

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

TEX.SB/792*

29 November 1982

Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Notification under Article 4:4

Agreement between Canada and Malaysia

Note by the Chairman

Attached is a notification received from Canada concerning a new bilateral agreement concluded under Article 4 of the MFA with Malaysia. The agreement is valid for the period 1 January 1982 to 31 December 1986.¹

¹ The previous agreement with Malaysia is contained in COM.TEX/SB/573.

* English only/Anglais seulement

Short reasoned statement to accompany the Submission to the Textile Surveillance Body of the Arrangement Between the Government of Canada and the Government of ~~Malaysia~~
Respecting Certain Textile Products:

With reference to paragraph 4 of Article 4 of the Arrangement Regarding International Trade in Textiles (hereinafter referred to as the MFA), done at Geneva on December 20, 1973 and to the Protocol extending the MFA, done at Geneva December 22, 1981, I have the honor to notify the Textile Surveillance Body of the conclusion of a five-year bilateral arrangement between the Government of Canada and the Government of Malaysia

This bilateral arrangement was concluded in October 1981, taking into account the particular problems and circumstances in the Canadian clothing and textile markets and the position of Malaysia as an established supplier to that market. The arrangement covers clothing and textile products which fall within the scope of the MFA, providing for the same coverage as in a previous arrangement, with the exception that sweaters have been added to the new coverage. The base level for sweaters was established taking into consideration historical trading patterns and other provisions contained in Article 4 of the MFA. Shirts, blouses and acrylic yarn, which were subject to specific restraint levels in the previous arrangement, are now subject to consultation levels in recognition of their degree of importance in the export performance of Malaysia's trade in clothing and textiles with Canada.

In general, restraint levels negotiated for products covered in the new arrangement represent a significant improvement over historical trade levels. In line with MFA guidelines, there is provision for growth at a rate of 6%. The flexibility provisions allow for up to 7% swing among categories and for carry-over/borrow-forward between restraint periods of 11%, the sub-limit for borrow-forward being 6%. Furthermore, there are swing provisions within each category covering children's and infant's sizes (0-6x) whereby levels may be increased at a ratio of 3 adults' to 5 children's and infants' garments.

The arrangement also contains provisions for exchange of statistics, re-exports, consultations, revisions and termination, and according to Article 12 (3) of the MFA, for exemption from restraint of certain handmade clothing made from handloomed fabric, batik fabrics and clothing products. The arrangement became effective January 1, 1982 and will continue until December 31, 1986.

Signatories to this arrangement believe it conforms with the provisions of the MFA and, as such, it is in keeping with the liberalization of the Canadian import programme on clothing and textiles. It will assist in avoiding the real risk of Canadian market disruption while at the same time ensuring orderly development of world trade.

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



N 23/82

The Ministry of Foreign Affairs, Malaysia presents its compliments to the Canadian High Commission and has the honour to acknowledge receipt of the latter's Note No. 87 dated 08 December, 1981, which reads as follows:-

" The Canadian High Commission presents its compliments to the Ministry of Foreign Affairs of Malaysia and has the honour to refer to discussions between the delegations of the Government of Canada and the Government of Malaysia held in Kuala Lumpur October 14 to 17, 1981 concerning trade in selected textiles and textile products between Malaysia and Canada.

The High Commission has further the honour to refer to the Memorandum of Understanding which was initialled ad referendum in Kuala Lumpur on October 17, 1981 as a result of these discussions.

Accordingly, the High Commission has the honour to propose to the Ministry that this Note and the reply thereto confirming the Memorandum of Understanding will constitute an arrangement between our two governments which will enter into force on January 1, 1982 and remain in force for five calendar year periods

until December 31, 1986, subject to the right of either government to terminate it at the end of any calendar year period by written notice to the other given not less than ninety days prior to the end of any such restraint period.

The Canadian High Commission avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration."

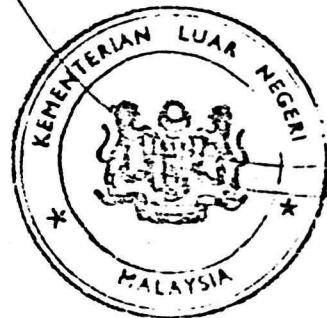
The Ministry of Foreign Affairs has further the honour to inform that the Government of Malaysia confirms acceptance of the Memorandum of Understanding which was initialled ad referendum on 17 . October, 1981 in Kuala Lumpur. The Government of Malaysia will regard the above mentioned Note No. 87 dated 08 December, 1981 as well as this reply as constituting an arrangement between the two Governments.

The Ministry of Foreign Affairs, Malaysia avails itself of this opportunity to renew to the Canadian High Commission the assurances of its highest consideration.

WISMA PUTRA,

KUALA LUMPUR.

07 June, 1982.



MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF MALAYSIA
RELATING TO THE EXPORT FROM MALAYSIA OF
CERTAIN TEXTILES AND TEXTILE PRODUCTS
FOR IMPORT INTO CANADA

Memorandum of Understanding between the Government of Canada and the Government of Malaysia relating to the export from Malaysia of certain textiles and textile products for import into Canada.

Introduction

1. This Memorandum of Understanding (MOU) sets out the arrangements that have been agreed between the Governments of Canada and Malaysia regarding the export of certain textiles and textile products from Malaysia for import into Canada.

2. These arrangements have been made having regard to the Arrangement Regarding International Trade in Textiles (hereinafter referred to as "the MFA") and in particular to Article 4 thereof, and to the Protocol extending the said Arrangement.

Restraint Periods

3. These arrangements will apply for five (5) years commencing on 1 January 1982 and ending on 31 December 1986.

Restraint Levels

4. Except as provided for in paragraphs 14 to 20 below, the Government of Malaysia will restrain its exports to Canada of the textiles and textile products described in Annex I for the calendar year commencing 1 January 1982 to the limits specified therein.

5. For the four calendar year periods commencing 1 January 1983 and ending on 31 December 1986, the Government of Malaysia will restrain its exports to Canada of the textile products described in Annex I to the limits specified therein advanced on an annual basis by the growth rate specified in column (D).


Coverage

6. For the purpose of these arrangements, the expression "textiles" will have the meaning ascribed to the expression in Article 12.1 of the MFA.

7. For the purpose of classifying textiles and textile products in the appropriate category, the definition and notes set out in Annex II will apply.

Administration

8. These arrangements will be implemented on the basis of the export control system operated by the Government of Malaysia.



9. The Government of Canada will admit imports of the textiles and textile products described in Annex II and subject to a specific quantitative limit in Annex I, provided such imports are covered by an original copy of a Malaysian "Export Licence" endorsed and issued by the proper Malaysian authority to the effect that the imports covered by the licence have been debited to the applicable quantitative limit as set out in Annex I.

10. The export licences issued by the Government of Malaysia in respect of products subject to restraint levels as specified in Annex I of this arrangement will contain the following information:

1. Country of destination
2. Country of origin
3. Licence number
4. Importer's name and address
5. Exporter's name and address
6. Category number and description of product as set out in Annex I of the MOU
7. Quantity expressed in the units as designated in Annex I of the MOU. If more than one set of measure is established, all should be indicated; where the quantity is expressed other than as designated in the MOU, the equivalent weight, units or m² should be calculated in accordance with the conversion factors set out in Annex I
8. F.O.B. or C.I.F. value except for non-commercial consignments
9. Certification by the Malaysia Authority that the quantity has been debited against the agreed restraint level for exports to Canada.

11. In the event any quantity covered by an export licence is not shipped, the Government of Malaysia will notify the Government of Canada of such quantity which may be credited by the Government of Malaysia to the appropriate restraint level.

12. The Government of Malaysia will endeavour to ensure that exports of all textiles and textile products which are listed in Annex II and are subject to restraint levels as per Annex I are spaced out as evenly as possible during each restraint period, due account being taken of seasonal factors and of normal channels of trade.

13. If, on the basis of export data provided by the Government of Malaysia, the Government of Canada ascertains that there is a sharp and substantial increase in the concentration of exports of textiles or textile products, other than that attributable to normal seasonal factors, it may request consultations in



accordance with the provisions of paragraphs 29 and 30 with a view to remedying this situation.

Swing

14. Subject to the specific limitations set out in Annex I, and following notification to the Canadian authorities, any restraint level may be exceeded by the percentage shown in column (E) provided that an equivalent amount is deducted from any other restraint level. When any restraint level is exceeded by the application of swing, the Government of Malaysia will so indicate in subsequent quarterly returns.

15. For the purpose of implementing the swing provisions in paragraph 14, the conversion factors shown in Annex I will apply.

Carry-Over/Carry-Forward

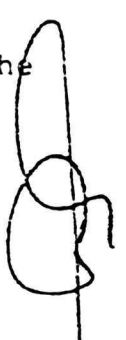
16. Portions of any restraint limit which remain unused from the restraint period commencing 1 January 1981 (as covered by the preceding bilateral arrangement) may, after notification, be carried over and added to the appropriate restraint level for the restraint period commencing 1 January 1982. Such carry-over will be within the higher percentage limit set out in column (F) of Annex I of this MOU.

17. Following notification to the Government of Canada of the quantities involved, portions of any quantitative limit set out in Annex I which are not used during the restraint period may be carried over and added to the corresponding quantitative limit for the following restraint period. The restraint level for any such restraint period will be increased within the higher percentage limit set out in column (F) of Annex I.

18. Any restraint level may be increased within the lower percentage limit set out in column (F) of Annex I by an amount advanced from the corresponding restraint level for the following restraint period. The restraint level for any such following restraint period will be reduced by an amount equal to the amount so advanced.

19. Notwithstanding the foregoing, the carry-over/carry-forward provisions may be used in combination only up to the higher percentage limit set out in column (F) of Annex I.

20. Further to paragraphs 14 to 19 above, where applicable, the restraint levels in column (C) of Annex I may not be increased by the combined use of swing, carry-over and carry-forward by more than the percentage indicated in column (G) of Annex I.



Exchange of Statistics

21. Both Governments will exchange such other statistical data relating to exports of textiles and textile products not subject to these arrangements as may reasonably be required.

22. The Government of Malaysia will provide the Government of Canada with monthly statistics relating to exports of the textiles and textile products listed in Annex II which are licensed for export to Canada and debited against restraint levels for each restraint period as per Annex I.

23. When submitting the monthly statistics mentioned in paragraph 22, the Government of Malaysia undertakes to include the following information:

- a. Category and description of goods as set out in Annex I.
- b. Original and adjusted restraint level for the restraint period.
- c. Total quantity issued for the restraint period to date in the units designated in Annex I.
- d. Notification of any utilization of swing, carry-over or carry-forward provisions and the quantities involved as provided for in paragraphs 14, and 16-20 above.


This information would be provided as soon as possible following the end of each month.

24. The Government of Canada will provide the Government of Malaysia with monthly statistics relating to import permits issued for imports originating in Malaysia of the textiles and textile products listed in Annex II.

25. Both Governments reserve the option of requesting, should it be necessary, more specific and detailed information.

Equity

26. Should either Government consider, as a result of these arrangements, that it is placed in an inequitable position compared with any third party, that Government may request the other to consult as provided in paragraphs 29 and 30 with a view to implementing appropriate remedial measures.



Re-Exports

27. The Government of Canada will, so far as possible, inform the Government of Malaysia when imports into Canada of textiles and textile products subject to these arrangements are subsequently re-exported from Canada. Where such re-exports have been debited by the Malaysian Government to quantitative limits the Government of Malaysia may then credit the amount involved to the appropriate quantitative limits.

Handloom Products

28. With reference to Article 12(3) of the MFA, this arrangement will not apply to bona fide handmade clothing produced from handloomed fabric, or to bona fide batik fabrics or clothing products, as defined in Annex IV when accompanied on importation by a certificate validated by the competent Malaysian authorities.

Consultations

29. Either Government has the right to request consultations with the other Government on any matter arising from the implementation or operation of these arrangements or on any matter germane thereto. Such consultations will be governed by the following:

- Any request for consultations will be notified in writing to the other Government;
- The request for consultations will be accompanied by or followed within a reasonable period (and in any case not later than twenty-one days following the request) by a statement setting out the reasons and circumstances which, in the opinion of the requesting Government, justify the submission of such a request;
- The other Government will accept such a request and such consultations will be held within thirty days of the date of notification of the request;
- Both Governments will enter into consultations with a view to reaching a mutually acceptable conclusion within thirty days of the date on which actual consultations commence.

30. Any consultations held under these provisions will be approached by both Governments in a spirit of cooperation and with a desire to reconcile the differences between them.



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Consultation Levels

31. The Government of Malaysia will require that all exports to Canada of the textile products subject to a consultation level listed in Annex III be covered by an original copy of an "Export Licence" endorsed and issued by the proper Malaysian authority.


32. The Canadian authority may request consultations with the Malaysian authority with a view to reaching agreement on an appropriate level of restraint for any textile products listed in Annex III, whenever, in the view of the Canadian authority, conditions in the Canadian market are such that a limitation on further trade in any such textile products may be necessary to eliminate real risk of market disruption. For those products listed in Annex III, the Canadian authority undertakes not to seek consultations until imports into Canada reach at least the respective consultation levels during any one specific restraint period.

33. Until such time as a mutually satisfactory conclusion has been reached, the Malaysian authority undertakes, if so requested by the Canadian authority, to limit shipments from the date on which Canada requests consultations, in order to ensure that exports of the products in question to Canada do not exceed 115% of either the consultation level listed in Annex III or the level of actual shipments during the current restraint period, whichever is greater.

34. The Parties will consult following the communication of the statement referred to in paragraph 31 above, and will use their best efforts to reach a mutually satisfactory conclusion within 30 days of the request for consultations. If no mutually satisfactory solution is reached during consultations, the Government of Malaysia undertakes to limit its shipments in that category for the current restraint period to 115% of either the consultation level listed in Annex III, or the annual level of shipments reached during the current restraint period at the time of the request for consultation, whichever is greater.

Revisions and Termination

35. Either Government may at any time propose revisions to the terms of these arrangements having regard to the MFA and to the Protocol extending it.



36. Either Government may terminate these arrangements effective at the end of any restraint period by written notice to the other Government, to be given at least ninety days prior to the end of any restraint period.

Annexes

37. The annexes to this Memorandum of Understanding will be considered an integral part of it.

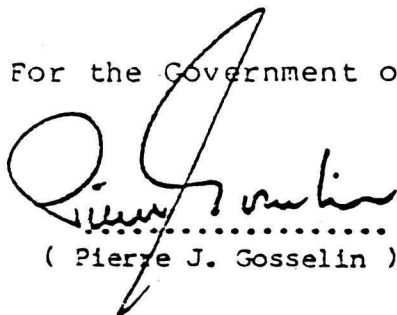
Transitional Arrangements

38. Any difficulties which may arise as a consequence of the transition from the 1981 arrangement to the 1982 arrangement will be brought immediately to the attention of the one Government by the other Government and efforts will be made by both Governments, through consultations or other means, to resolve such difficulties to their mutual satisfaction.

Final Provisions

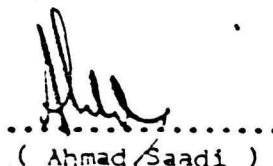
39. This Memorandum of Understanding will become effective on 1 January 1982 subsequent to an exchange of notes between the two Governments confirming their acceptance of these arrangements.

For the Government of Canada



.....
(Pierre J. Gosselin)

For the Government of Malaysia



.....
(Ahmad Saadi)

ANNEX I - RESTRAINT LEVELS

A) ITEM NO.	(B) SHORT DESCRIPTION	CONVERSION FACTOR (M2/UNIT)	(C) RESTRAINT LEVEL (UNITS)	(D) GROWTH	(E) SWING	(F) CARRY-OVER/ CARRY- FORWARD	(G) COMBINED FLEXIBILITY (E) & (F)
<u>GROUP A</u>							
1.	Shirts, tailored collar MB	1.7	RL-850,000	6%	7%	11% (6%)	15%
2.	Shirts, blouses WGCI	N/A	CL	N.A	N.A	N.A	N.A
3.	Sweaters MBWGCI	1.2	RL-390,000	6%	7%	11% (6%)	15%
<u>GROUP B</u>							
4.	Acrylic yarn (kg)	N/A	CL	N.A	N.A	N.A	N.A

NOTE: No swing is allowed between products in Group A and product in Group B

LEGEND: RL means restraint level
CL means consultation level

ANNEX II - DEFINITIONS AND DESCRIPTIONS OF
TERMS USED IN ANNEX I

General Notes

1. Gender - Unless otherwise indicated, all definitions of garments apply to garments for men, boys, women, girls, children and infants. Children's and infants' garments include all garments sized 0-6X.
2. Unless otherwise indicated, swing is permitted from adult garments to childrens' and infants' garments at a 3 to 5 ratio.
3. All garment items include partially manufactured garments, i.e., garments which have been cut and sewn, or otherwise assembled, but which require further manufacture or processing.
4. Garments of indeterminate gender, including unisex garments, are to be counted as of male gender.
5. "Wholly or mainly" is 50 percent or more in all items unless otherwise indicated.

Description of Product Categories

1. Shirts, Tailored Collar

Shirts with tailored collars, men's and boys' wholly or mainly by weight of cotton, man-made fibres or wool, or blends thereof, knitted or woven, being garments covering the upper part of the body normally worn next to the skin or directly over underwear and with a full or a partial front opening which may include a zipper and may be designed to be worn either inside or outside of pants. Included are all men's and boys' shirts meeting this description whether exported separately or as part of a set.

Note: included are children's sizes 4-6X.

Note: A "tailored collar" consists of one or more pieces of material which are cut and sewn or cut and fused and designed with two pointed or rounded ends. The following may be used when needed, in the construction: stays, lining, stiffening by any means.

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2. Shirts, Blouses


Blouses and shirts, women's and girls', children's and infants' wholly or mainly by weight of cotton, man-made fibres or wool, or blends thereof, knitted or woven, being garments which may have a complete or partial front or back opening covering the upper part of the body, excluding underwear, jackets, T-shirts, sweat-shirts and sweaters.

3. Sweaters, Pullovers and Cardigans

Sweaters, pullovers, cardigans (including knitted ponchos), wholly or mainly by weight of cotton, man-made fibres or wool, or blends thereof, being knitted or crocheted garments covering the upper part of the body and which may be of any length of construction no finer than 19 cut, i.e. less than 19 vertical stitches per inch. Included are such items with co-ordinating or matching accessories, e.g. hats, scarves, gloves, mittens, socks, etc. A garment in this item when shipped with such co-ordinating or matching accessories will be considered a set and counted as one unit.

4. Acrylic Yarns

Acrylic yarns include all types of machine and hand knitting yarns containing 50% or more by weight of acrylic fibre except those yarns composed entirely of fibres not exceeding 2 1/2 inches in length.



ANNEX III - CONSULTATION LEVELS

ITEM
NO.

SHORT DESCRIPTION

CONSULTATION LEVEL

2.

Shirts, blouses WSCI

751,000 UNITS

4.

Acrylic yarn

102,000 KG

AS



ANNEX IV

1. The exemption provided for in paragraph 28 of this MOU in respect of cottage industry products will apply only to the following products:

- a) garments or other textile articles of a kind traditionally made in the cottage industry, having been cut, sewn and embroidered, if applicable, solely by hand from handloom textile fabrics without the aid of any machine. Handloom textile fabrics are fabrics, which have been woven on looms operated solely by hand or foot and are of a kind traditionally made in the cottage industry.
- b) traditional Malaysian handicraft batik fabrics and clothing products made by hand from such batik fabrics. Handicraft batik is produced by a process which involves the following three operations, carried out by hand, for each of the colours or shades applied to the fabric:
 - i) Waxing (Application of wax by hand to the fabric)
 - ii) Dyeing/Printing (Application of colour either by the traditional cottage method of dyeing or hand-printing)
 - iii) Dewaxing (Boiling the fabric to remove the wax)

2. The exemption will apply only in the respect of products covered by a certificate issued by the competent Malaysian authorities.

3. Such certificates will indicate the grounds on which the exemption is based and will be accepted by Canadian authorities provided that they are satisfied that the products concerned conform to the conditions set out in this Annex.



CANADA/MALAYSIA ARRANGEMENT

1982 - 1986
Performance¹

ITEM	PRODUCT	UNIT	1979		1980		1981		RESTRAINT LEVEL	1982 GROWTH RATE	CONVERSION FACTOR
			RESTRAINT LEVEL	RESTRAINT UTILIZATION	RESTRAINT LEVEL	RESTRAINT UTILIZATION	RESTRAINT LEVEL	RESTRAINT UTILIZATION			
1.	Shirts, Tailored Collar MB	Un.	NA	511,272	757,000	611,832	791,065	440,591	850,000	6%	1.7M ² /Unit
2.	Shirts, Blouses WCCI	Un.	NA	579,623	668,000	516	708,080	9,420	751,000	Consultation Level	
3.	Sweaters MBWCCI	Un.	NA	68,312	NA	98,080	NA	267,562	390,000	6%	1.2M ² /Unit
4.	Acrylic Yarn	Kg.	NA	13,215	90,720	44,900	96,163	91,049	102,000	Consultation Level	

NOTE:

1 Source: OSTR permit data by date of export from Malaysia.

Malaysia Arrangement

A. Coverage as of January 1, 1981

<u>Restraint:</u> <u>(Annex A)</u>	1. <u>Tailored Collar Shirts, MB</u>	
	Level:	791,065
	2. <u>Blouses and Shirts, WGC</u>	
	Level:	708,080
	3. <u>Acrylic Yarn (lbs.)</u>	
	Level:	212,000

B. Coverage as of January 1, 1982

Group A

<u>Restraint</u> <u>(Annex I)</u>	1. <u>Tailored Collar Shirts, MB</u>	
	Level:	850,000
	2. <u>Sweaters, MBWGC</u>	
	Level:	390,000
<u>Consultation</u> <u>(Annex III)</u>	3. <u>Shirts, Blouses, WGC</u>	
	Level:	751,000

Group B

<u>Consultation</u> <u>(Annex III)</u>	4. <u>Acrylic Yarn (kg.)</u>	
	Level:	102,000