

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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UNITED STATES - RESTRICTIONS ON IMPORTS OF
WOOL SUITS FROM BRAZIL

Communication from Brazil

The following communication, dated 25 January 1993, has been received from the Permanent Mission of Brazil, with the request that the matter be inscribed on the Agenda of the Council meeting on 9 February.

On 30 April 1992, the United States requested consultations with Brazil under a relevant provision of the bilateral textiles Agreement, concluded under the "Arrangement Regarding International Trade in Textiles" (the "Multifibre Arrangement" (MFA)). It was the intention of the US Government to apply quantitative restrictions on Brazilian exports of men's and boys' wool suits (category 443 of the US system) to that market. Bilateral consultations held in Washington did not result in a mutually satisfactory solution.

On 27 May 1992, the United States unilaterally applied the restriction for the 90-day period between 30 April to 28 July 1992. Further consultations were held, again in Washington, but, in the absence of a negotiated settlement, the restriction was later extended for the period 29 July 1992 through 31 March 1993.

The Government of Brazil considered that the application of such a restraint on Brazilian exports under the conditions prevailing then, and as still prevailing today, was, and as it also remains, unfair, discriminatory and highly detrimental to its interests. It decided, therefore, to request that the matter be considered by the Textiles Surveillance Body (TSB) under Article 11, paragraphs 4 and 5 of the MFA.

Meeting on 31 July 1992, the TSB, after reviewing all the information presented by the delegations of Brazil and the United States "concerning the introduction of a restraint on men's and boys' suits (category 443) when exported by Brazil", and considering the treatment of imports from other suppliers, "agreed on the need for Brazil to be treated with equity in relation to such suppliers" (paragraph 4 of the recommendation).

It recommended that the parties "resume consultations promptly with a view to finding a mutually acceptable solution, keeping in mind the need referred to in paragraph 4".

The full text of the recommendation is contained in document COM.TEX/SB/1797, of 25 September 1992.

Consultations between Brazil and the United States held after the first TSB recommendation did not result in an agreed solution. The US interpretation of the recommendation was that the TSB had referred to the need of Brazil to be treated with equity in a general sense. As this was already the case, in the US view, there was no reason for the restraint to be terminated.

Considering that the United States had failed to abide by the recommendation of the TSB on the basis of an erroneous interpretation, Brazil requested that the Surveillance Body revert to the matter under the proper provisions of the MFA.

The TSB, in its second recommendation, made at the meeting of 16 October 1992, "expressed concern that its recommendation, which was limited to category 443, had been given different interpretations".

It also found that "in view of its concern regarding the different interpretations given to its recommendation, and of the fact that a restraint on the Brazilian product was already in application, the TSB reiterated that the parties review the situation urgently", taking into account, inter alia, "the TSB's opinion that the restraint level currently in effect should be revised to reflect the equity considerations cited in its previous recommendation".

Brazilian exports of the product are being curtailed by a quantitative restriction that even within the derogation represented by the Multifibre Arrangement was considered illegitimate by the Surveillance Body.

At the same time, if no solution is found, the unilateral restriction period will complete its cycle, with the implication that the recommendations by the competent body will have been completely disregarded.

Faced with this unfavourable prospect, Brazil has multiplied efforts to reach an agreement through bilateral consultations with the United States. Consultations have all been held in Washington, as the United States refuses to send a delegation to Brasília to discuss the matter. Brazil has proposed different formulas, which have all been refused by the US delegation. During the most recent meeting of the Textiles Committee, held on 9 December 1992, the delegation of Brazil expressed concern with the lack of results that should have been expected from TSB recommendations.

In these circumstances, Brazil is to ask the TSB to examine this matter for a third time.

At the same time, it requests, on the basis of the provisions cited below, that the Council examine this matter in its own first meeting of 1993.

Brazil wishes to refer to specific provisions of the MFA:

- (a) Article 1.6 of the MFA: "The provisions of this Arrangement shall not affect the right and obligations of the participating countries under the GATT".
- (b) Article 11.9 of the MFA: "If following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures".

Brazil considers that by persistent refusal to abide by the recommendation of the TSB, the United States provoked a situation as foreseen in the relevant provisions of the GATT on nullification or impairment.