**Collection:** Roberts, John G.: Files
**Folder Title:** JGR/Textiles (4 of 6)
**Box:** 55

Textiles

# Free Trade Transgressions

Shortly before Christmas, Washington trade lawyer John D. Greenwald asked the Reagan Administration, in effect, how much political heat it was willing to endure to fulfill its international commitments to avoid protectionism. The answer, which came in response to an unfair trade petition filed by Greenwald on behalf of domestic textile manufacturers and their unions, was, "Almost none."

It may turn out to be the strangest affair in American trade policy making in recent years. At the least, it is an ironic reminder that the continuing transgressions against free trade come not from Congress but from the Administration officials who are so fond of espousing the doctrine.

Greenwald, a smart, somewhat brash young lawyer who learned how the trade policy system works while at the Office of the U.S. Trade Representative and then at the Commerce Department, essentially took advantage of a loophole in the trade laws to blackmail the Reagan Administration into tightening restrictions on textile imports, which were already more tightly controlled than any other product.

The particulars are important only to illustrate the incongruity of the incident. Step one: In August 1983, the United States and China negotiated an agreement that would allow China to increase its textile shipments into the United States at a rate, roughly, of 2.5-3.5 per cent annually. This was somewhat lower than the previous rate. Step two: In September, the textile industry outraged by the new limits—it wanted lower growth rates—filed a petition with the Commerce Department charging that China's practice of using a different exchange rate for exporters constituted an export subsidy that should be offset by an equivalent "countervailing duty."

No one had ever sought to impose countervailing duties on imports from a nonmarket economy because it was assumed the law was aimed solely at free markets. But the law did not rule out such an action, and Chinese textiles were vulnerable. Imposing a duty could price the Chinese goods out of the lucrative U.S. market, deny China valuable foreign exchange earnings and therefore damage U.S.-Chinese relations. What's a President to do? *(See NJ, 12/3/83, p. 2526.)*

Greenwald had a ready answer. The textile industry would drop the case against the Chinese if the Administration would tighten textile imports from all sources. An industry wish list was presented to the Administration, and the textile producers withdrew the Chinese petition just before a decision was due on Dec. 6. The industry said it would refile in two weeks, absent favorable action on the wish list.

There ensued a flurry of interdepartmental meetings and machinations. When the question reached members of President Reagan's trade policy committee, all but one, Commerce Secretary Malcolm Baldrige, wanted to reject the textile industry's wish list. Instead, they favored deciding the Chinese case on the merits and, if politically necessary, agreeing to do no more than study the textile industry's complaint that imports were increasing at an alarming rate. But Reagan, as he has in the past, supported Baldrige, this time because he felt he had promised to protect the textile industry from imports. On Dec. 16, the Administration issued a new set of guidelines for textile trade that had literally been drafted in an afternoon to meet the industry's deadline.

The new rules are complex, but the intent was clear: the United States would move more quickly to clamp down on imports of textiles and apparel not already subject to specific quotas. This would be accomplished by increasing the frequency of what are known as "calls for consultation." There are more than 100 categories of items—felt hats, say, or men's cotton pajamas—in textile and apparel trade. Some are covered by specific quotas in the bilateral agreements between exporting and importing countries that are the very fabric of the textile trade, but many are not. The battleground in textiles is over when to make a "call" in those unregulated categories because, under the international textile rules, once an importing country calls in the exporter for consultation, the exporter must negotiate. If the consulation does not produce a satisfactory result for the importing country, that country may freeze imports at the previous year's level. It is an efficient way to hold back imports.

Under the old rules, the United States called for consultation when imports in unregulated categories were judged to be disrupting the U.S. market. The industry's objection was that there were no firm criteria for deciding when disruption was occurring. It was simply up to the Committee for the Implementation of the Textile Agreement, an interagency group, to judge. Under the new rules announced in mid-December, there will be a presumption of disruption—in effect, a preliminary finding, followed by an examination by the committee—whenever there has been an import surge above a certain level. The effect of the new rules will be to put the burden on the members of the committee to decide that the surge is not a disruption and therefore that a call for consultation is not needed.

There is little doubt that the new rules will lead to tighter restrictions on imports from the four largest suppliers to the U.S. market—Hong Kong, South Korea, Taiwan and China. Trade officials inclined to oppose additional restrictions said that they would fight hard against new calls affecting poorer textile producers in the Caribbean. These officials also said it could have been worse; earlier drafts would have automatically required calls when imports reached even lower threshholds. But even if the new rules lead only to a trickling of protectionist waters over the free trade dam, the incident destroys any lingering perception that the Reagan Administration stands for free trade, at least with any conviction.

The President's political advisers made the judgment that a strong hold on the textile states next November was worth that price. Perhaps. But the decision will make it harder to oppose import quotas for steel, shoes and other commodities and will make it less credible to rail against protectionist tendencies in the European Community and elsewhere. Nor can Reagan and his party hold the high ground if free trade becomes an issue in the campaign, for the President's policies are now close to those of his likely Democratic opponent, Walter F. Mondale. □

THE WHITE HOUSE

WASHINGTON

December 14, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS /s/

SUBJECT: Textile Proposals

We have received the Justice Department opinion on the defensibility of the proposed changes in the textile import program. Justice concludes that, given changes in the language of the proposals as we discussed, the proposals could be defended in a U.S. court against the charge that they were facially inconsistent with U.S. international obligations. The Justice opinion is fully in accord with the advice we gave Margulies Thursday evening.

The next step would seem to be for me to sit down with Shanks and edit Commerce's proposed memorandum from the President to a form consistent with our legal advice and the Justice opinion. When we reach agreement on the language I will review it with you, after which we can present it to Commerce. Accordingly, unless you object, I will share the Commerce draft with Shanks and begin the editing process this afternoon.

THE WHITE HOUSE

WASHINGTON

December 12, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS /S/

SUBJECT: Textile Proposals

On Friday Irving Margulies sent over a draft of a memorandum from you to him, purporting to memorialize the advice we conveyed Thursday evening. A comparison of my memorandum to you of Friday morning with Margulies' draft will indicate the point of tension between what Commerce would like us to say and what we actually said. The Margulies draft states our opinion as being that the proposals are consistent with the MFA, based on our understanding that the proposed criteria would trigger only a call, leaving limits actually imposed within the discretion of the Government. The draft also states our understanding that the Government would also retain discretion to discontinue a call if it were found to be inappropriate. Our opinion, however, was that what Commerce proposed to do was defensible under the MFA, if and only if it were made explicit that the proposed criteria triggered only a call and did not speak to the limits -- if any -- actually imposed.

The difference between "consistent with" and "defensible under" is clear and needs no elaboration. The other subtle change attempted by Commerce, however, is more significant than it might appear at first blush. The proposals submitted by the textile industry and labor, to which Commerce wants to commit the Government, seem to require the Government to impose import limits when the pertinent formula is triggered. Thus, the proposals state "[t]he Government will act to limit imports...." Commerce attorneys explained that this language should be interpreted as triggering only a "call" -- the beginning of consultations and the incidental setting of a generous 90-day interim limit -- and not the actual setting of a permanent limit, since the first step in acting to limit imports is to issue such a call. Thus, Commerce reasons, when the Government issues a call, it is "acting to limit imports," thereby satisfying its obligations under the proposals, regardless of the level of import limits, if any, actually imposed.

Attorneys from State, USTR, and Justice had serious doubts about the legality of the Commerce proposal, based on a reading of the language of the proposal as submitted by the textile industry and labor. A fair reading of that language suggests the formula triggers a limit, not simply a call. When Commerce's somewhat Thomistic "understanding" of the language was explained, the concerns were considerably alleviated, and the obvious and universal recommendation was that the language be revised to reflect this understanding more accurately. Commerce, however, was reluctant to do this, arguing that the textile industry and labor negotiators needed the stronger language to sell the settlement to their members.

Our advice to Margulies was that the proposed changes in the import program were defensible if Commerce's understanding of the proposals -- that they triggered only a call, and did not speak to actual limits -- were made explicit. If the proposals were understood to require the setting of limits, the theory underlying our opinion -- that MFA factors not embraced by the formula could be considered after the call but before setting any non-interim limits -- would be inapplicable. Quite apart from this legal concern, I think we should object to having the President sign a document that appears to mean one thing but is going to be "understood" to mean something totally different. Such a course of action could be potentially embarrassing to the President personally. Thus, if the formula is triggered and a call issued, but the Government declines to set non-interim limits or sets them so high as to be ineffective (permissible under the Commerce "understanding"), the industry and labor could point to the actual language -- "[t]he Government will act to limit imports" -- and claim that the President is not keeping his word. Confronted with the language of the industry/labor proposal, I daresay most neutral observers would agree.

Accordingly, I have revised the draft prepared by Margulies to reflect more accurately what I told him Thursday evening. I have attached both a "clean" new draft and, for your information, a mark-up of the Margulies draft, to indicate the difference. There is, incidentally, no question about what was said. I reviewed our advice with Shanks Thursday evening and Friday morning, memorialized it in my Friday morning memorandum to you, and explained the critical difference between "understood" and "made explicit" to Shirley Coffield of Margulies' staff Friday morning, when she first attempted, on behalf of Margulies, to "revise" our advice. I assume you also remember the advice, which we discussed both before and after I talked with Margulies, to be as described.

In addition to the draft memorandum for your signature, Margulies also sent over a draft of what he hopes to have the President sign, either in the form of a memorandum to the members of the Committee for the Implementation of Textile Agreements (CITA), or a letter to Secretary Baldrige

(Chairman of CITA) with copies to the other members. The foregoing analysis is, of course, highly pertinent to the question of the language of any document the President will sign. Our legal advice dictates that the document make explicit that the proposed criteria trigger only calls and not any non-interim import limits. Neither of the alternative phrasings proposed by Margulies does so. Certainly the "will act to limit imports" language is unacceptable. The supposedly less offensive alternative is "will issue calls, which limit imports." This is technically accurate, since the issuance of a call automatically triggers a very loose, 90-day interim import limit. In my view, however, this language could readily be construed as referring to non-interim limits.

I recommend advising Margulies that neither version of the operative language in his proposed Presidential memorandum or letter is acceptable. There is a meeting of attorneys from Commerce, State, USTR, Justice, Treasury, and Labor at 3:00 p.m. today on these matters, and there is no reason not to obtain the views of these affected agencies on the content and form of the document to be signed by the President.

THE WHITE HOUSE

WASHINGTON

December 15, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

I have considered the opinion expressed in your letter of December 5 concerning the consistency of changes in the textile import program with the Multifiber Arrangement, and have concluded that the contemplated changes are defensible under that Arrangement or related textile bilaterals.

This conclusion is contingent upon it being made explicit that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. It must be made clear that the proposed formulae do not trigger import restrictions, and that the level of import restraint that may be agreed as a result of any consultations would continue to be at the discretion of the U.S. Government. It must also be clear that if, after a call is made, consideration of the various factors enumerated in the MFA or bilateral agreement shows the call to have been inappropriate, the call could be discontinued and any import restrictions that might have been imposed would be removed. Implementation of the program in this way could be defended under the MFA. The proposed changes in the textile import program, however, may make the defense of the program in domestic litigation more problematic, and may make the defense before the Textiles Surveillance Body of any limits imposed more difficult. Those confronting the policy decisions should be made aware of these concerns.

It is my further opinion that no action by the President is necessary to implement the proposed changes in the textile import program. If any Presidential action is to be taken, it should not be in the form of an executive order, and should be in a form that minimizes direct Presidential involvement in implementing the proposals.

My opinion does not, of course, address the several outstanding policy issues inherent in the consideration of these proposals.

FFF:JGR:aea 12/15/83

cc: FFielding/JGRoberts/Subj/Chron

DRAFT

THE WHITE HOUSE

WASHINGTON

December 12, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

I have considered the opinion expressed in your letter concerning the consistency of changes in the textile import program with the Multifiber Arrangement, and have concluded that the contemplated changes are defensible under that Arrangement or related textile bilaterals.

This conclusion is contingent upon it being made explicit that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. It must be made clear that the level of import restraint that may be agreed as a result of any consultations under those provisions would continue to be at the discretion of the U.S. Government, and that if, after the call is made, further information shows the call to have been inappropriate, the call could be discontinued and any import restrictions that might have been imposed would be removed. Implementation of the program in this way could be defended under the MFA. The proposed changes in the textile import program may make the defense of the program in domestic litigation more problematic, and may make the defense of any limits imposed before the Textiles Surveillance Body more difficult, and those confronting the policy decisions should be made aware of these concerns.

Our opinion does not address the policy implications of any decision to agree to these proposals.

No action by the President is necessary to implement the proposed changes in the textile import program. If Presidential action is to be taken, it should not be in the form of an executive order, and in general should be in a form that minimizes direct Presidential involvement in implementing the proposals.

DRAFT

THE WHITE HOUSE

WASHINGTON

December 12, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

On December 9, 1983 you forwarded to me a draft of a memorandum from me to you on the legality of the proposed changes in the textile import program. You also forwarded a draft memorandum from the President to the members of the Committee for the Implementation of Textile Agreements (CITA) and a draft letter from the President to Secretary Baldrige, with copies to the other CITA members.

I have revised the draft memorandum concerning the legality of the proposed changes in the textile import program to reflect more accurately the advice we conveyed to you the evening of December 8. You will recall that our opinion that the proposed changes were legally defensible was contingent upon it being made explicit that the proposed criteria triggered only a call, with the Government retaining discretion in setting import limits and even withdrawing a call if it were determined that the issuance of the call was inappropriate. We do not consider it sufficient to state, as your draft memorandum did, that this is our "understanding" of the criteria, when the language employed is reasonably susceptible of a different interpretation. The understanding must be made explicit in any document signed by the President.

In light of this requirement, neither version of the operative language in the proposed Presidential memorandum or letter ("will act to limit imports" or "will issue calls, which limit imports") is acceptable. Both versions strongly suggest that the criteria speak to non-interim import limits. Having the President sign such language on the implicit "understanding" that they do not, not only weakens the legal defensibility of the criteria but also creates the potential for serious embarrassment to the President.

I recommend circulating the proposed Presidential memorandum or letter to obtain comments from the other affected agencies.

FFF:JGR:aea 12/12/83
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF TREASURY
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE U.S. TRADE REPRESENTATIVE

Pursuant to 7 U.S.C. § 1854 (1982), and my authority as President, I am directing that the Committee for the Implementation of Textile Agreements (CITA) take the steps outlined in this memorandum to implement U.S. rights under the Multifiber Arrangement (MFA) and related bilateral trade agreements.

Under the MFA and our bilateral textile agreements, the United States is authorized to take action affecting imports in cases of market disruption or the threat of market disruption. Increasing imports of textiles and textile products from low-wage countries has raised serious concerns about effects on the U.S. textile and apparel industry. As provided in 7 U.S.C. § 1854 and our international agreements, and in order to avoid further injury to the U.S. textile and apparel industry that is damaged or threatened with damage from imports coming from these low-wage countries, CITA shall take the following actions:

(1) CITA will issue calls on growing low-wage suppliers in any product or category when total growth in imports is more than 30 percent in the immediately preceeding year or the total growth in imports would lead to an import to domestic production ratio of 20 percent or more. A call will be made on a growing low-wage supplier only when imports from that supplier reach the greater of 1 percent of total imports or the minimum consultation level in that product or category.

(2) CITA will issue calls on growing low-wage suppliers in any product or category in which imports exceed 20 percent of U.S. production in that category. A call will be made on a growing low-wage suplier only when imports from that supplier reach the greater of 1 percent of total imports or the minimum consultation level in that product or category.

(3) With respect to Hong Kong, Taiwan and Korea, CITA will issue E-system calls on each supplier on any product or category when E's issued in that particular

product or category reach 65 percent of the Maximum Formula Level [MFL], and in the opinion of the Chairman of CITA would exceed the MFL if not called. Such calls will be made in a product or category with an import to production (I/P) ratio of 20 percent or more, or in which total imports or anticipated total imports in the current year would increase the I/P.

(4) Consistent with current CITA practices, calls once made need not necessarily result in the imposition of annual import limits. Additionally, existing CITA procedures will continue to be used in determining appropriate import levels.

(5) Once a supplier in any product or category is restricted after consultations under the textile import program, CITA shall take action, consistent with applicable international agreements, to ensure that the product or category shall remain under control for the life of the bilateral agreement that governs our textile relations with the called country.

Market disruption or the threat thereof may occur under circumstances other than those referred to above. CITA will continue to monitor carefully all textile and apparel imports and their impact on the U.S. textile and apparel industry, and where market disruption or threat of disruption occurs under such other circumstances, will take appropriate actions to limit imports.

Ronald Reagan

Document No. ____________

# WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/16/83 ACTION/CONCURRENCE/COMMENT DUE BY: ____________

SUBJECT: CCCT WORKING LUNCHEON RE TEXTILES

| | ACTION | FYI | | ACTION | FYI |
|---|---|---|---|---|---|
| VICE PRESIDENT | ☐ | ☐ | JENKINS | ☐ | ☐ |
| MEESE | ☑ | ☐ | McFARLANE | ☑ | ☐ |
| BAKER | ☑ | ☐ | McMANUS | ☐ | ☐ |
| DEAVER | ☐ | ☐ | MURPHY | ☐ | ☐ |
| STOCKMAN | ☐ | ☐ | OGLESBY | ☑ | ☐ |
| DARMAN | ☐P | ☑SS | ROGERS | ☐ | ☐ |
| FELDSTEIN | ☐ | ☐ | SPEAKES | ☑ | ☐ |
| FIELDING | ☐ | ☐ | SVAHN | ☑ | ☐ |
| FULLER | ☐ | ☐ | VERSTANDIG | ☐ | ☐ |
| GERGEN | ☐ | ☐ | WHITTLESEY | ☐ | ☐ |
| HERRINGTON | ☐ | ☐ | ________ | ☐ | ☐ |
| HICKEY | ☐ | ☐ | ________ | ☐ | ☐ |

REMARKS:

The attached will be discussed at the luncheon meeting today.

RESPONSE:

Richard G. Darman
Assistant to the President
Ext. 2702

THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

December 16, 1983

MEMORANDUM TO THE PRESIDENT

FROM: WILLIAM E. BROCK

SUBJECT: Your Meeting with Senators Thurmond, Helms, Congressmen Broyhill and Campbell on Textiles and Subsequent Cabinet Level Discussions

In dealing with this issue over the past ten days we reviewed several options. By the time of the TPC meeting yesterday these had been reduced to three.

1) Accept proposals for government action in the textile import program developed by industry and the Department of Commerce in return for which the industry would not refile their CVD petition. This option poses a serious policy/legal problem. The central concern is that the proposals would give the Administration no discretion in initiating calls on developing countries and that the procedures would be in violation of our international obligations. The procedure, if adopted, would require an immediate escalation to over 140 calls with over 30 LDC's, including most members of the Caribbean Basin Initiative.

2) Let the CVD case be decided on its merits, while continuing to work with the textile industry to resolve the problems they perceive with textile policy and procedures. This course has been suggested by Senator Dole, most TPC participants and representatives of other industries, importer groups, etc. Those who favor this option believe that the integrity of the U.S. government's legal procedures would be called into question if the industry withdrew its petition on the basis of an agreed action program, as well as that the action program proposed would cause more damage to U.S.-China relations than would letting the CVD case be decided on its merits.

Since the second option would not permit us to address the issues raised with you by Congressional and industry leaders in a timely manner, and the first option could not be accepted on both legal and policy grounds by many TPC members, a third option (attached) was developed which now has the concurrence of all TPC members as a TPC recommendation.

This recommendation would commit the Administration to achieving a solution for the short-term problems addressed by the industry and congressional leaders within 30 days. It would also permit a test of criteria the industry has urged the government to use in making calls without violating our international obligations and incurring the political repercussions of issuing calls on more than 30 LDC's. It further commits the Administration to work with industry, during the next 90 days on long-term objectives and solutions.

Attachment

RECOMMENDATION

To address the textile and apparel industry's concerns with respect to U.S. textile trade policy and procedures, the Administration will:

(1) Establish clearer criteria for addressing import increases in categories not presently controlled. This will be done to ensure that appropriate action regarding market disruption can be taken on a more timely and predictable basis.

(2) Immediately review non-controlled categories from major suppliers which meet the criteria in the attached paragraphs. Where real risk of market disruption exists, calls will be issued forthwith.

-- Steps one and two to be completed within 30 days.

(3) Consult with industry leaders to reconcile data, clarify problems, and identify long-term objectives for further action within 90 days.

Adoption of this Recommendation would:

1) Commit the Administration to achieve a solution for the problems addressed in Option 1 within 30 days.

2) Commit the Administration to consider Option 1 criteria on a trial basis in examining imports of non-controlled categories from major suppliers and to take action if warranted; such action would be completely consistent with both domestic law and our international obligations.

3) Focus the initial action on major suppliers, in order to provide experience without the adverse impact of issuing calls on over 30 small LDC's.

4) Commit the Administration to work with the industry, clarifying issues of concern and identifying actions which might be taken to address them over both the short and long term.

5) Decouple development of solution in the general trade area from the specific CVD case against China.

Attachment

ATTACHMENT

## CRITERIA

CITA will issue calls, which limit imports, on growing low-wage suppliers in any product or category when total growth in imports in that product or category is more than 30 percent in the most recent year ending or the total growth in imports would lead to an import to domestic production ratio of 20 percent or more. These calls will be made on any growing low-wage supplier when imports from any such supplier reach the greater of 1 percent of total imports or the minimum consultation level in that product or category.

The Government will issue calls, which limit imports, on growing low-wage suppliers in any product or category already import impacted, that is, in which imports exceed 20 percent of U.S. production in that category. In taking these actions, the Government will call all growing low-wage suppliers that have greater than the higher of the minimum consultation level or 1 percent of total imports in any category.

With respect to Hong Kong, Taiwan and Korea, E-system calls on each supplier will be made on any product or category when E's issued in that particular product or category reaches 65 percent of the Maximum Formula Level (MFL), and in the opinion of the Chairman of CITA would exceed the MFL if not called, and is in a category with an import to production (I/P) ratio of 20 percent or more, or total imports or anticipated total imports would increase the IP.

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO: THE SECRETARY OF STATE
THE SECRETARY OF TREASURY
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE U.S. TRADE REPRESENTATIVE

I have determined that the actions directed to be taken by the Committee for the Implementation of Textile Agreements (CITA), in this memorandum are necessary to implement U.S. rights under the Multifiber Arrangement (MFA) and related bilateral trade agreements. I am, therefore, authorizing CITA, under Section 1(c) of Executive Order 11652 of March 3, 1972 as amended, to take such actions. These actions will be taken pursuant to Section 204 of the Agricultural Act of 1956 which provides authority to implement textile agreements, and Executive Order 11651 in which authority to perform certain actions with respect to these agreements has been delegated to CITA.

Under the MFA and our bilateral textile agreements, the United States is authorized to take action affecting imports in cases of market disruption or the threat of market disruption.

As a consequence of increasing imports of textile and textile products from low-wage countries, there has been increasing disruption and threat of disruption to the U.S. textile and apparel industry. As provided in Section 204 and our international agreements, and in order to avoid further disruption to the U.S. textile and apparel industry which is damaged or threatened with damage from imports coming from these low-wage countries, I am directing CITA to take the following actions:

for specific country
for specific product

(1) CITA will issue calls, which limit imports, on growing low-wage suppliers in any product or category when total growth in imports in that product or category is more than 30 percent in the most recent year ending or the total growth in imports would lead to an import to domestic production ratio of 20 percent or more. These calls will be made only on any growing low-wage supplier when imports from any such supplier reach the greater of 1 percent of total imports or the minimum consultation level in that product or category.

(2) The Government will issue calls, which limit imports, on growing low-wage suppliers in any product or category already import impacted, that is, in which imports exceed 20 percent of U.S. production in that category. In taking these actions, the Government will call all growing low-wage suppliers that have greater than the higher of the minimum consultation level or 1 percent of total imports in any category.

(3) With respect to Hong Kong, Taiwan and Korea, E-system calls on each supplier will be made on any product or category when E's issued in that particular product or category reaches 65 percent of the Maximum Formula Level [MFL], and in the opinion of the Chairman of CITA would exceed the MFL if not called, and is in a category with an import to production (I/P) ratio of 20 percent or more, or total imports or anticipated total imports would increase the I/P.

(4) Once any category is restricted after consultations under the textile import program, CITA shall take action to ensure that it shall remain under control for the life of the bilateral agreement that governs our textile relations with the called country.

Market disruption or the threat thereof may occur under circumstances other than those referred to above. CITA will continue to carefully monitor all textile and apparel imports and their impact on the U.S. textile and apparel industry, and where market disruption or threat occurs under such other circumstances, will take appropriate actions to limit imports.

Ronald Reagan

# THE WHITE HOUSE

WASHINGTON

December 12, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

— tighten this up —

I have considered the opinion expressed in your letter of — concerning the consistency of changes in the textile import program with the Multifiber Arrangement, and have concluded that the contemplated changes are defensible under that Arrangement or related textile bilaterals.

This conclusion is contingent upon it being made explicit that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. It must be made clear that the level of import restraint that may be agreed as a result of any consultations under those provisions would continue to be at the discretion of the U.S. Government, and that if, after the call is made, further information shows the call to have been inappropriate, the call could be discontinued and any import restrictions that might have been imposed would be removed. Implementation of the program in this way could be defended under the MFA. The proposed changes in the textile import program may make the defense of the program in domestic litigation more problematic, and may make the defense of any limits imposed before the Textiles Surveillance Body more difficult, and those confronting the policy decisions should be made aware of these concerns.

~~Our~~ My opinion does not, of course, address the significant policy ~~implications of any~~ issues inherent in ~~decision to agree to~~ the consideration of these proposals.

No action by the President is necessary to implement the proposed changes in the textile import program. If any Presidential action is to be taken, it should not be in the form of an executive order, and ~~in general~~ should be in a form that minimizes direct Presidential involvement in implementing the proposals.

Adding further opinion

Also — add that the use of proposed formula really serves to "trigger" a call; it does not set a quota; the call can be rescinded, altered, etc. Also — the other criteria as set forth in MFA are to be considered during consultation period.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release December 16, 1983

STATEMENT BY THE PRINCIPAL DEPUTY PRESS SECRETARY

To address the textile and apparel industry's concerns with respect to U.S. textile trade policy and procedures, the Administration will:

Utilize additional criteria for addressing import increases in categories not presently controlled which, if met, will establish a presumption of market disruption or threat thereof. This will be done to ensure that appropriate action regarding market disruption is taken on a more timely and predictable basis. However, if market disruption or threat thereof is not demonstrated, quotas will not be imposed.

The additional criteria which will be used and which raise a presumption of market disruption or threat thereof are:

1. Total growth in imports in that product or category is more than 30 percent in the most recent year, or the ratio of total imports to domestic production in that product or category is 20 percent or more; and

2. Imports from the individual supplier equal 1 percent or more of the total U.S. production of that product or category.

With respect to countries with which we have Export Authorization Arrangements, E-system calls on each supplier will be made on any product or category when export authorizations issued in that particular product or category reach 65 percent of the Minimum Formula Level (MFL), and in the opinion of the Chairman of the Committee for the Implementation of Textile Agreements (CITA) would exceed the MFL if not called, and is in a category with an import to production (I/P) ratio of 20 percent or more, or in categories in which there is a 30 percent or greater increase.

Once any category is restricted after consultations under the textile import program, the Committee for the Implementation of Textile Agreements (CITA) shall take action to ensure that it shall under ordinary circumstances, remain under control for the life of the bilateral agreement that governs our textile relations with the called country.

# # #

THE WHITE HOUSE

WASHINGTON

December 14, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

I have considered the opinion expressed in your letter concerning the consistency of changes in the textile import program with the Multifiber Arrangement, and have concluded that the contemplated changes are defensible under that Arrangement or related textile bilaterals.

This conclusion is contingent upon it being made explicit that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. It must be made clear that the level of import restraint that may be agreed as a result of any consultations under those provisions would continue to be at the discretion of the U.S. Government, and that if, after the call is made, further information shows the call to have been inappropriate, the call could be discontinued and any import restrictions that might have been imposed would be removed. Implementation of the program in this way could be defended under the MFA. The proposed changes in the textile import program may make the defense of the program in domestic litigation more problematic, and may make the defense of any limits imposed before the Textiles Surveillance Body more difficult, and those confronting the policy decisions should be made aware of these concerns.

Our opinion does not address the policy implications of any decision to agree to these proposals.

No action by the President is necessary to implement the proposed changes in the textile import program. If Presidential action is to be taken, it should not be in the form of an executive order, and in general should be in a form that minimizes direct Presidential involvement in implementing the proposals.

THE WHITE HOUSE

WASHINGTON

December 14, 1983

MEMORANDUM FOR IRVING P. MARGULIES
ACTING GENERAL COUNSEL
DEPARTMENT OF COMMERCE

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COUNSEL TO THE PRESIDENT

SUBJECT: Textile Proposals

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This conclusion is contingent upon it being made explicit that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. It must be made clear that the level of import restraint that may be agreed as a result of any consultations under those provisions would continue to be at the discretion of the U.S. Government, and that if, after the call is made, further information shows the call to have been inappropriate, the call could be discontinued and any import restrictions that might have been imposed would be removed. Implementation of the program in this way could be defended under the MFA. The proposed changes in the textile import program may make the defense of the program in domestic litigation more problematic, and may make the defense of any limits imposed before the Textiles Surveillance Body more difficult, and those confronting the policy decisions should be made aware of these concerns.

Our opinion does not address the policy implications of any decision to agree to these proposals.

No action by the President is necessary to implement the proposed changes in the textile import program. If Presidential action is to be taken, it should not be in the form of an executive order, and in general should be in a form that minimizes direct Presidential involvement in implementing the proposals.

FFF:JGR:aa/ph 12/14/83
cc: FFFielding/JGRoberts/Subject/Chron.

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

December 9, 1983

MEMORANDUM TO FRED F. FIELDING
Counsel to the President

FROM: IPM Irving P. Margulies
Acting General Counsel

SUBJECT: Textile Import Program

Here is a draft, based upon my conversation last night with John Roberts, of a brief written confirmation of your legal clearance of the proposed changes in textile import program procedures.

Also attached are alternative drafts, in memorandum and letter form, of the directions concerning these changes from the President to the CITA members. These drafts contain bracketed language alternatives. The second alternative in each case is language we would prefer, if we can get the Labor/Industry textile representatives to accept changes. These drafts should be closely held until Commerce has an opportunity to table them when we resume discussions with the industry/labor group.

I believe your action is vital to the timely and successful conclusion of these difficult deliberations. Please give me a call if you wish to discuss these drafts.

We received the attached brief from counsel for the CVD petitioners late this afternoon.

Attachments

MEMORANDUM FOR: IRVING P. MARGULIES
Acting General Counsel
Department of Commerce

DRAFT

FROM: Fred F. Fielding
Counsel to the President
The White House

I have considered the opinion expressed in your letter concerning the consistency of changes in the textile import program with the Multifiber Arrangement and agree with the conclusion that the proposals are not inconsistent with that Arrangement or related textile bilaterals.

I understand these proposals to mean that the criteria proposed would merely trigger the "call" mechanisms in our bilateral agreements or, lacking such an agreement, the provisions of Article 3 of the MFA. The level of import restraint which may be agreed as a result of any consultations under those provisions would continue to be at the discretion of the U.S. Government. In addition I understand these proposals to provide that if, after the call is made, further information shows the call to have been inappropriate, that the call could be discontinued and any import restrictions which might have been imposed would be removed. Implementation of the program in this way would not be inconsistent with our commitments under the MFA, given the nature of the recommended criteria themselves, which provides that action only be taken in instances when there are growing imports from low-wage suppliers.

This view does not address the policy implications of any decision to agree to these proposals.

It would be my recommendation that the President's direction to implement these proposals be by some means other than an Executive Order, as the Presidential action is consistent with the provisions of the current CITA Executive Order and does not involve its amendment. In addition, a less formal directive would minimize direct Presidential involvement in the actual implementation of the proposals.

DRAFT

MEMORANDUM TO: THE SECRETARY OF STATE
THE SECRETARY OF TREASURY
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE U.S. TRADE REPRESENTATIVE

I have determined that the actions directed to be taken by the Committee for the Implementation of Textile Agreements (CITA), in this memorandum are necessary to implement U.S. rights under the Multifiber Arrangement (MFA) and related bilateral trade agreements. I am, therefore, authorizing CITA, under Section 1(c) of Executive Order 11652 of March 3, 1972 as amended, to take such actions. These actions will be taken pursuant to Section 204 of the Agricultural Act of 1956 which provides authority to implement textile agreements, and Executive Order 11651 in which authority to perform certain actions with respect to these agreements has been delegated to CITA.

Under the MFA and our bilateral textile agreements, the U.S. is authorized to take action affecting imports in cases of market disruption or the threat of market disruption.

As a consequence of increasing imports of textile and textile products from low-wage countries, there has been increasing disruption and threat of disruption to the U.S. textile and apparel industry. As provided in Section 204 and our international agreements, and in order to avoid further disruption to the U.S. textile and apparel industry which is damaged or threatened with damage from imports coming from these low-wage countries, I am directing CITA to take the following actions:

(1) CITA [will act to limit imports from] [will issue calls, which limit imports, on] growing low-wage suppliers in any product/category when total growth in imports in that product/category is more than 30 percent in the most recent year ending or the total growth in imports would lead to an import to domestic production ratio of 20 percent or more. These [limits will be established] [calls will be made] on any growing low-wage supplier when imports from any such supplier reach [the greater of 1 percent of total imports or] the minimum consultation level in that product/category.

(2) The Government [will act to limit imports from] [will issue calls, which limit imports, on] growing low-wage suppliers in any product/category already import impacted, [that is,] in which imports exceed 20 percent of U.S. production in that category. In taking [these] actions [to limit imports,] the Government will [limit] [call] all growing low-wage suppliers that have greater than the higher of the minimum consultation level or 1 percent of total imports in any category.

(3) With respect to Hong Kong, Taiwan and Korea, E-system calls on each supplier will be made on any product/category when E's issued in that particular product/category reaches 65 percent of the Maximum Formula Level [MFL] [and in the opinion of the Chairman of CITA would exceed the MFL if not

called] and is in a category with an I/P ratio of 20 percent or more, or total imports or anticipated total imports would increase the I/P.

(4) Once any category is restricted after consultations under the textile import program, [CITA shall take action to insure that] it shall remain under control for the life of the bilateral agreement that governs our textile relations with the called country.

Market disruption or the threat thereof may occur under circumstances other than those referred to above. CITA will continue to carefully monitor all textile and apparel imports and their impact on the U.S. textile and apparel industry, and where market disruption or threat occurs under such other circumstances, will take appropriate actions to limit imports.

Ronald Reagan

**DRAFT**

Honorable Malcolm Baldrige
Secretary of Commerce
Washington, D.C. 20230

Dear Mr. Secretary:

I have determined that the actions directed to be taken by the Committee for the Implementation of Textile Agreements (CITA), in this letter are necessary to implement U.S. rights under the Multifiber Arrangement (MFA) and related bilateral trade agreements. I am, therefore, authorizing CITA, under Section 1(c) of Executive Order 11652 of March 3, 1972 as amended, to take such actions. These actions will be taken pursuant to Section 204 of the Agricultural Act of 1956 which provides authority to implement textile agreements, and Executive Order 11651 in which authority to perform certain actions with respect to these agreements has been delegated to CITA.

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(2) The Government [will act to limit imports from] [will issue calls, which limit imports, on] growing low-wage suppliers in any product/category already import impacted, [that is,] in which imports exceed 20 percent of U.S. production in that category. In taking [these] actions [to limit imports,] the Government will [limit] [call] all growing low-wage suppliers that have greater than the higher of the minimum consultation level or 1 percent of total imports in any category.

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opinion of the Chairman of CITA would exceed the MFL if not called] and in a category with an I/P ratio of 20 percent or more, or total imports or anticipated total imports would increase the I/P.

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Market disruption or the threat thereof may occur under circumstances other than those referred to above. You should insure, therefore, that CITA will continue to carefully monitor all textile and apparel imports and their impact on the U.S. textile and apparel industry, and where market disruption or threat occurs under such other circumstances, will take appropriate actions to limit imports. Copies of this letter are being sent to heads of other departments and offices which are members of CITA.

Sincerely,

Ronald Reagan

cc: The Secretary of State
The Secretary of Treasury
The Secretary of Labor
The U.S. Trade Representative

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO: THE SECRETARY OF STATE
THE SECRETARY OF TREASURY
THE SECRETARY OF COMMERCE
THE SECRETARY OF LABOR
THE U.S. TRADE REPRESENTATIVE

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Under the MFA and our bilateral textile agreements, the United States is authorized to take action affecting imports in cases of market disruption or the threat of market disruption.

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or specific country for specific product

(2) The Government will issue calls, which limit imports, on growing low-wage suppliers in any product or category already import impacted, that is, in which imports exceed 20 percent of U.S. production in that category. In taking these actions, the Government will call all growing low-wage suppliers that have greater than the higher of the minimum consultation level or 1 percent of total imports in any category.

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Ronald Reagan

1. take out action
2. CITA issue statement w/ criteria

THE WHITE HOUSE

WASHINGTON

e.g. l.w. [illegible]
E'a? [illegible] all max formula level } define by [illegible]

- ¶ 3
- product? - [illegible]? - it (PRC)

[To take [illegible] out [illegible] e.o.
CITA: [illegible]]

MEMORANDUM TO: THE SECRETARY OF STATE
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