satisfying quantitative and objective criteria should be a prerequisite to the determination of market disruption. In addition to satisfying those objective criteria, factors other than such criteria should also be taken into consideration to determine the existence of market disruption.

- (2) The following is an example of the objective criteria:
- (i) domestic production is declining and the rate of decline should be above a pre-determined level; and
 - (ii) IP ratio (ratio of imports to domestic production) is growing and is above a pre-determined level.

- (3) While concrete figures for such objective criteria are to be determined during the negotiations, they should be set at practical levels since these criteria would become increasingly stringent through the automatic phase-out mechanism mentioned in paragraph 4.
- (4) A country wishing to invoke transitional measures should submit data concerning its domestic production, total imports etc., to the multilateral surveillance body before taking any restrictive measures.

If the submitted data are found, by the surveillance body, not to fulfil the objective criteria, it should be considered that there is no market disruption and transitional measures cannot be invoked.

- (5) In order to facilitate future negotiations on defining definitive figures, Japan proposes that the GATT secretariat draw up a draft objective criteria based on the statistics regarding, for example, the import, production and IP ratio of participating countries for the past five years (1985-89). The secretariat should also give consideration to precedents of the Textiles Surveillance Body (TSB).
- (6) The GATT secretariat, if necessary, may request the countries concerned to submit the necessary data. If necessary data are not available regarding a particular product, it would be inappropriate to invoke transitional measures against such a product.

[Duration of the transitional measures]

- (1) The maximum permissible duration for transitional measures should be determined during the negotiations. It should be as short and limited as possible. However, in the light of stability of trade, it would be unrealistic to review the conformity of measures with the objective criteria annually. Even if mutual agreement is reached between an importing and an exporting country, the maximum period should be limited to two to three years.

Extension of measures will not be permitted after the maximum duration has elapsed, unless the criteria for implementing transitional measures are again satisfied in the re-examination by the Surveillance Body.

For instance, if the maximum duration is to be three years, a transitional measure introduced in 1992 will be allowed to extend until 1995, but the growth rate and flexibility, which should progressively increase in the meantime, will have to be in conformity with their pre-determined levels for 1993 or 1994.

If the measures are to be maintained after 1996, it will be required to satisfy the criteria for 1996 to invoke the measures.

- (2) The transitional measures are valid only during the integration period, and any remaining transitional measures should be terminated at the end of the integration period.

In the light of the characteristics of the automatic phase-out mechanism which will make it increasingly difficult to introduce such measures during the integration period, it is expected that there would be few transitional measures still valid at the end of the integration period.

4. Automatic phase-out mechanism

- (1) It is essential to establish a framework to progressively phase-out restrictions during the integration period, in order to ensure the integration of the textiles and clothing sector into GATT. Unless this framework to phase out the restrictions is determined during the negotiations of this Round, there is no guarantee to realize the purpose of the TNC Decision in April 1989 and the integration of the textiles and clothing sector into GATT.
- (2) Japan proposed an automatic phase-out mechanism at the February meeting in order to establish this framework. The mechanism consists of objective criteria for invoking the transitional measures made increasingly stricter, and the restraint levels made less restrictive every year.
- (3) Although the actual figures of the criteria which will be made increasingly strict every year are to be negotiated during the Uruguay Round, it would be appropriate to take into account existing conditions and set figures, at the beginning of the integration period, which would permit a considerable number of the existing restrictions to be switched to transitional measures. Gradually, the levels of criteria should be increased so that by the middle of the integration period, approximately half of the measures will no longer satisfy the objective criteria, and almost all the measures will not satisfy such criteria at all, by the end of the integration period.