

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

CONFIDENTIAL
TEX.SB/3052*
25 November 1994

Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 4:4

**Amendment and Extension of the Bilateral Agreement
between the United States and Costa Rica**

Note by the Chairman

Attached is a notification received from the United States of an amendment and extension of its agreement with Costa Rica for the period 1 January 1994 to 31 December 1995.¹

¹The agreement is contained in COM.TEX/SB/1779.

*English only/Anglais seulement/Inglés solamente



UNITED STATES TRADE REPRESENTATIVE

**1-3 AVENUE DE LA PAIX
1202 GENEVA, SWITZERLAND**

November 21, 1994

The Honorable
Ambassador Marcelo Raffaelli
Chairman, Textile Surveillance Body
General Agreement on Tariffs and Trade
Rue de Lausanne
1211 Geneva

Dear Ambassador Raffaelli:

Pursuant to the provisions of paragraph 4 of Article 4 of the Arrangement Regarding International Trade in Textiles, I am instructed by my government to inform the Textile Surveillance Body of a bilateral textile agreement between the Government of the United States and the Government of Costa Rica.

A copy of the note affecting this agreement is enclosed.

Sincerely,


William Dagliani
Attache

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 31

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Costa Rica and has the honor to refer to the Arrangement Regarding International Trade in Textiles, with annexes, done at Geneva on December 20, 1973, and extended by protocols adopted respectively on December 14, 1977, December 22, 1981, July 31, 1986 and July 31, 1991, at Geneva (hereinafter referred to as "the Arrangement"). The Embassy also refers to the Agreement on Textiles between the United States Government and the Government of Costa Rica signed on March 20, 1992 in Washington, D.C. (the "Agreement"). The Embassy has the further honor to refer to discussions held on March 25, and October 18 - 19, 1993 in Washington, D.C., on July 19 - 20, and October 19 - 20, 1993 in Washington, D.C., on December 11, 1993 in Geneva, Switzerland, and on December 23, 1993 in San Jose, Costa Rica between representatives of the governments of Costa Rica and of the United States of America concerning bilateral textile and apparel exports from Costa Rica to the United States. As a result of these discussions, and in accordance with the provision of the Memorandum of Understanding signed on December 23, 1993 calling for an exchange of letters incorporating its terms, and under article 4 of the Arrangement, the Embassy of the United States of America has the honor to propose, on behalf of the Government of the United States, the Agreement Relating to Trade in Cotton, Wool and Man-made Fiber Textiles and Textile

Products between the Government of Costa Rica and the Government of the United States of America be amended and extended as follows.

BILATERAL TEXTILE AGREEMENT
BETWEEN THE UNITED STATES
AND COSTA RICA

The Government of the United States and the Government of Costa Rica, noting the Arrangement Regarding International Trade in Textiles (hereinafter referred to as the Arrangement with annexes, done at Geneva on December 20, 1973, as extended);

Noting discussions between representatives of the Government of Costa Rica and the Government of the United States of America in San Jose, and subsequent discussions in Washington D.C. and in Geneva, Switzerland concerning exports of cotton, wool, and man-made fiber textile products of Costa Rica exported to the United States;

Have agreed as follows:

AGREEMENT TERM

1. The term of this agreement will be the period from January 1, 1992 to December 31, 1995. Each "agreement period" or "agreement year" shall be a twelve-month period from January first of a given year to December thirty-first of the same year for the categories 340/640, 342/642, 347/348, 443, 447 and for such other categories

and limits as may come under this agreement as a result of subsequent amendment. Exports are subject to limits or levels for the year in which exported.

COVERAGE OF AGREEMENT AND CLASSIFICATION BY FIBER

2. The textiles and textile products covered by this agreement are those summarized in paragraph 3 (D), as subject to amendments. The system of categories and the rates of conversion into Square Meter Equivalents (SME) listed in paragraph 3 (D), as subject to amendment, shall apply in implementing this agreement.

3. (A) Tops, yarns, piece goods, made-up articles, garments, and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibers, silk blends, non-cotton vegetable fibers or blends thereof, in which any or all of these fibers, in combination represent the chief weight of the product, are subject to this agreement. Components of an article which are not considered relevant to the classification under the general rules of interpretation or the legal notes to Section XI of the Harmonized System are likewise to be disregarded here.

(B) For the purposes of this agreement, textile products covered by sub-paragraph (A) above shall be classified as:

(i) man-made fiber textiles, if the product is in chief weight of man-made fibers, unless:

(a) the product is knitted or crocheted apparel in which wool equals or exceeds 23 percent by weight of all fibers, in which case the product will be a wool textile; or

(b) the product is apparel, not knitted or crocheted, in which wool equals or exceeds 36 percent by weight of all fibers; in which case the product will be a wool textile;

(c) the product is a woven fabric in which wool equals or exceeds 36 percent by weight of all fibers, in which case the product will be a wool textile.

(ii) cotton textiles, if not covered by (i) and if the product is in chief weight of cotton, unless the product is a woven fabric in which wool equals or exceeds 36 percent by weight of all fibers, in which case the product will be a wool textile.

(iii) wool textiles, if neither of the foregoing applies, and the product is in chief weight of wool.

(C) Coverage under this paragraph is intended to be identical with the terms of Article 12 of the Arrangement and in conformance with paragraph 24 of the July 31, 1986

Protocol of Extension. In the event of a question regarding whether a product is covered by this agreement by virtue of being chief weight of cotton, wool, or man-made fiber, the chief value of the fibers may be considered.

(D) For the purposes of this agreement, the following categories, as defined below, are covered by this agreement. If both countries agree to put new categories under quota, both parties shall amend relevant paragraphs of the agreement and the visa arrangement as necessary to include additional categories.

Category	Categories
Agreement	Merged Description Conversion
Factor	Designation

340 men's & boys' cotton shirts, not knit

340/640 20.1

342 cotton skirts

342/642 14.9

347 men's and boys' cotton trousers/slacks/shorts

347/348 14.9

348 women's and girls' cotton trousers/slacks/shorts

347/348 14.9

443 men's and boys' wool suits

n/a 3.76

447 men's and boys' wool slacks

n/a 15

640 men's and boys' mmf shirts, not knit

340/640 20.1

642 mmf skirts

342/642 14.9

PROTECTION OF RIGHTS

4. Introduction of changes (such as changes in practices, rules, procedures, categorization of textile products, including those changes relating to the Harmonized System) in the implementation or interpretation of this Bilateral Textile Agreement, which have the effect of upsetting the balance of rights and obligations between the parties concerned, or which affect the economic content of this bilateral agreement, or which affect the ability of a party to use or benefit fully from this bilateral agreement, or which disrupt trade, shall be avoided as far as possible. Where such changes are necessary, parties agree that the party initiating any such changes shall, wherever possible,

inform and initiate consultation with the affected party prior to the time that such changes may affect the trade in question, with a view to reaching a mutually acceptable solution regarding appropriate and equitable adjustments. Parties further agree that where consultation prior to the implementation of any such changes is not feasible, the party initiating such changes will consult, as early as possible, with the affected party with a view to reaching a mutually satisfactory solution regarding appropriate and equitable adjustments. Any disruption under this provision may be referred to the TSB, or other appropriate successor monitoring body, for recommendation.

GUARANTEED ACCESS LEVELS (GALS)

5. The products and categories listed as Guaranteed Access Levels in Annex B are those which the Government of Costa Rica intends to export to the United States under the Caribbean Basin Textile Special Access Program. These products, which will be:

- assembled in Costa Rica of United States-formed fabric, cut in the United States for re-export to the United States under contracts governed by HTSUSA 9802.00.8015 or
- assembled in Costa Rica of United States-formed fabrics, cut in the United States and then subject to bleaching, acid washing, stonewashing, garment dyeing, or permapressing in Costa Rica following

assembly, for re-export to the United States under contracts governed by the Statistical Headnote under Chapters 61 and 62 of the Harmonized Tariff Schedule of the United States Annotated, as implemented by the Government of the United States requiring the use of the statistical prefix "H" are subject to the annual Guaranteed Access Levels (GALS) specified in Annex B.

(A) If the Government of Costa Rica wishes to apply for a new Guaranteed Access Level (GAL) or to export textile products to the United States under the Caribbean Basin Special Access Program in excess of the existing Guaranteed Access Level, the Government of Costa Rica shall submit a request for a new or increased levels. The Government of the United States shall consider such requests sympathetically and respond promptly within 30 U.S. working days of the receipt by the Government of the United States in Washington of the initial request. Among other factors, the Government of the United States will take into consideration export performance, current levels of exports, unused production capacity, expected new investment, and the potential for market disruption, taking into account the United States content of the product.

(B) If the Government of the United States fails to reply within 30 U.S. working days, the request of the Government of Costa Rica becomes the new Guaranteed Access Level. If the Government of the

United States is unable to comply fully with the request due to problems of market disruption, as described in Annex A of the Arrangement, or the real risk thereof, in a category or product subject to such request, the Government of the United States will so inform the Government of Costa Rica within 30 U.S. working days. In this case, until a mutually satisfactory change in the GAL in question is established, shipments shall not exceed the existing GAL. The United States response will be supported by data which form the basis of the position it has taken. Either government may request consultations to discuss such request for increases in GALS.

SPECIFIC LIMITS

6. The categories and products in Annex A are those which the Government of Costa Rica intends to export to the United States which are not eligible for the Caribbean Basin Special Trade Access Program and are subject to specific limits.

FLEXIBILITY ADJUSTMENTS

7. (A) (i) The specific limits set out in Annex A do not include any adjustments permitted under paragraph 7.

(ii) During any agreement period, the specific limits set out in Annex A may be increased by not more than seven percent swing, except for category 347/348 which may receive 7.5 percent swing, provided that a corresponding reduction in Square Meter Equivalents is made in one or more other specific limits during the same agreement period. Swing, if available, is additional to other available carryover and/or carryforward.

(iii) No specific limits may be decreased pursuant to paragraph 7 (A) (ii) to a level which is below the level of exports charged against that category's limit for that agreement period.

(iv) The Government of Costa Rica shall indicate to the Government of the United States the specific limits it would like increased and those which it would like decreased by commensurate quantities in Square Meter Equivalents.

- (B) (i) The extent to which any specific limit set out in Annex A may be exceeded in any agreement period by carryforward (borrowing a portion of the corresponding specific limit from the succeeding agreement period) and/or carryover (the use of unused meterage (shortfall) of the corresponding specific limit for the previous agreement period)

is eleven percent, of which carryforward shall not constitute more than six percent.

(ii) No carryover shall be available for application in the first agreement period. No carryforward shall be available for application in the final agreement period.

(iii) In the 1992 agreement period only, category 347/348 will be eligible for up to 33,730 dozen carryover from the previous agreement period.

(C) For the purposes of the Agreement, a shortfall occurs when exports of textiles or textile products of Costa Rica to the United States during any agreement period are below any specific limit as set out in Annex A (or, in the case of any limit decreased pursuant to paragraph 7, when such exports are below the limit as decreased).

(D) The Government of Costa Rica will notify the Government of the United States when it wishes to use unused meterage (shortfall) available in categories for carryover or for use by other categories for carryforward, subject to the provisions set out above. To the extent that such adjustments are actually utilized, they will be implemented by means of carryover and carryforward, in that order. Any unused carryforward will be re-credited to the following period's limit. This procedure will not prejudice the outcome of any consultations that may be held

between our governments concerning the amounts of available carryover and carryforward.

OTHER CATEGORIES

8. Categories and products not listed in Annex A or in Annex B (Guaranteed Access Levels) as subject to amendment of this agreement, are free of all restrictions at this time; however, the Government of the United States and the Government of Costa Rica reserve their rights in accordance with paragraph 21 of this agreement.

OVERSHIPMENT CHARGES

9. (A) Products of Costa Rica shipped in excess of authorized limits in any agreement period may be denied entry into the United States. Any such shipments denied entry may be permitted entry into the United States and charged to the applicable limit in the succeeding agreement period.

(B) Products of Costa Rica shipped in excess of applicable limits in any agreement period will, if allowed entry into the United States during that agreement period, be charged to the applicable limit in the succeeding agreement period.

(C) Any action taken pursuant to sub-paragraph 9 (A) and 9 (B) above, will not prejudice the rights of the other side regarding consultations.

(D) The United States Government will notify the Government of Costa Rica when the quota fill rate reaches 95 percent. If the Government of Costa Rica finds that there is a data discrepancy between the United States Government data and the Government of Costa Rica export data, the Government of Costa Rica will request consultations. The United States Government agrees to consult as promptly as possible to resolve any data errors. When the merchandise entered against the quota reaches a level where the quota can be filled, the United State Government agrees to offer an additional two working days before finalizing the closure of the category.

SPACING PROVISIONS

10. The Government of Costa Rica shall use its best efforts to space exports of its products to the United States within each category, sub-category, or part category evenly throughout each agreement period, taking into consideration normal seasonal factors.

IMPLEMENTATION

OF THE LIMITATION PROVISIONS

11. The Government of Costa Rica shall administer its Export Control System under the agreement. The Government of the United States will control by the date

of export, imports of textile products covered by this agreement.

CORRECT CATEGORY/QUANTITY VISA SYSTEM

12. (A) The provisions of the visa arrangement will govern the licensing and/or certification of exports of all textile and apparel products from Costa Rica to the United States which are subject to this agreement. Visas issued for a particular agreement year shall be valid only for apparel products exported during that agreement year.

(B) The parties recognize that under the agreement the purchase of textile products to be delivered subject to the restrictions under the agreement implies that the delivery of goods will be accompanied by a visa.

COMMERCIAL SAMPLES AND PERSONAL SHIPMENTS

13. (A) Properly marked commercial sample shipments, valued at U.S. \$250 or less, and items for the personal use of the importer and not for resale regardless of value, need not be accompanied by an export visa and shall not be subject to the limits established under this agreement.

EXCHANGE OF INFORMATION

14. Subject to domestic laws, at the request of the other government, each government agrees to supply any information within its possession reasonably believed to be necessary for the enforcement of this agreement.

EXCHANGE OF DATA

15. (A) The Government of the United States shall promptly supply the Government of Costa Rica with data on monthly imports of cotton, man-made fiber, wool, silk blend and non-cotton vegetable fiber textiles and textile products of Costa Rica into the United States.

(B) The Government of Costa Rica shall promptly supply the Government of the United States with data on monthly exports of cotton, man-made fiber, wool, silk blend and non-cotton vegetable fiber textiles and textile products of Costa Rica to the United States.

(C) The U.S. Government and the Government of Costa Rica agree to exchange namesake data via computer diskette as agreed in a subsequent technical letter.

(D) Any discrepancy noted by one party between import and export data shall be notified to the

other party. Both parties agree that when such discrepancies are so notified they will hold consultations as promptly as possible to resolve such discrepancies.

COOPERATION IN THE PREVENTION

OF CIRCUMVENTION AND FRAUD

16. (A) The Government of the United States and the Government of Costa Rica agree to take measures necessary to address, to investigate and, where appropriate, to take legal and/or administrative action to prevent circumvention of this agreement by transshipment, rerouting, false declaration concerning country of origin, falsification of official documents or any other means.

(B) Both parties agree to cooperate fully, consistent with their domestic laws and procedures, in instances of circumvention or alleged circumvention of the agreement to address problems arising from circumvention and to establish the relevant facts in the places of import, export and, where applicable, transshipment. Such cooperation, to the extent consistent with domestic laws and procedures, will include investigation of circumvention practices; exchange of documents, including the ITA 370-P forms or successor document, correspondence, reports and other relevant information to the extent available; and facilitation of

impromptu plant visits and contacts by representatives of either party, upon request and on a case-by-case basis.

Where the enforcement officials of either party plan to travel to the territory of the other party to pay visits to certain textile or apparel plants, they shall give advance written notice to the Ministry of Foreign Trade or to the United States Government of such travel plan at least one (1) week in advance, stating the name of plants they intend to visit. Both parties agree that if requested by the other party, the plant will not be notified in advance of a plant visit. Permission from a responsible person at the plant shall be obtained for each such plant visit to be made. Upon completion of such plant visits during each trip, the visiting officials shall report their findings to the respective government officials of the other party.

(C) Both parties also agree to cooperate in the implementation of a bilateral Electronic Data Exchange System (EDES).

(D) If either party believes this agreement is being circumvented, it may request consultations to address the matter or matters concerned with a view to seeking a mutually satisfactory solution. Both parties agree to a discovery period to gather, exchange and review all relevant information which will conclude within 30 days of the request for consultations. Both parties agree to hold further consultations promptly if deemed necessary by either party, beginning within 5 days after the conclusion of the discovery period and

concluding within 60 days, unless extended by mutual agreement. Both parties agree to cooperate fully in terms of the elements set out in paragraph B above.

(E) (1) Should the parties be unable to reach a satisfactory solution in the course of the consultations called for under paragraph D, then the governments of Costa Rica and the United States agree that in cases where clear evidence regarding circumvention has been provided, the United States may deduct from the quantitative limits for that agreement period amounts equivalent to the amount of transshipped products of Costa Rican origin.

(2) In addition, the governments of Costa Rica and the United States agree that deductions from the quantitative limits established under this agreement may be made in those instances in which:

(a) the U.S. possesses information showing a substantial likelihood that circumvention has occurred, and has provided such information to the Government of Costa Rica;

(b) the U.S. has requested from Costa Rica cooperation or information relevant to the possible circumvention that is of a type that is legally available to and could reasonably be obtained by the Government of Costa Rica, and

(c) the Government of Costa Rica has not provided such information or cooperation within the period for consultation outlined in paragraph D.

Any such action shall be notified to the TSB with full justification.

(F) Should the United States choose to exercise its rights under paragraph E (1) to deduct an amount or amounts from the quantitative limits of a country where more than two major instances of circumvention have been demonstrated within the current or immediately preceding agreement year, then the United States may deduct from the quantitative limit amounts up to three times the amounts transshipped, provided that such deductions are distributed equally in each of the three following years.

(G) Where there is clear evidence showing that goods originating in another country have been shipped through Costa Rica to the United States as though they were products of Costa Rica, the governments of Costa Rica and the United States agree to take appropriate action. Such action may include the introduction of restraints in the relevant category or categories or deducting the amount of goods so shipped from the quantitative limits established for the current agreement year under this agreement for shipments originating in Costa Rica. Any such actions, together with their timing and scope, may be taken after consultation held with a view of arriving at a mutually satisfactory solution and shall be notified to the TSB with full justification. Such consultations should be held following the

procedures set forth in paragraph D. Should the parties be unable to reach a satisfactory solution, then the governments of Costa Rica and the United States agree that in cases where clear evidence regarding circumvention has been provided, the United States may introduce a restraint or, where a restraint already exists, may deduct from the quantitative limits established under this agreement an amount equivalent to the amount of product transshipped through Costa Rica. Parties note that some cases of circumvention may involve shipments transiting through the country with no changes or alterations made to the goods contained in such shipments in the place of transit and that in those cases it shall not be practicable to exercise control over such shipments.

(H) Parties agree that false declaration concerning fiber content, quantities, description or classifications of merchandise also frustrates the objective of this agreement. Where there is clear evidence that any such false declaration has been made for purposes of circumvention, both parties agree to take appropriate measures, consistent with their domestic laws and procedures, against exporters or importers involved. Should either party believe that this agreement is being circumvented by such false declaration and that no, or inadequate, administrative measures are being applied to address and/or to take action against such circumvention, that party should consult promptly with the party involved with a view to seeking a mutually satisfactory solution. Such consultations should be held following the procedures set forth in paragraph D. Should the

parties be unable to reach a satisfactory solution, then the governments of Costa Rica and the United States agree that in cases where clear evidence regarding such false declarations has been provided, then the United States may deduct from the quantitative limits established for the current agreement year an amount equivalent to the amount of product subject to the false declaration or classification. This provision is not intended to prevent parties from making technical adjustments when inadvertent errors in declarations have been made.

(I) Any actions taken by either party in application of the provisions of this agreement shall be notified to the TSB with full justification.

MUTUALLY SATISFACTORY

ADMINISTRATIVE ARRANGEMENT

17. Mutually satisfactory administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of this agreement, including differences in points of procedure or operation.

CONSULTATION ON IMPLEMENTATION QUESTIONS

18. The Government of the United States and the Government of Costa Rica each agree to consult upon the request of the other on any question arising in the implementation of this agreement.

RIGHT TO PROPOSE REVISIONS TO THE AGREEMENT

19. The Government of the United States and the Government of Costa Rica may at any time propose revisions in the terms of this agreement. Each agrees to consult promptly with the other about such proposals with a view to making such revisions to this agreement, or taking such other appropriate action as may be mutually agreed upon.

CONSULTATIONS IN CASE OF INEQUITY

VIS-A-VIS A THIRD COUNTRY

20. If the Government of Costa Rica considers that as a result of limitations specified in this agreement, it is being placed in an inequitable position in relation to a third country, the Government of Costa Rica may request consultation with the Government of the United States with a view to taking appropriate remedial actions, such as a reasonable modification of this agreement.

RESERVATION OF RIGHTS

21. The Government of the United States and the Government of Costa Rica each reserve their rights under the arrangement with respect to textiles and textile products not covered by this agreement.

RIGHT TO TERMINATE THE AGREEMENT

22. Either government may terminate this agreement, effective at the end of an agreement period, by written notice to the other government, to be given at least 90 days prior to the end of such agreement period.

PROVISIONS TO REMAIN IN FORCE AFTER

THE URUGUAY ROUND ENTERS INTO FORCE

23. The provisions set out in paragraphs 7, 9, 10, 11, 13, 14, 15, 16, 17, and 18 and the visa arrangement will be directly relevant to the ability of the United States and Costa Rica to implement the Uruguay Round textiles agreement. Therefore, upon entry into force of the Uruguay Round agreement, those provisions will remain in force and will be notified to the textiles monitoring body.

If the foregoing conforms with the understanding of the Government of Costa Rica, this Note and the Ministry of Foreign Affairs' Note of confirmation on behalf of the government of Costa Rica shall constitute an agreement between our two governments.

Enclosures:

Annex A

Annex B

Annex A

Category	Rate (percent)	1992	1993	Swing (percent)
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340/640	6	668,685 doz	725,924 doz	7
342/642	6	246,851 doz	267,979 doz	7
347/348	6	1,071,165 doz	1,223,341 doz	7.5
443	1	200,000 nos	202,000 nos	7
447	---	---	---	---

Category	Rate (percent)	1994	1995	Swing (percent)
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340/640	6	769,479 doz	815,648 doz	7
342/642	6	284,058 doz	301,101 doz	7
347/348	6	1,296,741 doz	1,374,545 doz	7.5
443	1	204,020 nos	206,060 nos	7
447	1	11,000 doz	11,110 doz	7

The governments of Costa Rica and the United States agree to establish a start-up DCL for category 447 at a level of

10,000 dozen for the period March 1, 1993 - December 31, 1993. The governments recognize that GAL for category 447 cannot be used until after the necessary administrative matters are in place, which the United States will implement on or before February 15, 1994.

Annex B

Category	Annual levels/units	
	1992	1993
-----	----	----
340/640	650,000 doz	650,000 doz
342/642	250,000 doz	250,000 doz
347/348	1,500,000 doz	1,500,000 doz
443	200,000 nos	200,000 nos
447	-----	-----

Category	Annual levels/units	
	1994	1995
-----	----	----
340/640	650,000 doz	650,000 doz
342/642	250,000 doz	250,000 doz
347/348	1,500,000 doz	1,500,000 doz

443	200,000 nos	200,000 nos
447	4,000 doz	4,000 doz

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Relations of the Republic of Costa Rica the assurances of its highest consideration.



Embassy of the United States of America,
San Jose, May 5, 1994