

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

Spec(85)42/Rev.1
16 October 1985

DRAFT REPORT OF THE WORKING PARTY ON TEXTILES AND CLOTHING

Revision

I. Background

1. During the session of the CONTRACTING PARTIES at ministerial level, held in November 1982, the CONTRACTING PARTIES decided: (a) to carry out on a priority basis a study on textiles and clothing; (b) to examine expeditiously, taking into account the results of such a study, modalities of further trade liberalization in textiles and clothing including the possibilities for bringing about the full application of GATT provisions to this sector of trade; and (c) that this work should be completed for their consideration at the 1984 session (BISD 29S/20).

2. Pursuant to these decisions, a background study entitled "Textiles and Clothing in the World Economy" was prepared by the Secretariat and circulated in May 1984 (Spec(84)24 and addenda).

3. At its meeting on 15-16 May 1984, the Council agreed to set up a Working Party on Textiles and Clothing with terms of reference as contained in document C/W/440 (annexed). Membership in the Working Party was open to all contracting parties. Governments which were not contracting parties but were parties to the MFA might participate fully as observers.

4. Mr. M.G. Mathur, Deputy Director-General, was designated Chairman of the Working Party.

II. Meetings and documentation

5. The Working Party has held twelve meetings. The first meeting, held in June 1984, considered the organization of work and also heard some views on the Secretariat's background study. It was noted that it was open to delegations to submit any relevant information or documentation that would be of assistance to the Working Party in carrying out the work entrusted to it. During the second meeting held in July 1984, the Working Party agreed to begin the examination envisaged in the terms of reference by looking at the possibilities for bringing about the full application of GATT provisions to trade in textiles and clothing. It also asked its Chairman to invite interested participants to submit modalities for liberalization and the ways they might be examined for consideration by the Working Party (Spec(84)45). In response to the Chairman's invitation, some contributions were received from delegations and they were circulated in documents MDF/W/6, MDF/W/7, MDF/W/11 and MDF/W/15.

6. During the third meeting held in September 1984, broad options were considered and, in pursuance of its agreement reached during the second meeting, the Working Party began its examination of the option of "full application of GATT provisions involving a movement towards liberalization" (Option A). The Chairman concluded that other options would have to be

examined, and two of these options were: "full application of GATT provisions as envisaged in Option A, combined with liberalization of trade measures irrespective of their GATT conformity" (Option B); and "liberalization under existing frameworks" (Option C).

7. The Working Party requested the Secretariat to prepare, with the help of delegations, notes that would facilitate examination of the three options, indicating the kinds of questions that would arise and what they would involve. These were circulated in documents MDF/W/13, MDF/W/24 and MDF/W/32 respectively. The Secretariat was also asked to put together a technical note indicating the information available with respect to tariff and non-tariff measures affecting trade in textiles and clothing, and a document which would describe in greater detail the relevant GATT provisions that would have to be taken into account in considering Option A. These were accordingly prepared and circulated in documents MDF/W/12 and MDF/W/22.

8. At its fifth meeting held in October 1984, the Working Party considered its report to the Council (L/5709). It noted that it was unable to complete its work in time for consideration by the CONTRACTING PARTIES at their 1984 session and asked the Council to consider an extension of the mandate of the Working Party. The CONTRACTING PARTIES in November 1984, adopted the Working Party's report and agreed to extend its mandate for such further period as would permit it to make a more complete report to the Council and the CONTRACTING PARTIES (L/5760/Rev.1).

9. Following this decision, the Working Party continued its examination of the three broad options for trade liberalization as listed in paragraph 6 above from February to October 1985.

III. Objective of the exercise and approaches to trade liberalization

10. It was stressed from the outset that the objective of the exercise was to examine modalities for further trade liberalization in textiles and clothing, including the possibilities for bringing about the full application of GATT provisions to this sector, as a positive process that should lead to an improvement in the existing system governing this trade. Some participants maintained that the Working Party was considering measures that would lead to an expansion of trade in textiles and clothing and not simply a change or improvement in the rules under which this trade was conducted. Others did not make this distinction, and stated that improvements in the rules would certainly improve market access.

11. There were differences of views as to whether the Working Party could go beyond an examination of modalities for trade liberalization to secure agreed commitments. Some participants stated that the exercise should result in agreed commitments on further liberalization of trade in textiles and clothing, while others maintained that the basic task of the Working Party was to examine modalities for trade liberalization without seeking to identify or negotiate any agreed solution. There was also no consensus on the question of "contributions" towards liberalization. Some participants advocated that progress towards further trade liberalization was a

responsibility shared by all participants, and that liberalizing actions should be made on the basis of possibilities facing each participant. Others stated that only those participants who were maintaining restrictions that were not justified in terms of GATT provisions had the responsibility for taking liberalizing measures and that the responsibility for liberalization did not fall on those who were already suffering from the application of discriminatory restrictions.

12. Option A relates to the full application of GATT provisions to textiles and clothing trade, with a movement towards liberalization. Some participants stated that this option was both an objective in itself and a modality for liberalization. After twenty-four years of discriminatory quantitative restrictions in the form of the MFA and its predecessors, there should be a return to GATT rules which, if applied properly, should bring about liberalization. The proper application of GATT rules with a movement towards liberalization would have to be guided by the principles and objectives of equal treatment and non-discrimination, elimination or reduction of protectionist measures in various forms, and special and differential treatment for developing countries. Others observed that a return to GATT rules might not automatically lead to liberalization, because if all GATT articles relating to the use of restrictions were fully applied, the net result could be one in which trade was more restricted than at present. In the absence of the MFA, there would be a strong possibility that restrictive measures under GATT cover, including Article XIX, would be applied, and there could also be increased use of grey-area measures. These

actions, it was stated, might lead to a less transparent régime and a deterioration of security in trade which was an important element for both exporting and importing countries.

13. It was stated that a gradual implementation of any process of liberalization would ease the process of structural adjustment. A number of elements of a transition period leading to the full application of GATT provisions were discussed. Some participants stated that the consideration of a transition period should take into account factors such as the development of trade in textiles and clothing, changes in technology and production capacity, demand and supply, and the evolution of the world economy as a whole. Specific techniques to start the process of dismantling existing restrictions were suggested. These included the removal of consistently under-utilized quotas, enlargement of quotas, and the possibility of certain sub-sectors moving faster than others towards liberalization. It was also emphasized that a phase-out programme would have to be credible.

14. Option B includes the full application of GATT provisions as envisaged in Option A, combined with liberalization of trade measures irrespective of their GATT conformity. Some participants maintained that Option B offered a wider scope for liberalization since this option, unlike Option A, was not confined to liberalization of measures without GATT cover. Under this option, possibilities could be pursued for the lowering and binding of tariffs as well as for liberalization of restrictions and non-tariff measures even if they were consistent with GATT provisions. It therefore

encouraged contributions from all participants in a common effort towards freer trade in textiles and clothing. Others stated that this was not a valid option on the grounds that restrictive measures with GATT cover could not be linked to those without such cover. Matters such as tariffs, quantitative restrictions or subsidies were being dealt with on an across-the-board basis in GATT and it was inappropriate to treat these issues separately in relation to textiles and clothing. They also stated that legal measures could not be liberalized when the elimination of illegal ones presented such great difficulties.

15. There was a difference of opinion in the interpretation of the coverage of Option C, entitled "liberalization under existing frameworks". Some participants considered this option as relating to both the liberalization of the MFA and to measures other than those maintained under the MFA. Participants from developing countries and some others saw this option as relating only to the MFA, because the liberalization of the MFA could not be linked to a commitment to liberalization of other measures.

16. Liberalization of the MFA was considered by some participants as a process leading to the full application of GATT rules governing trade in textiles and clothing. In this view, Option C did not envisage the perpetuation of the MFA but was a means by which the progressive elimination of the MFA could be achieved. It could, in effect, result in a gradual,

automatic and irreversible phasing-out of restrictions, at the end of which there would be no need to renew the instrument, and textiles and clothing trade would be governed by the normal GATT rules. They expressed the view that any meaningful liberalization of trade in this sector under Option C should include, inter alia, the elimination of existing discrimination between the restrained and non-restrained sources among the members of the MFA. Some other participants believed that liberalization could be achieved by various modalities such as modifying or re-writing the text of the MFA which would lead to bilateral agreements being concluded on more liberal terms. This might or might not lead to a return to GATT rules. Besides, Option C also referred to liberalization of measures other than those maintained under the MFA. Consideration should also be given to the liberalization of these measures. Furthermore, synchronization of progress in the removal of these restrictions and the degree of liberalization by all parties would be important elements when the phasing-out of the MFA was considered.

17. Various suggestions for possible liberalization under the MFA framework were made by participants. These included possible improvements in such areas as Articles 3 and 4, the relationship between lines of production and product categorization for the application of restraints, the application of Article 6 and of Annexes A and B, and provisions relating to equity, minimum viable production and outward processing. Other matters such as different treatment for textiles and clothing sectors, quota utilization and the

possibility of transforming quotas into tariffs were also discussed. It was also stated that a straight extension of the MFA without the restrictive provisions contained in the 1981 Protocol and a faithful implementation of the provisions of the Arrangement would represent some movement towards liberalization relative to the existing situation. Suggestions were also made for possible liberalization of restraints maintained under frameworks other than the MFA by other participants. These covered such areas as tariffs, non-tariff barriers and administrative arrangements.

IV Conclusions

18. The Working Party has noted that there may be scope for a fuller examination of certain issues, such as the practical steps which would be involved in the implementation of various options; the possible combination of various options; and the consequences for economic and trade prospects including the impact on investment in importing and exporting countries, of a phasing-out of restrictions on the basis of the provisions of the General Agreement, or of the continued maintenance of restrictions under the existing régimes, principally the MFA. Nevertheless, the Working Party considered that it has, in terms of its mandate, helped to focus attention on a number of elements and instrumentalities involved in a movement towards further trade liberalization in textiles and clothing, including the possibilities for bringing about the full application of GATT provisions to this sector.

19. The Working Party has not been able to reach any common view on the modalities or techniques to achieve further trade liberalization in textiles and clothing. At the same time, all members of the Working Party recognize the importance of the issue of textiles and clothing in international trade and its relevance to the broader objective of trade liberalization and the strengthening of the GATT system, and there is broad recognition that GATT provisions should also ultimately apply to international trade in textiles and clothing, though in the view of some participants certain conditions would need to be met.

20. The Working Party believes that there is need to continue consideration of how the treatment of textiles and clothing can be improved consistent with GATT objectives and with the Ministerial Declaration of 1982, in pursuance of which this Working Party has been established.

ANNEX

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

C/W/440

15 May 1984

Limited Distribution

COUNCIL
15-16 May 1984
Item 5(c)

TRADE IN TEXTILES AND CLOTHING

Secretariat Study on "Textiles and Clothing in the World Economy"¹

Draft terms of reference for a working party

Following his informal consultations with a number of contracting parties, the Chairman of the Council has requested that the following text be circulated in connection with the consideration of Item 5(c) of the regular meeting of the Council on 15-16 May.

"In pursuance of the decision taken by the CONTRACTING PARTIES at their Ministerial level meeting of November 1982 (BISD 29S/20) and recalling contracting parties' undertaking, individually and jointly, to examine ways and means of, and to pursue measures aimed at, liberalizing trade in textiles and clothing, including the eventual application of the General Agreement, the Council agrees to set up a Working Party on Textiles and Clothing with the following terms of reference and membership.

Terms of Reference:

'To examine modalities of further trade liberalization in textiles and clothing including the possibilities for bringing about the full application of GATT provisions to this sector. For this purpose, the Working Party will take into account the background study produced by the GATT secretariat and circulated in documents Spec(84)24 and Addenda and any conclusions that it can draw with respect to the matters covered under Paragraph 1 of the Decision on textiles and clothing taken by the CONTRACTING PARTIES at their November 1982 meeting.

'The Working Party should complete its work and present its conclusions to the Council in time for the Council to submit the matter for consideration by the CONTRACTING PARTIES at their Session in November 1984.'

Membership:

The Working Party will be open to all contracting parties. Taking into account the interests of governments which are not contracting parties but are parties to the MFA, those governments may participate fully in the work of the Working Party as observers. International organizations which are observers at meetings of the Council and which desire to be represented as observers at the Working Party may also attend its meetings."

¹ Circulated in document Spec(84)24 and Addenda