

GENERAL AGREEMENT ON
TARIFFS AND TRADE

CONFIDENTIAL

TEX.SB/987^{*}
18 June 1984

Textiles Surveillance Body

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Report on Article 3:5 Action

United States/Korea

Note by the Chairman

Attached is a report received from Korea concerning its consultations with the United States on man-made fibre luggage (Category 670 part). The report has been made in accordance with the TSB's recommendation.

¹ See COM.TEX/SB/953

* English only/Anglais seulement/Inglés solamente

TS/140-3



557

**PERMANENT MISSION OF THE REPUBLIC OF KOREA
GENEVA**

KGV/141/84

12 June 1984

Dear Mr. Ambassador,

Pursuant to the recommendation by the TSB (Tex. SB/W/352) with respect to man-made fibre luggage exported to the United States from Korea, I have the honour to transmit to you for your information on the interim report to TSB of the results of the Korea-U.S. consultation on man-made fibre luggage held in Seoul on June 7-8, 1984, with respect to article 3:5 action taken by the United States.

I would request that you may circulate this interim report to the Members of TSB if you deem it necessary.

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

Hikang Hyun
Hikang HYUN
Minister

H.E. Ambassador
Marcelo RAFFAELLI
Chairman
Textiles Surveillance Body
GATT
154, rue de Lausanne
1211 Genève 21

ANSWERED	DOC. ISSUED	FOLIO
	TEX. 52/987	
REG 12 JUN 1984		
For	Action	Comment
Cabinet of DG		
Info. Service		
OFFICE L. GAL AFF.		
Sess. / Council Aff. Div.		
CHAIRMAN TSB	X	

For	Action	Comment	Inf.
OPER. DEPT. A			
Non Tar M Div.			
Development Div.			
Tech. Coop. Div.			
Trade Pol. Div.			
Spec. Proj. Div.	X		
OPER. DEPT. B			
Econ. R/Anal. Unit			
Agriculture Div.			
Tariff Div.			
Tech. Bar. T. Div.			
Ext. Rel. Div.			
DEPT. CONF. AFF/ADM			
Adm. / Fin. Div.			
Trans. / Doc. Div.			
Training Div.			
Personnel Off.			
Conference Off.			

INTERIM REPORT TO TSB OF THE RESULTS
OF THE KOREA-U.S. CONSULTATION ON MAN-
MADE FIBRE LUGGAGE HELD IN SEOUL ON JUNE
7-8 WITH RESPECT TO ARTICLE 3:5 ACTION
TAKEN BY THE UNITED STATES

1. CLASSIFICATION OF THE PRODUCT

A. U.S. POSITION

REITERATING THEIR PREVIOUS POSITION
ON THE CLASSIFICATION OF MAN-MADE FIBRE
LUGGAGE AS BEING CONSISTENT WITH THE
MFA, THE U.S. DELEGATION EXPLAINED THEIR
CUSTOMS PRACTICES AS FOLLOWS:

1) THE CUSTOMS OFFICERS DETERMINE THE
" CHIEF CHARACTERISTIC " BY EXAMINING
THE OUTER SHELL OF THE LUGGAGE, DISREGARD-
-ING WHETHER OR NOT THE INNER SHELL IS
LAMINATED WITH PLASTIC MATERIALS SUCH AS
PU OR PVC.

2) IF THE CHIEF CHARACTERISTIC IS DETERMINED TO BE TEXTILE ACCORDING TO THIS CRITERION, THE CHIEF COMPONENT MATERIAL IS DETERMINED ON THE CHIEF VALUE BASIS. AS THE DEFINITION OF CHIEF VALUE IS UNCLEAR UNDER ARTICLE 12 OF THE MFA, U.S. CUSTOMS OFFICERS CLASSIFY THE CHIEF COMPONENT AS TEXTILE IF THE VALUE OF THE TEXTILE PORTION IS " RELATIVELY "HIGHER THAN THAT OF ANY OTHER COMPONENT. (HOWEVER, LOCKS AND OTHER HARDWARE FITTINGS, FRAMEWORKS AND LININGS ARE DISREGARDED IN DETERMINING THE COMPONENT MATERIAL OF CHIEF VALUE AS SET OUT ON PAGE 7-20 OF TSUSA.)

3) IF THE DETERMINATION OF CHIEF VALUE IS UNCLEAR, A CHIEF WEIGHT CRITERION IS APPLIED.

B. KOREA'S POSITION

1) CHIEF CHARACTERISTIC

THE KOREAN DELEGATION ARGUED THAT THE U.S. POSITION IN DETERMINING CHIEF CHARACTERISTIC WAS INCONSISTENT WITH THE MFA FOR THE FOLLOWING REASONS:

FIRST, ALTHOUGH U.S. CUSTOMS OFFICERS DETERMINE CHIEF CHARACTERISTIC EXCLUSIVELY BY EXAMINING THE OUTER SHELL, THE INNER SHELL SHOULD ALSO BE EXAMINED TO SEE IF IT IS LAMINATED WITH PLASTIC OR RUBBER. IN OTHER WORDS, THE CHIEF CHARACTERISTIC OF THE LUGGAGE SHELL IS NOT TEXTILE IF THE INNER SHELL IS LAMINATED WITH PLASTICS OR RUBBER AND THE LAMINATED MATERIAL CONSTITUTES MORE THAN 50 PERCENT OF THE SHELL BY EITHER WEIGHT OR VALUE.

SECOND, MAN-MADE FIBRE FABRIC CONTAINING MORE THAN 50 PERCENT (UP TO 70 PERCENT) BY WEIGHT OF PLASTICS OR RUBBER IS

CLASSIFIED AS TEXTILE UNDER TSUSA 355.8100, WHICH IS NOT CONSISTENT WITH THE MFA CRITERION OF 50 PERCENT. IF THIS CLASSIFICATION IS ACCEPTED, THEN IT MAKES EQUAL SENSE (OR LACK OF SENSE) TO CLASSIFY LUGGAGE MADE OF SUCH FABRIC AS TEXTILE LUGGAGE AND CHARGE IMPORTS THEREOF AGAINST CATEGORY 670-PART.

2) CHIEF VALUE

THE U.S. GOVERNMENT TOOK ARTICLE 3:5 ACTION WITH RESPECT TO TEXTILE PRODUCTS (LUGGAGE), NOT A SINGLE COMPONENT OF THE PRODUCT (LUGGAGE SHELL).

IF LOCKS AND OTHER HARDWARE FITTINGS, LININGS AND FRAMEWORKS ARE SEPERATED FROM LUGGAGE, THE PRODUCT IS NO LONGER LUGGAGE AND THE ONLY COMPONENT LEFT IS THE LUGGAGE SHELL. ALTHOUGH THE DEFINITION OF CHIEF VALUE MAY BE UNCLEAR, THE IMPLICIT MEANING OF ARTICLE 12 SEEMS TO REQUIRE THAT THE ARTICLE BE INTERPRETED IN SUCH A WAY THAT THE COMPONENT MATER

-IAL OF CHIEF VALUE SHOULD BE DETERMINED THROUGH THE EXAMINATION OF ALL COMPONENTS, NOT MERELY THE SINGLE COMPONENT OF THE LUGGAGE SHELL.

3) CONCLUSION

AS STATED ON PAGE 7-20 OF TSUSA, THE UNITED STATES DETERMINES THE COMPONENT MATERIAL BY EXAMINING ONLY THE SINGLE COMPONENT OF THE LUGGAGE SHELL. THAT IS TO SAY, THEY DETERMINE WHETHER OR NOT THE TEXTILE COMPONENT IS TEXTILE MATERIAL BY DISREGARDING ALL OTHER COMPONENTS. (ONE CANNOT SAY, FOR EXAMPLE, THAT LEATHER SHOES ARE TEXTILE PRODUCTS ACCORDING TO THE CHIEF VALUE CRITERION BY EXAMINING THE TEXTILE PORTION OF SHOE STRINGS ONLY AND DISREGARDING ALL OTHER COMPONENTS SUCH AS LEATHER AND RUBBER.)

THIS ALSO MEANS THAT THE UNITED STATES CONSIDERS ONLY THE CHIEF CHARACTERISTIC SINCE THE CHIEF VALUE BASE CLASSIFICATION IS MEANINGLESS. AS POINTED OUT EARL

-IER.THE U.S.METHOD OF DETERMINING CHIEF CHARACTERISTIC IS NOT CONSISTENT WITH THE MFA BECAUSE OF THE FORMER'S 70 PERCENT CHIEF WEIGHT CRITERION FOR MAN-MADE FIBRE FABRICS.

2. INTERIM MEASURE

A. U.S. POSITION

THE UNVARYING POSITION OF THE U.S. GOVERNMENT HAS BEEN TO CONDUCT CONSULTATIONS ON THE QUANTITY OF LUGGAGE QUOTA WHILE RESTRAINING IMPORTS OF THE PRODUCT UNTIL 1987 WHEN THE CURRENT BILATERAL TEXTILE AGREEMENT WILL EXPIRE. ALTHOUGH RESOLUTION OF THE CLASSIFICATION ISSUE MUST LOGICALLY PRECEDE THE QUOTA ARRANGEMENT,THE U.S.SIDE NEVERTHELESS INSISTED THAT THESE TWO MATTERS BE ADDRESSED IN REVERSE ORDER.

B. KOREA'S POSITION

KOREA WAS READY TO FULLY COOPERATE WITH THE UNITED STATES IN SEPARATING THE PRODUCTS WHICH ARE COVERED BY MFA FROM THOSE WHICH ARE NOT COVERED AS RECOMMENDED BY TSB. DESPITE THE TSB RECOMMENDATIONS AND KOREA'S FORMAL REQUEST FOR RECLASSIFICATION OF THE PRODUCT, THE UNITED STATES INSISTED ON ITS COMPATIBILITY WITH MFA AND REFUSED TO AMEND TSUSA.

IN LINE WITH THE TSB RECOMMENDATIONS, THE KOREAN GOVERNMENT COUNTER-PROPOSED AS FOLLOWS:

FIRST, KOREA SHALL COOPERATE WITH THE UNITED STATES BY VOLUNTARILY RESTRAINING EXPORTS OF MAN-MADE FIBRE LUGGAGE THIS YEAR AS AN INTERIM MEASURE TO AVOID POSSIBLE MARKET DISRUPTION IN THE UNITED STATES.

SECOND, SINCE THE ACCURATE IMPORT FIGURES FOR THE PRODUCT ARE NOT AVAILABLE, THE TWO SIDES SHOULD COLLECT THE STATIST

-ICS ON THE BASIS OF THE MORE RELIABLE
AND CLEARER CRITERION OF CHIEF WEIGHT.
(VALUE IS SUBJECT TO FREQUENT CHANGE.)

THIRD, THE TWO SIDES SHALL CONDUCT A
CONSULTATION ON FUTURE RESTRICTIONS IF
IT IS ESTABLISHED THAT THE U.S. MARKET
HAS BEEN DISRUPTED BY MFA-REGULATED PROD-
-UCTS.

C. RESULTS

THE KOREAN PROPOSAL WERE REJECTED
BY THE U.S. DELEGATION, WHICH INSISTED ON
FIRST DISCUSSING THE QUOTA ARRANGEMENT.

3. POINTS TO BE CONSIDERED BY THE TSB

THE UNITED STATES HAS NEVER FOLLOWED
THE TSB RECOMMENDATIONS AND IS STILL
ENFORCING QUOTAS FOR BOTH MFA AND
NON-MFA PRODUCTS. AS OF JUNE 1, KOREA HAD
ALREADY FILLED OVER 60 PERCENT OF LUGGAGE

QUOTA OF 18 MILLION POUNDS UNILATERALLY SET BY THE UNITED STATES. BOTH EXPORTERS AND IMPORTERS ARE CONCERNED ABOUT AN EMBARGO WHICH IS IMMINENT WITHIN 2 MONTHS. THIS HARDSHIP BURDENS KOREAN EXPORTERS AND OBLIGES THE GOVERNMENT TO RESOLVE THE PROBLEM AS SOON AS POSSIBLE. WE, HOWEVER, ARE CONFIDENT THAT MFA PRINCIPLES WILL BE SUCCESSFULLY DEFENDED AS A RESULT OF THE TSB'S CONTINUED EFFORTS.

SEEKING THE MOST REASONABLE AND REALISTIC SOLUTION, THE KOREAN GOVERNMENT SUGGESTS THAT:

1) THE TSB SHOULD STRONGLY URGE THE UNITED STATES TO FAITHFULLY FOLLOW THE UNANIMOUS TSB RECOMMENDATIONS.

2) THE TSB SHOULD RECOMMEND THE WITHDRAWAL OF THE U.S. RESTRICTION DURING THE INTERIM PERIOD TO AVOID UNDUE HARDSHIPS FACED BY KOREAN EXPORTERS. KOREA IS WILLING TO COOPERATE WITH THE UNITED

STATES BY VOLUNTARILY RESTRAINING ITS
EXPORTS OF LUGGAGE UNTIL THE CLASSIFICAT
-ION PROBLEM IS RESOLVED.

3) THE TSB SHOULD RECOMMEND THAT THE
UNITED STATES AMEND TSUSA IN SUCH A WAY
AS TO BE CONSISTENT WITH MFA PROVISIONS.
WITHOUT SUCH AN AMENDMENT THERE CAN BE
VIRTUALLY NO RESOLUTION TO DISTINGUISH
MFA PRODUCTS FROM NON-MFA PRODUCTS FOR
QUOTA PURPOSES.

-END-