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MEMORANDUM

To: Members of the Textiles Surveillance Body

From: The Chairman

Subject: Informal note by the Chairman

Attached is an informal note on the question of how equity in treatment could best be assured between a member of the TSB and a non-member when their countries were both involved in a dispute before it.

This informal note has been prepared to serve as a basis for the discussion at our next meeting on 11-12 July 1974. In the meantime, I am, of course, quite ready to discuss the contents with any interested member of the TSB.

# GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

TEX.SB/W/11  
8 July 1974

## Textiles Surveillance Body

### EQUITY IN TREATMENT BETWEEN A MEMBER OF THE TSB AND A NON-MEMBER WHEN THEIR COUNTRIES WERE BOTH INVOLVED IN A DISPUTE BEFORE IT

1. All members of the TSB reaffirmed the importance they attached to impartiality in reaching conclusions on any dispute referred to the TSB. The view was generally held that a member of the TSB should not himself present or defend individual cases brought before it, and that such cases should be presented by another national of that country.
2. The TSB agreed that it was essential that the parties to a dispute, whether TSB members or non-members, should be treated completely equally.
3. At previous meetings of the TSB certain views were expressed as to how equity in treatment could best be assured between a member of the TSB and a non-member when their countries were both involved in a dispute before it. Bearing in mind the provisions of Article 11 (6), the question was discussed as to whether or not the participation by the TSB member concerned and the representative of the non-member, should continue throughout the discussion up to, and including, the drafting of the TSB recommendations.
4. Certain arguments were presented against the withdrawal, particularly of the member, when the TSB was drafting its recommendation. It was mentioned, inter alia, that members of the TSB have responsibilities vis-à-vis all participating countries in the Arrangement; they are in a strong position to influence their own authorities and, being nominated ad personam, they must be considered objective. Attention was also drawn to the need for ensuring that the representative balance of the TSB was not distorted.
5. On the other hand, certain arguments were voiced in favour of the withdrawal of all the parties concerned, including the member, when the TSB was drafting its recommendation. In particular, the point was made that participation by non-members in the drafting of the recommendation would amount to an enlargement of the TSB. However, the ensuing discussion in the TSB has helped to narrow down differences in views on this matter.
6. In the light of the above, and following informal consultations with a number of participating countries in the Textiles Arrangement, it would appear to me that the most recommendable procedure, which might receive the greatest degree of support, would be along the following lines:
  - (a) The member of the TSB whose country is involved in a dispute before it should not present the case, but another national should advocate it.

(b) The advocates for both the country having a member on the TSB, and the country not having a member thereon, should be invited to present their cases fully. They would be allowed to remain throughout the discussion up to, and including, the drafting of the recommendations.

(c) At one stage in the discussion, the Chairman will have to determine the point at which the drafting of the recommendation begins. At this point, the member and the two advocates, while remaining present, would not take part in the drafting of the recommendation; the two advocates not being counted in the consensus.

(d) Another alternative would be to ask the two advocates to withdraw after having presented their respective cases. The member might remain present, but would not take part in the drafting of the recommendation. This might be considered as not having the appearance of equity in treatment between a member of the TSB and a non-member.