ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 11:4

India/United States

Note by the Chairman

Attached is a notification received from India in which it has referred to the restraints introduced under the terms of the bilateral agreement with the United States on Categories 350, 337, 359 part I and 359 part II.

*English only/Anglais seulement/Inglés solamente
Dear Mr. Ambassador,

I have been directed to inform you that the following requests for consultations from the Government of the United States of America were received in terms of paragraph 16 of the Agreement on Textiles and Textile Products between the Government of U.S.A. and the Government of India (hereinafter referred to as the Agreement):

(i) Category 350 (Cotton dressing - Note dated gowns and robes) Feb. 28, 1984

(ii) Category 337 (Cotton play suits) - Note dated March 26, 1984

(iii) Category 359 - Pt. I (Cotton overalls, coveralls March 26, 1984 and jump suits)

(iv) Category 359 - Pt. II (Cotton vests) - Note dated July 30, 1984

The Notes requesting for consultations also contained request to hold the levels of exports in these categories during the 90 day period immediately following the receipt of request of consultation to the formula limit as provided for in paragraph 16(D) of the Agreement.

2. In respect of categories 337, 350 and 359 - Pt. I the Government of India responded positively to the request for consultation in a spirit of goodwill and co-operation. Since the factual statements accompanying the US Communications did not contain adequate data and information in terms of Annex-A of the Arrangement Regarding International Trade in Textiles (The Arrangement) read with paragraph 8 of its Protocol of Extension and the provisions of the Agreement, a request was made to the US authorities to supply updated relevant, specific, factual information before the consultations. A copy of the response from India is attached (Annex I & II). However, certain essential information and data relevant for assessing the existence of market disruption or real risk thereof were not made available either before or during the consultations. Consultations were held between the delegations of the Government of India and U.S.A. on May 9-11, 1984. On the basis of the then available data,
the Indian delegation was of the view that the existence of market disruption or threat thereof on account of imports from India was not established for any of the three categories. The Indian delegation therefore requested the US delegation to withdraw the calls including the 90 day limit. A copy of the Record of Consultations is attached (Annex-III).

3. The US Government did not withdraw the calls. Subsequently, unilateral restraints were imposed on these categories which were later converted into specific limits. On December 10, 1984, my Government received a request to limit the exports in these categories during 1985 to specific limits as indicated in the letter. On December 21, 1984, these specific limits for 1985 were converted into restraints for the life of the Agreement. My Government expressed its disappointment and concern at the unilateral notification of specific limits for these categories for 1985 without proving market disruption or real risk thereof on account of imports from India, based on up-to-date, relevant, specific, factual market data in terms of the Arrangement and the bilateral textile Agreement. In January, 1985, the US side proposed consultations on a number of issues including further consultations on these three categories. Without prejudice to the above position, my Government expressed its willingness to review the situation regarding these categories during the consultations between the delegations of the Government of India and U.S.A. in March, 1985. For this purpose, the US authorities were requested to provide the latest market data through 1984 in terms of Annex A to the Arrangement.

4. During the consultations in March, 1985, the Indian delegation analysed the available data and found that no case of market disruption or real risk thereof on account of imports from India could be established in any of the three categories. According to all available indicators, the US apparel industry had shared in the recovery of the US economy and personal consumption expenditure on clothing, apparel sales, shipments, manhours worked and employment showed a healthy upswing. On the other hand, the trade and industry in India had been severely and adversely affected by the action taken by the US to restrain exports in these categories.

5. Another call for consultations was received on July 30, 1984 in respect of Category 359-Pt.II (Cotton vests) and the Indian exports were limited for the 90 days period immediately following the receipt of the request. While responding positively to the request for consultations, my Government requested the US Government to supply updated relevant, specific, factual information before the consultations. A copy of the communication dated August 6, 1984.
from the Embassy of India, Washington to the United States Government is attached (Annex-IV). However, no consultations could take place in the absence of necessary data and information from the US Government. The US Government announced formal list for this Category on November 15, 1984 and converted this into a specific limit for 1985 on December 10, 1984.

6. The US side proposed inclusion of this category as a formal item of the agenda for consultations during March, 1985. My authorities brought to the notice of the US authorities the procedural and substantive lacunae of the US action taken without holding formal consultations. Copies of the communications dated December 29, 1984 and February 2, 1985 are attached (Annex V).

7. During the consultations in March, 1985, the Indian delegation emphasised that since the US had already imposed specific limits on this category unilaterally without holding formal consultation in complete violation of the provisions of the Agreement, meaningful discussion could only be held if the US side agreed to rescind the restraint on this Category. However, the US side did not agree to do so.

8. During the consultations, the trade-inhibiting effect of the Group II limit was again brought to the notice of the US side. Such a limit, alongwith increase in the number of unilateral restraints on additional categories of garments had subjected exports of garments from India to the US to double jeopardy.

9. The Government of India is deeply concerned at the intensification of restrictive actions on the part of the US to unilaterally impose restraints on additional categories of garments without fulfilling the requirements of the bilateral Agreement as well as the Arrangement. In the case of Category 359-Pt.II (Cotton vests) such action has been taken without holding formal consultations. The unilateral restraints imposed by the US Government have caused serious disruption and dislocation in trade and industry in India and have eroded the security of access as provided in the bilateral Agreement.

10. In view of the above, the Government of India would like to invoke the provisions of paragraph 4 of Article 11 of the Arrangement and would request the Textile Surveillance Body to promptly consider this matter and recommend that the US withdraw restraints on Categories 337, 350, 359-Pt. (Overalls, coveralls) and 359-Pt. (Cotton vests). My Government would also request the T.S.B. to address the 'trade-inhibiting
effect of the Group II limit so that the deleterious
effect of such an overall limit on export of garments
from India to the US is removed.

Please accept, Mr. Ambassador, the assurances of my
highest consideration.

(S.P. SHUKLA)
Ambassador

Ambassador Marcelo Raffaelli,
Chairman,
Textiles Surveillance Body,

GATT Secretariat,
GENEVA.
No.COM/105/2/84

March 19, 1984

The Embassy of India presents its compliments to the U.S. Department of State and, with reference to the request made through the US Embassy in New Delhi for consultations on category 350, has the honour to state that the Government of India has noted the request of the Government of the United States for consultations in respect of category 350 under para 16 of the Agreement relating to trade in cotton, wool and man-made fibre textiles and textile products between the Government of India and the Government of United States of America.

On perusal of the data and information supplied in Annex 'A' of the U.S. Note, the Government of India is of the view that the information supplied does not fulfil the requirement of paragraph 16(B) of the Agreement and Annex 'A' of the Arrangement regarding international trade in textiles read with paras 7 and 8 of its protocol of extension. The Government of India would therefore request for the following additional information to be supplied in order to make an assessment whether any threat of market disruption is being caused by exports of products under category 350 from India to the United States market:

(a) Data regarding imports from India and other sources both restrained and non-restrained to U.S during the last five years. The data for the last two years may be on monthly basis. The levels at which other sources have been restrained may also please be indicated.

(b) Information regarding exports from the United States of category 350 products TSUSA numberwise to other countries and globally during the last five years.

(c) Information regarding domestic production in U.S of category 350 products TSUSA numberwise during the last five years including 1983.

(d) Information regarding employment, investment, productivity, turnover, utilisation of capacity, profits in the US domestic industry for the same period.

(e) Information regarding number of production units in the United States along with their production pattern in terms of fibre use as well as product mix.

(f) Comparative prices of imports from other countries both restrained and non-restrained as well as US domestic prices on a comparable basis in terms of quality and stage of commercial transaction.

Contd.... 2
The Government of India believes that the request of the United States Government to hold the level of Indian exports in category 350 during the 90 days consultation period is not justified under paragraph 16(D) of the Agreement, since no case of actual market disruption from Indian exports giving rise to damage difficult to repair has been demonstrated. A restriction on exports during the consultation period would have a serious disruptive and dislocating effect on the Indian industry and trade. As such the Government of India would request the Government of United States to reconsider its request under paragraph 16(D) of the Agreement and not press it.

The Government of India is willing to hold consultations with the Government of United States of America regarding category 350 under paragraph 16(C) of the Agreement on a date and venue as mutually convenient.

The Embassy of India avails itself of this opportunity to renew to the U.S Department of State the assurances of its highest consideration.

The US Department of State,
Textiles Division,
Room 3521,
2201 C St. NW,
Washington DC.

Copy to Mrs. Ann Berry, Deputy Chief Textile Negotiator,
Office of US Trade Representative, Winder Building, 600 17th St. NW,
Washington DC. 20506.

2. Copy to Shri N.K. Sabharwal, Joint Secretary, Ministry of Commerce,
New Delhi, with reference to his telex dated 16.3.84.

(Heelam Dhanija)
First Secretary (Commerce)
The Embassy of India presents its compliments to the U.S. Department of State and, with reference to the request made through the US Embassy in New Delhi for consultations on categories 337 and 359, has the honour to state that the Government of India has noted the request of the Government of the United States for consultations in respect of categories 337 and 359 under para 16 of the Agreement relating to trade in cotton, wool and man-made fibre textiles and textile products between the Government of India and the Government of United States of America.

On perusal of the data and information supplied in the U.S. Note, the Government of India is of the view that the information supplied does not fulfil the requirement of paragraph 16(B) of the Agreement and Annex 'A' of the Arrangement regarding international trade in textiles read with paras 7 and 8 of its protocol of extension. The Government of India would therefore request for the following additional information to be supplied in order to make an assessment whether any threat of market disruption is being caused by exports of products under categories 337 and 359 from India to the United States market:

(a) Data regarding imports from India and other sources both restrained and non-restrained to US during the last five years. The data for the last two years may be on monthly basis. The levels at which other sources have been restrained may also please be indicated.

(b) Information regarding exports from the United States of categories 337 and 359 products TSUSA numberwise to other countries and globally during the last five years.

(c) Information regarding domestic production in U.S of categories 337 and 359 products TSUSA numberwise during the last five years including 1983.

(d) Information regarding employment, investment, productivity, turnover, utilisation of capacity, profits in the US domestic industry for the same period.

(e) Information regarding number of production units in the United States along with their production pattern in terms of fibre use as well as product mix.

(f) Comparative prices of imports from other countries both restrained and non-restrained as well as US domestic prices on a comparable basis in terms of quality and status of commercial transaction.

Contd.... 2
The Government of India believes that the request of the United States Government to hold the level of Indian exports in categories 337 and 359 during the 90 days consultation period is not justified under paragraph 16(D) of the Agreement, since no case of actual market disruption from Indian exports giving rise to damage difficult to repair has been demonstrated. A restriction on exports during the consultation period would have a serious disruptive and dislocating effect on the Indian industry and trade. As such the Government of India would request the Government of United States to reconsider its request under paragraph 16(D) of the Agreement and not press it.

The Government of India is willing to hold consultations with the Government of United States of America regarding categories 337 and 359 under paragraph 16(C) of the Agreement on a date and venue as mutually convenient.

The Embassy of India avails itself of this opportunity to renew to the U.S. Department of State the assurances of its highest consideration.

The US Department of State,
Textiles Division,
Room 3521,
2201 C St. NW,
Washington DC.

Copy to Shri N.K. Sabharwal, Joint Secretary, Ministry of Commerce,
New Delhi, with reference to his telex dated 30.3.84.
Representatives of the Governments of the United States and India consulted in Washington DC, May 9 - 11, 1984 on Categories 359 Part (Overalls, Coveralls), 350 (Dressing Gowns), 337 (Playsuits) and several administrative matters addressed in a separate record.

2. The Indian delegation recapitulated the position of the Indian side as brought on record during the last round of consultations held on February 22 - 24, 1984. While expressing satisfaction at the withdrawal of consultation request on Category 641, the Indian side regretted that unilateral limits had been announced by the U.S. Government for Categories 334, 445 and 446 even after the Indian side had shown that there was no case of market disruption or threat thereof.

3. The Indian delegation expressed deep concern at the receipt of request for consultations for three more categories i.e. 337, 350 and 359-Part within a short time of the last round of consultations. They felt that in addition to upsetting the carefully negotiated balance of concerns as represented in the Indo-U.S. Textile Agreement, the intensification of consultation calls and announcement of unilateral restraint limits for categories outside specific limits in the Agreement would further curtail the very limited opportunity available to India under the bilateral Agreement for diversification of exports.

4. The Indian delegation pointed out that even though India had and continues to have strong reservations about the legitimacy of a group limit in terms of the provisions of the MFA, such limit had been agreed to during the negotiations of the current bilateral Agreement.
as part of an overall settlement. A direct result of imposition of restraint limits for additional categories was to erode access for export of apparel products from India and to curb opportunity for legitimate diversification. If this trend continued, a situation might conceivably arise where there would be no room for export of any items of apparel outside the specific limits on account of increased number of categories brought under specific limits on the one hand and a Group II ceiling on the other. The Indian delegation, therefore, was strongly of the opinion that in the changed circumstances brought about by the recent U.S. action, there was no relevance or justification for a Group II limit. The Indian delegation proposed that both on grounds of inconsistency with MFA provisions as well as the changed circumstances, the Group II limit should be abolished.

5. The Indian delegation reiterated their position as stated during the last round of consultations that the requests for consultations were not in conformity with the provisions and procedures laid down in the Indo-U.S. Textile Agreement. The Indian delegation was particularly concerned that the request for holding exports for 90 day period for all the three categories had been made in a routine manner without providing data or information to demonstrate such serious market disruption as would give rise to damage difficult to repair in the U.S. market in terms of para 16(d) of the Agreement. Even the notes for consultation requests made it
clear that U.S. authorities apprehended only a threat of market disruption and not market disruption as such. On the other hand, the result of abrupt limiting of exports during the period of consultations was to cause serious disruption and dislocation in servicing of export orders and contracts which had been visaed before the receipt of consultation calls. The Indian delegation while responding to the consultation requests had urged that the U.S. Government not press its request for holding the exports during the consultation period, but no response was received. In one category i.e. 337, further release of the export consignments had been stopped at the U.S. end. The Indian delegation proposed that the provisional limit of 90 days be revoked immediately. They also proposed that the consignments visaed before the receipt of the consultation calls should not be counted against any restraint limits established on the basis of request for consultations.

6. The Indian delegation emphasised that the request for consultations should be accompanied by relevant, specific and factual information in terms of Annex A of the MFA read with para 7 & 8 of its Protocol of Extension as well as para 16 of the Indo-U.S. Bilateral Agreement in order to facilitate an objective assessment of a situation of market disruption or threat thereof. Such data and information must pertain to the period immediately preceding the request for consultations in order to be relevant.
The U.S. requests for consultations were not accompanied by such information. The Indian side had requested for such information and data specifically in their reply to the request for consultations (copies enclosed). However, no response was received.

7. The data provided at the time of making the consultation requests and during the consultations as referred to in para 10 was inadequate and not up-to-date. The latest data was provided only in respect of imports which was not sufficient to lead to any conclusion regarding market disruption or threat thereof. The production data was available only upto 1982. The data on exports from USA was sketchy and according to the U.S. side itself, unreliable. Data regarding employment category-wise was not available. It was not clear whether the limited data on prices was for comparable quality of products from different sources at comparable stage of commercial transactions. No information on turnover, market share, profits, productivity, investment, utilisation of capacity etc. in terms of Annex A was available.

3. The Indian side felt that in the absence of relevant, up-to-date and factual data and information, an objective and realistic assessment of the market situation in U.S. was not possible. It was the understanding of the Indian delegation that the U.S. apparel industry had participated and benefitted during the recovery phase of the U.S. economy. On the basis of available data, the Indian side felt that the existence of market disruption or threat thereof by imports from India was not established for any of the three categories under consultations. They, therefore, proposed that the U.S. side rescind the requests for consultations in respect of these three categories.
9. Finally, the Indian delegation stated that the Government of India reserves its rights and options under the MFA and its Protocol of Extension as well as Indo-U.S. Bilateral Agreement.

10. The U.S. delegation supplied the Government of India with data listed below concerning Categories 337, 350 and 359 part (coveralls, overalls, jumpsuits and similar apparel). The data was in addition to the Market Statements already supplied.

   (1) Major Shippers and TQ pages showing category by country imports for 5 years.
   (2) Import, Production and I/P sheets covering 10 years of data.
   (3) Data on employment in the U.S. textile and apparel industry over the past 10 years.
   (4) Imports compared to total U.S. consumption (where consumption equals imports plus production) for Categories 337, 350 and 359 part for five years.

   U.S. production data for 359 part covered only the years 1981 and 1982. 1983 production data was not available for any of these categories.

11. In response to the concerns expressed regarding application of the sequential steps of the consultation mechanism, the U.S. delegation reviewed each sub-paragraph of paragraph 16 in terms of U.S. interpretation. As part of this review, as specific to the categories in question, the U.S. did offer an initial proposal
for negotiated limits on the three called categories:

<table>
<thead>
<tr>
<th>Category</th>
<th>UMT</th>
<th>1984 SL Proposal</th>
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<tbody>
<tr>
<td>350</td>
<td>Doz.</td>
<td>16,500</td>
</tr>
<tr>
<td>337</td>
<td>Doz.</td>
<td>73,000</td>
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<tr>
<td>359 Part</td>
<td>Doz.</td>
<td>114,000</td>
</tr>
</tbody>
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TSUSA:
383.5035
379 6410

The U.S. side, in response to the Indian delegation's proposals for abolition of the Group II limit and the provision that goods visaed prior to a call be kept outside the restraint limit fixed, agreed to carefully study the matter.

12. The U.S. delegation agreed to review carefully the situation regarding the recent calls, pointing out that in absence of negotiated solutions on the calls, formula limits would be used.

Annexes: Request for consultations 359 Part, 337, 350
Responses to consultation requests.

(ANN BERRY)  
Leader of the U.S. Delegation

(N.K. SABHARWAL)  
Leader of the Indian Delegation

DONE IN WASHINGTON ON SATURDAY, MAY 12, 1984
The Embassy of India presents its compliments to the U.S. Department of State and, with reference to the request made through the US Embassy in New Delhi for consultations on category 359 Part, has the honour to state that the Government of India has noted the request of the Government of the United States for consultations in respect of category 359 Part under para 16 of the Agreement relating to trade in cotton, wool and man-made fibre textiles and textile products between the Government of India and the Government of United States of America.

On perusal of the data and information supplied by the U.S. Embassy in New Delhi, the Government of India is of the view that the information supplied does not fulfil the requirement of paragraph 16(B) of the Agreement and Annex 'A' of the Arrangement regarding international trade in textiles read with paras 7 and 8 of its protocol of extension. The Government of India would therefore request for the following additional information to be supplied in order to make an assessment whether any threat of market disruption is being caused by exports of products under category 359 Part from India to the United States market:

(a) Data regarding imports from India and other sources both restrained and non-restrained to the U.S. during the last six years. The data for the last two years may be on monthly basis.

(b) The levels at which other suppliers have been restrained for this category.

(c) Exports from the U.S., by TSUSA Number, globally and individually to different countries during the last six years.

(d) Information regarding domestic production of this category, by TSUSA Number during the last six years.

(e) Information regarding employment, investment, productivity, turnover, utilisation of capacity, profits in the U.S. domestic industry of this product category for the past six years.

(f) Information regarding number of production units in the U.S. along with their production pattern in terms of fibre use as well as product mix.

(g) Details regarding prices charged by other suppliers, by TSUSA Number, with a full list of suppliers. Information is also requested in regard to the basis of computation of the U.S. producers price on a comparable basis in terms of quality, stage of commercial transaction and time period.
The Embassy of India avails itself of this opportunity to renew to the U.S. Department of State the assurances of its highest consideration.

Copy forwarded for information to Shri NK Sabharwal, Joint Secretary (Textile), Ministry of Commerce, New Delhi with reference to his telex No. F. 2296-97 dated 4th August, 1984.

(L.S. ADHIKARI)
SECOND SECRETARY (COM)
Dear Dr. Freeman,

This is with reference to your letter dated December 10, 1984 regarding Categories 337, 350, 359-Pt. (coveralls, overalls and jumpsuits) and 359-Pt. (vests). It may be recalled that in the consultations held in Washington on May 9-11, 1984 on Categories 337, 350 and 359-Pt. (overalls, coveralls) the Indian side had, on the basis of the then available data, concluded that the existence of market disruption or real risk thereof by imports from India to the USA was not established for any of these three categories. The Government of India is disappointed that the Government of United States of America has decided to apply unilaterally specific limits for these categories for 1985. My Government is of the view that the decision to operate specific limits for these categories is not justified without proving market disruption or real risk thereof by imports from India on the basis of up-to-date relevant specific, factual market data on terms of the MFA and the Indo-U.S. Bilateral Textile Agreement. However, as suggested in the last para of your letter and without prejudice to the above mentioned position, my Government is willing to review the situation regarding these categories during the forthcoming consultations on category 334 etc. For this purpose, we would request that latest market data up to 1984, including imports and export to any from all sources, production, price, employment, capacity utilisation, turnover, profits etc. be supplied to us at the earliest.

In the case of Category 350-Pt. (cotton vests) no consultations have been held so far in terms of para 16 of the Indo-U.S. Bilateral Textile Agreement. In response to the Note dated July 31, 1984 from your Government requesting
consultations on Category 359-Pt. in TSUSA Numbers 379.0270, 379.0654, 379.3950, 379.5700, 379.5320, 333.0620, 333.4200 and 333.4320, my Government had requested for additional data and information vide letter No. Corl/1057/2/34 dated August 6, 1934 from the Embassy of India, Washington. We have still to receive the necessary informations requested. Since no consultations could take place in the absence of necessary data and information re. the U.S. Government, the unilateral imposition of specific limit for Category 359-Pt. (vsts) is not in conformity with the provisions of para 16 of the Indo-U.S. Textile Agreement. It may be further pointed out that whereas the initial request for consultations was for 8 TSUSA Numbers as mentioned above, the specific limit has been imposed in respect of 12 TSUSA Numbers. For TSUSA Numbers 379.0330, 379.5300, 333.0630 and 333.4300 not even a request for consultations was received. My Government would, therefore, urge that the specific limit on Category 359-Pt. (cotton vests) for 1965 be removed.

Yours sincerely,

Sd/-

( N K Sabharwal )

Dr. Constance J. Freeman,
First Secretary,
Embassy of the United States of America,
NEW DELHI.
Dear Dr. Freeman,

Please refer to your letter dated January 21, 1985 regarding consultations between representatives of the Government of the United States of America and the Government of India. We would propose that the delegations of the two sides meet in New Delhi in the week beginning 13th March, 1985 for 4-6 days to discuss various issues as mentioned in the proposed agenda annexed to this letter.

2. With regard to Category 339-Pt. (vests), I would like to draw the attention to letter No. CCM/105/2/34 dated December 19, 1984 from our Embassy in Washington to the Office of U.S. Trade Representative in which it has clearly been stated that the relevant information as requested in their earlier Note No. CCM/105/2/34 dated August 6, 1984 and not been supplied. No consultations were held regarding this category nor were any dates proposed by the U.S. authorities for such consultations. We are, therefore, unable to appreciate the U.S. stand that conditions of paragraph 16(b) and (c) of the India-U.S. Bilateral Textile Agreement have been met. My Government would, therefore, once again urge that specific limit on Category 339-Pt ( vests) for 1985 be withdrawn immediately. I shall be grateful for the views of your Government to enable us to decide on the future course of action.

3. As regards consultations on categories 334, 337, 350 and 359-Pt. (overalls, coveralls), it is requested that the latest market data as indicated in our previous communications No.: 1/26/84-22(TswJ)I dated 6th November, 1984 and No. 1/26/84-Tsw-I dated 29th December, 1984 may please be supplied to us before the consultations. This information may also include all relevant data for 1984.

4. As regards categories 310 and 313, Cotton Gingham and other Yarn-Dyed Fabrics respectively, I would draw your attention to our Note No. 1/4/85-22(TswJ)I dated 2.2.1985.

5. In order to facilitate consultations on items relating to data reconciliation and administration of the Bilateral Agreement, we would request that visa-wise details of imports from India booked in various categories be supplied to us at the earliest along with consignment-wise details of imports.

Contd...2/-
provisionally debited against 1965 levels. On classification matters, we hope to supply a list of specific cases before the consultations.

I shall be grateful for an early response to our proposals as indicated above.

Yours sincerely,

Sd/-

( M K Sabharwal )

Dr. Constance J. Freeman,
First Secretary,
Embassy of the United States of America,
NEW DELHI.