

NORWAY - RESTRICTIONS ON IMPORTS
OF CERTAIN TEXTILE PRODUCTS

Report of the Panel adopted on 18 June 1980
(L/4959 - 27S/119)

I. Introduction

1. The Panel was established by the Council on 25 July 1979 with the following terms of reference (C/M/134, paragraph 7):

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by the United Kingdom, acting on behalf of Hong Kong, contained in document L/4815 relating to Norway's Article XIX action on certain textile products, and to make such findings as will assist the CONTRACTING PARTIES in making recommendations or rulings, as provided for in Article XXIII:2 and to report to the Council."

2. The composition of the Panel was as follows:

Chairman: Mr. R.J. Martin (Canada)

Members: Mr. P.-J. Dass (Trinidad and Tobago)
Mr. J.-D. Gerber (Switzerland)

3. In the course of its work the Panel heard representatives of the United Kingdom acting on behalf of Hong Kong (hereafter referred to as representative of Hong Kong) and Norway. Background documents and relevant information submitted by both parties, their replies to questions put by the Panel as well as relevant GATT documentation served as a basis for the examination of the matter.

4. During the proceedings the Panel encouraged efforts to develop a mutually satisfactory solution between the parties in the matter before it.

II. Factual aspects

5. The Panel based its deliberations principally on the following facts:

- (a) Until the end of 1977, exports from Hong Kong to Norway of most of the textile products covered by Norway's present global quota system were subject to a bilateral restraint agreement concluded under the Arrangement Regarding International Trade in Textiles (MFA). On 7 October 1977 Norway had requested Hong Kong to negotiate a further bilateral agreement for 1978. Consultations to this effect took place on 12 December 1977 but no agreement was reached.

- (b) Effective from 1 January 1978, Norway introduced temporary unilateral control measures on imports of certain textile products from a number of countries including Hong Kong. During the first four months of 1978 Norway, with the aim of acceding to the extended MFA, concluded long-term bilateral arrangements with six textile-supplying developing countries, providing for export restraints on a retroactive basis from 1 January 1978; Hong Kong and Norway held further consultations on 2-3 May 1978 but were unable to determine a level of textile exports acceptable to both sides.

- (c) Hong Kong brought the case to the attention of the Council at its meeting of 17 May 1978 (C/M/125). On 1 June 1978 it formally requested the CONTRACTING PARTIES to initiate the procedures under Article XXIII:2 (L/4671). At its meeting of 6 June 1978 the Council decided that its Chairman should establish a Panel if no satisfactory solution was found bilaterally by 30 June 1978 (C/M/126).
- (d) As recommended by the Council, further consultations were held on 28-29 June 1978 but no mutually acceptable solution could be reached. On 20 July 1978 Norway informed the CONTRACTING

invocation of Article XIX, Hong Kong argued that while it

"(c) the CONTRACTING PARTIES should recommend that the Government of Norway should either immediately terminate its Article XIX action, or immediately make it consistent with the provisions of Article XIII:2(d) by allotting an appropriate quota to Hong Kong."

Norway

10. As to the general background of its import restrictions, Norway stated that total low-priced imports of clothing had gone up from Nkr 225 million in 1973 to Nkr 581 million in 1977, representing an increase of 159 per cent and threatening its "minimum viable production of textiles" (MFA Article 1, paragraph 2). For Hong Kong the corresponding figures were Nkr 93 million and Nkr 307 million, an increase of 230 per cent and an annual growth of 35 per cent; Hong Kong's share of clothing imports had risen from 41.5 per cent in 1973 to 52.9 per cent in 1977. Under these circumstances temporary unilateral import restrictions effective from 1 January 1978 had proved to be necessary in order to limit the injury to Norway's textile industry while pursuing further bilateral consultations.

11. Norway contested the allegation that these restrictions had been illegal. As a member of the MFA and according to the procedures set out in COM.TEX/W/44 of 24 July 1977 which had been accepted by many participants of the MFA, Norway was entitled to take the unilateral measures put into force with effect from 1 January 1978. Norway stated that this was done on the basis of the provisions of the MFA and of the Protocol extending the MFA which gave the possibility of "jointly agreed reasonable departures from particular elements in particular cases". With the firm intention of acceding to the extended MFA, Norway was 1 415.44 525.36 Tm/F8 111(Norway) TjETBT1 ETIsTjE 525.36 Tm/F8 111(NoiE

- "(c) Norway will then accede to the Protocol extending the MFA, and will be ready to negotiate MFA-based arrangements with other countries;
- "(d) Norway hopes that the Panel will, in addition to its examination of the Norwegian Article XIX action, encourage and support all efforts to bring about a bilateral arrangement between the two parties concerned based

17. In accordance with established GATT practice (see BISD 11 S.100) the Panel held that where a measure had been taken which was judged to be inconsistent with the provisions of the General Agreement, this measure would prima facie constitute a case of nullification or impairment of benefits which other contracting parties were entitled to expect under the General Agreement.

18. On the basis of the conclusions reached above, the Panel finds that Norway should immediately either terminate its action taken under Article XIX or make it consistent with the provisions of Article XIII.

19. The Panel expresses the hope that in the light of this report the parties will be able to arrive at a mutually acceptable agreement.