

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

TEX.SB/W/188
19 October 1979

Textiles Surveillance Body

DRAFT REPORT OF THE FOURTEENTH MEETING (1979)¹

1. The Textiles Surveillance Body held its fourteenth meeting in 1979 from 10 to 12 October. At the outset of the meeting, the Chairman informed the members that he had been advised by Mr. Martin that, effective 31 October 1979, Mr. M. Pullinen (Finland) would replace Mr. S. Patek (Sweden) as alternate on the Body.
2. The Chairman also informed the members that, on 26 September last, Brazil had deposited its instrument of acceptance of the Protocol Extending the Arrangement; it thereby ratified its ad referendum signature of 30 December 1977. Among the former participants, only three have not, as yet, accepted the Protocol.
3. The following members, or alternates replacing members, were present during the session: Messrs. Beck, Chau, El Gowhari², Kujirai, Patek, Seng², Shepherd and Suarez. The draft report of the thirteenth meeting was approved and it has been transmitted to the Textiles Committee in document COM.TEX/SB/466.

EEC/Hungary

4. The TSB had received a notification from the EEC concerning an Article 4 bilateral agreement concluded with Hungary. The TSB noted that its general observation in COM.TEX/SB/380, paragraphs 12 and 13, and in COM.TEX/SB/406, paragraph 3, will apply to this agreement.

¹ Ninety-second meeting overall of the TSB.

² Part attendance.

5. The TSB further noted the provisions of Article 5 of this bilateral agreement concerning imports of textiles from Hungary at prices which are lower than the range of prices charged under normal conditions of competition. In this respect, the TSB reiterated its earlier finding concerning such price clauses set out in paragraph 6 of COM.TEX/SB/457.¹

6. The TSB also noted that in Article 5 of this agreement the Community may invoke paragraph 5 of the Protocol relating to Hungary's accession to GATT and, in that event, the specific procedure established in the bilateral agreement itself would be applicable. The TSB, however, noted that this procedure differed from that laid down in the Protocol of Accession. The TSB was of the view that the existence of two different procedures could give rise to certain legal problems. The TSB did not address itself to this issue, having due regard to its findings on such price clauses.¹

7. After concluding its examination, the TSB agreed to transmit the text of the agreement to the Textiles Committee, see COM.TEX/SB/467.

Sweden/Macao

8. The TSB had received a notification from Sweden concerning an Article 4 bilateral agreement concluded with Portugal on behalf of Macao. This agreement succeeds a previous one which expired on 31 December 1978.²

9. In reviewing this agreement the TSB noted the absence of swing and recalled its earlier observations that swing was one of the essential elements in agreements under Articles 3 and 4 (COM.TEX/SB/69, paragraph 4). The TSB also recalled its

¹This paragraph reads as follows: The TSB found that such price clauses fall outside the framework of the MFA. The TSB was of the further view that the application of such clauses could be in conflict with the provisions of Article 9:1 of the Arrangement and, therefore, recommended to the parties to the agreement that they should ensure that in implementing the bilateral agreement the provisions of Article 9:1 be fully observed.

²See COM.TEX/SB/367; this agreement was transmitted to the Textiles Committee under Articles 7 and 8.

previous observation concerning cases where the exporting country waives its right to swing as a reflection of the mutual recognition of the minimum viable production principle (COM.TEX/SB/365, paragraph 74). The TSB concluded that these observations would also apply to this case.

10. The TSB also noted that the agreement provided for a considerably lower rate of growth between the two periods in the agreement (i.e. eleven months beginning 1 January 1979 and thirteen months beginning 1 December 1979) than the growth of not less than 6 per cent prescribed in the MFA. The TSB recognized that the lower growth rate reflected the parties' understanding that implementation of the 6 per cent growth provisions of the Arrangement could contribute to the then existing threat to Sweden's minimum viable production, as foreseen in paragraph 2 of Annex B.¹

11. The TSB also noted that while the agreement provides for a carryover from the first agreement period into the second one, no provisions have been made therein for carry forward as provided for by paragraph 3 of Article 4 of the MFA. The TSB expressed the view that this should be included in future agreements.

12. The TSB further noted that most restraint levels in the first period of the new agreement (i.e. eleven months beginning 1 January 1979) involved reductions on the levels set out in the previous agreement. This has resulted in a net reduction in access which constitutes a departure from the provisions of the MFA. The effects of this net reduction in access are compounded by the limited flexibility provisions of the agreement, which are less liberal than provided for in Annex B of the Arrangement.

¹The relevant words of the paragraph read as follows: "In exceptional cases where participating importing countries have small markets, an exceptionally high level of imports and correspondingly low level of domestic production and where the implementation of the above growth rate would cause damage to those countries' minimum viable production, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned."

13. With reference to Article 10 of this bilateral agreement, the TSB took note of the statement by the Swedish authorities that any application of this Article will be fully consistent with the provisions of the MFA. The TSB recalled that such a statement had already been made by Sweden in connexion with previous agreements (see COM.TEX/SB/380, paragraph 9).

14. The TSB was informed by the Swedish authorities that the reduction in access, as well as other elements of this agreement, were agreed to by the two parties pursuant to the relevant provisions of the Arrangement and the Protocol of Extension, in particular paragraph 6 thereof.

15. The TSB noted that, in this agreement, carryover had been included and that, in accordance with earlier TSB recommendations, the agreement only covered products of cotton, wool or man-made fibres.

16. The TSB, recalling that all the provisions of the Arrangement as extended by the Protocol must be observed, recommended that if this agreement were to be extended, modified or renewed, both parties thereto should also take fully into account the observations by the TSB as recorded above.

17. After concluding its examination, the TSB agreed to transmit the text of the agreement to the Textiles Committee, see document COM.TEX/SB/468.

Finland/Thailand; Finland/Malaysia

18. The TSB received two notifications from Finland concerning new bilateral agreements concluded under Article 4 of the Arrangement with Thailand and Malaysia, respectively. In its review of these agreements, the TSB noted that they both provided for a considerably lower rate of growth than the growth of not less than 6 per cent prescribed in the MFA. The TSB recognized that the lower growth rate reflected the parties' understanding that implementation of the 6 per cent growth provisions of the Arrangement could contribute, to the then existing threat to

Finland's minimum viable production, as foreseen in paragraph 2 of Annex B.¹ After its review, the TSB agreed to circulate the two Finnish agreements to the Textiles Committee. See COM.TEX/SB/469 and 470.

Austria/Korea

19. The TSB has received from Austria a notification of a new bilateral agreement under Article 4 with Korea, for the period 1 August 1979 to 31 July 1982. This agreement supersedes four previous agreements, two negotiated under Article 3 and two under Article 4. The TSB noted that the agreement provided for growth rates varying from 1 per cent to 6 per cent, and that the growth rates of less than 6 per cent had been agreed upon due to the exceptional circumstances prevailing in the Austrian market for the sectors in question, as envisaged in paragraph 2 of Annex B.² The TSB further noted that the swing of less than 5 per cent for certain categories had been agreed upon in return for other considerations in the agreement. The TSB observed that this was in accord with its previous observation concerning cases where the exporting country waives its rights on swing.³ The TSB agreed to circulate the text of the agreement to the Textiles Committee, see COM.TEX/SB/471.

¹The relevant words of the paragraph read as follows: "In exceptional cases where participating importing countries have small markets, an exceptionally high level of imports and a correspondingly low level of domestic production and where the implementation of the above growth rate would cause damage to those countries' minimum viable production, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned."

²The relevant words of the paragraph read as follows: "In exceptional cases where there are clear grounds for holding that the situation of market disruption will recur if the above growth rate is implemented, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned."

³See COM.TEX/SB/365, paragraph 74.

United States/Dominican Republic; United States/Thailand

20. The TSB had received a notification of a new agreement concluded between the United States and the Dominican Republic, under Article 4 of the Arrangement. The new agreement supersedes the restraint action taken by the United States under Article 3, with respect to a certain textile category (brassieres).¹ After its review, the TSB agreed to circulate the text of the agreement to the Textiles Committee, see COM.TEX/SB/472. An amendment to the agreement with Thailand was also reviewed by the TSB and circulated in document COM.TEX/SB/473.

Sweden/Mauritius

21. The TSB also received from Sweden a notification of a new bilateral textiles agreement concluded between Sweden and Mauritius. This notification was made in accordance with the request by the Textiles Committee, that agreements concluded with non-participating countries in the Arrangement, should be notified. The TSB accordingly agreed to transmit the notification to the Textiles Committee under Articles 7 and 8 of the Arrangement, for the information of the participating countries, see COM.TEX/SB/474.

EEC/Singapore; EEC/Malaysia

22. The TSB considered two notifications made by the European Commission concerning amendments to each of its initialled agreements concluded under Article 4 of the Arrangement with Singapore and Malaysia, respectively. The TSB, after its review of these amendments agreed to transmit the notifications to the Textiles Committee, see COM.TEX/SB/475 and 476.

Other

23. The TSB heard a statement by the representative of the EEC regarding certain problems relating to transshipment and circumvention, as foreseen in Article 8 of the Arrangement. The TSB agreed to pursue discussion of this matter at a later meeting.

¹See COM.TEX/SB/383 and COM.TEX/SB/460, paragraph 3, for observations of the TSB.