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AIDE MEMOIRE

US/HONG KONG TEXTILES AGREEMENT

The Government of Hong Kong understands that the Government of the United States is considering the possibility of placing imports of textiles from Hong Kong under immediate embargo as soon as US data show that the applicable limits have been reached, without regard to the position reflected in the Hong Kong export records.

The Government of Hong Kong wishes to express its serious concern about this proposal and considers that any action by the Government of the United States to implement it would be incompatible with the bilateral Textiles Agreement between the two governments.

Paragraph 4 of the Agreement provides for export control by the Government of Hong Kong on shipments of textiles and textile products to the United States through the implementation of the visa system detailed in Annex D of the Agreement. The present export control arrangements have been in effect since 1961 and have proved to be an effective mechanism for control. The Government of Hong Kong has always met its responsibilities for export control in accordance with the terms of the Agreement.

It is the view of the Government of Hong Kong that the new controls envisaged would constitute an additional trade measure outside the scope of the Agreement which would be disruptive to Hong Kong's trade if properly licensed shipments were to be held up.

The Government of Hong Kong has always shown willingness to co-operate with the Government of the United States in aligning classification practices, in accordance with the terms of paragraph 11 of the Agreement, and to co-operate on statistical

Questions,

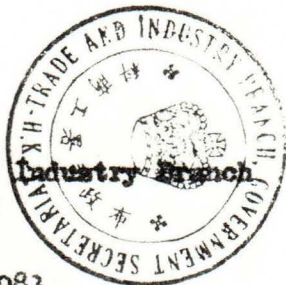
questions, in accordance with paragraph 13 of the agreement. During recent years data reconciliation exercises have been conducted annually, usually within six months after the end of a textile Agreement year. The Government of Hong Kong co-operated with the Government of the United States in these consultations, with a view to resolving any discrepancies, and both governments managed to reach agreement in respect of trade levels in a majority of the categories. For certain categories where it was agreed that the causes of discrepancy should be investigated, the Government of Hong Kong provided the Government of the United States with copies of all the Hong Kong export licences issued in these categories for the years in question so that they could be matched with the US import records. Six such enquiries have been conducted since 1980 but in none of these cases has there been any response from the Government of the United States to indicate the result of the investigations.

It is nonetheless apparent that where discrepancies arise, this is often due to US Customs authorities amending the classification from that shown on the visa copy of the Hong Kong export licence without subsequently notifying the Government of Hong Kong of this change. The Government of Hong Kong has, moreover, on several occasions suggested to the Government of the United States that the visa number on the Hong Kong export licence should be entered into the US computer records so that reconciliation of data would be facilitated. However, this proposal has not been adopted.

The Government of Hong Kong is prepared to assist the US authorities in any further investigations which are considered necessary in any categories with regard to discrepancies between the Hong Kong export and import data for 1982, and is also willing to make appropriate adjustments in subsequent years in cases where it can be proved on the basis of a determination of the facts that there has been overshipment.

The Government of Hong Kong considers that the present basis of co-operation between the two governments should continue. It is disturbed to discover that the Government of the United States may be contemplating changing these arrangements unilaterally. It therefore requests that before any such decision is taken, the Government of the United States should provide the Government of Hong Kong with a statement describing the problems in the present arrangements that are perceived by the Government of the United States, so that the two governments may enter into consultations, in accordance with paragraph 18 of the Agreement, with a view to reaching a mutually-satisfactory solution to these problems.

Trade and
Hong Kong



18 July 1983

DEPARTMENT OF TRADE

App II

C.C. Mr. M. D. Cartland,
Department of Trade, Hong Kong.

BRITISH EMBASSY
HONG KONG OFFICE

3100 Massachusetts Avenue, N.W.
Washington D.C. 20008

Ref: C/4

UNCLASSIFIED
BY HAND

26 July, 1983.

Ms. R. Miles Henderson,
Deputy Chief,
Division of Textiles,
Room No : 3421,
Bureau of Economic & Business Affairs,
U. S. Department of State,
2201 C. Street, N.W.,
Washington D.C. 20520.

Dear Miles,

Data Reconciliation in Specific Categories

During the U.S./Hong Kong consultations held in Washington on 14/15 July 1983, it emerged that there was some confusion between the delegations as to precisely where matters had been left in respect of data reconciliation in the previous round of Hong Kong/U.S. consultations held in Washington from 27 to 30 June, 1983. ~~The purpose of this letter is to place on record Hong Kong's understanding of the position and to confirm the request that was made across the table on 15 July for the U.S. to provide Hong Kong with a full written explanation of certain matters relating to investigations.~~

2. The Hong Kong delegation's understanding was that in the June consultations, it had been asked by the United States to reconcile 1982 data in respect of specific categories. It questioned the need to do so in the absence, at that time, of any proposal for carryover in 1983. Despite that reservation, it did nevertheless agree to look at the matter. The Hong Kong delegation indicated that it could agree to a U.S. proposal to split the difference between the U.S. and Hong Kong data in respect of all the specific categories except for Categories 338/339, 338/339(1), 345, 445/6 and 645/6. It could not agree to splitting the difference in these excepted categories because to do so would have been to produce apparent overshipments. There were no overshipments in the Hong Kong figures for 1982 and a mere data discrepancy between U.S. imports and Hong Kong exports was clearly not enough to establish that any overshipment had in fact occurred. This was particularly so in view of the example of Category 349 in which the Hong Kong delegation had produced copies of the only five 1982 licences issued by Hong Kong and the U.S. delegation had subsequently, and without explanation, accepted the Hong Kong 1982 figure as correct. Hong Kong, therefore, counter-proposed that investigations should be conducted in

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respect of each of these excepted categories to establish the precise cause of the discrepancies as a basis for determining whether any adjustments might be necessary to either Hong Kong of U.S. data. It was emphasised that Hong Kong was always ready to make appropriate adjustments on the basis of factual evidence.

3. It was the Hong Kong delegation's understanding that its counter-proposal for investigations in these categories was noted by the U.S. delegation at the conclusion of the consultations on 30 June, 1983.

4. A formal response from the U.S. side was therefore expected when the consultations resumed on 14/15 July. However, the U.S. delegation stated that it had been under the impression that the investigation counter-proposal had been rejected during the previous round. This came as a surprise to the Hong Kong delegation which then requested a written explanation as to why investigations should be unacceptable to the U.S. this year when they had been readily undertaken on a number of occasions in recent years. It was observed that of the six investigations that had been held in the past three years, the outcome of not one of them had been made known to Hong Kong. It was therefore asked that, in addition to the explanation, Hong Kong be given a full written account of precisely what had been done on the U.S. side in the previous investigations and that full details be provided of all the results however incomplete or unsatisfactory they might have been.

5. In the absence of any requirement for urgent reconciliation, such as exists in the EA categories where it is necessary to arrive at agreed levels for the purpose of the EA formula, there would seem to be no reason why reconciliation of the 1982 specific categories, if reconciliation is necessary at all, should not be effected on the basis of a determination of the facts. Such a factual determination should be possible to achieve quite simply by matching the records on each side. It need not matter that such a process might take quite some time since there need be no time limit on the making of any adjustments for which the justification might subsequently be established.

6. This investigation approach, whereby Hong Kong has produced licence copies for matching with U.S. records, has become an established recourse in U.S./Hong Kong data reconciliation exercises in recent years. You will recall in this connection that details of six cases were given across the table on 15 July. For confirmation, they are reproduced below:

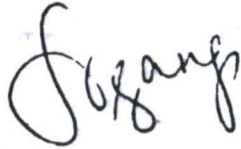
<u>Cat.No.</u>	<u>Year of Discrepancy</u>	<u>No. of licence copies forwarded by H.K. to the U.S. for investigation</u>	<u>Date on which these copies were forwarded to the U.S.</u>
347/8	1979	22,060	22 May, 1981
331	1979	1,021	22 Sept., 1981
340	1979	6,043	23 Nov., 1981
350	1980	152	27 Nov., 1981
447	1980	424	21 July, 1981
443	Part of 1982	258	8 Nov., 1982

7. As regards Cat. 338/9 and 338/9(1), the Hong Kong delegation did mention that a standard approach had been established in recent years to resolve the well known classification problems of these categories. This was simply to add the U.S. data in these two categories and then pro rata the sum between the two categories in proportion to the respective restraint limits. In the June consultations, the U.S. side indicated that it did not wish to follow this traditional approach this year because of misclassification discovered in a number of 1983 cases. The Hong Kong delegation made clear that in its view, the 1983 cases could only justify adjustments in 1983, which in any case had already been effected, and they could not in themselves justify the conclusion that similar cases must have occurred in 1982. However, if the traditional approach to resolving the differences in Cat. 338/9 and 338/9(1) could not be accepted by the U.S. for the 1982 data then Hong Kong would counter-propose that an inquiry be conducted on the 1982 records to establish the precise causes of the problem.

8. To sum up, therefore, it is now Hong Kong's understanding that the United States is unwilling to agree that investigations be conducted to establish the causes of data discrepancies in 1982 in respect of Categories 338/9, 338/9(1), 345, 445/6 and 645/6. Hong Kong has requested, as this letter confirms, a full and detailed explanation as to what precisely was done on the U.S. side in the previous investigations held over the past few years and precisely why such an investigative approach should now no longer be acceptable to the U.S. in 1983. Once this information has been provided in full, it should be possible to resume the dialogue between the two Governments in respect of the data reconciliation for 1982.

Letter to Ms. Miles Henderson, dated 26 July, 1983, Page 4.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'A. C. H. Yang'.

A. C. H. Yang (Miss),
Second Secretary,
Hong Kong Commercial Affairs.

ACHY:jre

BRITISH EMBASSY
HONG KONG OFFICE

3100 Massachusetts Avenue, N.W.
Washington D.C. 20008

6 September 1983

Ms. Ruth Miles Henderson
Acting Chief
Bureau of Economic and
Business Affairs
U.S. Department of State
Washington D.C. 20520

Dear Miles

Data Reconciliation

I refer to your letter of 16 August 1983 in which:

- (a) you set out in the attachment to your letter the agreed 1982 levels of trade for certain textile and garment EA categories; and
- (b) you mentioned that since no agreement was reached on the levels of trade in five categories where US import data reveal limit overshivments, your records show 1983 limits reduced to account for overshivments as follows:

<u>Category No.</u>	<u>1983 Limit Reduction</u>
338/339	79,368 dozen
445/446	107,440 dozen
645/646	34,907 dozen
345	18,432 dozen
444	60 dozen

2. On (a), I confirm that the 1982 agreed levels of trade shown in the attachment to your letter are correct subject to the following amendments:

- (i) "Cat. 351" should read "Cat. 353" on page 1 of the attachment;
- (ii) the 1982 agreed levels of trade for Categories 336, 434, 442, 636 and 647 should be deleted as no agreement was reached on these levels of trade during the consultations held on 27-30 June 1983.

3. As to (b), I wish to refer to Miss Yang's letter dated 26 July 1983 to you on the subject of "Data Reconciliation in Specific Categories" to which a reply is still outstanding. In the absence of any reasonable response to the points made in Miss Yang's letter under reference, I have to conclude that the US has failed to establish the existence of so called "overshipment. Hong Kong proposed that investigations should be conducted to ascertain the

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reasons for data discrepancies in Categories 338/339, 445/446, 645/646 and 345. Unless this is done Hong Kong cannot agree to any adjustment in quota levels in subsequent years and cannot recognise any unilateral action to this effect taken by the U.S. It is Hong Kong's view that the 1983 limits for the five year categories in question should be left intact pending investigation.

4. Moreover, it is not understood why you still show an "over-shipment" of 60 dozen in Cat. 444 if the 1982 agreed level of trade for Cat. 444 is 10,190 dozen (as set out in the attachment to your letter) which is only 95.8% of the 1982 limit of 10,632 dozen.

5. I would appreciate your reply to Miss Yang's letter of 26 July 1983 referred to in paragraph 3 above as well as this letter.

Yours sincerely

Emmeline

Emmeline Mok (Mrs)
First Secretary
Hong Kong Commercial Affairs

c.c. Department of Trade, Hong Kong
Commissioner (Hong Kong Commercial Affairs), New York



CR EIC 111/5/13/2 VIII

15 September 1983

Mr. Richard W. Mueller,
Chief, Economic Section,
American Consulate General,
26 Garden Road,
Hong Kong.

Dear

Alleged Overshipments


When we spoke on the telephone recently, you mentioned that you were looking at the question of the overshipments alleged by the US Customs Department to have been made by Hong Kong in certain textile categories. As far as we are concerned, the matter rests with the letter of 26 July 1983 from the Hong Kong Office in Washington to Miles Henderson in the Department of State. In case you have not seen this, I am taking the opportunity to enclose a copy with this letter for your information. An answer to this letter is still outstanding.

70A
in Art VI
now art. 2
for ease
of reference

2. I also enclose a summary table which shows the figures relevant to these categories. You will note that there are no overshipments in the Hong Kong export figures. We have never been given a satisfactory explanation by the US Authorities as to the origin of the additional quantities shown in the US import figures.

3. You mentioned that you would like to have a talk to us about this subject and we are of course available at your convenience.

Yours sincerely,


(M.D. Cartland)
for Director of Trade

Encls.

MDC/nl

Export of Restrained Textiles to the USA

History of Agreed or Proposed Investigations i.r.o. Overshipment Allegations since 1979

Unit: Dozen unless otherwise specified

Case No.	Category No.	Year of Discrepancy	Restraint Limit plus Swing	Hong Kong Export	US Import	Alleged Overshipment (\$) - (c)	(g) as a percentage of the applicable annual limit	Details of Investigation		
								Date on which E/L copies were provided to US	No. of E/L copies provided to US	Result of Investigation
(a)	(b)	(c)	(c)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
1	347/8	1979	5 622 113	5 585 440	5 716 366	94 253	1.8%	22 May 1981	22,060	Outcome of investigation still awaited
2	331	1979	3 406 416 doz pr	3 369 348 doz pr	3 432 162 doz pr	25 746 doz pr	0.8%	22 Sept 1981	1,021	
3	340	1979	2 396 305	2 371 024	2 408 974	12 669	0.6%	23 Nov 1981	6,043	
4	350	1980	95 298 (B)	95 298	101 596	6 298	6.6%	27 Nov 1981	152	Commerce decided to drop investigation in June 1982 as they had difficulties to obtain the relevant documents from Customs
5	447	1980	16 291 (B)	15 609	18 943	2 652	16.3%	21 July 1981	424	
6	443	Jan-April 1982	N.A.	301	406	105	N.A.	8 Nov 1982	258 E/Ls issued in Jan-April 1982	Outcome of investigation still awaited
7	338/9	1982	2 642 890	2 636 111	2 722 259	79 368	3.2%	During the consultations held on 27-30 June and 14-15 July 1983, the Hong Kong delegation proposed to conduct investigation to ascertain the reasons for the discrepancy. The proposal however was rejected by the US delegation. Hong Kong subsequently forwarded a letter to US State Department seeking explanation as to why the Hong Kong proposal is unacceptable to the US. A response is still awaited.		
8	445/6	1982	1 230 128	1 228 774	1 257 339	107 440 (A)	9.2%			
9	645/6	1982	1 208 010	1 189 985	1 242 917	34 907	2.9%			
10	345	1982	323 916	323 446	342 349	18 432	6.0%			
11	444	1982	10 632 (B)	9 689	10 691	60 (C)	N.A. (C)			

Notes: (A) The alleged overshipped quantity is made up of:
 (a) 27 211 dozen 'overshipped' in 1982;
 (b) 34 197 dozen 'overshipped' in 1981; and
 (c) 46 032 dozen 'overshipped' in 1980.

(B) Agreed limit after EA Call.

(C) There should be no overshipment as the agreed level of trade for 1982 is 10 190 dozen which is 95.8% of the agreed limit.



App. V
**BRITISH EMBASSY
HONG KONG OFFICE**

3100 Massachusetts Avenue, N.W.
Washington D.C. 20008

Ref. C/4

2 September, 1983.

UNCLASSIFIED
BY HAND

Ms. Ruth Miles Henderson,
Acting Chief,
Bureau of Economic and
Business Affairs,
U. S. Department of State,
Washington D.C. 20520.

Miles

Dear Ms. ~~Henderson~~,

Thank you for your letter of 16 August, 1983, proposing the institution of an automated export visa verification system for textile imports from Hong Kong at the time of entry for consumption into the United States.

2. We welcome both this proposal and the news contained in the last paragraph of your letter to the effect that the export visa number will be captured in U.S. import statistics in the near future. These are two positive measures which, if implemented together, should provide a rational basis for speedy data reconciliation. They will also ensure that the visa system will at least be able to operate effectively to prevent malpractice wherever it might arise, which is one of the primary purposes for which it was introduced.

3. The automated verification system proposal was mentioned by the U.S. delegation during EA consultations held in Washington from 27 to 30 June, 1983. The Hong Kong delegation was receptive to the proposal but envisaged serious practical difficulties in implementation and therefore proposed that, in order to expedite matters, technical consultations should be held at an early date, preferably in Hong Kong, between appropriate U.S. and Hong Kong experts.

4. The practical difficulties relate to the compatibility of the U.S. request with the Hong Kong export control system. Problems arise in two respects: capturing the information and delivering it in the form required by the U.S.

5. The information requested is all contained in the Hong Kong visa but is only stored in the form of a copy of the visa document itself. The Hong Kong computers do not operate on

/ a ...

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V

a licence by-licence basis and contain only that information which is relevant for the operation of a quota accounting system. This would nevertheless include all the individual elements required by the U.S. with the exception of value, importer's name and exporter's name (the quota supplier's name is captured but is not necessarily the same as the exporter's name).

6. As regards the form in which information could be delivered, the problem lies in the fact that Hong Kong does not use I.B.M. computers for control of textile exports to the U.S.A. and the existing Datapoint system has no tape drive facility. However Hong Kong is already planning to upgrade its textiles control computer system for the U.S. market and by the time the improved system is completely operational, it will be possible to provide all the information requested on an I.B.M. tape of the type specified in your letter. This will not come about until 1 January, 1986.

7. The question, therefore, is what can be done in the meantime to try to meet the U.S. requirements on an interim basis. We have examined this question and believe that it would be feasible to install a tape drive into the existing Datapoint system. This would enable the information presently captured by the system (i.e. excluding value, importer's name and exporter's name) to be delivered on I.B.M. tapes. This would be subject to the availability of funds and would require a lead time of six months for equipment delivery, installation and testing. It should, however, provide sufficient information to verify Hong Kong visas, the vital elements being visa number, date of issue, category and quantity.

8. To ensure satisfactory data reconciliation however, it will of course be necessary for the exchange of information to be on a two-way basis. In other words, it will be necessary for Hong Kong to know the precise quantities admitted and categorisation given to goods imported against Hong Kong visas. Of course, this would not be required on a regular or urgent basis as the information going in the opposite direction, but, nevertheless, it would be a vital element in removing discrepancies from the respective data at an early date. Please advise how the U.S. authorities would propose to satisfy this requirement.

9. In conclusion, it should be added that this is intended to be as constructive a response as possible and that Hong Kong shares the views of the U.S. as to the benefits of facilitating data reconciliation and eliminating, as far as possible, the opportunities for fraud at both ends. The offer to hold technical consultations in Hong Kong remains open since, in our view, this would facilitate a better mutual understanding of the problems

/Let. to Ms. R. M. Henderson, dated, 2 September, 1983, Page 3.

involved and the early implementation of a satisfactory system.

Yours sincerely,

Emmeline

EM:jre

Emmeline Mok (Mrs.),
First Secretary,
Hong Kong Commercial Affairs.

C.C. Department of Trade, Hong Kong ✓
Commissioner (Hong Kong Commercial Affairs), New York
