Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 11:4

Restraints under Hong Kong/United States Agreement

Note by the Chairman

Attached is a notification under Article 11:4 received from Hong Kong, concerning restraints established by the United States on Categories 651, 650 and 637 when imported from Hong Kong, pursuant to the bilateral agreement between the parties.

1. The bilateral agreement between the parties is contained in COM.TEX/SB/818

*English only/Anglais seulement/Inglés solamente
Sir,

I have the honour to refer to paragraph 4 of Article 11 of the Arrangement Regarding International Trade in Textiles (MFA), as extended by the Protocol adopted on 22 December 1981, and paragraphs 7 and 17 of the Bilateral Textiles Agreement between the Governments of Hong Kong and the United States dated 23 June 1982 (copy at enclosure 1); and to request, on behalf of the Government of Hong Kong, the Textiles Surveillance Body urgently to consider the following matters between Hong Kong and the United States and to make any recommendations which it may deem appropriate.

2. Paragraph 7 of the Hong Kong/United States Textiles Agreement (the Agreement) provides that the Government of the United States may request consultations with the Government of Hong Kong with a view to reaching agreement on an appropriate level of restraint for any category subject to export authorization (EA) for any agreement year whenever, in the view of the Government of the United States, conditions in its market are such that a limitation on further trade in any such category is necessary in order to eliminate a real risk of market disruption. Immediately upon receipt of such a request, the Government of Hong Kong must suspend issuance of EAs or restrict them to a specified level pending the outcome of the consultations. Such a request must be supported by a statement of the market conditions in the United States which make necessary the request for consultations. The statement must include data similar to that contemplated in paragraphs I and II of Annex A of the Arrangement.

3. The Government of the United States requested consultations on Category 651 (mmf pyjamas and other nightwear), Category 650 (mmf dressing gowns, including bathrobes and beach robes) and Category 637 (mmf playsuits, sunsuits, washsuits, etc) on 1 May, 24 May and 8 June 1984 respectively, and provided market statements to support the case for market disruption in each category on 17 May, 5 June and 15 June 1984 respectively.
Copies of the statements are at enclosures 2 to 4. Consultations were held on 28 May (in Hong Kong), and 13 June and 12-13 July (in Washington) to discuss the US cases for restraint.

4. The consultations did not result in agreement in any of the cases. The US exercised its right under paragraph 7(e) of the Agreement to request Hong Kong to limit exports in all three categories during 1984 to the minimum level provided by the Agreement. Hong Kong honoured the US requests for limits in these categories and reserved its rights under the Agreement and the MFA.

5. The present request to the TSB concerns the disagreement arising from the consultations between the US and Hong Kong on Categories 651, 650 and 637.

Category 651

6. The main reasons why Hong Kong considers that a situation of real risk of "market disruption" has not been established are summarized below:

I. Serious damage or actual threat thereof
(para I of Annex A of the MFA)

The main "appropriate factor" for which the US provided statistics was US production for 1980-1982. These statistics reveal an improving situation in the domestic industry, and do not therefore provide the necessary evidence of serious damage, or actual threat thereof.

II. Factors causing market disruption (para II of Annex A of the MFA)

There are two main weaknesses in the US case. The first is that imports from Hong Kong are not significant, and hence that "serious damage" can hardly be caused by such imports, nor can such small increases in imports be described as "substantial". The second weakness relates to price data which is generally unsatisfactory.

Category 650

7. The main reasons why Hong Kong considers that a situation of real risk of "market disruption" has not been established are summarized below:

I. Serious damage or actual threat thereof
(para I of Annex A of the MFA)

The main "appropriate factor" for which the US...
provided statistics was US production for 1980-1983. These statistics reveal an improving situation in the domestic industry since 1981 and do not therefore provide the necessary evidence of serious damage or actual threat thereof.

II. Factors causing market disruption (para II of Annex A of the MFA)

There are two main weaknesses in the US case. The first is that imports from Hong Kong are not significant, and hence that "serious damage" can hardly be caused by such small imports, nor can such small increases in imports be described as "substantial". The second weakness relates to price data which is generally unsatisfactory.

III. Other Factors

A case for restraint of one supplier, even if substantiated on other grounds, is not made if other substantial suppliers are allowed to fill the gap in supply created by restraining one supplier. In this case, two significant suppliers with larger imports than the limit imposed on Hong Kong in the year ending July 1984 are not subject to specific restraint nor have they been requested by the US for consultations on this category. Unless the US can clarify the position of other larger suppliers, it is Hong Kong's view that the US has failed on this ground also to establish a case.

Category 637

8. This case was the subject of a referral early in April 1984. The TSB considered the case on 4 May 1984 and in its conclusion stated that "the TSB felt that the information provided did not warrant the conclusion that the amount of export authorizations issued by Hong Kong at the time of the call for consultations posed a real risk of market disruption to US producers. The TSB recommended that the US rescind the request to Hong Kong to limit exports of this category".

9. On 15 May 1984, the US formally lifted the call in accordance with the TSB recommendation. On 8 June 1984,
Hong Kong received a new request from the US for consultations, the second call on this category in 1984.

10. The main reasons why Hong Kong considers that a situation of real risk of "market disruption" has not now been established are summarized below:

   I. Serious damage or actual threat thereof (para I of Annex A of the MFA)

   The main "appropriate factor" for which the US provided statistics was US production for 1979-1983. No US export statistics are available, so the extent to which fluctuations in production result from fluctuations in US exports cannot be assessed. Nevertheless, the US production statistics reveal an improving situation in the domestic industry, and do not therefore provide the necessary evidence of serious damage, or actual threat thereof.

   II. Factors causing market disruption (para II of Annex A of the MFA)

   There are two main weaknesses in the US case. The first is that imports from Hong Kong are not significant, and hence that "serious damage" can hardly be caused by such small imports, nor can such small increases in imports be described as "substantial". The second weakness relates to price data which is generally unsatisfactory.

11. Accordingly, it is the view of the Government of Hong Kong that the case for restraint has not been made for the three categories and that the Government of the United States should rescind its requests for restraint on them made under paragraph 7(e) I of the Hong Kong/United States Textiles Agreement.

12. It will be seen that the Government of Hong Kong considers that the US action as regards Categories 651, 650 and 637 to be unjustifiable and unreasonable. The Government of Hong Kong accordingly requests the Textiles Surveillance Body to conduct a thorough and prompt consideration of these matters.
13. To assist the Textiles Surveillance Body in its consideration, the Government of Hong Kong is preparing to send representatives to appear before the Body to elaborate on Hong Kong's position.

14. I am sending a copy of this letter to the Office of the US Trade Representative in Geneva.

15. Accept, Sir, the assurance of my highest consideration.

(M.D. Cartland)
Counsellor
Hong Kong Affairs
Paragraphs 7 and 17 of the Hong Kong/United States Textiles Agreement

7. In view of the well established and effective Hong Kong system of export authorization and licensing, and the desire of both governments to eliminate real risks of market disruption, the following procedures shall apply to each Category not subject to a Specified Limit:

(a) The Government of Hong Kong shall provide reports on export authorizations (EAs) issued for exports to the United States of America of such Categories as frequently and in such detail as may be requested.

(b) The Government of the United States of America may request consultations with a view to agreement on an appropriate level of restraint for any Category not given a Specified Limit for any agreement year whenever, in the view of the Government of the United States of America, conditions in its market are such that a limitation on further trade in any such Category is necessary in order to eliminate a real risk of market disruption.

(c) The request for such consultations shall be supported as soon as possible, and in any case within 21 days of the date of the request, by a statement of market conditions in the United States of America which in the opinion of the Government of the United States of America make necessary the request for consultations. The statement shall include data similar to that contemplated in paragraphs I and II of Annex A of the Arrangement.

(d) Upon receipt of a request for such consultations, the Government of Hong Kong, as requested by the Government of the United States of America, shall cease or otherwise limit further issuance of EAs for a period of seven (7) U.S. working days. The Government of the United States of America may request Hong Kong to extend the period of seven (7) U.S. working days mentioned above and may also request Hong Kong to limit the issuance of EAs to a level different
from that specified in paragraph 7(e) (I) and (II) below, whichever is applicable. The Government of Hong Kong shall consider any such request sympathetically and shall respond promptly. Unless agreed otherwise, the Government of Hong Kong shall have the right, following the expiry of the period of seven (7) U.S. working days mentioned above, to resume the issuance of EAs up to the level specified in paragraph 7(e) (I) or (II) below, whichever is applicable. EAs thus issued, as well as EAs issued prior to receipt of the request for consultations, may be honored by the issuance of export licences by the Government of Hong Kong.

The two governments, unless otherwise agreed, shall consult as soon as possible within 30 days of the request for such consultations and shall make their best efforts to complete such consultations within 30 days of the commencement.

(e) (I) In the event that consultations do not result in agreement, the Government of the United States of America shall have the right to request the Government of Hong Kong to limit exports of the relevant products during the agreement year in which the request for consultations is made to a level not less than the highest of:

(a) The level of the trade in the relevant product or category for the immediate preceding year plus either 15 percent of that level (in the case of cotton and man-made fiber products) or 6 percent of that level (in the case of wool products),

(b) The average of the level of trade in the relevant product or category for all previous years since January 1, 1981, plus either 15 percent of that level (in the case of cotton and man-made fiber products), or 6 percent of that level (in the case of wool products), or
(c) The limit requested by the Government of the United States of America for the cessation of issuance of EAs in accordance with paragraph 7(d) hereof.

(II) Except as provided for in paragraph 7(e)(IV) below, in respect of any product or category where a limit has been established for a single agreement year and where, in the immediately subsequent agreement year the Government of the United States of America makes another request for consultations under paragraph 7(b) of this Agreement, and, in the event that such consultations do not result in agreement, the Government of the United States of America shall have the right to request the Government of Hong Kong to limit exports of the relevant products during the agreement year in which the request for consultations is made, to a level not less than the higher of:

(a) The limit established for the immediately preceding year plus either 8 percent of that limit (in the case of cotton and man-made fiber products) or 3 percent of that limit (in the case of wool products).

(b) The limit requested by the Government of the United States of America for the cessation of issuance of EAs in accordance with paragraph 7(d) hereof.

(III) Where the Government of the United States of America makes a request under paragraph 7(e) (I) or (II) hereof, the Government of Hong Kong agrees that it will honor such a request.

(IV) In respect of any product or category for which a limit is established in any one agreement year, either government may, prior to the start of the immediately following agreement year, elect to convert that limit into a Specified Limit effective as such, from January 1 of the immediately following agreement year.
Where such a conversion is made, the Specified Limit so created shall, from the date of effectiveness, be accorded growth at 2 percent per annum. The Specified Limit so created shall, from the year of effectiveness, be accorded flexibility at 7 percent pursuant to paragraph 5 of the Agreement, and in subsequent years the flexibility provisions as set out in paragraph 6 of the Agreement shall also apply.

(V) Should two requests in respect of the same product or category be made under paragraph 7(b) hereof during the term of this Agreement but in different agreement years, not being consecutive years, the provisions of paragraph 7(e) (I) shall apply to the second of the two requests.

(VI) The two governments agree that the provisions of paragraph 7 hereof shall not derogate from the rights of the two governments under paragraph 17 of this Agreement.

(VII). For the purpose of paragraph 7 hereof, the phrase "level of trade" shall mean the level of trade established by consultations to be held within the first six months of each agreement year, or, where such consultations have not been completed, the level of trade by date of export.

(f) In the implementation of this provision, the Government of Hong Kong shall advise the Government of the United States of America, immediately upon receipt of any unusual concentration of applications for EAs in a particular category.

(g) The two governments shall consult as early as possible, with regard to problems that may arise if paragraph 7 hereof is invoked near the end of an agreement year, to consider the possibilities of avoiding undue hardship to the trade.
17. Each government reserves its rights under the Arrangement with respect to textiles and textile products not subject to this Agreement. For textiles and textile products covered by this Agreement, it is agreed that either of the parties may have recourse to any and all of the provisions of the Arrangement, save that the Government of the United States of America waives its rights under Article 3 of the Arrangement with respect to products not covered by Annex A as long as this Agreement remains in effect.
Category 651 -- Man-Made Fiber Nightwear

U.S. imports of Category 651 from Hong Kong were 34,992 dozen during 1983, up 387 percent from the 7,181 dozen imported in 1982. Year ending March 1984 imports, at 53,520 dozen, were five times higher than import levels for the previous twelve months. This is a sharp and substantial increase of low-priced imports which, if continued, create a real threat of market disruption.

Hong Kong, through April 14, 1984, had issued export authorizations for 227,430 dozen or 442 percent of the maximum formula level. These issuances exceed by more than six fold the 1983 imports of 34,992 dozen.

U.S. domestic production of Category 651 was 18.4 million dozen in 1982 compared with 18.25 million dozen in 1981. Imports increased from 326,000 dozen in 1981 to 484,000 in 1982 to 682,000 in 1983. Year ending March 1984 imports were 783,000 dozen. The ratio of imports to domestic production increased from 1.8 percent in 1981 to 2.6 percent in 1982 to a 1983 level which was about double that of 1981.

Approximately 28 percent of the total Category 651 imports from Hong Kong were entered under TSUSA No. 383.2025 -- Women's, Girls' and Infants' ornamented knit nightwear and 44 percent under TSUSA No. 383.9240 -- Women's, Girls' and Infants' non-ornamented woven nightwear. These garments are being entered at duty-paid landed values below the U.S. producer prices for comparable garments.

Classified by Leonard A. Mobley, Director Industry Assessment Division, OTEXA Declassified on Receipt by Foreign Government
CATEGORY 651: U.S. PRODUCTION, IMPORTS AND IMPORT TO PRODUCTION RATIOS
-1,000 Dozen-

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CATEGORY 651: DUTY-PAID LANDED VALUES AND -U.S. Dollars Per Dozen-

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## MAJOR SHIPPERS REPORT NO. 1

**CATEGORY = 651 NIGHTWEAR**

**IP = 0.02**  
**IP-YEAR = 1982**

**SYDFAC = 52.00 FOR SYE**

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**OFFICE OF TEXTILES -- INTERNATIONAL AGREEMENTS & MONITORING**

**12/1983 DATA**  
**UNITS = DOZ**

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MARKET STATEMENT

Category 650 -- Man-Made Fiber
Dressing Gowns

Hong Kong had issued export authorizations in Category 650 for 67,322 dozen dressing gowns as of May 27, 1984. This was a 164 percent increase over the 25,545 dozen authorized by Hong Kong during the equivalent time period last year. Further, these 1984 export authorizations covering only five months equal 92 percent of the formula level and are 59 percent above the previous years trade.

Hong Kong was the largest supplier of Category 650 in 1983. Although the imports were lower during the first four months of 1984 than a year earlier, the substantial increase of export authorizations during the first five months of 1984 indicates a substantial expansion in 1984 imports and, if continued, would create a threat of market disruption.

Domestic production of Category 650 is estimated at 3.2 million dozen in 1983, 9 percent above 1980 levels. However, this increase in domestic production is modest compared with the 49 percent increase in imports, which were 248,000 dozen in 1983. Further, imports during the year ending April 1984, at 291,000 dozen, were 42 percent higher than the previous twelve months. The ratio of imports to domestic production increased from 5.7 percent in 1980 to an estimated 7.8 percent in 1983.

Forty-five percent of the Category 650 imports during January-April 1984 from Hong Kong were entered under TSUSA No. 383.9235 and 23 percent under 383.2320 -- women's, girls' and infants' woven
robes, non-ornamented and ornamented, respectively. These, during the January-April 1984 period, were entering the United States duty-paid values well below the U.S. producer prices for similar garments.
June 15, 1984

Mr. Mark A. Goodfellow
Counselor for Hong Kong
Commercial Affairs
British Embassy
3100 Massachusetts Avenue, N.W.
Washington, D.C. 20008

Dear Mr. Goodfellow:

Enclosed herewith is the market statement for Category 637 (Man-Made Fiber Playsuits) produced in conjunction with our recent request for consultations on this category. This is, of course, pursuant to paragraph 7(c) of the bilateral textile agreement of June 23, 1982.

Should you or your staff have any questions, please contact my office.

Sincerely,

[Signature]

James T. Schollaert
Assistant Chief, Textiles Division
Bureau of Economic and Business Affairs
U.S. imports of Category 637 from Hong Kong were 34,967 dozen in 1983, nearly two and one-half times the imports of 10,086 dozen in 1982. Imports during January-April 1984 increased to 41,994 dozen, 20 percent above the calendar year 1983 level. This was a sharp and substantial increase of low-priced imports which, if continued, creates a real threat of market disruption.

Hong Kong, through May 31, had issued export authorizations for 92,304 dozen or 271.67 percent of the maximum formula level. These issuances were in excess of the 1983 imports of 34,967 dozen.

U.S. domestic production of Category 637 is estimated to have reached 5,500,000 dozen in 1983. While this was above the 1982 level of 5,354,000 dozen, it was well below the levels of 1978 through 1980.

Imports of Category 637 from all sources were 818,000 dozen in 1983, up 43.8 percent from 1982 and the highest level of the decade ending in 1983. Imports during January-April 1984 were 592,000 dozen, 64 percent higher than during the first four months of 1983 and 4 percent higher than during calendar year 1982.

The ratio of imports to domestic production increased to 14.9 percent in 1983 from 10.6 percent in 1982. The substantial increase in 1984 imports indicates that this ratio will be even higher this year.

 Classified by Leonard A. Mobley, Director
 Industry Assessment Division, OTEXA
 Declassified on Receipt by Foreign Government
Approximately 20 percent of the Category 637 imports from Hong Kong entered under TSUSA No. 383.9215 -- other women's, girls', and infants' non-ornamented playsuits and 47 percent under TSUSA No. 383.8645 -- women's, girls' and infants' non-ornamented playsuits. These garments were being entered during February-April 1984 at duty-paid landed values below the U.S. producer prices for comparable garments.
#### CATEGORY 637: U.S. PRODUCTION, IMPORTS AND IMPORT TO PRODUCTION RATIOS

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<th>Ratio</th>
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1/ Estimated.

#### CATEGORY 637: DUTY-PAID LANDED VALUES AND U.S. PRODUCER PRICES

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#### CATEGORY 637: U.S. IMPORTS FROM HONG KONG AND TOTAL

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