

GENERAL AGREEMENT ON TARIFFS AND TRADE

CONFIDENTIAL

TEX.SB/W/190

1 November 1979

Textiles Surveillance Body

DRAFT REPORT OF THE FIFTEENTH MEETING (1979)¹

1. The Textiles Surveillance Body held its fifteenth meeting in 1979 from 24 to 26 October. The following members, or alternates replacing members were present during the session²: Messrs. Chau, El Gowhari³, de Gouvion St. Cyr³, Kujirai, Patek, Shepherd and Suarez.

Sweden/Korea

2. The TSB has received a notification from Sweden of a new two-year Article 4 agreement concluded with Korea (C)⁴ which, in accordance with an earlier TSB recommendation, only covered products of cotton, wool or man-made fibres. The previous agreement (B) which contained textile products of all fibres and was not reviewed by the TSB⁵ succeeded an earlier one (A).

3. In reviewing this agreement, the TSB noted that the carryover and carry forward provided were less than those provided for in the previous agreement. The TSB took note of the statement by the Swedish representative that these were

¹Ninety-third meeting overall of the TSB.

²Mr. Valdepenas absent; alternate not available.

³Part attendance.

⁴For ease of comparison the new agreement covering the two years 1 March 1979 to 28 February 1980, and 1 March 1980 to 28 February 1981, is referred to as (C). The previous agreement, covering the period 1 March 1978 to 28 February 1979, is referred to as (B). The earlier agreement, covering the period 1 July 1975 to 30 June 1976, as extended through 31 December 1977, is referred to as (A).

⁵For the TSB conclusion that this agreement was inconsistent with Article 12:1 of the MFA, see COM.TEX/SB/388, paragraph 3.

the amounts that could be provided at that juncture. Observing that the carry forward amounted only to 2.5 per cent, the TSB recalled its previous observation that the margins of flexibility laid down in paragraph 5 of Annex B, were to be observed. The TSB expressed the view that every effort should be made to ensure that the flexibility provisions of future agreements are in conformity with the provisions of the Arrangement.

4. In reviewing the new 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 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.

5. The TSB also noted that the new agreement provided for a considerably lower rate of growth between the two annual periods in the agreement 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

6. At the time of its review of agreement (B), the TSB took note of statements by the Swedish and Korean representative that there were reductions in comparison with the preceding agreement (A). During its review of the latest agreement (C),

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 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.

the TSB noted that, in agreement (B), a quota of 900 tons had been established for a group of products for which the export performance of Korea to Sweden was very small and that this did not appear to justify a restriction. This was stated by the representative of Korea. For the reasons mentioned in paragraph 1 above, the TSB did not refer to these elements in its earlier report.

7. For these reasons, comparison was only made between the levels in the new agreement (C) and the corresponding 1977 levels in agreement (A). Such a comparison showed that the overall aggregate limits in both the first and second years of the new agreement (C) involved considerable reductions on the total of the 1977 restraint levels established in agreement (A) plus the roll-back levels with respect to the newly introduced items. The TSB also noted that the annual aggregate limits for the two agreement years were lower than the total of individual limits established in this agreement (C). (i.e. Korea will not be able to fulfill all of its quotas).

8. 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.

9. While fully recognizing Sweden's right to protect its minimum viable production, the TSB held that paragraph 6 of the Understanding reached by the Textiles Committee on 14 December 1977, could not be invoked as a general waiver of particular obligations under the Arrangement, and recommended that, if the agreement (C) was to be extended, modified or renewed, both parties thereto should adhere to this principle.

10. The TSB, in making the observations cited above, noted that Sweden had negotiated an agreement with yet another country which represented a reduction in access for the exporting countries concerned.¹ The TSB also noted, however, that

¹Sweden/Hong Kong, COM.TEX/SB/429, paragraph 24; Sweden/Macao, COM.TEX/SB/477, paragraph 12.

nominal growth was provided between the first and second years of the new agreement (C). The TSB recommended that if the new agreement (C) were to be extended, modified or renewed, both parties concerned should take fully into account all the observations cited above. The TSB especially recommended that some growth be contained in any future agreement.

11. After concluding its examination, the TSB agreed to transmit the text of the agreement to the Textiles Committee, see COM.TEX/SB/478.

Sweden/Hong Kong

12. The TSB has received a notification from Sweden of a new two-year Article 4 agreement concluded with Hong Kong. The agreement supersedes a previous fifteen-month agreement ending 31 March 1979.¹

13. In reviewing this agreement the TSB noted that the carryover and carry forward provided were less than those provided for in the previous agreement. The TSB took note of the statement by the Swedish representative that these were the amounts that could be provided at that juncture. Observing that the carry forward amounted only to 2.5 per cent, the TSB recalled its previous observation that the margins of flexibility laid down in paragraph 5 of Annex B were to be observed. The TSB expressed the view that every effort should be made to ensure that the flexibility provisions of future agreements are in conformity with the provisions of the Arrangement.

14. The TSB also noted that the new agreement provided for a nominal rate of growth between the two annual periods in the agreement, i.e. 1 April 1979 to 31 March 1980, and 1 April 1980 to 31 March 1981, considerably lower 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

¹For previous agreement, see COM.TEX/SB/422; for the TSB comments thereon, see COM.TEX/SB/429, paragraphs 24 to 26.

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

15. The TSB also noted that whereas the restraint levels established for those products previously under restraint in the preceding agreement were increased approximately by 1 per cent, new products have been brought under restraint as well as products which were previously subject to an export authorization system. When comparing the overall aggregate limit in the new agreement with the aggregate limit of the preceding one, plus the rollback levels with respect to newly-introduced items, the TSB noted that, contrary to its predecessor, there was a nominal growth in the present one.

16. The TSB took note of the statements by the representatives of both parties concerned, that the increase referred to in paragraph 4 accommodated some swing with respect to most of the categories under restraint and that, given the nominal rate of growth, the built in swing could be lower than the 1 per cent swing accorded in the previous agreement.

17. The TSB recommended that if this agreement were to be extended, modified or renewed, both parties concerned should take fully into account all the observations cited above. The TSB especially recommended that some further growth be contained in any future agreement.

18. After concluding its examination, the TSB agreed to transmit the text of the agreement to the Textiles Committee, see COM.TEX/SB/479.

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 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.'

Article 3:5 notification

19. At the end of the meeting, the Chairman informed the Body that he had received a notification from Canada, under Article 3:5 of the Arrangement, concerning the imposition of quantitative restrictions on shirts with tailored collars for men and boys, on blouses and shirts for women and girls, and on skirts and dresses, when imported from India during the period 1 October 1979 to 30 September 1980. The TSB would conduct its examination of the matter within thirty days of its receipt of the notification, as required under Article 3:5(iii) of the MFA.