

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

TEX/SB/1057*

21 November 1984

Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 11:5

Rules of Origin as applied under the Hong Kong/United States Agreement

Note by the Chairman

The attached notification from Hong Kong under Article 11:5 concerns the rules of origin as applied to Category 445/446 exported under the Hong Kong/United States agreement.

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

* English only/Anglais seulement/Inglés solamente

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UNITED KINGDOM MISSION
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Ambassador M. Raffaelli
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Textiles Surveillance Body
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For	Action	Comments
OPER. DEPT. A		
Non Tar. M. Div.		
Development Div.		
Tech. Coop. Div.		
Trade Pol. Div.		
Spec. Proj. Div.		
OPER. DEPT. B		
Econ. R/Anal. Unit		
Agriculture Div.		
Tariff Div.		
Tech. Bar. T. Div.		
Ext. Rel. Div.		
SEPT. Comm. R/Anal.		
Adm. / Fin. Div.		
Trans. / Doc. Div.		
Training Div.		
Personnel Off.		
Conference Off.		

15 November 1984

Sir,

I have the honour to refer to Article 11.5 of the Arrangement Regarding International Trade in Textiles (MFA), as extended by the Protocol adopted on 22 December 1981, and the Bilateral Textiles Agreement between the Governments of Hong Kong and the United States dated 23 June 1982; and to request, on behalf of the Government of Hong Kong, the Textiles Surveillance Body urgently to review certain measures and arrangements introduced by the USA which are detrimental to Hong Kong's interests and on which bilateral consultations have failed to produce a satisfactory solution.

2. Paragraph 4 (copy attached) of the Hong Kong/United States Textiles Agreement (the Agreement) charges the Hong Kong Government with the responsibility to limit annual exports from Hong Kong of cotton, wool, and man-made fiber textiles and textile products of Hong Kong origin to the United States of America in accordance with appropriate limits for the various categories subject to restraint under the Agreement. The administration of this responsibility is further provided for by a visa system under paragraph 12 and Annex D of the Agreement (copies attached) whereby, inter alia, each shipment of textiles and textile apparel products under the terms of the Agreement produced or manufactured in Hong Kong and exported to the United States of America shall be accompanied by an export visa issued by the Government of Hong Kong. Furthermore, such export visas shall be signed copies of Hong Kong export licences with a stamp on the front, reading "Approved for export to the USA", signed by an authorized official of the Government of Hong Kong.

3. In order faithfully to carry out these responsibilities the Government of Hong Kong has developed and published rules which set out the manufacturing processes which must be performed in Hong Kong in order that any textiles product may be considered of Hong Kong origin for the purposes of the Agreement. These

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rules have been developed in accordance with the international criterion of "substantial transformation" and have not been the subject of complaint by the US.

4. During October 1984, certain shipments of sweaters were made from Hong Kong, properly licensed in accordance with the above arrangements. They were denied entry into the United States on the grounds that they were of China origin and they required China quota. Details are attached.

5. On 29 and 31 October, consultations were held in Washington between the United States and Hong Kong. Hong Kong then formally requested that the shipments be permitted to enter the United States. The request was denied because, under new US import regulations published on 3 August, the goods in question were considered by US Customs not to be of Hong Kong origin.

6. The shipments were of goods which in the first two years of the current Agreement, namely 1982 and 1983, would have been regarded as of Hong Kong origin under the rules existing both in the US and in Hong Kong since prior to the negotiation of the Agreement. The US confirmed during the consultations that the same shipments made before the new regulations came into effect would have been permitted entry into the US under the Agreement, as Hong Kong goods under Hong Kong quota.

7. It is thus clear that the new regulations, which were introduced without consultation with Hong Kong and without Hong Kong's agreement, have unilaterally amended the Agreement by altering the coverage of the relevant sweater category. It should be borne in mind that in paragraph 1(a) of the Agreement (copy attached) the USA specifically recognizes the importance to Hong Kong of stability in the textile trade and the need to ensure that stability and certainty throughout the six-year life of the Agreement. And that the Agreement is concluded under Article 4 of the MFA "on mutually acceptable terms".

8. It will be seen that the Government of Hong Kong considers the US action as regards these shipments 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 and to make appropriate recommendations.


9. To assist the Textiles Surveillance Body in its

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consideration, the Government of Hong Kong is preparing to send representatives to appear before the Body to elaborate on Hong Kong's position.

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

Accept, Sir, the assurance of my highest consideration.



(M.D. Cartland)
Counsellor
Hong Kong Affairs

Paragraphs 1(a), 4, 12 and Annex D of
the Hong Kong/United States Textiles Agreement

1. (a) The term of the Agreement shall be from January 1, 1982 through December 31, 1987, except as provided in paragraph 16. The duration has been agreed in recognition by the Government of the United States of America of the importance to Hong Kong of stability in the textile trade and the need to ensure that stability and certainty throughout the 6-year life of the bilateral agreement.

4. During the term of the Agreement, the Government of Hong Kong shall limit annual exports from Hong Kong of cotton, wool, and man-made fiber textiles and textile products of Hong Kong origin to the United States of America, to the Specified Limits and Sub-Limits set forth in Annex A hereto, as such limits may be adjusted in accordance with paragraphs 5 and 6. The limits set out in Annex A are without such adjustments. All textiles and textile products in Categories not subject to Specified Limits may be exported from Hong Kong to the United States of America only in accordance with paragraph 7. Shipments valued at U.S. 250 dollars or less which are exported from

12. A visa system, in the form attached as Annex D, shall apply to facilitate implementation of this Agreement.

Annex D

1. Each shipment of textile apparel products under the terms of the Agreement produced or manufactured in Hong Kong and exported to the United States of America shall be accompanied by an export visa issued by the Government of Hong Kong. The export visa shall be a signed copy of a Hong Kong export licence with a stamp on the front, reading "Approved for export to the USA," signed by an authorised official of the Government of Hong Kong. The Category or Categories and quantities in the shipment shall be correctly indicated on the visa. Visas covering shipments of products classified in merged Categories with Sub-categories shall cite the quantity or quantities and Sub-category or Sub-categories in which the goods are classified. Visas covering shipments for products classified in Categories which have been merged without Sub-categories shall cite all of the categories comprising the merged Category. Where a shipment is valued at 250 dollars (U.S. dollars) or less, the visas need not indicate the Category or Categories but shall indicate 'at 250 dollars or less'.

2. The names and facsimile signatures of the officials authorised to issue and sign textile export visas shall be supplied by the Government of Hong Kong. The Government of Hong Kong shall notify the Government of the United States of America of any changes of authorised officials and shall provide facsimiles of newly authorized officials' signatures. A limited number of officials shall be authorized to issue visas.

3. The Government of the United States of America shall publish in the Federal Register the visa system as described herein, upon receipt of a sample copy of the visa and authorized signatures.

4. Textile apparel products produced or manufactured in Hong Kong included under the terms of the Agreement and exported to the United States of America which are not accompanied by a valid and correct visa in accordance with this Annex shall be denied entry by the Government of the United States of America. However, where the quantity indicated on the visa is above that of the shipment, entry may be permitted.

5. The Government of the United States of America and the Government of Hong Kong shall take all appropriate steps to ensure compliance with this visa arrangement and the Agreement.

Appendix

Summary of held-up shipments

Shipment A

Product: Ladies' 68% lambawool 22% angora 10% nylon knitted sweaters,
7-gauge

Quantity: 5 dozens

Export Licence Number: 4HK924879

Category: 445/446

Date of export: 10 October 1984 (by airfreight)

Port of Customs Clearance: New York, JFK Airport

Manufacturing details: Raw material (yarn) of China origin; panels
knitted in China; linking, looping and
complete making-up performed in Hong Kong

Reasons given by US Customs for the hold-up: The goods are of Chinese origin and require
Chinese quota and visa

Shipments B and C

Product: Shipment B - Ladies' Shetland 100% wool knitted sweaters,
5-gauge

Shipment C - Ladies' Shetland 100% wool knitted cardigans,
5-gauge

Quantity: Shipment B - 15 dozens

Shipment C - 10 dozens

Export Licences numbers: Shipment B - 4HK924900

Shipment C - 4HK924901

Category: 445/446

Date of export: 11 October 1984 (by airfreight)

Port of Customs Clearance: New York, JFK Airport

Manufacturing details: Raw material (yarn) of Hong Kong origin;
panels knitted in China; linking, looping
and complete marking-up performed in Hong Kong

Reasons given by US Customs for the hold-up: The goods are of Chinese origin and require
Chinese quota and visa

(Note: Shipments B and C were exported by the same Hong Kong exporter
to the same United States importer.)