

***MARKET ACCESS STUDY  
TO IDENTIFY TRADE BARRIERS  
AFFECTING THE EU TEXTILES INDUSTRY  
IN CERTAIN THIRD COUNTRY MARKETS***

***Final Report***

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Brussels - March 1999

**Study commissioned by :**

**EUROPEAN COMMISSION  
DIRECTORATE GENERAL I - EXTERNAL RELATIONS: COMMERCIAL POLICY AND  
RELATIONS WITH NORTH AMERICA, THE FAR EAST, AUSTRALIA AND NEW  
ZEALAND  
Units I-D-1 (Textiles Negotiations) and I-D-4 (Market Access)**

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***This Report was prepared with financial assistance from the Commission of the European Communities. The views expressed herein are those of the Consultant, and do not represent any official view of the Commission***

***The Authors would like to thank EURATEX Representatives, and in particular Mr. F. Marchi, and the Textile and Clothing National Associations for their help in the description of the trade barriers.  
The authors would like to express their gratitude to the officials of the European Commission and of the EC Delegations for their assistance in the investigation phase.  
Finally, they would like to thank Mr. Morvan Le Berre, lawyer, for his help.***

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## **EXECUTIVE SUMMARY**

1. The consultant was contracted by DGI to conduct a Market Access Study in the textile sector. Some **24 non EU markets** were investigated to map out trade obstacles met by EU exporters. These barriers hamper community exports of textiles and clothing exports and/or supplies of raw materials (CN Chapters 50 - 63)<sup>1</sup>. The study aims to fulfil three objectives: (1) identify trade obstacles implemented by third countries, (2) evaluate the impact of such barriers on EU exports, (3) assess the legality of these restrictions under the terms of international, regional or bilateral agreements.
2. **Work methodology (§ 1)** was elaborated according to these objectives. The work of the consultant was centred on three tasks : (1) to collect information from EU textile industries (operators, National associations, Euratex) and Commission services in order to identify the most damaging restrictions; (2) to undertake more detailed research in some third countries and (3) to conduct a legal analysis on the basis of the information collected during missions and desk research.
3. The present document follows a **country by country approach (§ 2)**. It presents for each of the 24 countries investigated the main features of the import (and sometimes export) regime implemented by each country for textiles and clothing products. It also indicates the practical problems encountered by both EU exporters and Third countries importers of EU products regarding the alleged trade barriers. The structure of each country report closely follows the structure of the EC Market Access database.
4. Considering what was envisaged at the beginning, the research gave two type of results:
  - the least open countries are not always these which had been expected
  - the types of barriers are also not the one which had been foreseen (less quantitative, more regulatory)

### ***The countries causing more difficulties***

- Some countries are causing increasing difficulties to EU exporters. These countries are either already important export markets for the EU textile industry or markets recently opened to free trade where they encounter huge difficulties to export. Operators have indeed indicated their concern in seeing trade barriers removed in particular in the following countries:
- The **USA** and **Mexico** were clearly identified as priority countries by the Industry. The implementation of NAFTA creates more problems than expected. This is important not only from the specific perspective of the textile sector, but also from a general point of view. However, the result of the field missions shows that the Mexican market causes more difficulties than the US market.

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<sup>1</sup> See Annexe 1 of the Report

The **Mercosur zone** poses significant problems and especially **Brazil and Argentina** which are constantly mentioned. There exists a huge variety of restrictions, and a danger of expansion of these restrictions at the Mercosur level.

- For the time being, operators mention less problems with Asian countries than expected. This situation results from the Asian financial crisis and present economic circumstances (e.g. currency devaluation) which have drastically reduced EU exports to these countries. Nevertheless, this may change in the future. **India**, and, to a lesser extent, **Pakistan**, are however important exceptions and are considered as priority countries for future action. For the time being, and given specific circumstances affecting South Asian countries (reduction of trade and consequently the number of trade barriers and their impact) these countries were not considered as target countries in this study. This does not mean that these markets are not problematic under normal circumstances and that their level of priority for the industry and Commission services could not change in the near future.
- In addition, in the Mediterranean, **Egypt** appeared as one of the most protectionist markets for EU exports of textile products and for the supply of raw materials.
- **China** and **Russia** create problems, as expected. As usual, information on these two countries was difficult to gather and many problems do not come from the national regulations or their implementation. In any case, considering current negotiations regarding their accession to WTO, it must be expected that legal procedures will be less effective than political pressures. This explains why these markets are not considered as priority markets in terms of their import and export regime.
- Central European markets (Poland, Czech Republic, Romania) were found less problematic than indicated at the first stage of the research (see interim report). There were only a few complaints made by the EU industry. A detailed research undertaken with the export textile companies concerned confirmed either that the problems evoked at a earlier stage were solved or that they were bearable. Consequently, the consultant, in agreement with the Commission services devoted more time to the analysis of the numerous trade barriers identified by the industry for the most difficult export markets (e.g. Argentina, Brazil, Egypt, India, Pakistan, Mexico and the US)

### *The categories of barriers involved*

The main barriers identified by EU operators for the countries under review are as follows:

- Many countries under review implement import taxes and tariffs, additional duties. These are often discriminatory and increase significantly the total amount of import duties. (e.g. Argentina, Brazil, India, Pakistan, Mexico).
- A lot of trade barriers mentioned concern customs rules (customs valuation, product composition requirements). Complicated questions relating to origin rules and certificate of origin requirements were encountered in various countries (Argentina, Mexico, Egypt, USA).
- There is a clear growth of trade problems related to labelling and marking requirements, which are either difficult or costly to respond to (Mexico, Argentina, Egypt, Russia, India, Brazil).
- Problems concerning various forms of intellectual property seemed certainly more numerous than expected at first but concrete information on these problems is often difficult to obtain.

## **§1. ORGANISATION OF RESEARCH**

### **1.1. The three objectives of the study**

- CEEI research methodology was adapted to the three objectives of the study. The first objective is to identify trade obstacles implemented by third countries. The second objective is to evaluate the impact of such barriers on EU exports of textile products and the EU supply of raw materials. The final objective is to assess the legality of these restrictions under international or bilateral agreements and to set up legal files. These will help the Commission and the industry in removing identified trade barriers.

### **1.2. Work carried out by the consultant during the first stage of research**

#### **1.2.1. The questionnaire and the list of trade barriers**

- The first task was the identification of trade barriers to EU industry exports in countries under review and the evaluation of these barriers impact on operators individual businesses. For this purpose, a standard questionnaire<sup>2</sup> was drafted in co-operation with EURATEX and the Commission. On 22 January 1998, English, French, Italian, German and Spanish versions of this questionnaire were transmitted to EURATEX for distribution to its members (National and sector associations).
- On 20 February 1998, the consultant informed members of Euratex on the objectives of the study, on technical aspects related to questionnaires and on the follow up of the co-operation with the industry. It was agreed to give an extension of the deadline to complete the questionnaire (originally 1 March 1998). Some national associations, with a large membership needed more time to ensure proper distribution of the questionnaire through their newsletter (Federtessile). Quite a few operators were reluctant to present in writing problems they are encountering. They also mention the lack of time to answer comprehensive questionnaires. It was agreed that CEEI would also take into consideration questionnaires returned passed the initial deadline. Associations were requested to send at least some completed questionnaires.
- The questionnaire exercise gave **goods results**, not only in terms of number of completed questionnaires returned (about 70) but also in terms of the variety of barriers identified by the textile and clothing producers and exporters.
- CEEI compiled a list of identified barriers on the basis of the information provided in returned questionnaires<sup>3</sup>. This list gave an overview of barriers identified for each market.

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<sup>2</sup> See Annex 1 of the Report.

<sup>3</sup> See Annex 2 of the Report.

### 1.2.2. Meetings with the EU industry

- Meetings were organised with the most motivated and representative associations on the basis of completed questionnaires. These associations know their export oriented members (those who answered questionnaires). They can also gather operators from different sub-sectors of the textile industry.
  1. The first meeting was organised with the Swedish association (a member of EURATEX). It took place on 5 March 1998 in Stockholm. CEEI met with several representatives of the industry and operators. The discussion focused on some difficult markets, in particular Russia. Problems encountered were reviewed (certification rules).
  2. The second meeting took place on 12 March 1998 at the British apparel and textiles confederation. The association representatives returned 5 questionnaires to CEEI and commented several trade issues, especially Egyptian regulations and Indian stamping on fabrics.
  3. Another meeting took place on 17 and 18 March 1998 in Spain with the support of the Consejo Intertextil Español. Three meetings were organised with operators and sector representatives in Onteniente (Valencia) and Barcelona. These meetings gave CEEI more precise information on practices and barriers identified by operators in their questionnaires. There were successful and gave the opportunity of further contacts with enterprises.
  4. CEEI also attended a meeting organised by Federtessile in Milan on 15 April 1998. Representatives of various sub-sectors (silk, cotton, miscellaneous fibres, apparel sector) attended the meeting. This gave CEEI a more precise view of problems and practices mentioned in the replies of Italian enterprises to the questionnaire. Federtessile gave useful information on legal texts implemented by some countries.
  5. Meetings were also organised in Portugal. On 24 April 1998, the consultant met several enterprises and representatives of the Portuguese association ATP. These contacts enabled CEEI to get a better understanding of problems encountered, especially in view of the CEEI mission planned to Brazil for the beginning of June.
  6. The last meeting took place at the Fédération française de la maille (7 May 1998). The meeting focused on the description of problems encountered by French operators on several markets, especially the Brazilian market. The federation gave CEEI technical and material support for the research.
- Personal interviews enabled the investigation of specific questions with operators having extensive experience in a given market (e.g. USA and Mediterranean markets with French operators, Mercosur and Latin-American markets with Spanish operators). They also gave an additional opportunity to meet new operators, who had not received the questionnaire. For example, large companies having a comprehensive experience in export markets gave CEEI an overview of the wool products and home fabrics trade issues.



- Participation in the Première Vision Fair in Paris (9 March 1998) gave CEEI the opportunity to interview several EU operators (mainly French and Spanish). These interviews confirmed specific interests and problems of these operators already mentioned in questionnaires from other EU member States (in particular Brazil, USA, issues of intellectual property rights infringements ...).

#### 1.2.3. Meetings with the Commission services

- The consultant arranged several meetings with Commission officials in the various services concerned by the study:
  - meetings with the DGI-D-1 unit, with the participation of officials of the market access unit and of DG III;
  - meeting with DGI TBR Unit
  - contacts with EC Delegations in third countries (Brazil, Argentina, Uruguay, India, Pakistan, Egypt, the US, Mexico)
  - meetings with DGI and DG III officials in charge of specific files (e.g. China accession to WTO, TBT notifications ...)

#### 1.2.4. Preparation of the geographical files and missions

- A geographical file was prepared on each of the 24 countries selected. Markets were divided into field research and desk research.
- Field research ( CEEI missions) was required in countries identified by the Industry or the Commission as being priority countries. This is the case for countries whose practices and measures significantly hinder exports of EU finished products or imports of raw materials. These countries are: Argentina, Brazil, the United States, Mexico, India, Pakistan, Egypt. Missions to these countries were prepared during the first stage of research. The other countries were subject to desk research. the identity of the countries subject to field missions was determined by Commission services in consultation with the Industry representatives on the basis of the information already available or the level of priority of these markets. For example, given the reduction of trade with South Asian countries and the present negotiations with China and Russia (WTO accession), it was decided not to organise field missions in these countries. Given the absence of important problems with the CEECs countries, no mission took place in Poland, Hungary, Czech Republic or Romania. As a consequence the information collected on trade measures and their implementation by Customs authorities in these countries was significantly less detailed than for Priority countries in which missions were organised.

### 1.3. Work carried out at the second stage and third stage of research

#### 1.3.1. Missions to third countries

- During the second stage of the research, CEEI missions took place in priority countries:
  - the first mission took place in Mercosur (25 May and 9 June 1998).
  - a second mission took place in India and Pakistan (21 July - 2 August 1998).
  - a third mission took place in Mexico and the USA (26 October - 6 November 1998)
  - a last mission was undertaken in Egypt (14 - 17 December 1998).
- The objectives of the mission were the following:
  - obtain detailed information on trade practices identified by EU industry as hampering their exports of finished products or their supply of raw materials,
  - collect the legal texts implementing these measures,
  - request information on the difficulties encountered by importers of EU products.
- To this end, CEEI met representatives of:
  - authorities (Ministry of Commerce, Customs Authorities, Industry),
  - textile domestic industries and sub-sectors,
  - importers of textile products into these countries,
- All EC Delegations provided a useful and active support to the mission (identification of the interlocutors, contacts with the Authorities and the Members States, meeting arrangements). Delegation representatives also took part in meetings between CEEI and the Authorities, private operators (industry and importers).
- The missions led to substantial progress in the study. CEEI collected thorough information on the import regime applicable to textile products the legal and administrative information necessary to the constitution of the legal files. This included insight into several contentious trade practices. The results of the mission were presented in Mission Reports transmitted to the Commission.

#### 1.3.2. Contacts with National authorities

- Contacts were also established with the Diplomatic representations and commercial offices in Brussels in order to inform them about the study and to request the relevant legislation on imports and or exports applied to textile and clothing products (e.g. SECOFI for Mexico, Trade office of the Embassy of Colombia, etc.).
- The consultant also met several Customs representatives of the countries under review in order to have a better understanding of customs procedures (e.g. Customs office of the

Republic of China, Customs office of the Kingdom of Thailand). A list of the persons interviewed during the research is provided in annex 3 of the study.

- A close co-operation was also undertaken with the Office belge du Commerce Extérieur which provided various sources of information on the clearance procedures applicable in third countries and useful contacts in the countries under review.

### 1.3.3. Legal analysis

- In addition to desk and field research, a study on legal bilateral and multilateral agreements was undertaken (WTO agreements, regional trade agreements and bilateral trade agreements of the European Community). This legal analysis focused on the regulations and texts implementing identified barriers. The study also examined the progress of WTO accession negotiations of China and Russia. From a legal perspective, one of the most difficult problems include the role of regional trade agreements, like NAFTA or Mercosur treaties. In this context, it was first necessary to analyse the national implementation of these agreements. The compatibility of these treaties with WTO provisions must be assessed. This includes the Article XXIV of the GATT and the understanding on its interpretation.
- Legal analysis was conducted on the most damaging restrictions implemented in the countries causing more difficulties. It focused on the legal evaluation of the findings of CEEI missions and taking into account the needs expressed by the Commission and the EU industry. The objective is to constitute detailed legal files on target countries.

<b>§2. TRADE BARRIERS IDENTIFIED BY OPERATORS OF THE TEXTILE AND APPAREL SECTOR</b>
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- ARGENTINA
- BRAZIL
- CANADA
- CHINA
- COLOMBIA
- CZECH REPUBLIC
- EGYPT
- HUNGARY
- INDIA
- INDONESIA
- JAPAN
- KOREA
- MEXICO
- PAKISTAN
- PARAGUAY
- POLAND
- ROMANIA
- RUSSIA
- SOUTH AFRICA
- THAILAND
- UKRAINE
- URUGUAY
- USA
- VIETNAM

# ARGENTINA

## 1. INTRODUCTION

### *General features of the access to the Argentinean market*

- The Argentinean market is one of the most protected markets for which operators have listed a substantial number of trade barriers affecting their exports to this country. They also indicated that market access situation is worsening. This results in particular from the application of the following trade measures: prohibitive specific duties and additional import taxes, non transparent customs valuation procedures, complicated procedures regarding the certificate of origin, abusive implementation of labelling norms.

### *Trade in textile products between Argentina and the EU*

- Trade in textile and clothing products between Argentina and the EU is regulated by the ATC and an administrative agreement notified under this Agreement. Exports of cotton yarns and cotton fabrics from Argentina are subject to quantitative restrictions. In 1997, Argentina was the 58th supplier in value terms of the EU in textile and clothing products. Imports reached 112.10 Mio ECU . EU exports to Argentina were 129.2 Mio ECU. While being positive in value (+ 17.1 Mio ECU), the trade balance remained negative in volume ( - 20 408 tonnes), imports being 37 679 tonnes and exports 17 271 tonnes.
- During the same period, exports of EU textile products to Argentina were 126.861 Mio ECU, Argentina being EU 42nd export market.

### *Domestic structure of the textile and clothing industry*

- In the 1990s, the Argentinean textile and clothing industry suffered the effects of the liberalisation of its market (regional integration process Mercosur) and the consequent surge in imports from South Asian countries. As part of Mercosur, Argentinean textile and clothing industry is threatened by its neighbour competitive industry (Brazil). Brazilian manufactures continue to meet the demand for mass, cheap clothing products, Argentinean labour costs being much higher than those of Brazil. Brazilian industry is 6 times larger and continues to draw business away from Argentina. This forces the industry to invest in high technology and target higher value products<sup>4</sup>.
- The Argentinean industry produces as well natural than artificial fibres. Cotton is the main input used by the industry. The woven sector is the most important sector and represents about one third of the total production of manufactured textile products. Main products of the clothing industry are casual wear (26%), interior clothing (19%), and men's apparel (13%)

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<sup>4</sup> Globalisation of South America textile and clothing industry, Textile outlook International, March 1995, Textiles Intelligence Limited, p. 159.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- In questionnaires completed by EU operators, tariffs applied by Argentina were mentioned as a very important obstacle. Textile and clothing products are subject to high specific duties, even if their level was recently amended

#### *Specific duties (DIEM) are applied if their level is higher than customs duties*

- In 1995, Argentinean authorities established specific duties against the import of shoes, textiles and clothing products in order to fight the surge in imports of these products. The system is applied as follows: when the import product arrives in customs, Argentinean authorities compare the level of the normal customs duty (e.g. 23% for clothing) and the duty resulting from the application of the specific duty, calculated in USD/kg. The higher duty is applied. When the imported textile product originating in the EU is light and more up-market, it is sometimes the duty ad valorem that applies (e.g. Spanish products). However, when the product is heavy or contains a high percentage of plastic matter, as is the case for carpets, the specific duty is always applied.
- Specific duties (DIEM) were established by Resolution MEOSP 998 of December 1995. It was modified by Resolution 597/97, which established a calendar for the progressive dismantling of specific duties. In January 1998, Resolution 98/98 stopped the schedule of dismantling and existing specific duties were maintained until 1<sup>st</sup> June 1998 (pending the outcome of the Argentinean government appeal against the US panel decision). In July 1998, Resolution MEOSP 806/98 in order to take into account the Decision of the Appellate Organ fixed maximum ad valorem levels for the products originating in WTO countries. According to the type of product, there is a ceiling ad valorem of 30% and 35% until 31 /7/1999 and of 26% and 30% from that date to 31/3/2000.
- DIEM are still applied to most textiles and clothing products of chapters 51 to 63 of the Mercosur Nomenclature. Resolution MEOSP 1184/98 of 28 September 1998 reinstated the levels in application before 31/5/1998. These levels were implemented since 1 October 1998. New DIEM will be applied until 31 of March 2000. Their level varies from 0.10 USD/kg up to 33 USD/kg<sup>5</sup>. EU operators and Argentinean importers bitterly complained about the level of these specific duties (for example, EU wool fabric producers, importers of French and Belgium carpets, importers of clothing products).
- Current rates for ad valorem duties and specific duties are as follows<sup>6</sup>:

Type of product	Ad valorem duty	Specific duty (DIEM) (USD/kg)
Yarns	5 to 21% silk: 19% wool: 17% cotton: 17%	no DIEM

<sup>6</sup> Market Access Database. Updated on 10th February 1999

	synthetic: 5 to 21%	
Fabrics	silk: 21% wool: 21% Flax: 5% to 17% cotton:: from 19 to 21% synthetic: 5% to 21%	from 3.68 USD/kg to 11.50 USD/kg from 0.50 USD /kg to 3.20 USD from .1.00 USD/kg to 5.20 USD/kg. from 0.50 USD/kg to 6.13 USD
Others: carpets	23%	from 0.70 USD to 4.30 USD/kg
Clothing products:	23% to 26% 6103: 23 to 26% 6104: 23 to 26% 6105: 23 6107: 23 6204: 23 to 26% 6214: 23% 6302: 23%	from 6.14 USD/kg to 33 USD/Kg from 5.60 USD/kg to 27.73 USD from 7.13 USD/kg to 9.70 USD from 6.34 USD/kg to 10.29 USD from 6.39 USD/kg to 26.20 USD from 8.38 USD/kg to 10 USD from 1.80 USD/kg to 5.30 USD

### **Tariffs predictability (bindings)**

- The WTO consolidated rate for textile and clothing products is 35%

### **Tariffs quotas**

- There are no tariff quotas.

### **Duties and charges other than tariffs**

- In addition to tariffs, import taxes increase significantly the total amount of duties. This is an important barrier for several operators. All operators interviewed complained about the overall level of taxes additional to import duties. They mentioned several, such as harbour fees, Files fees, Customs tax and additional VAT, storage fees, importer registration fees, statistical duty and advance income tax. According to these operators, these taxes are only applied to imported products. It is important to note that according to various sources, the total of tariffs and import duties amounts to about 45-50% of the product value. EU producers and Argentinean importers complained about the uncertainty in the identification of taxes and their amount. They indicated that from one day to the next, their clients were requested to pay new import taxes. This uncertainty impedes sales.
- According to Customs Authorities, the following taxes are collected by their agents at the moment of import:<sup>7</sup>
  - statistical tax
  - VAT (20%)<sup>8</sup>
  - additional VAT (9%)<sup>9</sup>
  - advance on Income tax (Advance on benefits: adelanto a la ganancia) - (3%)

<sup>7</sup> The statistical duty of 3% was reduced to 0.5% by the Decree of the Executive Power n° 37/98 (BO 16/1/98).

<sup>8</sup> Law on value Tax, replaced by Law 23.349 and successive modifications

<sup>9</sup> Law 24.468. See also Decree 2394/91 of the Executive power, enabling Customs authorities to act as a collecting agent of VAT and other types of VAT.



- They are based on CIF value plus customs duties or specific duties (DIEM) as well as the statistical tax (0,5%)
- Other duties identified by EU operators are duties and taxes collected by the private sector (since the privatisation of belowstructures) in return for services provided by harbour companies.
- It is important to stress that advance payments made for normal VAT (also applicable to domestic products), for additional VAT (only for imported products) and for the advance of benefits (only for imported products) are seriously hampering imports, given the significant burden they constitute for the importer (33% of the CIF value).

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation***

- EU operators had complained about excessive customs formalities.
  - wrong classification of products, resulting in higher customs duties and blockage;
  - systematic blockage of samples
  - inflated customs valuation;
  - lengthy clearance procedures
  - procedures linked to origin requirements

#### **1. Visas, documents required for clearance**

- According to Customs, the following documents are required:
  - commercial invoice,
  - certificate of origin legalised by the Argentinean consulate in the country of origin,
  - declaration on product composition,
  - packing list
  - pre-shipment report
  - bill of lading,
  - delivery order.

#### ***Commercial invoice***

- The Commercial invoice must be presented in 5 original copies in Spanish. It must contain in particular the following indication : mark, number and identity of “ package ”, detailed and clear description of merchandises, country of origin, weight, place and date of issue of the invoice, name and address of the seller and of the buyer, sale value, packaging. The invoice must contain a specific declaration certifying the accuracy of prices, the quality and the quantity of imported products (see below).

### ***Certificate of origin***

- The Certificate of origin must be presented in original, in Spanish, in conformity with the requirements of Resolution MEOSP (see below, origin requirements). It must be legalised by the Argentinean consulate of the country of origin or any of the Member States. Approximate cost of legalisation is USD 30.

### ***Declaración jurada del producto***

- Since 1997, the importer must complete, for products of each tariff position, a Declaration form on product composition. The Community producer or the exporter must therefore deliver all necessary information before shipment. The form includes the references of the importer, of the exporter, and some data already contained in the certificate of origin (organism, organism type and address) as well as the product composition (class or constitutive matter, kind and percentages). The importer declares himself responsible for the information contained in this document. It is therefore perceived as a supplementary obstacle on the basis of which the customs may create additional obstacles. The form must be accompanied by the certificate of origin legalised by the Argentinean consulate in the country of origin.
- Some interlocutors (member States/importers) denounced this regulation as being a clearly protectionist instrument designed to limit imports.

### **2. Clearance delays**

- There are various evaluations. Successful private companies with good customs agents may clear customs in 3 days while others may take 1 week or more.

### **3. Customs valuation**

- EU operators and representatives of importers reported various problematic cases during customs clearance when customs contest the value declared on the invoice (and on the certificate of origin). Customs inspection rules provide that the product can be submitted to three distinct procedures, according to its classification by customs based on its declared value:
  - green track : the product is cleared through customs without preliminary control. For example, when the pre-shipment inspection report is positive (as for the customs value), customs do not control the value, and the product could theoretically enter with the green track
  - orange track : only the documentation is controlled,
  - red track : the products and the corresponding documentation are controlled. According to customs, CN 50-63 products are always on the red track. In this context, customs carry out a detailed control on the identity, on the weight, on the classification of goods as well as on the value (taking from 24 to 72 hours according to customs, longer according to importers).

- The pre-shipment inspection has not truly solved customs valuation issues. In 1997, the “pre-shipment” inspection was established to facilitate customs procedures (Resolution 1066/97 Ministry of Economy) for a large number of consumer goods. The importer must ask one of the 6 companies approved by the Government to carry out a control in the country of shipment. It focuses on:
  - the declared value of goods
  - the classification
  - the origin of goods
- This additional control of the inspected product value should have made customs control procedures lighter. Nevertheless, in practice, a positive verification does not exclude a later control on the goods by customs authorities, and therefore on the customs value. According to member States, customs may change the valuation of a similar product by 100% within a month, despite positive notice of the pre-shipment inspection. Moreover, the procedure provokes delays in the shipment of goods (approximately a week). The inspection is often felt to be an additional burden and not a simplification of customs procedures.
- Some European companies estimate that their products are particularly affected by controls on customs value while similar products of other origin apparently enter without difficulties. This is for instance the case for an Austrian underwear firm having an affiliate in Buenos Aires. According to the operator, following negative notice of the pre-shipment inspection (reportedly unfounded), customs authorities have contested the FOB price of imported products originating in the EU. This paradoxically encourages local companies to import similar products manufactured in South East Asia.

#### 4. Classification

- Various EU operators mentioned classification problems despite the positive report made by the competent authority during the pre-shipment inspection.

#### **Certificate of origin requirements**

- Certificate of origin requirements and implementation made by Customs authorities of these rules are considered both by EU producers and Argentinean importers as the most damaging barrier to trade implemented by Argentina

#### 1. Requirements

- **Decree 39/96** requires origin certificates for the import of textiles and clothing products. Origin requirements are implemented by **Resolutions MEOSP 763/96 and 381/96**. This regulation sets all information to be indicated in the certificate by the exporter, including:
  - harbour or place of shipping,
  - means of transportation
  - quantity and unit of measure
  - exact references of the Argentinean importer (name, address, fax)
  - number and date of the commercial invoice

- data requirements on the certifying organism (in the EU) : if it is a public entity, it is necessary to give the name of the entity from which it depends. If it is a private entity, it is necessary to indicate the date on which the public organism has awarded the competence concerning origin certificate, as well as the name of this public organism.
- The Argentinean legislation also establishes the obligation to legalise the certificate in the country of origin. “Country of origin” means the country where (a) products were entirely processed or (b) the last substantial transformation of the products was processed”. This obligation causes many difficulties.

**Current origin requirements causing difficulties to EU producers:**

- Difficulties appear at various stages

*(1) when the European producer completes the certificate of origin*

The certificate must be certified by a competent organism approved by the local Argentinean consulate. It must contain a number of indications which causes difficulties.

- harbour or place of shipping, means of transportation; this can therefore not be changed in case of difficulties
- quantity and unit of measure: problems occurred in cases of weight variation
- exact references of the Argentinean importer
- number and date of the commercial invoice : this forces the producer to establish the invoice before writing the certificate.
- excessive data requirements on the certifying organism (see above)

*(2) when after having completed it, it must request the legalisation of this certificate from the Argentinean consulate in the country of origin*

This obligation fully hampers EU exports in at least three cases.

1. When there is no Argentinean consulate in the country of origin. European firms which locate processing in countries where there is no consulate or where a visa is difficult to obtain (e.g. CIS Republics, Macao) cannot produce the required certificate.
2. Large European clothing firms having a garment made in large quantities in one or several third countries and importing these products into the EU for finishing or distribution purposes. When importing their products into the EU, they must give the legalised certificate of origin to EU customs authorities. As a consequence, these companies may no longer export these goods to Argentina. Sometimes they do not even know at that time the exact volume of products to be exported to Argentina (and for which a specific certificate of origin should be requested from the authorities of the country of origin and legalised by the Argentinean consulate in that country). Should they know it in advance, they could indeed obtain separate origin certificates for these quantities and ship directly the goods from the country of origin to Argentina. For instance, they must decide in advance to separate 200 units out of 30.000 and send them directly to Argentina from Thailand with a separate legalised

certificate of origin supplied with the invoice sent from the EU (from Italy) to Thailand. In addition, there is only a short period of time available between the issuing of the certificate of origin and the shipping. Some large EU clothing firms stopped exporting due to the need of so many adjustments of ordering and distribution systems.

3. These procedures also impede all exports of products bought by a European trader in another third country producer (intermediary) and for which the Argentinean consulate in the country of origin (China) should have legalised the certificate. Even if the EU producer buys the products accompanied by the legalised certificate, he will present a different invoice to Customs authorities (different from the one mentioned in the certificate. Therefore, it is likely that these goods will simply be refused (conflicting invoice numbers; in addition, quantities indicated in the certificate of origin do not match the shipment to Argentina).

When the legalisation can be done, the procedure remains long and expensive

According to authorities interviewed (Secretaria de Comercio exterior), the legalisation costs an all inclusive price of 30 USD. It is only a stamp that is fixed on the certificate. The consulate does not conduct any control on the identity of the merchandise or on the product value. Nevertheless, it has not yet been possible to obtain the regulation on the basis of which this sum is collected.

According to importers, the legalisation can be very expensive in practice (e.g. in China, it is necessary to go through intermediaries). It is often necessary to pay additional fees in order to obtain the visa within a reasonable period of time. According to Spanish operators the cost of the legalisation is about 6000 pesetas.

Time lost: Depending on the country, the legalisation takes one week or longer. It is never automatic and takes 8 to 30 days on average.

- (3) *When the products arrive in Customs accompanied by the certificate of origin (see below).*

Customs authorities are particularly demanding on origin issues. There are numerous cases of refusal of certificates for simple typographic errors. Often, the pre-printed form or certificate delivered by the country of origin is not conceived for the full data required by the Argentinean legislation (e.g. n° of fax of the exporter).

Mercosur products are not subject to the same procedure. According to authorities, the regulation applies erga omnes to all third countries. According to other interlocutors, the Mercosur certificates (preferential origin) must observe distinct norms and do not have to be legalised by the Argentinean consulate in the Mercosur member States.

#### **Control performed by Customs authorities during clearance**

- All interviews conducted in the EU and in Argentina illustrate the excessive controls performed by Argentinean Authorities on imported goods. These controls are based on the various import regulations. Attitude of the Customs is described as excessive in particular

for the calculation of specific duties, the verification of the value of imported products, the verification of the certificate of origin, the verification of labels.

- Regarding the current mechanism of specific duties, Argentinian importers complained about the criteria used by customs in the application of duties, e.g. the tolerance rate of change of maximum 1% for the weight declared before shipping. Indeed, there often are minimal differences but superior to 1% (in the case of carpets, humidity taken during the trip or differences in the placement of latex or of finish). In such cases, customs return the products.
- Importers denounced customs authorities as using the labelling regulation as a pretext to block products. Serious cases have been reported on various occasions. For example, when handkerchiefs in cloth arrive packed by dozen in a box, the customs demands a full label for each handkerchief, which is economically and practically impossible for the European operator.

#### ***Minimum import price***

- Authorities interviewed have contested allegations of some operators on the existence of reference prices for imported product value as is the case in Brazil and in Uruguay. Nevertheless, the issue is sensitive. According to various sources there are numerous cases of fluctuating customs value having occurred recently.

#### ***Standards and other technical requirements***

##### **1. Quality and conformity controls / certification**

- In questionnaires, EU companies had mentioned having problems with quality controls and certification issues. However, the only technical regulation applying to the import of textile products appears to be the labelling legislation. There is no specific certification regulation for textile products. Our opinion is that quality control refers to pre-shipment inspections and controls conducted by Customs. Certification procedures could be those linked to the certificate of origin.

##### **2. Sanitary requirements**

- There is no sanitary requirement for the import of textile fabrics or clothing.

##### **3. Marking, labelling, packaging requirements.**

- EU Producers complained about new Argentinean labelling of imported (and domestic) products implemented since 1996. These requirements are considered as burdensome, excessive and costly. In some cases, despite efforts to observe labelling requirements by EC producers, customs authorities make an abusive implementation of the legislation resulting in the blockage of goods. The legislation is considered as a strong barrier to trade and as a significant disincentive to trade.

- Labelling requirements are established by Resolution 281/97<sup>10</sup> which modified previous Resolutions. According to this text, European producers must include the following data on their product labels :
  - registration N° of the exporting company in the country of origin communicated to the importer
  - registration N° of the importer, name, social status, etc.
  - product composition,
- Labelling norms in force constitute an important barrier for European clothing producers as well as for importers. Various problems occur :
  - overly detailed information to be included in the label : imported clothes have to include multiple indications as provided by resolution 850/96 (modified by resolution 281/97.) The label must be in cloth or in a material lasting as long as the product and must be sawed to the garment. It must include the place of production, the name of the exporter, the name of the importer, its address (if it is a registered trademark, the indication of the trademark is sufficient), the n° of fiscal register (CUIT) and the fibre composition in percentage. The label must also indicate the country of origin, cleaning and preservation instructions.
  - discrimination regarding the obligation to include the complete references of the importer. The main critics focus on the obligation to affix the name of the importer (and its address when it does not concern a registered trademark). For example, subsidiary “X” of an EU enterprise established in Argentina, will put “X” with the CUIT, while in the case of an individual importer, its name and its address will have to appear on the label. In general, importers mentioned three labels : (1) the identification of the product (names, origin, composition), (2) care instructions and (3) the stamp (label including the n° of fiscal identification).
  - difficulties occurring during on-site labelling : Argentinean authorities claim that they do not understand European operator difficulties since the option is given to label in customs. Importers nevertheless state that the on-site labelling is problematic. It is necessary to resort to complicated procedures including a request to the Ministry of Economy, the storage and the control of goods by authorities. Authorities reportedly require an additional financial guarantee. These expensive and long steps are hardly sustainable for a European SME. Additional costs are estimated to be between 5 and 8% of the FOB value.
  - difficulties made by customs authorities during the control of imported products : customs authorities use the labelling regulation to block products (see above).
  - insufficient or absence of control on domestic products : domestic products must normally be inspected by the Lealtad comercial service. According to importers these controls are not properly carried out, many products are incorrectly labelled. Furthermore marketed domestic products, for example in supermarkets, reportedly do not conform to this regulation (depending on the case, the address or the CUIT is

<sup>10</sup> BO n° 28.627, 16 de abril de 1997, p. 46.

missing, the label is not made of cloth) while imported products are systematically verified both by customs and authorities (Lealtad comercial). In addition, there is no sanction for a domestic product not conforming to this requirement, while imported products may be blocked in customs or refused.

4. **Intellectual property issues** (protection of drawings and models).

- Only one operator complained about infringement of intellectual property rights (copies of drawings and models).

***Antidumping, countervailing duties/actions and safeguard measures***

- No measures concerning the textiles and clothing products are taken for the time being.

***Impact***

- Most EU producers stated that identified barriers implemented by Argentinean Authorities grant a significant price advantage to the domestic textile industry (above 25%). As Argentina is not yet a significant market for all EU producers, the increase in turnover expected, should barriers be removed, ranges from 0 - 10% (ES) to above 25% (ES, DE, FR). As a result of existing barriers, EU operators have experienced significant losses in the EU as well as on other markets (Latin America and NAFTA countries).



# BRAZIL

## 1. INTRODUCTION

### *General features of the access to the Brazilian market*

- A large number of barriers have been identified by EU operators during the first stage of the research. Field research confirmed that some of these measures hamper significantly EU exports: high import duties making EU products uncompetitive on the Brazilian market, Minimum import prices applied by customs authorities for textiles and clothing imports, difficulties in obtaining import licenses and restrictions on payment periods forcing the importer to pay transactions cash. Conversely, other measures, such as the labelling regulation appear to be less restrictive than indicated by EU operators.

### *Trade in textile products between Brazil and the EU*

- Trade in textile and clothing products between Brazil and the EU is regulated by a the ATC and an administrative arrangement notified under this Agreement.. Exports of some textile products (cotton yarns, cotton fabrics, bed linen) from Brazil are subject to quantitative limits. In 1997, Brazil was the 45th supplier of the EU in textile and clothing products. Imports of these products into the EU reached 148.93 Mio ECU.
- During the same period, exports of textile products originating in the EU to Brazil were 265.64 Mio ECU, Brazil being EU 25th export market.

### *Domestic structure of the textile and clothing industry*

- Brazil plays a leading role in Mercosur textile industry. It has the largest textile industry of Mercosur. It is a large fibre producer and a machinery manufacturer. It is the fifth largest country in the world with a population of about 160 million, which represents a huge market for textiles.
- Until the beginning of 1980s Brazilian industry was protected by high tariffs (up to 100%). Between 1986 and 1994 tariffs have been progressively reduced to about 20%. The industry was confronted with a strong increase of imports from Asian countries, in addition to other structural problems<sup>11</sup> In 1996, Brazil started generate a trade deficit of 5.6 billion US. There was a sharp reduction of textile companies (from 1,595 in 1989 to 1,083 in 1994). Reduction of employment was even more important: from 556 000 to 213 000 workers over the same period.
- Production of the whole chain has however slightly increased between 1992 to 1994 from 5 488.33 Mio pieces to 6 555.47 Mio pieces in 1994. In value, the increase was more important (from 28 Mio USD to 34.4 Mio USD). There was simultaneously a

<sup>11</sup> From 1992 to 1995, textile and clothing imports increased from 237 000 tonnes to 720 000 tonnes. Brazilian Textiles and clothing: Adapting to liberalisation, Textile Outlook International, May 1996, p. 42.

modernisation of several leading companies in order to achieve better quality at lower prices. In 1994, imports of textile machinery increased from 337 Mio USD in 1993 to 611 Mio USD. Investment focused on man made fibre, developing specialised products such as microfibres. Many companies hold the ISO 9000 certificate. In 1996, total production remained unchanged with a reduction in 1996 of 30 000 workers<sup>12</sup>.

- 85% of the fabrics used by the clothing industry is made from pure cotton produced domestically or imported. Domestic cotton production suffered from tariff reduction and long credit terms granted to large textile manufacturers for imported cotton (mainly from Argentina and Paraguay).
- Imports of textile products declined of 3 % in 1996 compared to 1995. Brazilian authorities restricted imports from several Asian countries. The level of exports of textiles remained stable. Over the same period, the trade deficit decreased from 400 Mio USD to 100 Mio USD. Main exports items are leisurewear, industrial items, bath linen and underwear.

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round commitments***

- Customs duties on Extra-Mercosur products are these of the Mercosur External Common Tariff. Current rates for ad valorem duties are as follows:

Type of product	
Yarns	17% to 21% silk: 19% wool : 17% cotton: 17% to 19% flax: 17% synthetic 5% to 21%
Fabrics	silk: 21% wool 5% to 21% cotton: 20% to 24% flax: 21% synthetic: 5% to 24%
Others: carpets	23%
Clothing products	23%

### ***Tariffs predictability (bindings)***

- The WTO consolidated rate for textile and clothing products is 35%

### ***Duties and charges other than tariffs***

- Additional taxes constitute a heavy burden for the importer. According to various sources, additional taxes include :

<sup>12</sup> Country statements 1997, ITMF, p. 10.

- AFRMM (renovation of the merchant fleet)	(25% of the maritime freight)
- harbour storage	0,35% of the CIF
- harbour handling	13,57 reals /T (Rio: 16 Real/ton)
- municipal tax on the ISS services	5% of harbour handling/storage
- annual compensation of harbour workers	0,4– 0,8 real/ton
- banking expenses on exchange	0,2% of the CIF value
- various expenses of the customs clearance	1% of the CIF value
- other expenses	2% of the CIF value
- ICMS	18% of the CIF value
- harbour or airport tax	20% of storage and handling expenses

- As a result of these additional taxes, the total difference in final value between a domestic product and a similar imported product with identical production costs is about 40%.

Storage expenses in customs are high (8% according to an importer). The fixed cost of customs clearance is claimed to be at least 1,000 USD (or 2% of the CIF value according to another source). It is necessary to use an intermediary in customs (Customs agent) (approximately 1% of the CIF value). The handling costs of containers vary between 21,21 and 110 reals per container of 40 tons. In addition, import license expenses must be added (approximately 70 reals). These costs discourage the practice of sending small parcels of under 10.000 USD.

- The duties and tax impact varies according to the nature of the imported product. On the one hand, when the product is of very high quality, duties do not prevent import, because there is always a market for luxury clothing (Chanel, Armani, etc.). On the other hand, middle to high of quality EU products remain confined to a category of wealthy Brazilian consumers. This is particularly the case when the value of an imported EU product is increased after clearance by 60 - 70% (e.g. underwear). Such an increase prevents market development for middle class consumers which is the promising part of the Brazilian market.

### ***Minimum import price***

#### **Position of Brazilian Authorities**

- According to Brazilian authorities, there are no minimum import prices but precise customs valuation rules apply in accordance with WTO Agreement provisions on Customs valuation (see below).

#### **Problems evoked by EU exporters and importers in Brazil**

*Minimum import prices are higher than international prices*

- Both EU operators (BEL, PT, IT, ES) and Brazilian importers complained about the implementation of a minimum import price for textile products since 1996. According to operators, customs authorities have an entirely discretionary power which enables them to

impose high minimum prices to importers. These are significantly superior to normal prices for EU exports.

***This system is not transparent and is unpredictable for operators***

- Lists of minimum prices are not published. In a number of cases, the import license was denied when the price declared on the invoice, which was quite superior to normal prices, was inferior to the minimum import price applied by customs authorities. Prices are constantly modified by the SECEX. The importer does not know the reference value used. The economic justification of these prices does not appear clearly. This insecurity discourages and even prevents trade. The absence of a clear legal base prevents importers from seeking remedy before court.

***Respecting minimum import prices is a condition for obtaining import license***

- According various sources, if import prices are not met, the import license is refused. Importers confirmed a marked aggravation of the situation. Before, many of them could obtain their license within a week of their application, now they have to indicate a price equal or superior to the minimum import price in their request for a license, otherwise the license is refused. However, it appears that this problem affects less importers of luxury goods (prices higher), for which products are higher than minimum import prices and who get their licenses easily.

### **3. NON-TARIFF BARRIERS**

#### ***Clearance procedures***

##### **1. Visas, documents required for clearance**

- The following documents are required:
  - commercial invoice,
  - certificate of origin (not compulsory in all cases)
  - bill of lading

##### ***Commercial invoice***

- The Commercial invoice must be presented in 2 original copies in Portuguese or in another language with a translation into Portuguese. It must contain the following detailed indication : name and address of the receiver, name and address of the exporter and the producer, precise description of the imported goods with the Code of Brazilian Customs Tariff, country of origin and of shipment, gross and net weight, number and identity of packages, marks and reference numbers, cost of transportation, harbours of shipment and of destination, name and nationality of the ship, actual date of departure of the ship, number of the import license delivered by SECEX including its date of issue and of expiration, type of payment, and date of drafting of the invoice. In addition, the invoice must indicate the price per unit and FOB value of the goods, detail of expedition costs, total value C and F or CIF

specified with precision in USD and corresponding to the value indicated in the import license. In the invoice, the exporter must sign a specific declaration certifying the accuracy of indicated prices and country of origin and that the invoice is made by the exporter and not by a purchasing agent of the importer.

### *Certificate of origin*

- The Certificate of origin is not compulsory if the invoice contains all information related to the origin of the product. However, it can be requested by the importer as required by its Bank.
- In some questionnaires, operators mentioned problems relating to the origin of products and to procedures of the certificate of origin. Nevertheless, no precise information on problems encountered could be obtained. Importers interviewed have no particular problems with the certificate of origin. It seems that Brazil does not apply a certificate of origin legalisation system in the country of origin (such as the mechanism applied by Argentina).
- Furthermore, Brazil quantitative restrictions apply to imports of some textile products from Hong-Kong/Korea/China/Taiwan/Panama. It is therefore possible that some operators having encountered problems with product origin had in fact undertaken operations of transformation in these countries. This would explain the stricter controls they were subject to.

### *Bill of lading*

- Bill of lading must be drafted in 5 copies in Portuguese, English or Spanish. It must include number and date of issue and expiration of the import license. The exact amount of the shipment must be indicated in letters and figures Only the date « shipped on board » is accepted. It must correspond to the date of the import license.

## **2. Clearance delays**

- There were a few complaints from EU operators. However, no detailed information could be obtained. Recent Normative Instruction n° 111 of Federal Receipt Secretariat <sup>13</sup> aimed at accelerating the clearance procedure. Under the new regime, when the imported product is given the « green light » in the Customs control (parametrização), the obligation to present the import documents to the Representative of Federal Receipt for further examination is removed and the goods can be released. This is aimed at reducing the clearance duration from 4 days to 1 day.

## **3. Customs valuation**

- EU operators and representatives of importers reported some valuation problems in relation with the application of minimum import prices for textiles and clothing products (see above). Portaria SECEX N 21/96 provided for a surveillance of prices by competent authorities. This enables DECEX (department of SECEX) to control and review prices using all means of comparison (including prices on world markets, publications, lists of

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<sup>13</sup> Instrução Normativa n° 111, Receita Federal, Official Journal 21 September 1998.

prices of foreign producers (article 20)). .

- Brazilian authorities implement, since 1st March 1998, new rules for the customs valuation of products (Decree N° 2.498 of 13 February 1998 of the Executive Power.) This Decree implements Article VII of GATT 1994 (Customs valuation). It establishes the ruling principles of control for customs valuation, the examination of declared value of goods and the subsequent establishment of the imported product customs value. This text has been implemented by Portaria n° 28 of the Minister of Finances and Instrução normativa n° 16 of Receita Federal. These documents established rules for the auditing of the customs value and the elements to be taken into consideration by Customs authorities in the valuation process, including in the elaboration of the substitution method (art. 6).
- The new system requires in particular a conclusive value control by Brazilian competent authorities (auditores fiscais do Tesoro Nacional). It is a detailed control of the declared value on selected products. The selection of products is made through SECOMEX. The authorities are allocated a long period of time to carry out this control (delay of 60 days from the registration by SISCOMEX, with the option of an extension). They can require the importer to provide a detailed documentation with a 15 days notice to prove the conformity of the declared value (article 6). The importer may be required to provide a guarantee when the declared value is less than the minimum value considered reasonable for identical or similar products (art. 21 Inst. Norm. 16). If the value control is not conclusive, an alternative method of valuation can be used and another value taken into consideration for the calculation of tariffs and import charges.

#### 4. Classification

- Some cases were mentioned by EU operators (Upholstery fabrics, bedspreads blankets).

#### ***Non Automatic Licensing system***

- Textile and clothing products are subject to Import Licensing. The Import Licensing was established by Brazilian Authorities for statistical purposes. Portaria MF/MICT n° 291/96 of December 1996 established that since 1<sup>st</sup> January 1997, activities of Import Licensing, customs clearance and exchange control are carried out by:
  - the Secretary of External Trade (SECEX) of the Ministry of Industry, Commerce and Tourism,
  - the Secretary of Federal Income (SRF) of the Ministry of Finances and the Central Bank of Brazil (BACEM), which is a commercial bank with authority in trade policy via the Integrated System of External Trade (SISCOMEX). SISCOMEX is a computerised system which enables the control of external trade operations. It collects data, especially the information required from the importer for the delivery of the import license.
- Portaria SECEX 21/96 established the management of the Import license system by the computerised system SISCOMEX. **Communicate N° 37 from 17 December 1997** of DECEX established a new list of products submitted to non automatic licenses, including the majority of textile and clothing products from chapters NC 50 63. The text did not

specify the justification for such extension of the non automatic licensing system to these products. It was further modified by Communicate n° 23 of DECEX<sup>14</sup>. Under this text all imports are now subject to a administrative exam (tratamento administrativo) when the importer has communicated to SISCOMEX the required data for the import. The administrative exam informs the importer if the import of its product requires (or no a previous authorisation. According to some sources this results in a suppression de facto of the list of products subject to non automatic licenses and means that other products could be subject in non automatic licensing, without being included in an official list.

- The importer must first register in the Register of Importers and Exporters (REI) of the Ministry of External Trade (SECEX). He makes the request of import license through the SISCOMEX data base. He introduces the data in the database on the basis of the pro-format invoice. The Import license must be approved by DECEX. Normally, the importer should obtain the import license within 7 working days.
- Various EU operators (SP, IT, DE) reported that their clients cannot import due to difficulties in obtaining import licenses: (1) either it is impossible to get the license, or (2) they have to wait from 3 to 6 months to get the license. This has discouraged EU operators to continue their exports to Brazil (FR, ES). The implementation of this system led to a sharp reduction in the number of importers. Clients must use the channel of « authorised » importers, which results in additional costs.
- The import license costs 70 USD. The non automatic license is valid for a period of maximum 60 days from the date of shipment of the goods or from the date of the request by a Brazilian Customs Agent. This period cannot be prolonged. This can cause problems to the importer. After 60 days, he must request a new license.
- Since 1 January 1999, the Brazilian Receita Federal charges a tax of RS 30 for each Import Declaration registration in the SISCOMEX system. For any addition of good(s) in the Declaration, an additional tax of RS 10 is charged (with a maximum total of RS 100).

### ***Technical rules***

#### **1. Quality and conformity controls /sanitary rules**

- Importers interviewed admitted that, in some cases, Customs authorities request sanitary certificates or performed controls of conformity or quality, even in the absence of legal text.

#### **2. Labelling issues**

- Several operators had complained about labelling requirements in the questionnaires. For example, they indicated that labelling requirements include the indication on each label of the importer name and address and of the n° of the Import license. This was not confirmed.

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<sup>14</sup> Official Jornal of 1st september 1998.

- According to the private sector, labelling norms are relatively constraining. However the situation is not as complicated and restrictive as in Argentina. There was no major complaint on the implementation of this regulation, even if there are some worries about an harmonisation of the labelling rules in the Mercosur market.
- The current labelling requirements for imported and domestic products are based on Resolução CONMETRO 04/92. In addition, in June 1998, Brazilian authorities have transmitted to the WTO Committee on Technical Barriers to trade a draft regulation on labelling for textile products. However, it was confirmed that CONMETRO 04/92 is the only text applied for the moment for the labelling of textile and clothing products
- The following indications are required on the label:
  1. n° of fiscal register of the importer (n° CGC)
  2. name of the importer
  3. country of origin
  4. product composition
  5. washing instructions
- The following information is therefore not required : N° of import license, the address of the importer or of the exporter. Furthermore, the label does not have to be in cloth. It must be written in Portuguese.
- According to importers, customs only verifies the origin and not systematically the label of products. Indeed, the textile industry has confirmed that it put pressure on the Government in order for customs controls to be stricter and for authorities to control the conformity of imported products labels to Brazilian labelling norms.
- The labelling regulation equally applies to imported and to domestic products.

***New aspects covered by the Draft of regulation on labelling of textiles***

- It is interesting to note that the new legislation will apply to almost all textile products. Only some items are excluded. It provides for detailed marking requirements. For example, for fabrics, in addition to the label containing the information as explained below, the composition of the product must be marked in the sides, every two meters, or at the beginning and at the end of the fabric (point 3.1 marcação de tecidos). The label will not be necessary when all the information required is marked on the sides (in print of at least 5 mm).
- In the case of imported fabrics or yarns to be processed by Brazilian operators (e.g. fabrics), the marking requirements must be indicated in the fabric itself **and** in the « fiscal sale document ». For other products used in the transformation industry, the requirements can be indicated either in the product or in the sale document (points VI, 1 and 2). The text also established criteria for the composition of the products, the indications on care instructions (IV) and the marking of packing (V). In the final part (VII) it is foreseen that the sanctions applicable for non completion of the requirements will be those applicable in each State of the Brazilian federation. All aspects not covered by the Project will be settled by each



federated State individually. This could cover the control of the requirements by the competent authorities in each federated State.

### **Restriction on terms of payment**

#### ***Critics made by EU operators and Brazilian importers on these measures***

- Operators criticised the horizontal legislation on foreign exchange applied by Brazil since 1 April 1997. The legislation apply to several products, including textiles. It establishes the obligation for the importer to conclude foreign exchange contracts. The exchange rate contract is concluded with the Bank in order to settle the conversion of the Brazilian real into foreign exchange. The exchange contract has to be concluded on a certain date, depending on the payment terms agreed between the importer and the EU exporter:
  - between 0 and 180 days: the exchange contract must be concluded immediately before customs clearance;
  - between 180 and 360 days, the exchange rate contract has to be concluded 6 months earlier (e.g. payment terms 210 days: the exchange rate contract has to be concluded 6 months earlier). Officially there is no obligation for the importer to pay immediately to the Bank.
  - Beyond 360 days: the legislation does not apply.
- Interlocutors (EU exporters and Brazilian importers of EU products) confirmed the negative impact of these measures. The most obvious consequence for EU exporters was the reduction of the number of small importers and of importers who could not afford to pay their imports cash. For example, a Portuguese exporter of cotton fabrics experienced the collapse of sales in 1997 from 30 000 sqm to 0 sqm as a result of this barrier (its client did not encounter problems with the import licenses). This is interesting because of the existence of traditional business relations of Portuguese operators on this market. For other EU operators, the only way to pass through the barrier is to systematically send small deliveries of a value under USD 10 000. In any case, this reduces the volume of orders and the number of clients. Restrictions on periods of payment also affected European producers exporting small quantities to mid-size importers offering better financial terms than large importers.
- According to various operators interviewed, the system currently applied does not allow a contractual payment period. Various cases have been reported which all result in increasing difficulties for the importer:
  - The import license is not issued if payment terms are foreseen in the invoice  
According to some sources, importers who indicate a payment terms above 30 days in his request for import license, the approval of DECEX in Rio is required and the license is either not issued or issued after a long period of time. This de facto requires a cash payment.
  - Banco do Brazil keeps the deposit during the payment delay  
When there is a period of payment (e.g. 180 days) foreseen in the contract, the subsidiary pays cash the total amount mentioned in the invoice to Banco do Brazil just before customs clearance. It seems that he is de facto obliged to pay to the Bank the

total amount foreseen in the contract when signing the exchange contract. In spite of transferring this amount directly to the exporting company, the Bank keeps the funds (including resulting interest) during the terms agreed in the contract (180 days) and does not transfer them to the parent company in the EU before that time. If no period of payment is indicated, Banco do Brazil makes funds available immediately after customs clearance. As a result, no operator grants long payment periods. This system leads operators to drop payment periods in their transactions.

- According to other operators, it is necessary to pay the transaction in cash in all cases.
- **Other countries of the Mercosur** benefit from an adapted regime. The ceiling of 10.000 USD (under which the system does not apply erga omnes) is raised to 40.000 USD for Mercosur countries. Argentinean, Chileans and Uruguayans importers indicated that this system has slowed the progression of exports from their countries into Brazil.

#### ***Recent developments aimed at modifying the current regime***

- Banco de Brazil adopted on 17 March 1999, measures aiming at reducing the pressure on the exchange market. These measures modify the Decree of 1st April 1997 on terms of payment. These measures will modify the present situation under which imports can only be realised either cash (a vista) or with a financing above 360 days. Under the new regime, in case of terms of payments superior to 90 days, the importer will settle the exchange contract at the moment of the date of payment agreed in the contract (e.g. he will pay after 91 days). For imports with less than 90 days the exchange contract will have to be settled the day of the registration of the Import Declaration (he will have to pay cash when the goods arrive at customs)<sup>15</sup>.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- There are no measures concerning textiles and clothing products for the time being.

#### ***Impact of alleged barriers***

- Operators estimated that identified barriers granted a 10% to 20% price advantage to Brazilian producers. Some operators thought their turnover could be significantly increased (above 25%) if barriers implemented by Brazilian authorities could be removed. Brazil is regarded as a very important 150 Mio consumer market located in a dynamic trade area (Mercosur).

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<sup>15</sup> « BC reduz prazo de financiamento de importações » in Brazilian Newspaper dated 18 march 1999.

# CANADA

## 1. INTRODUCTION

### *Market Access situation*

- The Canadian market is a market featuring some specific difficulties for EU exports of textile and clothing products. Problems mentioned by operators in questionnaires are less numerous and important compared with the market access situation in the US and Mexico EU industry listed the following trade measures:
  - Tariffs levels
  - some clearance formalities (documentation, classification, valuation and rules of origin)
  - labelling requirements for clothing products.
- In addition to specific problems encountered at clearance, EU exports are also facing strong competition from Mexican and US products which benefit from preferential treatment under the NAFTA treaty.
- Updated information on Canada customs regime may be obtained at: <http://www.rc.gc.ca> , <http://www.strategis.ic.gc.ca> or <http://www.fin.gc.ca>

### *Trade in textile products between Canada and the EU*

- Trade in textile products between Canada and the EU is regulated by the ATC. There is no bilateral administrative arrangement negotiated under this Agreement (no quantitative limits).. Canada is EU 44th supplier of textiles and clothing products. In 1997, imports of these products into the EU reached 160 Mio ECU and 27000 tonnes..
- European textile and clothing products are not subject to quantitative restrictions. In 1997, exports of EU textile and clothing products to Canada amounted. 4831 Mio ECU and 70536 tonnes, Canada being the EU 18th export market. Export surplus of the EU reached in value 322 Mio ECU and 43,341 tonnes in volume.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- The tariff applicable to EU products is the “MFN” tariff. Other tariff groups are the Commonwealth countries (BPT), developing countries (GP), the tariff applicable to the USA and Mexico (NAFTA) and the General Tariff applicable to a limited number of countries (GT.).

- Tariffs levels remain an important obstacle for several EU companies. These companies produce mainly apparel products and accessories in Portugal, France, Belgium, Germany, Italy, Netherlands and Spain.
- Customs duties are as follows <sup>16</sup>:

Type of product	
Yarns	0% to 16% silk: 0% wool: 10% cotton: 0-10% flax: 0% to 9.5% synthetic: 0 to 10%
Fabrics	silk: 0% wool: 0% to 16% cotton: 0% to 10% synthetic: 0% to 16%
Clothing products	17,5% to 21% <sup>17</sup> 6103: 21% 6104: 21% 6105:21% 6107:21% 6203:19.5 to 21% 6204:17.5 to 21%

#### ***Tariffs predictability (bindings)***

- WTO consolidated rates for textile and clothing products reach up to 18%. The transition period is 10 years ending in 2004.

#### ***Duties and charges other than tariffs***

- There was no particular complaint concerning taxes and fees additional to the Customs duty. The only import duty mentioned by the industry was the VAT.
- **The Goods and Services Tax -GST-** (i.e. VAT) is 7% of duty paid value. It is applied on the CIF value of imported products plus customs duty. The rules concerning the application of the GST to imported products are contained in Memorandum D13-2-5 of 3 October 1997.
- **The new provincial tax (Harmonised Sales Tax (HST))** is 15% of duty paid value. It applies to Nova Scotia, New Brunswick and Newfoundland and is equivalent to the GST. In any case, “only the 7% GST, as currently required, is payable at the time of importation. The remaining 8% provincial portion is payable through the self-assessment provisions of the legislation.”

<sup>16</sup> Market Access Database. Updated on 18/01/1999

<sup>17</sup> Some exceptions such as in scarves (6214.10.10 from 0% (prayer shawls) to 10.5%

- Other taxes and fees on imported products were mentioned but vary from one harbour to the next.

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- A limited number of EU exporters complained about excessive requirements concerning the documentation to be provided by the importer at the moment of clearance. These complaints concern in particular the product description of the imported good.
- Product import into Canada is subject to the presentation of an **invoice** into three copies as described in Memorandum D1-4-1, dated 1st January 1991, of the Customs and Excise Office. This document can take the form either of a commercial invoice or a Canada Customs invoice containing in each case all the information listed in the Appendix of the Memorandum<sup>18</sup>:
  - the name of the buyer and of the seller of the goods,
  - the price paid or payable,
  - an adequate description including quantity of the goods contained in the shipment,
  - the date of direct shipment to Canada,
  - other references such as the invoice or order number,
  - country of transshipment,
  - country of origin,
  - mode and place of direct shipment to Canada,
  - conditions of sale and terms of payment,
  - currency of settlement,
  - number of packages,
  - specification of commodities (kinds of packages, marks and numbers, general description and characteristics, commercial description),
  - product quantity,
  - product unit price,
  - total price,
  - total weight,
  - invoice total,
  - exporter (name and address) if other than vendor,
  - originator (name and address),
  - departmental ruling applicable to the shipment.

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<sup>18</sup> See in addition Memorandum D17-1-0 accounting for Imported Goods and Payment of Duties regulations.

## 2. Clearance delays

- Only two cases of excessive clearance delays were reported. It was confirmed with the Canadian Customs authorities that clearance is very quick and takes usually 1 day for importers without any problems.

## 3. Customs valuation

- The Memorandum D13-3-1 contains the rules applicable to the determination of the product value for duty. The import price may be adjusted to conform to the requirements contained in Memorandum D13-4-7. This memorandum provides that packaging costs and commissions to the foreign exporter on the resale of the product in Canada must be included in the import price.

## 4. Classification

- Complaints concerning classification problems remain limited. Canada has adopted the Harmonised Commodity Description and Coding System (Harmonised System). The first six digits of the Canadian and the European system are identical.

## 5. Origin requirements

- Only two companies complained about origin requirements. It appears that these complaints are linked with the implementation of the NAFTA rules of origin. Concerning the certificate of origin, there are no specific requirements for the certificate of origin for the import of textiles and clothing products.

### ***Import licensing***

- Most clothing and textiles goods are on the import control list. This means that individual import permits from the Department of International Trade are required for the importation of these products. Permits may also be obtained on-line from approved brokers. Additional information on import permits, quota allocations and product definition are available at the Export and Import Control Bureau in Ottawa (telephone (613) 996-3711, fax (613) 995-5137). The price of permits varies from 15 to 31 CAD.
- The Import and Export Permits Act outlines the requirements and permit procedures for the importation of goods listed in the import control list (see Memorandum D19-10-2 of 1 June 1998). The import permit must be requested at least 30 days before the arrival of shipment.

### ***Import quotas***

- A number of countries have signed voluntary restraint agreements with Canada and their products are subject to specific import procedures. The shipment of textiles from one of these countries is subject to an export license in the country of origin, the original of which must be presented in Canada in order to obtain the corresponding import license.

### ***Standards and other technical requirements***

- In questionnaires and interviews, operators indicated their exports are hampered by technical measures implemented by the Canadian authorities for the import of textiles and clothing products. Most of these complaints concern the labelling requirements. There were also some concerns expressed about quality and conformity controls, and certification. However, until now these complaints were not confirmed with clear examples.

#### **1. Quality and conformity controls**

- There was only one complaint made by a Spanish company

#### **2. Certification / Mutual recognition**

- Only two operators mentioned problems with certification requirements for their products (underwear and ticking and interior decoration fabric)

#### **3. Marking, labelling, Packaging requirements.**

- Some clothing articles must indicate the country of origin (women underwears, knitted ready made garments, waterproof items, garments entirely or significantly composed with natural fibres or synthetic fibres). The **Decree on the marking of imported products**, the Customs Memorandum D11-3-1 establishes the marking requirements for these products (methods of marking and data to be provided and the place for the label)
- **The Textile Labelling Act** applies to imported “consumer textile articles”. Memorandum D 19-5-3, of 3 May 1990 provides that such imported products must carry a label stating the information as follows:
  - fibre content in percent (adding up to 100%)
  - dealer identity including address and registration number. This information must be written in English and French.
  - in addition, Memorandum D11-3-1 on the marking of imported products also requires that the country of origin be indicated on the product (except for second hand or second choice articles).
- Finally, care instructions must also be attached to the product. It must include, as the case may be, information on shrinking, lengthening, colour changes, staining, chlorine retention, maximum ironing temperature and change of product linked to wear and tear.
- Imports of textile products must also respect general packaging requirements.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applying to the import of EU textile and clothing products.

***Others***

- One operator complained about restriction affecting the access to credit for the importer. However, this information was not confirmed by the research.



# CHINA

## 1. INTRODUCTION

### *Market Access situation*

- EU operators indicated that the Chinese market is a potential important market. Population, economic growth rates and the integration of Hong Kong are attractive factors for EU companies. However, current market access remains limited and the state control of imports is strong. Access to the Chinese market remains difficult due to high tariffs and uncertainties regarding the legislation applicable to imported products. In addition, some products are subject to specific import and/or export restrictions, e.g. silk. Other issues include the limited protection of intellectual property rights and valuation requirements.

### *Trade in textile products between China and the EU*

- Trade in textile and clothing products between China and the EU is regulated by two bilateral agreements on trade in textile products covering textiles products and silk products<sup>19</sup>. Under these agreements, exports of textile and clothing products from China are limited to the quantities provided in the Agreements. The EU is China first export market. In 1997, exports of textile and clothing products to the EU reached 6.6 bn ECU, China being the first supplier of the EU in textile and clothing products in value terms 4th supplier in volume (614.87 Mio tonnes) after Turkey, India and USA<sup>20</sup>.
- Access to the Chinese market for European textile and clothing products is subject to some import restrictions (see below). The level of EU exports of textiles and clothing products to China remain limited. In 1997, exports of textile products to China amounted only 294.3 Mio ECU. The trade balance in value was largely negative with -6,383 Mio ECU. It has to be stressed that exports to Hong Kong amounted to 1.5 bn ECU for the same period. In quantity, trade balance with China was -553,682 tonnes.
- Exports through Hong-Kong remain the rule. Consequently, the volume of trade concerned by direct traffic remains modest and concerns mainly IPT operations. Textile is processed into China by EU apparel manufacturers and re-exported to the EU or other export markets. IPT schemes are very attractive due to low wages. However distance and insufficient information available on the opportunities offered still limit the number of projects.
- According to Chinese authorities, 1998 exports have grown less than expected due to the recession in many Asian countries. The growth and export targets for 1998, respectively 8% and 20% are likely not to have been met. Even if there was an increase of textile exports to

<sup>19</sup> Agreement between the EC and the Republic of China on trade in textiles products of 1988 modified in december 1995 and recently extended by an Echange of letters until 31 december 1999. See the Council Decision of 21 December 1998, OJEC 1999, L 12/27.

Agreement between the EC and the Republic of China on trade in some textiles products

<sup>20</sup> Eurostat trade data for 1997.

the EU in 1997 (+ 27%) compared to 1996, there is some doubts as to whether the export performances in textiles can be maintained in the face of the sharp competition from those Asian countries which have devaluated their currencies<sup>21</sup>

- A general information source is the Chinese government site: <http://www.netease.com/~hetong/>

### ***Textile and clothing domestic industry***

- China has become the world first supplier of textile and clothing articles. Domestic industry grew regularly until the recent years. In 1996, world-wide Chinese exports of textile and clothing products reached 35 billion USD, whereas total imports for the same products into China for the same period only reached 16.7 billion USD. The positive surplus in textile and clothing trade has increased rapidly 10.3 billion USD (1990) to 18.2 billion USD (1996).
- Currently China counts about 10,000 foreign funded companies representing a production value of USD 20 billion. The level of European investment remains low. Besides a few large investments (e.g. Benetton, Lee Cooper) the remaining joint-ventures consist of small and medium size enterprises. It should be noted that foreign investors in textiles do not receive as much a favourable treatment as foreign companies in the sector of new technologies or computers.
- After a resurgence of exports in 1997, mainly to the US market, the Chinese industry was significantly affected by the Asian crisis which favours its regional competitors. In particular, Chinese yarns and fabrics exports were adversely affected (fall of 1.9%) by increased competition of other Asian competitors. The crisis has also reduced exports earnings in the regional markets. In May 1998, China experienced the first fall in exports for the whole chain since 1996<sup>22</sup>.
- In addition, due to a significant overcapacity, the domestic sector experienced an increasing number of bankruptcies in 1996 and 1997. The industry is going through a restructuration process prompted by the State in order to reduce textile losses. The restructuration process will affect at least 1.2 Mio workers in the next three years. However, it seems unlikely that the government will achieve the target for reducing losses given the fall of external markets and the maintaining of the yuan strength.

## **2. TARIFF BARRIERS**

### ***Tariff levels***

- A large number of EU operators indicated that tariffs remain too high for direct trade. The current level of customs duties applied to the import of textiles EU products is as follows:

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<sup>21</sup> World Textile Trade and Production Trends in Textile Outlook International, July 1998 , p. 30.

<sup>22</sup> Idem, p. 42.

Type of product	Applied tariffs
Yarns	25 to 50%
Fabrics	50% to 100%
Clothing products	70% to 100%

- In the framework of the WTO accession of China the Community has requested that China sharply reduce and bind its applied tariffs for textiles and clothing (0% for raw materials, 5% for yarns and fibres, 10% for fabrics and 17.5% for apparel) as a basis for negotiation. In April 1998, China submitted its last tariff offer on industrial products. This offer is currently being reviewed by Commission services.

#### ***Duties and charges other than tariffs***

- According interviews realised with representatives of Customs Authorities, these are the duties and charges other than tariffs:
  - **VAT** (17%) is collected on imported goods (CIF value plus customs duties).
  - **the Consumer tax** applies in principle to luxury goods, no textile products are included in the list of products subject to Consumer Tax.
  - imported goods are also subject to an **“import surcharge”** equivalent to 1% of CIF value.
  - a **“harbour tax”** is collected (4 Yuans per ton or 50 Yuans per container).

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- The documents necessary for customs clearance are:
  - the invoice,
  - the bill of lading,
  - the contract,
  - the list of inventory,
  - the import license and/or the pre-shipment inspection certificate, when such documents are required (depending on the product).
- A pre-shipment inspection is required for some products. For these products, the inspection must be carried out by the China Commodity Inspection Bureau. This Agency was previously independent and is now under Chinese Customs control.
- The import of other products may, but is not required to, include a pre-shipment inspection. According to Chinese Customs this does not result in speeding the import process as the pre-shipment inspection does not give a guarantee of conformity to Chinese rules.

## 2. Clearance delays

- Some operators complained about delays during clearance.

## 3. Customs valuation

- According to Customs authorities, the valuation of goods is based on the invoice price. However Customs can, and often do, challenge the price indicated. Customs apply WCO rules (of which China is a member)..
- Chinese authorities are concerned about tariff circumvention through the undervaluation of imported goods. Chinese authorities estimate this takes place at the request of Chinese importers. An unofficial reference price list is regularly updated. Customs may also re-evaluate the price of goods using the estimation of the Chamber of Commerce. However no regulation applicable to this matter could be provided by Chinese customs authorities.

## 4. Classification

- There are no major conflicts regarding the classification of EU products. Three Customs analysis laboratories are already in operation (Canton, Shanghai and Tianjin), with others planned.

## 5. Origin requirements

- There is no specific requirement for the import of textile and clothing products.

### ***Minimum import price***

- As mentioned above, it is alleged that Customs Authorities use a minimum import price list in order to assess the value of the imported products. This list is frequently updated.

### ***Import licensing***

- Most textile products are subject to compulsory prior licensing. The import licensing system is managed by MOFTEC. The importer must introduce a demand for a license which is first examined by various state agencies. Final decision is taken by MOFTEC. This licensing requirements affects all EU exports.
- The Hong Kong administrative region also maintains an import licensing system for textiles products. This system was notified to the WTO Committee of Import licensing in October 1998. It covers the importation of all textile products and applies to textiles coming from all territories. It is meant to be a surveillance system and is not intended, according the Authorities, to intend to restrict the quantity of value imports<sup>23</sup>

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<sup>23</sup> see G/LIC/N/3/HKG/2 of 16 October 1998 which replaces former notification G/LIC/N/3/HKG/1/rev2. dated 3 October 1998.

### ***Import quotas***

- Chinese authorities still implement quantitative restrictions affecting the import of more than 40 tariff lines. These include unprocessed wool products (9)<sup>24</sup>, cotton products (2)<sup>25</sup> and synthetic yarns (30)<sup>26</sup>. Chinese authorities have not clearly agreed the schedule for the phasing out of these restrictions prior to China accession to WTO.
- Even if various operators mentioned problems concerning the quotas, it was not possible to obtain precise information on the problems of management of these quotas from Chinese representatives. Indeed in interviews conducted with Chinese authorities (customs and foreign trade) the Chinese representatives were not willing to talk about this issue and even denied the existence of such restrictions.

### ***State trading enterprises***

- Imports and exports of textile and clothing products are still managed and controlled by State agencies which enjoy a trade monopoly: control on imports as well as control over local distribution.
- **Import of textiles products** can only be made through a Government appointed Foreign Trade Company (FTC), controlled by MOFTEC. In many cases, only FTC which are also producers of similar products are allowed to import. **Distribution** is still dominated by state controlled enterprises.
- **Exports of raw materials (e.g. cotton, silk)** are still seriously affected by the State supply monopoly. The production and the sale of raw materials (silk, cotton, cashmere) are strongly regulated. The sale of these products is made through State organisms. It can not be done directly from the Chinese producers to the EC operator. Community producers (especially Italian) must buy via a State import/export agency. In addition, according to Italian industry, there is a wide disparity between prices applied to Chinese operators and to community operators (double price system).
- In the case of silk, every Chinese farmer must sell 70% of its production to an official central purchase agency, below the market price. Then, this agency sells it either to Chinese operators, or to the Official export agency that sells silk to community operators. The farmer can sell up to 30% directly to Chinese operators (but not to foreign operators).
- Consequently, State agencies enjoy a position of monopoly concerning silk. The regime applicable to cotton is less strict. The government forces raw cotton producers to sell 20% of their crop to the State below the internal market price (farming tax). Furthermore, they must sell 10% of their production to Official purchasing agencies that resell to State transformation enterprises at a price inferior to the internal market price. The difference in

<sup>24</sup> 51011100, 51011900, 51012100, 51012900, 51011300, 51031010, 51051000, 51052100, 51052900, 51052900.

<sup>25</sup> 52011000, 52030000.

<sup>26</sup> 54022000, 54023310, 54023390, 54023900, 54024400, 54024300, 54024900, 54025200, 54025900, 54026200, 54026900, 54033310, 54041010, 55011200, 5501300, 55032000, 55033000, 55062000, 55063000, 55092100, 55092200, 55093200, 55095100, 55095200, 55095300, 55095900, 55096100, 55096900.

price is considered as a subsidy for enterprises of State using these raw materials. While there is only one import/export agency for silk, there are 35 of them for cotton.

- The sale of textile raw materials (only via State organisms) is discriminatory. Consequently, the Commission requested the elimination of the system of exclusive state trading for silk and cotton. China should allow an alternative sale channel for raw materials between the Chinese producer and the EC operator.

### ***Standards and other technical requirements***

#### **1. Quality and conformity controls**

- EU producers also complained about discriminatory technical requirements and commodity assessment on the conformity of these requirements. They indicated that, for instance, there are two agencies approved for clothing product testing. One of the agencies is handling imported products (slow procedure); the other is dealing with domestic products (quick procedure).
- The State administration of Import and Export Commodities inspections (SACI) is in charge of the inspection of the imported goods. EU industry stated that imported products are subject to stricter procedures than domestic products.

#### **2. Certification / Mutual recognition**

- In this respect, authority traditionally lies with various authorities outside customs. These Agencies are converging through the development of the electronic network EDI (Electronic Data Interchange).
- An unofficial customs code in Chinese language also presents a synthesis of the requirements applicable to each tariff position. The presentation of requirements is made as follows:

- pre-shipment inspection required for imports : (A)
- pre-shipment inspection required for exports : (B)
- passive export restriction (bilateral agreement) : (G)
- import license required
  - delivered by the central MOFTEC Office: (1)
  - delivered by the local MOFTEC Office : (2)
  - delivered by the province : (3)
- export license required
  - delivered by the central MOFTEC Office : (4)
  - delivered by the local MOFTEC Office : (5)
  - delivered by the province : (6)

#### **3. Sanitary requirements**

- Only one operator complained about sanitary requirements (1)

#### 4. Marking, labelling, Packaging requirements.

- The same rules apply to domestic and imported products. Since 1995, labelling and marking must be made in Chinese language.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- Textile and clothing products originating in the EU are not subject to trade defence measures when imported into China (antidumping, countervailing duties or safeguard measures).

#### ***Export restrictions***

##### ***Chinese authorities justify the existence of export restrictions by farmers protection***

- According to MOFTEC and Customs representatives, the ground for the export restrictions is the protection of farmers and in particular silk farmers. Export restrictions are indicated in the above mentioned unofficial customs code. The products covered are subject to an export license (payable) or to export duties equivalent to 100% of the goods value (1996). There may be a distinction of products according to quality.

##### ***Purchase of raw materials remains problematic for EU operators***

- Purchase of raw materials (mainly silk, but also linen and ramie) remains problematic for EU producers. The existing bilateral agreement between the EU and China on some textile products opens an access to Chinese silk, linen and ramie for Community operators. This agreement, signed in 1995 and renewed, contains a “national treatment clause” giving to the Community industry purchase conditions identical to those of the Chinese industry. Nevertheless, the EU industry complained about several problems:
  - Monopoly position of the State Agencies: China represents 70% of the world-wide production of silk. The EU Industry is worried about this de facto monopoly position. Production and purchase of raw materials are strictly regulated and can only be conducted through State agencies. This means that EU producers have no direct access to Chinese producers and must deal with an Import/Export agency. EU operators complained about the double price system applied to products sold to Chinese producers and to foreign producers (prices about 30% higher). They cannot sell directly to EU producers.
  - Difficulties to get the export licenses: a non automatic export license system applies to several products: silk, cotton, fibres and wool. It is applied to around 200 products including the following textile products : silk, cotton, fibres, wool. This export licenses will have to be eliminated in the context of the accession to the WTO. Operators noted difficulties with export licenses requirements (in particular for linen and ramie).
  - Operators are forced to pay additional export duties which hamper significantly the export of raw materials (e.g. commission fee connected with the issuing of the export license). These fees increase the final price of products. The EC industry complains about

a series of duties that are applied to them in a discriminatory way and result in significantly increasing the price of raw materials. The commission services have identified some of these duties:

- 3,5% of duties to obtain the export license (via MOFTEC)
  - 3,5% of the transaction value appropriated by MOFTEC on the silk purchase agency (CNSIEC) for a silk stabilisation fund.
  - 1,5% collected by the CNSIEC in Beijing
  - 2% collected by the Hong Kong export centre (managed by CNSIEC)
  - 1% of duties (quality control exerted by SACI / State Administration of Import/Export Commodity inspection)
- In addition, Chinese exporters can completely refund the 7% VAT. Export tax refund for textiles is 11-13%., the difference between prices paid by EC and Chinese operators amounts to 20%. EC producers now have a price differential for silk products of around 50%. The elimination of export taxes would reduce the difference between 15/20%.

#### **Others**

- There are two systems applicable to IPT schemes. Duty free import is possible when the goods are imported and processed in Special Economic Zones (SEZ). The drawback system allows the importer to recover the duties paid on the inputs (when importing them into China) when the resulting goods are re-exported. Most ITP schemes are controlled out of Taiwan and Hong-Kong.
- Some aspects of the IPT systems have recently been amended following the uncovering of numerous tariff circumvention through fake IPT schemes. Until 1996, the IPT contract had to be registered with MOFTEC and with customs. Since 1996, a bank account must be opened at the Bank of China and a guarantee covering the duties and VAT payable on the imported goods. This new requirement is designed to solve importers cash flows difficulties.
- Since April 1998, ATA documents have been introduced in China. They may be obtained at the China Council for the Promotion of International Trade (CCPIT).
- The goods resulting from IPT be must re-exported within a delay set according to the type of goods and of contracts.



# COLOMBIA

## 1. INTRODUCTION

### *General features of the access to the Colombian market*

- The number of trade barriers identified by EU operators was larger than expected. Colombia is an important export market for several operators (IT, SP, PORT). In addition, some EU operators located part of their production in Colombia in order to benefit from the ALADI preferential system with other South American markets. Many operators considered Colombia as an open door to other Latin American countries (Brazil). However, over the past 2 years, they have encountered an increasing number of trade barriers. These barriers aim at protecting the developing domestic textile industry. Identified trade barriers mainly take the form of:
  - import duties
  - customs formalities

### *Trade in textile products between Colombia and the EU*

- Trade in textiles products between Colombia and the EU is regulated by the ATC. There is no bilateral administrative arrangement negotiated under this agreement. In 1997, Colombia was the EU 61st supplier of textile and clothing products. Imports of these products into the EU reached 59.44 Mio ECU in value and 5516 tonnes in volume.
- During the same period, exports of EU textile products to Colombia were 67.476 Mio ECU and 9227 tonnes, Colombia being EU 58th export market.

### *Textile and clothing domestic industry*

- Since 1990, economic reforms aimed to liberalise the economy and the access to the Colombian market had a major impact on the Colombian clothing and textile industry. These companies faced the lowering of tariffs (from 77% in 1991 to 20% in 1994) and the surge of low priced imports. The textile and clothing sector benefits, however from the low labour costs compared to other big producers in the region (e.g. Mexico) and from a preferential access to various markets of the region (Andean Pact, Mercosur, G3 and trade agreements concluded in the ALADI framework). This is an incentive for various EU producers who make production process in Colombia in order to benefit from the ALADI preferences.
- Colombian textile and clothing accounts for more than 10% of the country manufacturing output. The Colombian textile industry comprises some 3 300 companies employing 67 000 people, from which 480 companies employ about 60 000 people<sup>27</sup>. The 16 largest plants which are only 3% of the total accounted for more than 56% of production. Added value

<sup>27</sup> J. de Coster: «Colombia textile and clothing industry», Textile outlook international, May 1996, p. 90.

represents about 8% of industrial GDP. The apparel industry is composed at 95% by SME: 19,764 firms employ 240,000 people or 13% of total labour force. The 15 biggest companies (1.5% of total) with an average employment of 811 workers realise 24% of total production.

- In 1998, after being affected by decreasing production in the previous years, textiles and clothing production increased. The increase was particularly important for apparel (+ 55.2%)<sup>28</sup> and interesting for textiles ((+ 8.1%). Total production represents about 4% of GDP and 24.5% of national manufacturing. Most textile production is located in Medellin (51%) and in Bogota (38%). Many textile and clothing companies are vertically integrated and the biggest (Coltejer and Fabricato) concentrate in large economic groups. Employment is slightly decreasing in textiles but constantly increasing in apparel (+ 20%).
- Colombia is a traditional cotton producer of high quality, whose large part is exported. Cotton yarns and fabrics is the biggest subsector (43% of the total production)<sup>29</sup>. It also has an interesting chemical fibre industry (polyester, polyamide, acrylic). Main apparel products are underwear for men and women, swimwear. Total production of wool amounts to 10 mn of sqm, 80% is produced by 5 big companies (including a French investor).
- There is however little European investment in the Colombian textile sector. A French company invested in wool, a Dutch company in polyethylene and an English company in weaving. Many branded EU apparel companies receive royalties from Colombian companies producing items for sale in the domestic market or Latin American markets.
- Textile and Clothing exports represents, with USD 745 mn about 10% of total exports<sup>30</sup>. Textile exports are mainly polyester staple fibre, dyed cotton fabrics, high tenacity nylon yarn and single acetate yarn (in 1995 64.3 US mn fob). Main markets remained in the Andean Pact (almost 50%), followed by Brazil (10%). Exports to the EU are mainly Italy (5.7%) and Spain (3%). Total value of apparel exports was in 1995 USD 565mn of sqm , mainly women and men slacks, dungarees and cotton shorts, tee-shirts, women panties. Most are exported to the US (59% of apparel exports), Venezuela (17%) and Germany (3.9%).
- If European and US firms look the Colombian market as a way to export to Latin America, several Asian firms from China, India, Pakistan avoid tariffs and quotas in the EU and the US by exporting to Colombia their unfinished products, assembling and finishing them in Colombia and exporting them subsequently free of quotas and tariffs to the EU and US<sup>31</sup>.

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<sup>28</sup> Andres de la Espriella Castro: Analisis sectorial (sector textil confección) Julio de 1998.

<sup>29</sup> In 1994, annual knitting output was estimated 320 nm<sup>2</sup>, from which 90 nm were knitted fabrics, 60 nm m<sup>2</sup> tricot, 30 nm<sup>2</sup> rashed and 40 nm underwear/hosiery

<sup>30</sup> Globalisation of South America's textile and clothing industry, Textile outlook International, Textiles intelligence limited, march 1995, p. 160..

<sup>31</sup> Idem, p. 115.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- Tariffs barriers constitute a very important obstacle for Spanish, Portuguese and French operators and an important problem for others (EN, FR, IT, BE).
- Current rates for ad valorem duties are as follows<sup>32</sup>:

Type of product	
Yarns	5% to 15% silk: 10% wool : 15% cotton: 10 to 15% flax: 15% synthetic 5% to 10%
Fabrics	silk: 20% wool: 20% cotton: 20% flax: 20% synthetic: 20%
Others: carpets	20%
Clothing products	20%

### *Tariffs predictability (bindings)*

- The WTO consolidated rate for textile and clothing products is 40%.

### *Duties and charges other than tariffs*

- Operators complain about constant changes in import taxes (BE). They mentioned : files fees, customs tax, additional VAT and fees for importer registration. However, according to the information transmitted by the Colombian authorities, the import taxes are as follows:
- VAT (IVA) stands at 16% and is paid on the CIF value of the imported products. Some textile products are exempted<sup>33</sup>
- **A Harbour Tax** (Impuesto de Puerto) is collected (5% of the CIF value). Harbours have recently been privatised and are now in competition. As a consequence, user fees may vary. Additional duties may also be levied.

<sup>32</sup> EC Market Access Database, updated on 02/09/98.

<sup>33</sup> i.e. non processed wool: 5101, 5102, 5105.

### 3. NON-TARIFF BARRIERS

#### *Registration, documentation and customs procedures*

- Among the difficulties encountered, specific complaints concerned the visas and documentation required. Operators especially encountered problems to get the legalisation of the certificate of origin with the Colombian consulate (see Argentina). Legalisation is time consuming and expensive (ES). In the pre inspection of goods, the consulate must give its approval to a price listing. Operators also mentioned problems in the customs valuation of goods (IT, BE).

#### 1. Visas, documents required for clearance

- The following documents are required :
  - the import form
  - the import license (when applicable)
  - the certificate of origin
  - the bill of lading

##### *The import form*

- A registration fee used to be collected upon entry into the “imports register”. Currently, a “single declaration of import” has been issued. It is subject to a fixed fee covering the price of a fiscal stamp. This form is automatically approved by INCOMEX which has no margin of appreciation in this matter

##### *The invoice*

- The commercial or pro-forma invoice must be provided in three copies, in Spanish language and signed by the seller. The commercial invoice must indicate :
  - the position of the product in the Colombian tariff,
  - the name of the exporter and of the importer,
  - the description of the product,
  - the quantity and the kind of packaging,
  - the price per unit and the total value of goods in USD,
  - the number of the “registro de importacion” or the INCOMEX import license,
  - a signed statement of the exporter certifying the goods origin.

##### *The import license*

- The original import license as may be **required** (only for some specific products such as HS 6309).

##### *The certificate of origin*

- According to some EU operators the certificate of origin should be legalised in the local consulate of Colombia. Spanish and Italian operators complained about the costs (5.000 to

6.000 pesetas) and time lost (at least 8 working days). However, the Colombian Customs authorities have confirmed in March 1999 that this not currently a compulsory requirement. The Customs officials do not require the legalisation of the certificate of origin by the Colombian consulate in the country of origin.

### *the bill of lading*

- The bill of lading must include:
  - place and date of the license as well as the expiration date,
  - name of the consignee,
  - tariff position of the product,
  - number of the import license or of the “registro de importacion”,
  - date of emission and of expiration.
- There is a pre-shipment inspection. In addition since December 1995, all textile imports are systematically inspected by Customs authorities.

## 2. Clearance delays

- Various operators faced problems because their goods were blocked in clearance during long periods of time, in particular when they exported their products directly from the EU (e.g. Spain) to Colombia. Therefore, various of them chose to export through the US. When under Decree 1909/92, a customs inspection takes place, it must be done in a single day, except if a longer period is authorised. It can then last 2 months from the date of arrival of goods.

## 3. Customs valuation

- Some complaints were made on valuation procedures during clearance (in particular for tickin and interior decoration textiles, silk accessories). Colombia had incorporated the GATT valuation code into its domestic legislation through Decree 2613/93. The Customs value should be determined under the transaction value method. Colombian foreign representations do not make any control over the price of goods to be exported. This may explain the valuation problems encountered at the border.

## 4. Origin requirements

- Some operators complained about the legalisation of the certificate of origin in the Consulate of Colombia. According to the authorities, there is no specific regulation applicable to the trade of textile goods. However, the Resolution 467 of 20 February 1997<sup>34</sup> amended existing duties levied by the Consulate authorities, foresees the following duty for several consular acts, including the certification of import document (56 USD, including 50 USD for a functioning fund and 5 USD for the stamp duty).

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<sup>34</sup> Resolución 467 del Ministerio de Relaciones exteriores por la cual se modifican los derechos para las actuaciones contempladas en el decreto 0391 de 1996, se unifican tarifas y se deroga una resolución.

## 5. Compulsory Customs offices for textiles and clothing imports

- For most textile and all clothing products imports have to be made only through the Customs offices in Bogota, Barranquilla, Buenaventura, Cali, Cartahagena, Cucuta, Ipiales, Medellin and San Andres.

### *Import licensing*

- Only worn clothing and other worn articles and (HS 63009/63010°) are subject to prior import licensing<sup>35</sup>. The importer must fill a specific form. Under the Resolution 001/95 enacted by the Superior Council of Foreign Trade the import license can only concern items which belong to the same import regime. The importer must complete a File identification card with its fiscal identification number. He must buy and complete the registry of import form in the INCOMEX offices, attaching copies of all documents required for clearance.
- In the case of prior import regime (license) the application form is reviewed by the Import Committee (Comite de importaciones). He will examine the demand according to the criteria defined by the Resolution 001/95, art; 23. These include various factors (the increase in the employment level, the satisfaction of the domestic consumption, necessity of a just competition in terms of prices and quality ...) <sup>36</sup>. It will take 3 work days (in the other cases - without licenses) INCOMEX should give approval after 24 hours).

### ***Standards and other technical requirements***

- Operators complained about numerous controls and inspections made by Customs authorities during clearance: conformity and quality controls, sanitary controls and other types of controls. These controls are more troublesome than in other countries in the region. This forces some operators to export to Colombia through the USA. For example, some companies were forced to send their products to Miami for examination procedures. For some EU operators, it was mentioned that this was compulsory except for products listed under the "Plan Vallejo" (exemption of import duties for goods imported in order to be processed ). EU operators also complained about certification procedures involving additional costs for the exporter (NL). Labelling requirements are of concern to Italian and French operators. There is insufficient protection of drawings and models (BE, FR).

#### 1. Quality and conformity controls

- Several complaints were made concerning quality and conformity controls performed during clearance. These are apparently linked to the implementation of various technical norms applicable to textile and clothing products (see below, point 2.).

#### 2. Certification / Mutual recognition

- The Customs code (§0042) provides that imported products should be conform to Colombian technical requirements. Under Decree 300/95 of 10 February 1995 and C.E.

<sup>35</sup> Guide to import in Colombia, INCOMEX, (1995) p. 25

<sup>36</sup> Otros Regimenes de importación y exportación, INCOMEX, (1995), p 26.

23/95, some products must comply with the Colombian Technical Norm (CTN/NTC)<sup>37</sup>. It is the case for disposable masks against particles suspended in the air (HS 6307903000).

- An inspection certificate is required for some products and for all imports of a value higher than 5000 USD. The Colombian importer must introduce a request at the Inspection Office in Colombia. This Office sends this request to an approved inspection office abroad. The certification procedure may be conducted by approved private companies (§0021 of the Customs code referring to Decree 2531/94).
- This certificate is legalised by the Colombian consulates which collect a fixed fee of 56 USD (as provided in Resd. 467 of the Ministry of External Relations). This procedure may be lengthy, up to 8 days in some cases.
- Are also applicable: the **Decree 861 of 26 May 1995** on the mandatory inspection certificate as modified by **Decree 1574 of 18 September 1995**.
- There are remaining difficulties due to some persisting uncertainties in the certification system. In addition, the controls themselves may vary from one border point to the next.

### 3. **Marking, labelling, Packaging requirements.**

- The only requirements to be observed are the basic descriptions set forth by the INCOMEX text 087/93. A few complaints were made from EU producers on the implementation of these rules.

### 4. **Intellectual property issues (protection of drawings and models).**

- The applicable intellectual property legislation are the Andean Pact norms. This legislation has direct effect in Colombia. There is notably Decision 344 of the Carthagene agreement Commission on Industrial property.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- All imports from China are subject to measures based on a safeguard clause. There seems to be an autolimitation agreement between the two countries. There could also be an on-going inquiry or antidumping measures on these products.
- The Decree 809 of 21 April 1994 regulates safeguard measures.

### ***Others***

- It is possible to manufacture « tax free » in 11 private trade free zones located near major airports and ports (mainly in Barranquilla, Cali, santamarca and Cucuta). The “Vallejo plan” provides for duty exemptions for IPT schemes. It is a tax incentive for export oriented production. Goods may be imported duty-free provided that resulting goods are re-exported within a certain time period.

<sup>37</sup> In this case, the applicable norm is NTC 2561; Res. 014/92, Consejo Nacional de normas y Calidades.

### ***Impact***

- For those operators who mentioned trade barriers implemented by Colombia, the negative effect on turnover has been quite important. The price advantage granted to Colombian producers is estimated to reach 20% (FR). The expected increase in turnover if barriers were eliminated is higher than 25%. Losses occurred in the EU market and in other markets, such as Latin American and NAFTA countries (FR). The increase of costs in connection with certification and origin issues is evaluated between 0% and 5% by some operators (SP).



# CZECH REPUBLIC

## 1. INTRODUCTION

### *General features of the access to the Czech market*

- A **restricted number of trade barriers were identified by EU operators** (DE, ES, FR, IT, AUT in questionnaires. These concern mainly the applied tariffs (ES, IT, FR). Only some operators mentioned problems during customs formalities, among which customs valuation and origin requirements seem to be the most problematic. Only one producer mentioned problems encountered in the field of certification, quality and conformity controls. The production of a label in Czech language was of concern to some producers (DE, FR). One operator evoked a sanitary regulation which caused a problem. The ineffective protection of drawings and models was also mentioned. Two operators mentioned the existence of restrictions on credit (DE, FR).

### *Trade in textile products between the Czech republic and the EU*

- Trade in textile products between the EU and the Czech Republic is regulated by the ATC. There is no bilateral administrative arrangement negotiated under this agreement. In 1997, the Czech Republic was the EU 19th supplier of textile and clothing products in value terms. Imports of these products in the EU reached 961.5 Mio ECU and 142 Mio tonnes.
- Over the same period, EU exports to the Czech Republic were 939.9 Mio ECU, the Czech Republic being the EU 13th export market. The trade balance in value was slightly negative (-21 Mio ECU) while trade balance in volume was slightly positive (+27,376 tonnes). In 1997, the EU saw a deterioration of the trade deficit with this country while the trade deficit with other Central Eastern countries (Poland and Hungary) was reduced<sup>38</sup>.
- The Czech market has opened rapidly to EU products as a result of both the implementation of the Europe agreement progressively removing tariffs and the implementation into Czech law of large parts of the EU legislation. These reforms require significant changes within Czech customs and the Czech administration at large which may explain the few complaints from the EU industry.

### *Textile and clothing domestic industry*

- Employment in the textile sector decreased of 8% and by 1% in the clothing sector. Production increased between 1995 and 1997 were mainly centred on cotton textiles products (+ 1.12%) and woollen products (+ 1.15%). In clothing products, production was more successful in men clothing (+ 1.51%)<sup>39</sup>. It must be stressed that close to two thirds of

<sup>38</sup> World textile trade and production trends, in Textile Outlook International, July 1998, p. 24.

<sup>39</sup> Information transmitted by Euratex.

this trade represents OPT operations.

- Trade in textile products is mainly concentrated on the EU as EU products totals about 80% of total imports (1997) and some 69% of total exports are made to the EU. In 1997, imports of EU clothing products into the Czech Republic represented 54% of total imports. Other products were imported from Asia (21%), East European countries (9,1%), Slovakia (5,8%), other European countries (3,2%). Czech exports of clothing products mainly went to the EU (78,9%), Slovakia (7%), the former USSR (3,9%) and EFTA countries (3,5%).

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round commitments***

- The average tariff is 5%, with most ranging from 0% for raw materials to 10% for finished goods.
- Most tariffs on EU textile and clothing products have been removed. Textile and clothing products tariffs are subject to Protocol IV of the Europe Agreement and to the additional protocol<sup>40</sup>.
- All Czech tariffs on EU products should be removed by year 2001. Applied tariffs are as follows<sup>41</sup>:

Type of product	Ad valorem duty
Yarns	0%
Fabrics	0%
Others: carpets	0%
Clothing products	0% to 6.56%(most: 4.08%) 6103 0 to 4.08% 6203: 4.08% to 5.56% 6211: 0 to 6.56%
Bed linen	6302: 0 to 12.1% (flax)

### ***Tariffs predictability (bindings)***

- WTO consolidated rates for textile and clothing products reach up to 15% (a peak at 28% for some products of chapter 63). The transition period is 10 years.

### ***Duties and charges other than tariffs***

- The only tax collected at the moment of importation is VAT. It is 22%. It is calculated on CIF value plus customs duties. It is also applied for domestic products.
- There is no clearance fee.

<sup>40</sup> (OJEC, L 127 of 20.05.1997.

<sup>41</sup> EC Market Access database, updated on 28 /1/99.

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- The Czech Republic has adopted the Unified Customs Declaration which is similar to the single administrative form used in the EU.
- The following documents are also required for clearance:
  - the commercial invoice (in three copies and including the following information:
    - number and date,
    - name and address of the seller and buyer,
    - number and date of order by the Czech buyer,
    - description of goods with HS number, specification and quantity,
    - per unit price and total price,
    - incoterms and delay for delivery,
    - name and address of the intermediary or agent of the seller,
    - other information essential for delivery (insurance, packaging, gross and net weight),
    - declaration of origin,
    - signature.
  - the letter of transport,
  - EUR 1 as applicable for goods covered by the Europe agreement along with evidence of direct transport

##### **2. Clearance delays**

- According to Czech authorities, customs clearance lasts 2 to 3 days. Only one complaint was made by the EU industry (luxury hosiery). Other operators did not encounter problems.

##### **3. Customs valuation**

- The Czech Republic applies the WTO Customs Valuation Agreement. There were only two complaints made in the questionnaires about valuation procedures. Products concerned were jeans (DE) and luxury hosiery (FR).

##### **4. Origin requirements**

- Two complaints were made by German operators but no specific information provided to the consultant.

#### ***Import quotas***

- There are no quotas on EU textile and clothing imports. The only quotas applicable to EU products cover agricultural products.

## ***Standards and other technical requirements***

### **1. Quality and conformity controls**

- There is a law containing specific technical requirements on the certification of imported products (Act 22/1997 of 24 January 1997). It is compatible with the EU legislation and applies to imported and domestic products alike. According to Czech authorities, there are on-going negotiations about the mutual recognition of standards between the EU and the Czech Republic.
- Act 22/1997 of 24 January 1997 on the technical requirements for products provides for the testing of both domestic and imported products before they are placed on the market (“conformity assessment”). Following the assessment of the product, the producer or the importer must also issue a “declaration of conformity” (article 13). This in turn allows the products marketed in the Czech Republic to carry the conformity mark (“CCZ”).
- Under Act 22/1997, Government Orders specify the various categories of products subject to the conformity assessment and what the assessment consists of in the various categories (article 11)<sup>42</sup>. This applies, unless otherwise specified in a special law. The conformity assessment may be done through “State testing” or through “Certification” (via an independent entity accredited by the Czech State.) The price of the conformity assessment is borne by the producer or by the importer and fixed by a special regulation<sup>43</sup>.
- Some EU operators (French apparel producers) have indicated that this procedure is lengthy and costly.
- Furthermore Interior design and upholstery fabrics are subject to specific requirements under Decree 178 of 25.06.1998. The requirements are identical to the EU rules but EU certification does not receive recognition.

### **2. Marking, labelling, Packaging requirements.**

- Labelling requirements applicable to textiles are contained in two complementary legal norms. The Consumer Protection Act NR 634/1992 Coll. indicates the required information for textile labelling. This includes “the product name, label of producer or importer or supplier, data about weight, quantity, size or dimensions and data necessary for its identification or use according to the product nature” (section 10, (1) a). This Act is complemented by the decree 132/1996 Coll. on the labelling of textile products with information regarding the composition of products. This Decree annexes indicate the fibres which are subject to this requirement, the products the composition of which may be marked by a common label and the products for which the indication of the composition is not required.

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<sup>42</sup> For instance, Government Order Nr 171/1997 Coll. sets technical requirements for toys, Government Order Nr 172/1997 Coll. sets technical requirements for personal protective equipment, Government Order Nr 173/1997 Coll. specify selected products for the conformity assessment, Government Order Nr 178/1997 Coll. sets technical requirements for construction products and Government Order Nr 180/1998 Coll. sets technical requirements for medical instruments; all these Government Orders include some textile products.

<sup>43</sup> Act 526/1990 Coll. on Prices, in the wording of Act 135/1994 Coll.

**3. Intellectual property issues (protection of drawings and models)**

- The Czech intellectual property legislation is based on EU rules. There is notably a legislation on the control of counterfeited goods at the border.

***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applied to the import of EU textile and clothing products.

***Others***

- The access to credit for imports may be costly due to high interest rates.

# EGYPT

## 1. INTRODUCTION

### *General features of the access to the Egyptian market*

- Operators characterised Egypt as a very closed market. For example, Spanish operators described the Egyptian market as being as closed as the Pakistani and Indian markets (in interviews). Few barriers are mentioned but they are complex and important: some operators stress their incapacity to export to Egypt (embargo or unbearable tariff barrier), while others who do export are facing important technical barriers, which also hamper (or stop) their exports (labelling and production requirements for import). As a Mediterranean partner of the EU, Egypt is in a specific position.

### *Trade in textile products between Egypt and the EU*

- Trade in textile and clothing products between Egypt and the EU is regulated by the ATC and a bilateral Memorandum of Agreement. Under this agreement, exports of cotton yarns and cotton fabrics from Egypt are limited to the quantities provided in Annex 1 of the Agreement. The Agreement also establishes a system of administrative cooperation (surveillance) for two other categories of products (bed linen and shirts). The EU is Egypt first trade partner, followed by the USA. In 1997, exports of textile and clothing products to the EU reached 623 Mio ECU, Egypt being the 21st supplier of the Community. In volume, imports of Egyptian products into the EU were 159 775 tonnes.
- Access to the Egyptian market for European textile and clothing products was restricted until December 1997 (import prohibition on clothing and partial prohibition on fabrics). This explains why Imports of textile products originating in the EU into Egypt were only 192 Mio ECU and 54,295 tonnes, the trade deficit remaining important (-430 Mio ECU and -105 480 tonnes).

### *Domestic structure of the textile and clothing industry*

- Textile and clothing sector is of high importance for Egyptian economy and employment. Employment of the sector covers about 1 Mio workers and accounts for 30% of Egypt total industrial labour force<sup>44</sup>. The sector is composed of 31 public enterprises and about 2356 private enterprises registered and members of the Egyptian Textile Manufacturers Association. In addition, there are thousands of small factories and workshops. Also, the sector employs unaccounted informal workers.
- Most of the domestic production is distributed on the domestic market, even if exports have continuously increased. In 1997, the aggregate value of textile production reached LE 8 billion, including LE 5 billion for the domestic market. LE 3 billion were exported, which

<sup>44</sup> Egyptian textile industry and GATT, Potential and uncertainty, American Chamber of commerce in Egypt, July 1998, p. 1.

represented 25% of total exports.

- Since the early 60's, textile sector was restricted to public companies. Textile companies had to fulfil government requirements and to provide low price products for domestic consumption. For years, the industry was affected by this production process and suffered from a lack of technological innovation. From the 1980's, the Egyptian textile industry was progressively privatised but still suffered from trade restrictions on textile imports and machinery.
- In the 1990's, the textile sector was particularly affected by the General restructuring plan of the economy (ERSAP) (changes in cotton prices policy, implementation of fiscal policy and direct taxes affecting the domestic producers) as well as other unresolved problems such as high level of smuggling and increased price of energy. Public companies were not able to adjust. They currently suffer from increases in their debts, deterioration of their financial status, deficiencies in their current accounts and low investment. Privatisation is still under way and must be achieved by the year 2000.
- Foreign private capital is mostly linked with ITP/OTP operations. The main EU partners are Italy, France and Germany. Some joint ventures have been in place for over 30 years (e.g. JIL -men underwear-, Benetton ).

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- In questionnaires completed by EU operators, tariffs applied by Egypt were mentioned as a very important obstacle. Products that can be imported (textile products) are subject to very high customs duties, even if their level was recently amended
- The tariff structure follows the Harmonised System. The Customs Harmonised System is contained in the Presidential Decree n° 38/1994 and its amendments. In January 1998, Presidential Decree N° 1/1998<sup>45</sup> amending the Harmonised Customs Tariffs<sup>46</sup> increased tariffs applicable to the import of cotton textiles, wool and man-made fibres from 40% up to 54%. Applied levels for textile fabrics were not affected by the tariff reduction implemented to a large variety of products by Presidential Decree n° 243/88 in September 1998. This texts concerns only tariff reductions from applied levels under or equal to 40%.
- Current rates are as follows:
  1. Raw material (raw cotton, silk, etc.) 5%
  2. Yarns: from 15 % to 30%
  3. Fabrics: 54%
  4. Clothing products: 30% (but imports remain prohibited. According to Customs authorities, when clothing products will

<sup>45</sup> Official Journal - Issue N° 1 (bis) on 1st of January 1998.

<sup>46</sup> As promulgated by Presidential Decree N° 38/1994.

be liberalised in 2002, it is likely that applied tariffs would increase as it was the case for fabrics).

- Tariffs and other import duties are calculated ad valorem on the CIF value of products.

#### **Tariffs predictability (bindings)**

- WTO consolidated rates for textile and clothing products range from 5% to 60%. Tariff reductions will be spread over ten years starting on a base of *«30 percentage points above the final offer»*. Reduction is announced to take place in ten equal stages. Under WTO, Egypt announces the removal of import prohibitions for fabrics (by 01.01.1998) and for apparels and made ups (by 01.01.2002).

#### **Tariffs quotas**

- There are no tariffs quotas.

#### **Duties and charges other than tariffs**

- In addition to tariffs, import taxes increase the total amount of duties. This is a very important barrier for several operators (IT, ES, EN, FR, DE). In particular, on 1st January 1998, the General Law on Import and Export (Law n° 118 of the year 1997) was modified by a Ministerial Decree n° 1. This Decree imposed inspection fees on some textile items (fabrics, knitted or crocheted textiles, laces, brocades, tassels and gallons).
- Customs Authorities confirmed the application of the following taxes:
  - **VAT (sales tax)** is 10%. It is calculated on the basis of CIF value + customs duty
  - Services charges are a clearance duty (user fee). It is 4% for goods with customs duty above 30%. Service charges were recently removed.
  - **Inspection duties:** depending on the level of applied duty. Inspection fees is according to the level of tariffs from 1% up to 4% (4% in the case of fabrics).
- Customs authorities described the inspection fee as a user fee: the importer is paying for the control of the imported product by Customs : review of the documentation, identification of the product, value of the product, physical control. It is not a fee directly linked with the control of the compliance of technical standards. The aim of this fee is to provide financing for the modernisation of customs.
- The text establishing the amount and the calculation method used for these inspection fees is a 1997 Ministerial Decree of the Ministry of Trade.



### 3. NON-TARIFF BARRIERS

#### *Registration, documentation and customs procedures*

- EU operators complained about excessive customs formalities. Required visas and documentation are complex. The clearance procedure is time consuming and troublesome. Wrong classification of products was also reported.

#### 1. Visas, documents required for clearance

- According to Customs the following documents are required:
  - commercial invoice,
  - certificate of origin,
  - packing list stamped by banks,
  - airway bill,
  - bill of lading,
  - delivery order.

#### *Commercial invoice*

- The Commercial invoice must be presented in three originals in English, French or Arabic. It must contain the following indication : mark, number and identity of goods, detailed description of merchandises, country of origin, weight, way of payment and conditions of delivery, sale value (including rebates), number of import license, cost of insurance and transportation, costs of packaging.
- The importer is required to provide a Pro Forma invoice (original and 4 copies) in order to obtain a letter of credit. The Pro Forma invoice must indicate the country of origin, the name of the importer, the type of merchandise, the classification, the quantity, the price per unit, the terms of payment and the amount in foreign currencies.
- For textiles, the commercial invoice must contain specific requirements on the composition of the products such as established by the Ministry of Trade Decree n°1 of 1 January 1998:

*«on the pro-forma invoice and the final invoice: various indications such as length (m) and width (cm) of the cloth, weft yarn n°, warp yarn n°, weft material, warp material, kind of printing and kind of dyestuff, kind of processing (preparation), weight per longitudinal meters in grams (article 2, B)»*

- In some cases, Egyptian Authorities require the legalisation of the commercial invoice. In these cases, the visa of both the local Chamber of Commerce and of the Ministry of Foreign trade are required.

#### *Certificate of origin*

- The Certificate of origin must be presented in two originals, in English, French or Arabic. In certain cases, Egyptian authorities can require legalisation and certification. For wool and

cotton fabrics the certificate must be legalised in the country of origin and the goods be directly shipped from this country to Egypt.

- The Packing list is compulsory in order to facilitate control by customs authorities. It must be presented in three copies in English, French or Arabic. The product mark, numbers, net and gross weight, external dimension and package composition must be indicated in the packing list.

## 2. Clearance delays

- There are various evaluations. Successful private companies with good customs agents may clear customs in 4 days while others may take 1 week or more.

## 3. Customs valuation

- Customs officers have the authority to accept or to review the declared value of goods. There is an appeal mechanism before a Committee within the Ministry of Trade.
- The WTO Agreement on Customs valuation is subject to a transition period and will be implemented in Egypt from year 2000.

## 4. Classification

- Only one EU operator (decoration textiles) mentioned classification problems.
- Egypt is not a member of the HS convention but is applying the same classification. These issues are within the competencies of the Ministry of Trade.

## 5. Origin requirements

- The Export and Import Control Organisation belongs to the Ministry of Trade and is in charge of establishing the origin of products.
- Since the end of November 1998, the Decree 619 of Ministry of Trade and Supply on origin rules. foresees new rules for some 55 products. These concern the compulsory legalisation of the certificate in the country of origin and the obligation for the producer to ship directly the goods from the country of origin to Egypt. For other products (than the 55 products), only the legalisation of the certificate of origin made by the Egyptian Embassy in the country of shipment is required.
- Private operators mentioned some problems regarding the implementation of this rules:
  1. The obligation to provide the certificate of origin legalised by the Egyptian consulate in the country of origin. This was sometimes required in the past, for some products, but this obligation was not always observed. It now causes some delays for the importers who must send the invoice to the (non-European) country of origin. Cases of EU textile products blocked in Customs due to the implementation of this regulation were reported to CEEI.

2. the obligation to ship the goods directly from the country of origin to Egypt is likely to affect, according some importers, the imports of EU fabrics originating in Pakistan and re-imported into the EU for finishing or dispatching purposes and subsequently re-exported to Egypt.

#### ***Minimum import price***

- No minimum import price system.

#### ***Import restrictions***

##### **Prohibition on the import of clothing products**

- Clothing products (from chapters 61 to 63 of the Nomenclature) cannot legally be imported into Egypt. This is for instance the case of luxury underwear. They fall under an import prohibition list. Under WTO commitments, the prohibition can be applied until year 2002

##### **Full liberalisation of the import of textiles products since 1st January 1998**

- On 1st January 1998, **Decree n° 2/1998 of the Ministry of Trade and Supply** has authorised the import into Egypt of various textile fabrics among which:
  - woven fabrics of silk waste and other silk fabrics;
  - some woven fabrics of carded wool with specific production requirements (e.g. woven fabrics of combed wool produced of warp or weft yarns not less than 80/1 NM French numbering. Spanish, British and French operators complained about these production requirements for imports. According to a wool producer, the requirements for the size of fibre used in some products such as men wool jackets are outside the normal production process (it requires the producer to modify the production process for Egyptian orders) and, in effect, prevents any import into Egypt.
  - woven fabrics of flax (with specifications)
  - woven fabrics of jute
  - some woven fabrics of vegetable fibres
  - some woven synthetic fabrics
  - carpets (...)
- Import restrictions on cotton were lifted in 1997.

#### ***Import licensing***

- Import licensing was removed a few years ago.

#### ***Import quotas***

- Spanish operators complained about the implementation of import quotas for wool fabrics. However, no such quota is being implemented.

## ***Standards and other technical requirements***

### **1. Quality and conformity controls**

- According to Egyptian authorities, quality controls are performed on both domestic and imported products. The main issue is the identification of the authorities competent to perform these controls on imported products as well as the certification procedure.

When the goods arrive in Customs, there is a random control. The consignment control is carried out by a Committee composed of three representatives of the following institutions:

1. Customs authorities
2. Textiles Industry representatives<sup>47</sup>
3. Chamber of commerce.

- The control only reviews the identification, the quality, the value and the origin of the product. It is not in their mandate to verify the product conformity to technical requirements for fabrics or to block the goods for not complying with these requirements. However, if the Committee notices a discrepancy or a «problem», they can refer to the General Organisation for Export and Import control (hereinafter referred to as GOEIC) from the Ministry of Trade and Supply.
- The GOEIC will then perform a detailed control of the conformity to technical requirements applying to the imported goods (see below).

### **2. Certification / Mutual recognition**

- Under **Ministerial Decree n°1 of Ministry of Industry of 1<sup>st</sup> January 1998<sup>48</sup>**, « *manufacturers and importers of woven fabrics and knitted fabrics are required to comply with the stipulations of technical provisions concerning woven fabrics and knitted fabrics annexed to the Decree* ». The Decree is applicable since 22 January 1998. According to Customs Authorities, the word « importers » does not include importers located in free trade zones for the time being. However, it is likely that the same type of requirements will be extended to Free zone importers in a near future.
- Technical provisions for knitted and woven fabrics are fixed in two different chapters, which define the same criteria to be observed:
- The decree covers all kinds of fabrics and include their nature, mechanical and chemical properties, methods of taking samples, methods of examining and testing fabrics, their appearance, and compulsory labelling information. It therefore contains various sections.
- The EU industry considers these requirements to be excessive. Such requirements do not take into account the diversity of knitted products and the necessity to provide for different

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<sup>47</sup> According to the newspaper «Al Ahram», industry representatives include representatives of the Division of Spinning and weaving industries and the Cotton consolidation Fund. in Fabrics fraud, El Ahram, 24 - 30/12/98, transmitted by EC delegation.

<sup>48</sup> Egyptian Official Gazette – N° 19 (Supplement) (a) of 22 January 1998.

specifications (e.g. new products). For example, Natural and mechanical properties of the domestic and imported fabrics are ill-defined or too narrowly defined (see « permitted technical tolerances », e.g. weight per m<sup>2</sup>).

### 3. **Implementation of technical requirements for fabrics**

- According to Customs officials, GOEIC (Ministry of trade) is called upon by Customs only when discrepancies are noted. This implies that if customs accept the goods at the first inspection, no further control of the imported product conformity to technical requirements will be made. This could explain the absence of specific complaints coming from importers.

### 4. **Sanitary requirements**

- Sanitary certificates are required for raw materials (e.g. raw wool) but not for finished products (fabrics). There were no specific complaints by EU operators on sanitary issues.

### 5. **Marking, labelling, packaging requirements.**

- EU Producers complained about new Egyptian requirements on the marking of imported (and domestic) fabrics which have been implemented since January 1998. These requirements are considered as burdensome, excessive and costly. There is obviously no direct link between these rules and the objective of consumer protection.

- These are contained in:

1. the Decree n° 1 of the Ministry of Trade and Supply of 1st January 1998<sup>49</sup> which sets requirements for textile products. These include inscriptions on the selvage of the fabrics:

*«the name of the importer and the country of origin shall be inscribed on the selvage in the fabric, at the beginning and the end of the cloth, providing that the cloth shall not be less than 30 meters» (article 2, A)-*

2. the Decree n° 1 of Ministry of Industry of 1<sup>st</sup> January 1998 on technical provisions for fabrics establishes stricter requirements regarding the marking of imported knitted and woven fabrics. According to interviews conducted with Customs authorities and the Egyptian Standard Body (EOS), these requirements are complementary to those of Ministry of Trade.

#### ***Woven fabrics (more detailed requirements):***

*According to the Decree « woven fabrics are to be prepared in the form of cloth at least 30 m long. Clothes is to be packed in bales which must be bound in a cross structure or with new elastic which is not fixed .*

*The following information must be given on fabrics, clothes and bales: »*

**Fabrics** must be marked every 3 meters with the following information: *« name of the*

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<sup>49</sup> Egyptian Wakayeh/Government Bulletin - Issue n° 1 (Supplement) (A) dated 1 January 1998

*manufacturing company or factory and/or registered trade mark, along with the name of the importer or the agent. (...) name of the item and the type of raw materials and in the case of blended fabrics, indication of the blend. (...) the specification of the country of origin »*

**All Cloth** is to carry a label indicating the same information than required for fabrics. In addition, the label must contain: *«date of manufacture, (...) length of cloth in meters and width of fabrics in cm (...), the cloth length must be no less than 30 meters. (...) weight per sqm in grams. (...)type of dyeing of prepared fabrics. (...)yarn count (warp/weft). (...)number of threads in warp and weft per unit length (cm). (...) type of preparation used and, for treated fabrics (fire, water, moth), indication of type and date of treatment ».*

**Bales** are to be marked in Arabic language and the language of the country of origin with the following information: *« name of items. (...)number of clothes in bale. (...) total length contained in bale in meters. (...) gross bale weight. (...)net bale weight. , (...) sequential number of bale. (...) name of the manufacturing company and/or its registered trade mark, along with the name of the agent or importer. (...) date of manufacture. (...) specification of the country of origin ».*

### ***Knitted fabrics***

The Decree does not foresee specific requirements for knitted fabrics. However knitted clothes and corresponding bales are subject to requirements close to these imposed on woven clothes and bales (see above) (point 8). In the case of knitted fabrics, interviews conducted indicate only the requirements of the Decree of Ministry of Trade apply (marking on the selvage at the beginning and the end of the fabric).

### ***New marking requirements on packages***

- Circular n° 12/1998 of Ministry of Trade and Supply (General Organisation for Export and Import control) imposed new marking requirements on every package of industrial commodities imported into Egypt: these are to be written in Arabic and in clear indelible handwriting. Under this text, the following is to be undertaken (point 1.a):
  1. *Writing the product's name or its trade mark*
  2. *That the technical data is written on the packages by the manufacturer according to what is stipulated upon in the applicable standard specification (numbers or specific marks)*
  3. *That the international data on marks are written down according to the nature of the commodity*
  4. *The country of origin.*
  5. *It is a pre-condition for writing the production date and expiration that they have to be stipulated upon in the applicable standard specification.*

*All these details have to be printed or sealed with an indelible ink on the packages directly or on the original card on the production entity.*
- However, until now, there was no specific complaint made by the EU industry concerning these new requirements.

6. **Intellectual property issues** (protection of drawings and models).

- Only one operator complained about infringement of intellectual property rights (copies of drawings and models).

***Antidumping, countervailing duties/actions and safeguard measures***

- No measure concerning the textiles and clothing products are taken for the time being.

***Export restrictions***

- Spanish operators complained about the implementation of an export quota on cotton.
- However, during the mission, it was confirmed that there is no export restriction on raw cotton.

***Others***

- IPT is possible duty free when the import takes place within a free zone (e.g. Port Said). There is also a drawback system whereby import duties may be refunded when the finished goods are exported, subject to specific conditions. This drawback system is alleged to be an important source of smuggling . According to private sources, smuggling would affect 80% of total imports of fabrics. According other sources smuggled cloths and ready made garments represent annually LE 1 billion.<sup>50</sup>

***Impact***

- According to a French operator, the advantage granted to Egyptian producers by the implementation of the trade restrictions is higher than 20%. The expected increase in turnover if barriers were removed is above than 25%.

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<sup>50</sup> Textiles fraud, Al Ahram, 24 - 30/12/1998, p. 10.

# HUNGARY

## 1. INTRODUCTION

### *General features of the access to the Hungarian market*

- A limited number of barriers were identified by EU operators during the first stage of the research. The nature of problems encountered varies from very important (DE, ES, IT) to important (FR, IT, AU). The main problems concern the tariff barriers, which were qualified as a very important obstacle for several operators (ES, FR, IT). Problems occurring during customs clearance are of the same nature as in other CEECs:
  - complicated documentation requested
  - delays in clearance
  - some classification problems
  - customs valuation issues.
- Only one operator mentioned problems with the origin. French and Italian operators indicated difficult quality and conformity controls. The certification issue was mentioned only in one questionnaire and did not appear to be worrying. Some importers also mentioned the limited access to credit for importers (ES, IT).

### *Trade in textile products between Hungary and the EU*

- Trade in textile and clothing products between Hungary and the EU is regulated by the ATC. In 1997, Hungary was the EU 15th supplier of textile and clothing products. Imports of these products into the EU reached 1.1 Mio ECU.
- During the same period, EU exports of textile products to Hungary were 1,03 Mio ECU, Hungary being the EU 11th export market.

### *Textile and clothing domestic industry*

- According to the Association of Hungarian light industry, there were over 16 827 enterprises operating in the textile and clothing sector (including leather goods) in 1996. Only 28 enterprises count over 300 employees while almost 97% of the enterprises have under 11 employees. 74% of the enterprises were individual ventures.
- The number of people employed in the textile and clothing sector has sharply declined from 137 000 (1990) to 99 500 (1996). The textile and clothing production (in current prices) increased from 96.1 billion HUF (1990) to 167.8 billion HUF (1996). The export ratio significantly increased over the same period from 33.6 % (1990) to 51.9 % (1996) of the domestic production.



## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- The average Hungarian tariff level in 1997 was about 9,6%. Since 1998, the protocol NR 1 of the Europe Agreement (on the trade in textile products, not related to tariffs) has expired.
- Additional information about the Hungarian customs regime may be obtained at : <http://www.vam.hu>
- Current applied rates are as follows <sup>51</sup>:

Type of product	
Yarns	0% to 2% silk: 0% wool: 2% flax: 0% synthetic: 0 to 2%
Fabrics	0% to 3.5% silk: 2.3% to 2.6% flax: 3.5% cotton: 0% to 3.5% synthetic: 0%
Carpets	1.1% to 2.4%
Clothing products	2.4% to 4.5% 6103: 4.5% 6104: 4.5% 6107: 4.5 % 6203: 3.1% to 3.6% 6211: 3.1 % to 3.6% 6214: 2.9%
Bed linen	6302: 2.4% to 3.9%

### *Tariffs predictability (bindings)*

- The Hungarian WTO commitment is to bring tariffs to 6,9% by 2001.

### *Duties and charges other than tariffs*

- VAT (25%) is collected on the CIF value of imported goods + import fees.
- There is a **tax on customs services**.
- On some textile products, an environmental tax is also applied (i.e. 3.30 HUF/kg for 6305.10.10).

<sup>51</sup> Market Access Database. Updated on 24/02/1999

### ***Tariffs quotas***

- Tariff quotas implemented for the import into Hungary of some textiles products have been removed since 1998.

## **3. NON-TARIFF BARRIERS**

### ***Registration, documentation and customs procedures***

#### **1. Visas, documents required for clearance**

- Hungary has adopted the Unified Customs Declaration which is similar to the single administrative form used in the EU.
- The following documents are required for customs clearance:
  - **the commercial invoice** (5 copies which should include the invoice number and date, the name and address of the seller and the buyer, the number and date of the purchaser order, the description of the product and the HS number, specification and quantity, per unit and total price, incoterms and delivery deadline, name and address of the intermediary or of the seller agent, other indications such as insurance, transportation costs, packaging, net and gross weight, the declaration of origin, signature),
  - **the letter of transportation** (as well as a packing list),
  - **the EUR 1 certificate** and a proof of direct transport is also necessary to benefit from the preferential tariff,
  - **a certificate of quality** may also be required for certain products (see “certification”).

#### **2. Clearance delays**

- A few operators complained about clearance delays (textiles fabrics for interior (ES), socks (IT, FR)).

#### **3. Customs valuation**

- Hungary applies the WTO Customs Valuation Agreement. The Hungarian legislation specifies that Customs check the invoice price with the “reference value” of the product (article 29 of the Customs law). If the invoice value differs by over 20% from this “reference value”, the importer must deposit an amount equivalent to the difference in value until the completion of the full investigation. Fines may eventually be imposed.
- Some cases of valuation problems during clearance were mentioned in the questionnaires (Products concerned were: textiles fabrics for decoration).

#### 4. Classification

- Only one case mentioned in the questionnaires (decoration fabrics).

##### ***Import licensing***

- Import licensing requirements were removed in 1998 (except for non WTO countries)<sup>52</sup>. However products of Chapter 63 used for military purposes remain subject to specific procedures<sup>53</sup>.

##### ***Import quotas***

- Import quotas applied for EU products were removed in 1998.

##### ***Standards and other technical requirements***

#### 1. Certification / Mutual recognition

- Further to the Law XXIX of 1995, the Decree 182/1997 sets out the institutions competent to carry out the certification procedure. Imported products ready for consumption are subject to a preliminary certificate, which may be waived further to an agreement with the foreign producer<sup>54</sup>. For textile products, the TEXTIMEI Institute is competent to deliver the quality certificates<sup>55</sup>.
- In 1998, the new law on the protection of consumers has come into force (Act CVL of 1997 on Consumer protection). The requirements related to consumer information are numerous and detailed. There are ongoing negotiations between Hungary and the EU for a mutual recognition of conformity certificates.
- Updated information on these issues may be obtained at: <http://www.datanet.hu/nat>

#### 2. Marking, labelling, Packaging requirements.

- The labelling requirements go beyond these of the EU. Decree 5/1998 (I.16) IKIM requires imported products to carry the name and the address of the producer or of the distributor, as well as the product composition, measurements, quality, energetic value.

##### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure is applied on the import of textile and clothing products.

<sup>52</sup> See Annex 1/b) to Government Decree nr 221/1997 (XII. 8.).

<sup>53</sup> See Annex 1/c) to Government Decree nr 221/1997 (XII. 8.).

<sup>54</sup> The list of products concerned is annexed to Decree 35/1997 (V. 127) IKIM.

<sup>55</sup> TEXTIMEI, Jozsef krt, 6-8, H-1088 Budapest, tel. (00 36 1) 114 00 57, fax (00 36 1) 133 17 53.

**Others**

- Credit restrictions were mentioned in questionnaires . However, according to the Hungarian authorities, there are no restrictions on credit.

# INDIA

## 1. INTRODUCTION

### *General features of the access to the Indian market*

- Operators characterised India as one of the most restricted market for their exports. Given the low level of current exports, their knowledge on the trade barriers is quite limited. The mission in India confirmed the existence and impact on the following trade measures: high customs duties and additional import taxes, burdensome clearance formalities. However, the SIL licensing system was found to be less restrictive than operators claimed. In addition, the implementation of marking rules, which are restrictive, does not appear for the time being as a trade barrier.

### *Trade in textile products between India and the EU*

- Trade in textile and clothing products between India and the EU is regulated by two types of agreements. Firstly, the administrative arrangement between India and the Community on trade in textile products notified under the ATC regulates the quantitative aspects of exports to the Community of goods originating in India. Under this agreement, exports of several textile and apparel products from India are limited to the quantities provided in the Agreement.
- Secondly, on the market access level, the 1994 Memorandum of Understanding (hereinafter referred as MOU) and the 1997 BOP Agreement both between India and the EU include Market Access improvements for textiles and clothing products. Under these texts, India agreed to a removal of quantitative restrictions over a transition period, to lower and bind tariffs and to remove all import restrictions. The disrespect by India of its obligation regarding the liberalisation and the notification of bound tariffs have increased trade difficulties between the EU and India.
- The EU is India first trade partner, followed by the USA. In 1997, imports into the Community of textile and clothing products from India reached 3 251.95 Mio ECU, India becoming the third supplier of the EU for these products. In volume these imports were 684 659 tonnes.
- Conversely, access to the Indian market for EU exports remain difficult and EU exports are very limited. In 1997, the EU exports to India were only 129.4 Mio ECU and 180,400 tonnes. The trade deficit reached - 3,123.5 Mio ECU and - 503,590 tonnes.<sup>56</sup>

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<sup>56</sup> According to Eurostat trade data for 1997.

### ***Domestic structure of the textile and clothing industry***

- The textile and clothing sector is of vital importance for the Indian economy, employment and exports. It is based mainly on two raw materials, cotton and jute. About Mio. workers are employed in the sector.
- The textile industry developed significantly over the last 15 years in terms of capacity, yarn production and cloth output. For example between 1996 and 1997, spun yarn production improved by 15%.<sup>57</sup>
- Exports of textiles and clothing increased by over 11% in 1996-1997 (in USD). Between 1997 and 1998, export increase slowed down to 4.6% in value. Exports represented 12.4 billion USD.
- Indian industry is facing some problems. It is suffering from a lack of investment. Trade liberalisation has mainly benefited to Asian countries more than to the EU. Over the fiscal year 1997-1998, imports from textile and clothing have risen by 30%, most of these originating in China. Slowdown in overall exports performances are also due to the devaluation of the Indian rupee and the recession of South East Asian markets, and the increasing competition from their Asian counterparts (China). However, in 1998, the exports levels to the European markets were maintained.
- Foreign private capital is mostly linked with ITP/OTP operations. Italy is the main EU partners. Some investments or joint ventures have been recently created (Marzotto).

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round commitments***

- In questionnaires, many operators indicated tariffs as the most important obstacle for them (at least for direct trade). Tariffs for textiles and clothing products subject to the EU/India market access agreement are progressively reduced during a transition period. However, EU operators estimate that their level cannot be overcome (IT, BEL, FR, ES, IRL) for the time being. Products that can be imported (which are not restricted as consumer goods) are subject to high customs duties.
- The tariff structure follows the Harmonised System. The Customs tariffs applicable in 1998 is contained in the Presidential Decree n° 38/1994. Current rates are as follows<sup>58</sup>:

Type of product	Basic duty
Yarns	0% to 40%
Fabrics	25% to 40%
Clothing products	40%

<sup>57</sup> ITMF country statements 1997, p. 19.

<sup>58</sup> GOYAL Arun, Easy Reference Customs Tariff 1998-1999, New Delhi : Academy of Business Studies, 1998

- Tariffs and other import duties are calculated ad valorem on the CIF value of products.
- The tariff is called **Basic duty** (tariff). It is levied on the assessable value (value of goods: CIF + landing charges). The assessable value is the value of the day of the bill of entry file (when the product arrives in customs). According to Customs, landing charges do not exceed 1%. Therefore, assessable value represents about CIF + 1%.

#### ***Tariffs predictability (bindings)***

- In the Uruguay Round, India has only accepted binding tariffs on some raw materials (fibres and yarns) and a few fabrics. For fibres and yarns, currently applied rates range from 25% to 40%. For fabrics, rates go up to 40%. For these products, India accepted to reduce the tariffs over a period of 10 years ending in 2004. However, there is no commitment for made up goods and clothing.

#### ***Tariffs quotas***

- There are no tariffs quotas.

#### ***Duties and charges other than tariffs***

- In addition, Indian customs implement various import levies and taxes, which make transactions more difficult and increase the overall level of duties (e.g. about 100% for clothing products according to some operators). Many of them consider this the most important barrier to EU exports. There are various additional import taxes. Their calculation method is extremely complex.
- Indian Customs Authorities and the private sector confirmed the application of the following additional taxes to the Basic duty:
- There is a **Special customs duty of 5%**. It is temporarily levied under clause 66 of the Finance Act of 1966. It will cease to have effect on 31 March 1999. It is also collected on assessable value and basic duty.
- The **Additional duty** also called "**Countervailing duty**" is levied under section 3 (1) of the Customs Tariff Act, 1975. It is not a compensatory duty. It is equivalent to a VAT. It is imposed on imported products and must represent the equivalent of duties applied on domestic products when they are manufactured. Its level varies according to the product considered (0%, 8%, 12%, 15% or 18% for the products under review). It is levied on the basis of assessable value + Basic Duty + Special customs duty. In addition, for some items, a 15% surcharge is added to this levy -under the Textiles and Textile articles Act, 1978- (e.g. for 51.07, the Additional duty is 8%, the effective rate is therefore 15% of 8%).
- **1% Cess** is also levied on some yarns, fabrics and clothing products under the Textile Committee Act, 1973 (to help the domestic industry). If for example, the value of the product plus import duties is 145 Rs (assessable value + Basic duty + Special Customs duty + Additional duty), then it is levied on 145 Rs.

- The state does not levy sales tax on imported fabrics but applies a **Special Additional duty** under section 3 of the Customs Act. It was previously 8% (in the 1998 budget) but was decreased to 4%. It is levied on the value including all the duties (including 1% Cess). Therefore, instead of being levied on the assessable value only, the Special Additional duty is applied on : assessable value + Basic duty + Special Customs duty + Additional duty + Cess. For some goods of special importance, there is no 4% Special Additional duty.
- The Import legislation also includes three other duties:
  1. Safeguard duty;
  2. Antidumping duty;
  3. Anti-subsidy duty.
- The safeguard duty is levied as a customs duty, on the basis of the following value : assessable value + Basic duty + Special Additional + Safeguard duty. No textiles and clothing products are subject to safeguard duties.
- The tariff calculation is made as follows: CIF value added to landing charges is the assessable value. Basic duty and the 5% Special duty are levied on the assessable value. The Additional duty is calculated on this basis : assessable value + Basic duty + Special duty. The rate of Additional duty depends on the product. For several textile products, a 1% Cess is also charged on the following basis : assessable value + Basic duty + Special duty + Additional duty. The 4% Special Additional duty is calculated on the resulting value : assessable value + Basic duty + Special duty + Additional duty + Cess.
- According to the Tariff 1998, the method used by Customs is:
  - (A) Basic duty value = Basic duty x value of goods
  - (B) Special duty value = Special duty x value of goods
  - (C) Additional duty value = Additional duty x (value of goods + Basic duty value + Special duty value)
  - (D) Special Additional duty (Sadd) = Sadd rate (A + B +C)  
Total duty = (A) + (B) + (C) + (D) above.
- This formula does not take into account all variables (for example the 1% Cess for textile products or the 15% supplement to the Additional duty ).
- The level of import duties remains prohibitive for consumer goods or for local consumption purposes.
- There are special schemes under which imports are permitted duty free or at concessional rates (e.g. Duty exemption scheme) for export production. Consequently, the importance of import duties for fabrics or yarns must be assessed with due consideration to these import schemes.



### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

- EU operators complained about excessive customs formalities. Required visas and documentation are complex. The clearance procedure is time consuming and troublesome. Wrong classification of products was also reported. They had also complained regarding the certificate of origin.

#### **1. Visas, documents required for clearance**

- According to Customs the following documents are required:
  - commercial invoice,
  - packing list

##### ***Commercial invoice***

- The Commercial invoice must be presented in three originals in English. It must contain the following indication: name of the exporter and the importer, time and place of shipment, number and date of the Import license, value and CIF cost, detailed description of merchandises with corresponding numbers of Indian Customs tariff.
- The importer can also be required to provide a Pro Forma invoice in order to obtain a letter of credit.

##### ***Certificate of origin***

- The Certificate of origin is not required for EU products (only for products originating in countries benefiting from a preferential treatment). There are no specific requirements attached to the certificate of origin to be presented to Customs authorities.
- The Packing list is not compulsory but may facilitate the clearance process

#### **2. Clearance delays**

- Customs authorities gave the following information. Clearance duration is maximum 7 days but usually takes 2 to 3 days. Very often, longer delays in clearance are due to the importer (delayed payment of import duties).

#### **3. Customs valuation**

- German operators were faced with overvaluation of their products by Customs authorities, in particular for clothing accessories (buttons). Import procedures are generally complicated and that this dissuades EU producers to export to India.

#### 4. Classification

- According to importers and Member States, classification problems had occurred in the past but there have been only a few cases recently. Therefore, this does not seem to represent a major problem.

##### **Minimum import price**

- No minimum import price system.

##### **Import licensing**

- Under the import policy, textiles products of chapters 50 to 63 are either (1) free, (2) subject to SIL or (3) restricted as consumer goods. Products that can be imported freely remain the minority of textiles products. These are for example raw materials (e.g. wool not carded and combed). Products subject to SIL must be imported with a special import license, which is easily transferable (e.g. woven fabrics of carded wool). For products restricted as consumer goods (e.g. woven fabrics of cotton 5208), the importer must request and obtain a non automatic import license from the competent authorities (DGFT)<sup>59</sup>.
- There was a general complaint made by EU operators in the questionnaires concerning the licensing systems and procedures in force. Difficulties were identified for getting either an import license (SIL or NAL) for finished products or an export license for raw materials. EC officials had indicated difficulties encountered by importers to get their licenses under the NAL or the SIL system.

##### **1. Difficulties of the non automatic licensing system (NAL)**

- Concerning the NAL system, it was reported by Commission services and EU operators that this system was discriminatory. The licenses are to be requested from DGFT. However, DGFT never issues licenses and does not state the grounds for not doing so. The Member State Trade representatives confirmed the impossibility to obtain an import license when the product is submitted to the NAL system.

##### **2. Free availability of the SIL licenses**

- Export Commissioner confirmed that SIL certificates were issued on the basis of export performances of the previous year
- a SIL is freely transferable. Importers of textile products subject to SIL can also easily purchase a SIL directly from either an exporter or a trader. The importer of textile products can buy a SIL from any exporter with SIL licenses: there are no specific conditions for textile products. This means that a textile importer can purchase a SIL

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<sup>59</sup> See Import Policy 1997-2002.

belonging, for instance, to an exporter of chemical products. SILs are also sold by brokers on the market. There are often SIL offers posted in newspapers. Member states confirmed that no specific problem in purchasing a SIL was ever mentioned by EU companies to their Embassies.

- There is no interest for textile exporters to sit on a SIL they received. They can earn a substantial profit by selling it, even if it is true that this premium has decreased recently. The SIL being valid for a period of 12 months only, exporters have to sell it quickly.
- The premium gives a competitive advantage to the Indian producer. However, the value of this premium has decreased. In 1997, it decreased from 15% down to 11%. In 1998 it decreased from 11% down to 5% (or 2-3%). Various interlocutors stressed that they prefer the SIL to remain as it is (“a SIL is better than no SIL”) because they fear that Indian Authorities will re-introduce stronger restrictions if the SIL is put into question (risk of coming back to the old system of negative list).
- SIL have a decreasing importance. SILs are in a transitory stage. Items of the tariff code are first shifted from the restricted list to the SIL system, before being placed under OGL, in order to give the Indian economy time to adjust. India has committed to phasing out import restrictions over a period of six years, following the QRs agreement signed with its main trading partners. As the phasing out of the SIL progresses, its role would be reduced

#### ***. Standards and other technical requirements***

##### **1. Quality and conformity controls**

- According to Indian authorities, quality controls are performed on both domestic and imported products.

##### **2. Marking, labelling, packaging requirements.**

- EU operators complained about the implementation of strict marking requirements applicable to textile and clothing products which are technically complex and difficult to fulfil. The UK Textile Association had for instance mentioned requirements concerning producer identification and product composition, the colour and the form of letters and signs. Italian operators complained about the obligation to write these indications in Hindi language.

#### ***Requirements***

- **Textiles (Consumer protection) Regulation, 1988** was issued by the Textile Commissioner on behalf of the Indian Government with the particular aim of consumer protection.<sup>60</sup> It imposes strict requirements for yarns, fibres, fabrics and clothing products. In 1998, Public Notice n° TDRO/CLB98/Misc/1 clarified that the provisions of the 1988 regulation are also applicable to imported textile products, i.e. tops, yarns, and fabric/cloth.

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<sup>60</sup> Government of India, Ministry of Textiles, Office of the Textile Commissioner, No. CER/(18)/88-CLB/ date 7.3.88. Gazette of India, Extraordinary part 1 Section 1, dated 8.3.88.

- cloth, for example must be marked with the following requirements « on the face plait of each piece of non controlled variety of cloth:

(a) Name and address of manufacturer and the person who causes such manufacture, if any.

(b) Description of the cloth, for example, “ dhoti ”, “ saree ”, “ shirting ”, “ suiting ”.

© Sort number of the cloth;

(d) Length in meters and width in cm;

(e) “Fast to normal washing ”, or not fast to normal washing (...)

(f) The words “ seconds ” or damaged piece/defective piece when the piece of cloth is classified as seconds or damaged piece/defective piece as the case may be (..)

(g) In case of cloth made from man -made fibre or filament yarn, the words “ made from ” followed by the words “ Spun X spun ”, or “ Filament x filament ” or “ Spun x Filament ”, as the case may be.

(h) Month and year of packing

(i) The exact composition of the cloth expressed in percentage by weight of each of the individual constituents to the total yarn content of both warp and weft put together as illustrated below: Polyester - 100%; or cotton 100% or viscose 100% (...)

The marking of the following items “ shall also be made on every alternate metre of the cloth at a height not exceeding 2.5 cm from the selvage. ”:

- seconds or defectives
  - construction: made from, followed by the fibre and words such as “spun X spun” filament X filament as the case may be
  - month and year of packing
  - the exact composition of the total yarn content
  - if blended, the mention blended fabric (point 12)
- Marking of the words and letters has to be made in Hindi, in Devanagary script and in English in capital letters and the numerals marked shall be International numerals (point 6.1). The height of characters shall not be more than 0.5 cm for tops, yarns and cloths. It will be 0.25 cm for packed yarn and 3 cm on the bale/case (point 6.3 and 6.4). The lettering shall be in any colour other than red.

#### ***Recent extension of the marking requirements to imported products***

- Until July 1998, the 1988 regulation was only applicable to domestic products (fabrics produced by domestic producers). On 22 July 1998, the Office of the Textile Commissioner issued a Public Notice <sup>61</sup> extending the marking requirements contained in the 1988 Notification to imported products.
- The public Notice foresees that no person/dealer dealing with tops, yarns /and or cloth shall offer or store for sale these products irrespective of whether it is manufactured in India or imported, fake or misleading or without the statutory markings prescribed in the Notification (point 12). In that case, the person shall be prosecuted (point 5).

<sup>61</sup> Government of India. Ministry of Textiles. Office of the Textiles Commissioner. Public Notice dated 22nd July. No TDRO/CLB/98/misc. /1.

- All these products sold in India, manufactured indigenously or imported shall invariably contain all the statutory markings as envisaged in the Notification (point 3). If not contravened, offended goods (tops, yarns, cloth/fabrics) shall be seized according to the provisions of the Essential Commodities Act, 1955 and reported to the District collector for confiscation (point 6). Indian legislation provides for strict sanctions and prosecutions against the textile company management.

### 3. Intellectual property issues (protection of drawings and models).

- Some operators complained about infringement of intellectual property rights (copies of drawings and models).

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- There is an ongoing case against the EU exports of acrylic fibre from Portugal, Spain and Italy. It was initiated on 7 January 1998. **Provisional duties** have been imposed on 20 October 1998 on imports from all Member States investigated. The duties are defined as the difference between a fixed price and the landed value on imports with an absolute minimum of
  - 5.04 Rs/kg for Portugal,
  - 11 Rs/kg for Italy
  - 13.5 Rs/kg for Spain

#### ***Export restrictions***

- EU operators complained about difficulties in purchasing raw cotton. They stated that a double price was applied for the export of raw cotton. The implementation of a minimum export price and the existence of quantitative export ceilings were also mentioned.
- According to Authorities (Ministry of Commerce, Customs) and domestic industry, there are no export restrictions on raw cotton. They indicated that raw cotton is exported to third countries and to the EU, without special export price or export tax. Under the Export Policy 1997 – 2002, raw cotton is not included in the list of prohibited items or restricted items (items permitted under licenses). Only viscose staple fibre is a restricted item, but no complaint was made.
- Member States confirmed that there were no specific complaints regarding purchases of raw cotton. The quality of cotton is not considered to be sufficiently high to satisfy EU demand. Indian operators import raw cotton of superior quality from the Central Asian Republics, Egypt and Latin America.
- According to the Customs Tariffs Act, 1975, some textiles products were subject to export duties : raw wool (25%), raw cotton (RS 2500/tonne) and cotton waste (40%). However, since 1989, these items are exempt from export duties (Notification 100, 1/3/89).
- Under the Export Policy, there are specific conditions for the export of raw cotton:

Certificate from the Textile Commissioner on the registration, allocation, quality and quantity of exports.

- Specific conditions for the export of cotton yarn are as follows:
  - quantitative ceilings can be notified by the Government from time to time.
  - certificate from the Textile Export Promotion Council
  - fulfilment of the hank yarn obligation as determined by the Textile commissioner.

# INDONESIA

## 1. INTRODUCTION

### *General features of the access to the Indonesian market*

- Among the countries under review, Indonesia as other South Asian countries (Thailand, Korea) appears to implement less trade barriers than expected. This situation is, according to the operators interviewed, linked to the current financial crisis and the resulting decrease in sales with these countries. The main obstacle to trade are the current exchange rates. According to operators it is expected that the protectionist tendency of in some countries will be strengthened over the coming months.
- In Indonesia, problems always occurred mainly during clearance (customs valuation, classification, origin). They are now less apparent because of the current low level of trade. In the past, most of the trade was sent through Singapore. Problems focus on high tariffs and import taxes, import quotas and export restrictions for cotton and viscose.

### *Trade in textile products between Indonesia and the EU*

- Trade in textile and clothing products between Indonesia and the EU is regulated by a bilateral agreement on trade in textile products. Under this agreement, exports of some textile products are limited to the quantities provided in the Annex of the agreement. In 1997, Indonesia was the EU 9th supplier of textile and clothing products. Imports of these products into the EU reached 1 941.53 Mio ECU and 371 333 tonnes.
- Over the same period, exports of EU textile and clothing products were 144 Mio ECU and 32 126 tonnes. The trade deficit was -1 797 Mio ECU and -339 207 tonnes.

### *Textile and clothing domestic industry*

- Indonesia is a traditional cotton producer. In the 1970, the textile industry development was supported by Japan investments in the cotton, spinning and synthetic sector. In the 1980 and the 1990, the textile industry invested heavily and considerably developed other sectors such as knitted and woven fabrics. The weaving capacity has grown on average of 4% per annum. In 1992, Indonesia ranked fourth producer behind China, India and Japan. High investments were also realised in the man-made fibre sector (polyester). Some of these companies have also recently invested in Joint Ventures in other Asian countries (e.g. Indorama in India).
- However, after an increase in production in the 1980s, the annual growth rate of fabrics production fell since beginning of the 1990s. The same tendency is observed in garment production.<sup>62</sup> Indonesian textile and clothing industry suffers from the competition from Japan and South Korea in man made fibres. Labour costs rose much faster than in the

<sup>62</sup> Clive Denison: Textiles and clothing in Indonesia, Textile outlook International, may 1995, p. 13.

cotton producers competitors (e.g. Pakistan, China and India). In the garment sector, production increased constantly since the 1980s. Major garment producers are licensed to manufacture leading brand names (Triumph, Kenzo, ...).

- In 1997, devaluation of the rupiah helped exports and in particular to the EU. Exports of textile and clothing rose by over 14% to reach USD 7.31 bn. In 1997, Indonesia was the EU fastest growing supplier (+32%). However, in 1997-1998, the industry was hit by the financial, economical and political events. In 1998, there was a sharp deterioration of the situation. Companies faced a rise in the price of inputs. Exports started to fall and foreign orders were cancelled. Sales losses of domestic producers are estimated to be about USD bn 1.3.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- EU operators mainly complained about the applied tariffs affecting their exports of textiles and clothing products. In order to facilitate some imports needed for domestic production, tariff reductions have been approved, notably for textile equipment and cotton
- Current rates for ad valorem duties and specific duties are as follows<sup>63</sup>:

Type of product	Applied duty
Yarns	0% to 10%
Fabrics	10% to 15%
Clothing products	10% to 20%

- Additional information on updated tariffs can be obtained on [http: www.sccp.org](http://www.sccp.org)

### *Tariffs predictability (bindings)*

- The WTO consolidation level of Indonesian tariffs is 40% with an exclusion list which does not include textile products. The transition period is 10 years ending in 2005.

### *Duties and charges other than tariffs*

- VAT is applied on CIF plus customs duties (10%).
- However, there are changing internal taxes (regional level).

### *Tariff quota*

- Only one complaint. According to the authorities there are no tariff quota applied for imports of products originating in the EU.

<sup>63</sup> Market Access Database. Updated on 01/09/1998



### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- The following documents are required to clear imports in customs:
  - the Import declaration,
  - the commercial invoice (4 copies, it should indicate the number of the letter of credit, the name of the importer, the place and date of shipping , the date and number of the import license, the number and type of packaging, the content, gross and net weight per package, the description of goods, the HS tariff position for each product, the FOB and CIF per unit price),
  - the bill of lading (6 original and 6 copies),
  - the insurance,
  - the import license,
  - the certificate of origin,
  - a “survey report” including the product composition is required for the import and threads and yarns.
- Since 1997, the pre-shipment inspection procedure has been removed. Control is now handled at the border. Importers can obtain the required information via e-mail.

##### **2. Clearance delays**

- Spanish and Dutch operators complained about clearance delays (products concerned are children apparel and textiles fabrics for interior).

##### **3. Customs valuation**

- Customs establish a price on the basis of export prices in the country of origin. The invoice price is subject to review if customs suspect it is under the actual price of such goods as of 1st April 1997, the Indian Customs value procedure is based on the GATT Valuation Agreement (transaction value).

##### **4. Classification**

- Some complaints about wrong classification given by Customs authorities during clearance and resulting in higher import duties applied (products concerned: upholstery fabrics, bedspreads, blankets, textiles for decoration).

##### **5. Origin requirements**

- There are no specific origin requirements for textile and clothing products from the EU. However products from ASEAN are subject to preferential rules.

### ***Import licensing***

- Import licenses are automatic or non-automatic accordingly to WTO rules. All licenses are delivered to importers registered with the Ministry of Commerce.
- The decree n° 230/MPP/Kep/7/1997 indicates textile products concerned by the non-automatic license procedure. The textile products concerned are textile waste and residue (in chapters 50, 51, 52 and 53) as well as the position 6310.90.000 (used clothing). The import licenses are firstly reviewed by the Ministry of environment before being issued by the Ministry of external trade.

### ***Import quotas***

- No import quota for EU products.

### ***Standards and other technical requirements***

- There are different institutions in charge of the various technical standards, the most important seems to be the Standard Information Agency.
1. **Marking, labelling, Packaging requirements.**
    - Imported products must clearly indicate the country of origin.
  2. **Intellectual property issues (protection of drawings and models)**
    - The WTO TRIPS agreement will only be applied by Indonesia as of 2000.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applied to the import of EU textile and clothing products.

### ***Export restrictions***

- Export restrictions on viscose and cotton are to be confirmed (the export restriction on cotton may have been dropped).

# JAPAN

## 1. INTRODUCTION

### *General features of the access to the Japanese market*

- A very contrasted picture is made among operators. Some encounter difficulties to export to Japan and mentioned various trade barriers, others export without any specific difficulties. For these operators, access to the Japanese market remains constrained by strict and sometime unclear requirements and procedures during clearance (product classification and valuation (FR, IT). Technical barriers are more often mentioned, notably in certification and labelling matters. Furthermore, information on the main issues indicated by EU operators is often problematic to find.

### *Trade in textile products between Japan and the EU*

#### **1997 trade flows**

- There is free trade in textile and clothing products between Japan and the EU. In 1997, Japan was the EU 19th supplier of textile and clothing products. Imports of these products into the EU reached 736.78 Mio ECU. Over the same period, exports of textile products to Japan were 2.5 billion ECU, Japan being the EU 40th export market. Exports reached 128 284 tonnes. The trade balance remained positive for the EU (+ 1 766 Mio ECU and + 39 631 tonnes).
- From the point of view of EU products, there is trend towards license production for European apparel brands name in Japan rather than simply exporting out of the EU. In spite of geographic distance and higher wages costs than Japan Asian neighbours, European products have a comparative advantage lying in the superior use of colours and colour combinations.

#### **Import trends**

- The Japanese textile sector has opened up to imports as a result of two trends. Firstly, the relocation of production facilities in countries of the region, notably in China and, to a much lesser extend, in Vietnam. Secondly, foreign apparel imports, especially from Italy, the USA, France and Germany have risen significantly until 1997. However, since then the fall of the external value of the yen and the slowdown of domestic consumption have lead to a decrease of textile and clothing imports.
- In 1997, total import of textile and clothing products into Japan amounted to 23.9 billion USD (decrease of 12.8% from the previous year) and total exports were at 8.3 billion USD (decrease of 2.5% from the previous year.) China represents 60% of the imports, while the EU represented 10 % (Italy about 8%)<sup>64</sup>. Silk imports decreased from 26 Mio m<sup>2</sup> (1996) to

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<sup>64</sup> Source: Japan Exports and Imports.

18 Mio m<sup>2</sup> (1997), and by 28.4% in value to 6,226 Mio YEN. Italy represents 24%, France 8% and Germany 2% of these imports (in value.)

- Conversely, imports of knitted socks and stockings continued to increase in 1997 with 34.28 Mio dozen in volume and 37,027 Mio YEN. If imports of EU socks are negligible, the share of Italy and Austria in stockings remains significant in value with respectively 18% and 3%.

### ***Textile and clothing domestic industry***

- The domestic textile sector has been restructuring over the past decade. The number of persons employed in the sector has reduced from 1.3 Mio (1987) to 0.9 Mio (1996). Production also declined significantly over the same period, from 20% to 50% depending on the textile or clothing subsector.
- This trend has also been accompanied by a relative reduction of the share of clothing in domestic consumption from 6.7% (1987) to 5.2% (1996).
- The Japanese textile industry was severely hit by the financial crisis. In 1997, the industry suffered a sharp decrease in domestic demand for apparel products, which continued in 1998. Imports of apparel and fabrics have decreased in 1998 (about 20% for apparel and 29 % for fabrics). Textile production dropped by 9.7% for the first 7 months of 1998 (compared to -2% in 1997). Even man made fibres production fell by 4% over the same period. The devaluation of the Yen did not result in exports increases (except for yarns). The industry has announced further capacity reductions and relocation to lower costs countries<sup>65</sup>.

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round commitments***

- Japanese tariffs follow the Harmonised system. Current rates for ad valorem duties and specific duties are as follows <sup>66</sup>:

Type of product	Applied duty
Yarns	2.4% to 8.4% silk: 4.8% to 8.4% cotton: 2.4% to 7% synthetic: 3.4% to 8%
Fabrics	silk: 8% to 12.% wool: 6.4% to 9.6% <sup>67</sup> synthetic: 4.2% to 12%
Clothing products	from 4.5% to 13.9%

<sup>65</sup> World Textile Trade and Production trends, Textile outlook, July 1997, p. 41.

<sup>66</sup> Market Acces Database. Updated on 14/01/1999

<sup>67</sup> For some wool fabrics, a minimum duty can be applied if higher than the custom duty: ex. 511120021:160.00 yen whichever is greater.

- Customs duties are levied on CIF value.
- Additional information may be obtained from : <http://www.mofa.go.jp>

#### ***Tariffs predictability (bindings)***

- WTO consolidated rates for textile and clothing products reach up to 14.2%.

#### ***Duties and charges other than tariffs***

- VAT (5%) is applied on CIF value plus customs duty.

#### ***Tariffs quotas***

- Only one complaint was made in the questionnaires by a Spanish producer of textiles fabrics.

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

- Clearance formalities are of particular concern for some operators who encounter problems in product valuation and classification (FR, IT).

#### **1. Visas, documents required for clearance**

- The following documents are required for customs clearance:
  - the commercial invoice
  - the certificate of origin

##### ***Commercial invoice***

- The Commercial invoice must be presented in 3 copies in English including along the normal elements, the country of origin, the value per unit and per product, the packing list, sanitary certificate, quality certificate, the number of packages and the packaging method, a detailed description of the products with the HS tariff position

##### ***the certificate of origin (notably for silk).***

- Silk products must be accompanied by a certificate of origin. No particular problem was mentioned by the EU industry.

### ***Import restrictions***

- Specific import restrictions (quotas and tariff quotas) hampered some EU exports, but apparently not of EU origin. Quotas and tariff quotas were mentioned for textile products other than of EU origin.

### ***Standards and other technical requirements***

- Technical barriers are more often mentioned by EU operators, in particular:
  - Quality and conformity controls (DE, ES, PT, BE, FR)
  - Certification procedures for some products (fire certificate) are complicated and expensive for EU operators (additional cost of 500.000 BEF for a Belgian operator).
  - Several operators had to provide a sanitary certificate for their products (DE, ES, PT, FR)
  - Labelling requirements remain of major concern (DE, PT, FR, NL, IT, FR), especially care instructions (DE). In some cases, required specific packaging was also an additional problem.

#### **1. Certification / Mutual recognition**

- An EU producer mentioned a 500 000 BEF fire certification procedure for his product.

#### **2. Marking, labelling, Packaging requirements.**

- The Japanese legislation applicable to textile and clothing labelling is the Household Goods Quality Labelling Law and the Act Against Unjustifiable Premiums and Misleading Representation. In addition, there are various Voluntary Labelling standards. The textile products labelling legislation was modified by a law enforced on 30 September 1998. This law foresees a transition period until 30 September 2000. The new law will then provide for greater labelling flexibility. Labelling requirements will be simplified (with the possibility to use English terms for product composition and a free choice of label format) and some information required in the past will be no longer be required (e.g. number of the import license, elasticity, fire resistance.) However, strict labelling rules will continue to apply to multiple fibre products.
- For the time being, under the Household Goods Quality Labelling Law, clothing labels should include the following information:
  - the composition of fibre using the designated terminology and indicating the ratio of each fibre by mass (in percent),
  - the home washing and other methods of handling as prescribed in JIS L 0217,
  - the water resistance,
  - the name, address and phone number of the party responsible for the labelling.
- Furthermore the Act Against Unjustifiable Premiums and Misleading Representation requires that the country of origin of the product be indicated (through sewing for sewn goods and knitting for knitted goods).

- The Voluntary Labelling standards deal with the quality and sizes of goods (for instance regarding socks and stockings, JIS L 4007). The Japanese standards recognise ISO standards. In addition, the industry (the Japanese Association for the Functional Evaluation of Textiles) established criteria to be observed for product safety. Producers complying with the above mentioned criteria may affix the “SEK” mark on their label. Finally, there is a voluntary Industry Standard Labelling for silk products.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applied to the import of EU textile and clothing products.

#### ***Impact***

- Operators estimated that trade barriers granted a significant advantage to the domestic industry (above 20%). Their estimation about an increase in turnover if barriers were removed is 10 to 25%. They mentioned that trade barriers enabled Japanese operators to gain market shares in their traditional markets mainly outside the EU.

# KOREA

## 1. INTRODUCTION

### *General features of the access to the Korean market*

- The Korean market has become more open to textile and clothing imports over the recent years although some issues remain problematic. Improvements are connected with the changes made to the Foreign Trade Act as well as to the Customs Duties Act in 1996. Some changes specific to the regime of textile and clothing products have also been made, for instance in the area of intellectual property. The certification procedure is not sufficiently transparent and labelling requirements are unclear. This phenomenon is made worst by the fact that there are often several regulations applying to a given issue.

### *Trade in textile products between Korea and the EU*

- Trade in textile and clothing products between Korea and the EU is regulated by a the ATC and an administrative arrangement notified under this Agreement. Exports of some textile products from Korea are subject to quantitative limits.. In 1997, Korea was the EU 14th supplier for textile and clothing. Imports of these products into the EU reached 1 238.28 Mio ECU and 178 514 tonnes.
- Over the same period, exports of EU textile products to Korea reached 719.97 Mio ECU and 57 407 tonnes. The trade deficit was about 518.21 Mio ECU and 21 000 tonnes.

### *Domestic structure of the textile and clothing industry*

- Since the 1970, growing competition from countries of the region, has led to the restructuring of the sector. Many Korean companies have relocated production, especially to Vietnam and to Indonesia. An important part of exports and imports are therefore part OPT schemes. Wages in the textile sector remain under these of other sectors (e.g. automobiles).
- In 1997, textile and clothing products were the second source of export revenue with 18 billion USD. Respectively 20% and 15% of textile and clothing exports were directed to Hong-Kong and the USA. The EU and Japan each account for about 13% of all Korean clothing and textile exports. Korean enterprises tend to specialise in synthetic fabrics which bring more added value and allow Korea to cope with its relative lack of natural fibre.
- In 1997, Korean textile and clothing imports amounted to 5 billion USD. The EU accounts for 15% of all textile and clothing imports. The most active EU member states were Italy (520 Mio USD), the United Kingdom (99 Mio USD), France (78 Mio USD) and Germany (59 Mio USD). The structure of textile and clothing imports varies widely from one country of origin to the next. For instance, the USA mostly export raw material whereas Italy primarily provides clothing goods.



## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- The maximum rate of duty for textile and clothing products is about 13% (applied to textile fabrics and apparel). The average rate of duty is about 8% while the minimum rate of duty, applied to non processed goods, is 2%.
- In the customs tariff, the rate indicated in the column called “flexible” is applied. However, when for the same tariff position different rates are indicated in the “General” and in the “WTO” columns, the lower duty rate is applied.
- Updated information on this issue can be obtained at: <http://www.customs.go.kr/english>

Current rates for ad valorem duties and specific duties are as follows <sup>68</sup>:

Type of product	Applied duty
Yarns	8%
Fabrics	8 to 20%
Clothing products	8% to 13% <sup>69</sup>

### *Tariffs predictability (bindings)*

- WTO consolidated rates for textile and clothing products are mostly set at 2%, 7.5%, 13%, 16%, 30%, 35% (highest, except for a peak at 45% for position 5002.10.10 -raw silk-).

### *Duties and charges other than tariffs*

- In addition to customs duties, a **Special Consumption Tax** is applied to some products (see Special Excise Tax Act). It is notably collected on carpets at a rate of 30%. When the Special Consumption Tax is collected, a supplementary Education Tax may be imposed in addition (as provided also by the Special Excise Tax Act). In the case of carpets, the Education Tax is collected at a rate of 30% applied on the amount of the Special Consumption Tax. To take an example, if the value of the imported carpet including customs duties is 110, the Special Consumption Tax is calculated as follows:  $110 + 30\%(110) = 143$ .
- **The Education Tax** is calculated on the basis of the Special Consumption Tax, i.e. in this case:  $30\%(33) = 9.9$ . The total tax payable is then :  $33 + 9.9 = 42.9$  (i.e. in effect 39% of 110)
- **VAT (10%)** is applied on domestic and imported products (CIF value plus customs duties). **Customs clearance fees** are applied in cases of controls (2000 KOY/hour)

<sup>68</sup> Market Access Database. Updated on 11/03/1999

<sup>69</sup> 8% for silk carves and ties. Other products: bed linen: 13%, carpets: 10%, linoleums 8% etc...).

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Documents required for clearance**

- Provisions applicable are contained in the Customs Duties Act and its Enforcement Decree. The relevant provisions are complex and detailed. Furthermore, these provisions are regularly modified.
- Article 139 of the Customs Duties Act (Documents to be submitted at time of declaration) provides that imports must be accompanied by the following documents :
  - a declaration on “the items, dimension, quantity, and value of the goods”, including :
    - (i) the “kind, identification number and the number of packages”,
    - (ii) “the destination, place of origin and shipping point”,
    - (iii) the indication of origin of the good (required for textile and clothing products),
    - (iv) “trademarks”,
    - (v) “other reference materials”(as per art. 115 of the Customs Duties Act Enforcement Decree).
  - a price declaration (art. 9.2. of the Customs Duties Act), including the following documents :
    - (i) the invoice (4 copies),
    - (ii) the “contract document”,
    - (iii) “documentary evidence indicating the amounts of various expenses and the grounds of calculation thereof”,
    - (iv) “other materials necessary for establishing the particulars of the price declaration”,(as per art. 2-2 of the Customs Duties Act Enforcement Decree).
  - the bill of lading (article 123-2 of the Customs Duties Act Enforcement Decree),
  - a certificate of origin (article 43.15 of the Customs Duties Act).

##### **2. Clearance delays**

- Only a few operators complained about clearance delays. Customs clearance takes 2 to 3 days. The Customs Duties Act and its Enforcement Decree allow the direct entry of goods into Korean territory with Customs clearance taking place in “bonded areas” (see chapter IV of the Customs Duties Act). Pre-shipment inspection does not exist for textile and clothing products.

##### **3. Customs valuation**

- As mentioned under “1. Documents required for clearance”, Korean Customs require a price declaration supported by documentary evidence. The applicable provisions are article

9 to 9-15 of the Customs Duties Act referring to the WTO Customs Valuation Agreement. Operators have mentioned problems in this respect.

#### 4. Classification

- Only one operator mentioned having problems regarding the classification of goods in customs (products concerned were ticking and interior decoration textiles).

#### 5. Origin requirements

- Some imported textile and clothing products are subject to a certificate of origin<sup>70</sup>. The EU origin is not accepted as such, it is necessary to obtain a certificate from the particular Member state. Some operators have complained about this.
- Applicable rules are provided by the Foreign Trade Act and Customs Duties Act. According to Korean authorities, rules of origin are, except for a limited number of products (list not provided), consistent with WTO requirements.

#### ***Minimum import price***

- No minimum import price.

#### ***Import licensing***

- Import licenses have been fully removed in January 1997 except for 8 food products.

#### ***Import quotas***

- In the “WTO” column of the Customs Tariff, the duty rates preceded by the letter “N” indicate the existence of tariff quota, another rate preceded by the letter “M” indicates the rate applicable to imports made above the quota. This is the case for all products under heading 5001 and 5002 (raw silk).

#### ***Standards and other technical requirements***

- The Customs Tariff indicates for each position the various applicable sanitary and conformity rules. In the Korean tariff, small rectangles (□) around a Korean ideogram indicate the requirement of a certificate of origin (e.g. position 5007), the oval signs (○) around a Korean ideogram indicate a technical (safety or sanitary) regulation (e.g. position 5001 00 00 00) and the plain black rectangles (■) indicate a voluntary export restraint (e.g. position 5002 00).

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<sup>70</sup> Products under the following headings are subject to the indication of the country of origin: 5007; 5111 to 5113; 5208 to 5212; 5309 to 5211; 5407, 5408; 5513 to 5516; 5601 to 5603; 5701 to 5705; 5801 to 5811; 6001, 6002; 6101 to 6117; 6201 to 6217; 6301 to 6310.

## **1. Quality and conformity controls**

- Only one complaint. However according to Korean authorities, no specific measure is implemented for the import of textiles and clothing products.

## **2. Certification / Mutual recognition**

- Some operators mentioned problems with the certification of goods when the EU products are imported into Korea. Certification requirements are linked notably to legislation such as the Quality Management Promotion Act and its Enforcement Decree or the Electric Appliances Safety Control Act. These Acts apply to both domestic and imported products.
- Further to these Acts the Ministry of Trade, Industry and Energy establishes the lists of products subject to certification. It also designates the institutions responsible for carrying out testing and approval of products.
- Additional and updated information may be obtained at: <http://www.mocie.go.kr>

## **3. Sanitary requirements**

- Products under headings 5001, 5102, 5103 and 5104 are subject to phyto-sanitary inspection.

## **4. Marking, labelling, Packaging requirements.**

- The country of origin must be indicated on several textile and clothing products from chapters 50 to 63, with a few exemptions related to temporary import or sampling (Foreign Trade Act)<sup>71</sup>. Operators have mentioned problems in receiving acceptance for their labels and marking. Labels must contain the product composition and care instructions.
- There were only two complaints regarding labelling rules.

## **5. Intellectual property issues (protection of drawings and models).**

- The Trademark Act and the Design Act (and their respective Enforcement Decree) protect trademarks and designs in Korea. Under the Design Act, designs are protected from the date of their registration at the Korean Industrial Property Office and for a period of 15 years (articles 39 and 40). Similarly the Trademark Act provides for protection upon registration. The initial protection of trademarks is 10 years and is renewable.
- Furthermore, article 146-2 of the Customs Duties Act provides for the protection of trademarks and copyrights at the border, for instance in the case of counterfeited goods. However, the protection of designs in customs is not mentioned.

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<sup>71</sup> 5007, 5111, 5112, 5113, 5208, 5209, 5210, 5211, 5212, 5309, 5310, 5311, 5407, 5408, 5513, 5514, 5515, 5516, 5601, 5602, 5603, 5701, 5702, 5703, 5704, 5705, 5801, 5802, 5803, 5804, 5806, 5807, 5809, 5810, 5811, 6001, 6002, 6101, 6102, 6103, 6104, 6105, 6106, 6107, 6108, 6109, 6110, 611, 6112, 6113, 6114, 6115, 6116, 6117, 6201, 6202, 6203, 6204, 6205, 6206, 6207, 6208, 6209, 6210, 6211, 6213, 6214, 6215, 6216, 6217, 6301, 6302, 6304, 6305, 6306, 6307, 6308, 6309, 6310.

- Updated information on this issue can be obtained at: <http://www.kipo.go.kr>
- Only two complaints on intellectual property issues.

# MEXICO

## 1. INTRODUCTION

### *General features of the access to the Mexican market*

- Mexico is qualified by EU exporters as a problematic market where they encountered increased difficulties<sup>72</sup>. Among the variety of trade barriers reported, four main import measures were confirmed to be significant trade obstacles to EU exports:
  1. the current level of applied tariffs for clothing and textile products.
  2. the requirements of the certificate of origin.
  3. product documentation on the imported product composition.
  4. labelling rules.
- However some of the measures identified by the EU industry were not fully confirmed (additional import taxes) or appeared to be inaccurate (sanitary regulation, test and certification, quotas).

### *Trade in textile products between Mexico and the EU*

- There is free trade in textile and clothing products between Mexico and the EU. The EU is Mexico third supplier (13,7% of total imports in Mexico), after NAFTA countries (51,6%) and Asian countries (23%). In 1997, Italy and Spain were the first EU suppliers representing respectively 5.6% and 3.4% of imports, other suppliers being USA (50.8%) and Korea (13%)<sup>73</sup>. In 1997, according to EUROSTAT, EU exports reached 66.962 Mio ECU for clothing (29th export market) and 115.33 Mio ECU for textiles (35th market)
- According to SECOFI and CANAINTEX, in 1997, exports of Mexican products to the EU reached 15.6 Mio USD. In 1997, the trade balance was also positive in value for the EU regarding these production (+ 57.2 Mio ECU) while slightly negative in volume (- 21 603 tonnes).

### *Domestic structure of the textile and clothing industry*

- The textile and clothing sector is of growing importance for the Mexican economy and employment. The textile sector represents 2 800 companies<sup>74</sup>. 56% of them are micro enterprises (1 567), 30% are small companies (833), 7.5% are medium sized enterprises (208) and 6.5% are big companies (181). Employment of the textile sector counts about 180 000 workers, among which 56.1% (97 000 people) are employed in large companies. Investments in the textile sector have significantly increased between 1996 and 1997 from

<sup>72</sup> German, Spanish, Portuguese, Dutch, Italian and French operators.

<sup>73</sup> For the period January - June 1998, Italian imports were 4.37%, Spanish imports 3.52 and German imports 1.69% of total imports. Balanza comercial de la cadena fibras textile confección Canaintex sept. 1998.

<sup>74</sup> « la industria en cifras » CANAINTEX, spetiembre de 1998.

300 Mio USD up to 550 Mio USD.

- Clothing sector includes about 11,238 companies. The sector employs an estimated 400 000 workers (1996). In 1997, domestic production reached 473 Mio USD for apparel products. Main products are hosiery (33 Mio USD) knit shirts (72 Mio USD) and woven shirts (61 Mio USD)<sup>75</sup>.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- In questionnaires completed by EU operators, tariffs applied by Mexico were mentioned as a very important obstacle. Two elements have to be underlined: the recent increase in applied tariffs (1 January 1999) and the mechanism of safeguard duties enabling the Mexican authorities to increase tariffs for textiles under certain conditions.

#### 1. The recent increase in applied tariffs

- The tariff structure follows the Harmonised System. Current applied tariffs are fixed in the Income Law (Ley de ingresos) adopted on 30 December 1998. This text implemented temporarily tariffs increases for 10.000 SH positions (including 600 for textile products). For textile products, the increase is 3% ad valorem, except for carpets for which the increase is 10%. The applied level remaining below the consolidation level of 35%. This recent increase is designed to *«generate additional incomes for financing the budget»* amounting to about 500 Mio USD. They affect only imports not covered by preferential agreements, representing only 15% of total imports. Current rates are as follows<sup>76</sup>:

1. Raw material (raw cotton, silk, etc.) 0 - 10%%
2. Yarns: from 3% to 18 %
3. Fabrics: 18%-28%
4. Clothing products: 35%.

- The high level of applied tariffs for apparel products is considered by Mexican importers as a strong barrier to trade, in particular for high fashion. It is alleged that Mexican consumers interested in these products can purchase them at a lower price in the US (where tariffs range from 15% to 20%) or could buy similar US articles imported into Mexico at the NAFTA preferential rate.
- In addition, tariff increases made on some textiles fabrics since 1997 by SECOFI affected a number of importers of EU fabrics. In various cases, Mexican clients stopped buying EU fabrics (too expensive) and choose US fabrics instead, even with a lower quality.

<sup>75</sup> IAF Statistical Report. Apparel: production and trade statistics 1993 - 1996, p. 71.

<sup>76</sup> Market Access Database. Updated on 28/01/1999

## 2. Increase in tariffs as a result of safeguard mechanism

- In February 1997, SECOFI decided, under the pressure of the domestic industry, to monitor the import of some 50 products (mainly polyester fabrics). Further to this system, provisional safeguard duties can be applied to these products. M.F.N. customs tariffs are automatically increased if annual imports of any of these products exceed 70% of the 1994 import level. In this case, the applicable tariff is changed from 15% originally to 25%. This safeguard measure applies until the year 2000.
- On 11 April 1997, SECOFI increased duties to 25% on 10 products. On 31 December 1997, tariffs were also increased on 7 other products. Finally, on 23 March 1998, tariffs were increased on 6 additional positions<sup>77</sup>. According to Mexican authorities, these increases affect very few EU imports (but mainly imports of products originating in South East Asian countries). However, the measures affected imports for a value of 11 Mio USD. The main arguments against the measures focus on (1) a loss of competitiveness for EU products compared to domestic fabrics and to importers of similar US fabrics (2), the reduction of purchases of EU fabrics in favour of similar US fabrics even if these goods were of lower quality.
- Since 1993, tariffs and other import duties are calculated ad valorem on the CIF value of products.

### **Tariffs predictability (bindings)**

- The WTO consolidated rate for textile and clothing products is 35%.

### **Tariffs quotas**

- There are no tariffs quotas.

### **Duties and charges other than tariffs**

- Import taxes mentioned in the questionnaires were the following: clearance duty, additional VAT, harbour taxes, files fees. After verification with the Mexican authorities it appears that the number of taxes is lower and their impact less important than estimated by the EU industry. The interviews made with SECOFI, the Customs agent association, Importers and Member States led to the identification of the following levies and taxes :
  - *DTA* "derecho de tramite aduanero" is a kind of clearance duty. It represents only 8 pesos /1000 : 8 pesos are levied for each 1.000 pesos in value. It is levied on FOB value plus VAT.

<sup>77</sup> SECOFI Decreet, DOF 11/4/97:

5208.42.01;5209.32.01;5211.49.99;5407.61.99;5407.72.01;5407.74.01;5513.21.01;5514.21.01;5516.11.01; 5516.13.01.

SECOFI Decreet, DOF 31/12/97:

5208.52.01;5407.52.01;5407.73.99;5408.34.99;5513.11.01;5516.22.01;5516.23.01.

SECOFI Decreet, DOF 31/12/97:

5208.32.01;5209.43.99;5209.51.01;5209.59.99;5407.84.01;5513.31.01.



- *VAT* is also levied on some domestic products : 15%. It is calculated on the CIF value added to customs duties
- according other sources, the importer must also pay a «handling tax » covering loading and unloading of goods. It is 3.5%. There are also surveillance costs of 3%.

### 3. NON-TARIFF BARRIERS

#### *Customs formalities*

- Importers of EU products and customs agent reported that customs formalities can be problematic. They confirmed the following difficulties :
  - excessive documentation required on product composition,
  - some classification problems,
  - difficulties with the certificate of origin.

#### *Registration, documentation*

##### 1. Visas, documents required for clearance

- The documents to be presented before the Customs authority by a Customs Agent representing the importer are the following (Art. 36, fraction 1 of the Ley aduanera del 15 de diciembre de 1995)
  - pedimento de importación
  - the commercial invoice
  - certificate of origin
  - product description
  - bill of lading
  - packing list
  - declaration on the value

##### *Pedimento de importación (Import request)*

- The Import request is completed by the Customs Agent. The importer must present one document by type of product and by exporter to the Customs authorities at the moment of clearance. It must be accompanied by other documents:

##### *Commercial invoice*

- The Commercial invoice must be presented in 1 original and 2 copies in Spanish. It must contain the following indication : place and date of emission, the complete name and address of the importer and the exporter, the product specifications in terms of class, unit, identification number, per unit and global value at the location of sale and a detailed description of the imported good, description and FOB value, detail of the insurance and

freight costs, net and gross weight by unit, total weight, number, weight and size of lots, name of the ship and date of shipment, harbour of shipment and harbour of arrival in Mexico.

- The merchandises must arrive within 90 days of the invoice having been issued. A Pro Forma invoice can be required by the importer.

#### *Certificate of origin*

- In the case of EU products, as a general rule, the certificate of origin is not compulsory since the EU does not have a preferential trade agreement with Mexico. The duty imposed is the MFN duty. The certificate of origin should only be presented when importing certain goods taxed with safeguard duties, mentioned in Annex II of the Agreement SECOFI of 30 August 1994. **In the case of most textile and clothing products**, the presentation of the certificate of origin is compulsory under the Annex III format. However, the description of the goods must comply with Annex 18 (see below).

#### *Product description*

- The importer must provide a detailed description of the imported product made by the EU operator. This information must be either on the invoice or attached to it. There is no indicated compulsory format for the description. To this end, the importer must observe the conditions set forth in **Annex 18** of the “Resolution “Miscellaneous” on external trade for 1998”. This document published in the Official Journal<sup>78</sup> amended the rules applicable to the description of imported products. It lists the compulsory requirements according to the type of product. These requirements are quite detailed. For example, for silk, wool, cotton and linen fabrics, EU producers have to indicate:
  - *“exact wording of the product*
  - *composition: description of components in decreasing order;*
  - *unbleached or bleached, in case of dyeing, indication of the colour;*
  - *indication of type: flat textile (chain and thread), non woven or hand woven;*
  - *weight in gr./m2*
  - *type of finishing*
  - *dimension*
  - *weaving with the exact number of “curso”*
  - *weight in kg*
  - *Any other information required for a given tariff position”*
- These description requirements are qualified as excessive by various operators. The current requirements make export procedures overly difficult and burden the EU producer with additional work.

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<sup>78</sup> Resolución miscelánea de comercio exterior para 1998. DOF 23 de marzo de 1998.

### ***Declaration on the value (Declaración del vendedor/exportador)***

- The exporter or the salesman must certify that the value and other information provided are correct. Declaration is compulsory for all products except the products originating in Canada or the US.

### ***Bill of lading (air or harbour documents)***

- Must contain marks, series numbers, number of package type of package, net and gross weight in metrical system units.

### ***Packing list***

- The Packing list must be presented in three copies in Spanish. The net and brut weight, external dimension and package composition must be indicated in the packing list.

## **2. Clearance delays**

- Portuguese, Spanish, Italian, and French operators complained about clearance delays (mainly for apparel products). According to various sources in Mexico, there are various reports. Successful private companies with good customs agents may clear customs rapidly (in one night) while others may take several weeks (in particular if Customs authorities find that compliance with several norms (as labelling) is not fully respected).

## **3. Customs valuation**

- There was a suspicion the Estimated Price system may be causing difficulties to EU textile imports. It was established by a Resolution of 28 February 1994 of the Ministry of Finances<sup>79</sup>. It aims to fight the undervaluation of textile imports prices in customs (mainly from Asian countries) which allegedly hurts the domestic industry.
- Importers who declare an invoice value below the estimated price established for a given imported product must present a financial guarantee of 50% of the declared value. Importers can also make a global deposit covering all imports made in the year (10% of the value of imports of the previous year). To recover the deposit, the importer must present to Customs Authorities a certificate issued either by a Customs authority or by a Chamber of Commerce from the country of origin of the products certifying the declared value. The financial guarantee deposited will be lost if the value is deemed by Customs to be higher than the one declared.
- Mexican authorities argue that the system is compatible with WTO rules, and in particular the WTO Agreement on Customs valuation. They pointed out that the system is transparent since estimated prices are published. The goods are released once the deposit is made. The deposit made is refunded to importers having certified the value of their products. According to Mexican authorities, the system will be removed in April 1999.

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<sup>79</sup> “Resolución que establece el mecanismo para garantizar el pago de contribuciones en mercancías sujetas a precios estimados por la Secretaría de hacienda y credito público”. DOF 28 de Febrero de 1994

- Estimated prices are elaborated by the Ministry of Finance in close cooperation with the domestic industry and published in the Official Journal<sup>80</sup>. According to the authorities, the industry and even importers, the estimated price is fixed at a very low level, and does not affect for the time being EU textile and clothing products. There are no specific complaints regarding the estimated price system for EU textile and clothing imports. If some other EU products (foodstuffs) did experience difficulties with the system of estimated prices (difficulties in obtaining a refund of the deposit), in the case of textile products, the declared value of products is always higher than the estimated prices (high quality products).

#### 4. Origin requirements

- In 1990, SECOFI authorities adopted compensatory duties (called « cuotas compensatorias ») on imports originating from some Asian countries (China, Hong-Kong, Korea)<sup>81</sup>. In 1994, in order to insure the implementation of these measures, SECOFI established strict formalities concerning the certificate of origin for textiles, clothes and shoes. The basic regulation is the “Agreement” SECOFI of 30 August 1994 “establishing rules for the determination of the country of origin of imported goods and (establishing) the provisions for their certification regarding countervailing duties”<sup>82</sup>.
- Under this regulation, imports of textile and clothing products must be accompanied by a specific certificate of origin. The form required for this certificate of origin (“Anexo III”) is specific to textile and clothing products. For other products, it is sufficient to mention the country of origin and a basic description of the product. Moreover, the certificate “Anexo III” is not applicable to textile and clothing imports originating in countries having concluded preferential agreements with Mexico (e.g. the USA, representing 80% of textile and clothing imports into Mexico).
- According to importers and customs agents, this specific certificate of origin for textile products is **the most important barrier**. Difficulties can arise at various levels:
  1. when the EU producer sends products to Mexico,
  2. when the goods accompanied by the certificate arrive in Customs,
  3. when the goods have been cleared.

#### *When the producer sends the products to Mexico*

- The certificate in format Anexo III must be completed according to instructions attached to the regulation<sup>83</sup>. Some problems can occur. For instance, the product description (case n° 5) is particularly troublesome. It requires a description “sufficient” to identify the imported product (and coming in addition to the product description under Anexo 18). The certificate must also contain various data concerning the identification of the producer, of the exporter and of the importer (including addresses, fax, telephone, fiscal registration number).

<sup>80</sup> Last modification made on 12 October 1998.

<sup>81</sup> For instance, textiles and clothing products originating in China: 533%; some fabrics originating in Hongkong: 85% and polyester fibre originating in Korea: 32%.

<sup>82</sup> “Acuerdo por el que se establecen las Normas para la determinación del país de origen de mercancías importadas y las disposiciones para su certificación en materia de cuotas compensatorias”, DOF, 30 de Agosto de 1994.

<sup>83</sup> “Instructivo para el llenado del certificado del país de origen”. DOF, 30 de Agosto de 1994, p. 42.

Customs authorities may reject the certificate for such minor errors as a wrong fax number or a misspelling.

- **This system in effect prohibits certain exports.** Two types of situations are described by EU operators and confirmed by Mexican importers:

1. **Large European Apparel companies** process their products in large series in one or more third countries (e.g. Thailand or Vietnam). The EU textile industry imports these goods into the EU before retailing them to its clients world-wide. The identity of goods exported to Mexico is determined only after the goods have left the country of origin (e.g. Thailand).

Under the requirements of Annex III, this trade scheme is not possible. In this case, to be able to export to Mexico, EU producers should know in advance which products<sup>84</sup> they need to export there in order to obtain beforehand a separate certificate Anexo III (in Spanish) from the Authorities of the country of origin. They would also have to send the goods directly from the country of origin to Mexico with the invoice being sent to the country of origin from the EU member State. The procedure also results in significant additional costs for EU companies. They must adapt their production and distribution channels to these procedures. For several EU companies, Annex III is a major obstacle to exports.

2. **Anexo III also prohibits trade with intermediaries.** For example, if a Hong-Kong trader processes large series of clothing articles in Vietnam and later sells some of these goods to a Spanish operator. The Spanish operator may not, in turn, sell some of these goods to a Mexican importer. In practice, it is impossible for the Spanish operator to satisfy all the requirements of the Anexo III when exporting the ordered goods to Mexico. The Hong-Kong trader will obviously not have an Anexo III (in Spanish) specifically prepared for the shipment of its Spanish client to Mexico. Even if the Spanish operator could obtain the certificate of origin, its own invoice would not correspond to the invoice indicated on the certificate issued in Vietnam. The date of the certificate of origin must match the date on which the transaction with the exporter is concluded.

#### ***When the goods arrive in Customs accompanied by the certificate***

- Customs agents and importers reported various cases of rejection of the certificate:
  - differences in letter types within the certificate (although, according to the legislation some parts of the certificate may be completed by the importer or by the exporter),
  - insufficient description of the product, although the product is accompanied by a detailed description made on the invoice,
  - customs do not accept some words, e.g. “cashmere” is refused, with “cachemira” required instead, “sweater” is also refused, with “swater” required instead, etc.,
  - classification of the product is not accepted by Customs.
- If the certificate is rejected, importers cannot provide a new certificate. If importers request the EU exporter to send a new certificate, this document will be issued by the Member State

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<sup>84</sup> Even if in practice they can indicate in the format a higher number of goods than those really exported to Mexico, the opposite is not allowed.

Chamber of Commerce with a date posterior to the entry into Mexican territory, and Mexican customs will therefore refuse this new certificate.

***When the certificate is rejected, Customs are entitled to levy countervailing duties***

- When the certificate is rejected by Customs, even on the grounds of a minor error, the importer is presumed “guilty” and can be required to pay countervailing duties which might be applicable to the imported product. According to various sources, importers recently appealed against the decision of Customs to apply these countervailing duties and encountered difficulties in obtaining a refund.

***Random control of products***

- There is a random control of imported products enforced by Customs authorities. Under this system, the importer makes his import declaration and pays the import duties accordingly. Then Customs authorities indicate if he can pass as “green light” (products are cleared without further control) or “red light” (the product is controlled in detail). The system (classification under “red light” and detailed control) should only affect a limited percentage of all the imported goods. The authorities stressed that this type of control has significantly accelerated customs procedures and that Customs are much more effective. According to authorities, this system also helps reduce corruption.
- Before the products pass the random control, according to some sources, they can be subject to a first revision with a Customs official (from one to several days). After this first revision, the product undergoes the random control. At this stage, the product may be given a “green” light or a “red” light.
- According to various sources, imports of EU clothing products are almost constantly attributed a “red light”. This results in further clearance delays (products blocked for a minimum of 3 to 4 days and surveillance costs). In order to avoid that huge volumes be blocked, importers fragment shipments and avoid shipping large quantities in order to escape mishandling and surveillance costs. This, in turn, raises transportation and customs agent costs.
- Authorities still have the possibility to review and control the documents presented (certificate of origin, invoices, « pedimento de conformidad » etc) after clearance. After the goods have left Customs, all the documents are sent by Customs authorities to the accounting office in order to carry out the « comprobación de conformidad (review of documents). If they find any mistake, they can request the company to correct it (there are periods established for it).
- The implementation of import requirements by Customs officials is not uniform. For example, concerning the product composition, the acceptance of the declaration made by the exporter will depend on the criteria applied by the Customs official. The same happens on the occasion of the control of labels, which explains that some customs officials reject a label with “sweater” instead of “swater”, or shampoo instead of “shampu”. The acceptance of the certificate of origin for its products can also depend on the Customs official in charge of the clearance of the imported goods.

### ***Minimum import price***

- No minimum import price system. However, there is an « estimated price system » (see supra).

### ***Import quotas***

- EU operators complained about the implementation of import quotas. However, there is no import quota applying to the import of textile and clothing products. Competent authorities (SECOFI) have rejected, as a matter of principle, requests from the industry to implementing the TCA safeguard clause.

### ***Standards and other technical requirements***

- In questionnaires, EU operators had indicated several technical measures affecting their exports: conformity controls, certification, sanitary requirements and labelling requirements. CEEI inquired about these measures. Both Authorities (SECOFI) and importers indicated that the only technical measure applied to the import of textiles and clothing is the labelling legislation.

#### **1. Quality and conformity controls**

- EU operators had complained about quality and conformity controls. However, the research demonstrated that there is no specific control on quality or conformity implemented by Customs authorities during clearance or even by Independent surveillance agencies (as SGS) before shipment (no pre-shipment inspection for EU products). The only conformity control is the control performed by the Verification Units in order to verify the compliance with the labelling legislation (see below). However, these controls are not compulsory.

#### **2. Certification / Mutual recognition**

- There is no specific regulation on certification.

#### **3. Marking, labelling, packaging requirements.**

- In questionnaires and interviews, EU exporters complained about the very strict requirements set forth by the labelling legislation. In particular they insisted on the data concerning the identification of the EU producer and the importer, including the fiscal registration number. For some EU companies, these data require a specific label to be made, with significant additional costs.
- A more detailed enquiry made towards importers, customs agents and authorities has however drawn a more balanced assessment:
  1. Some data (those related to the importer can be added in the customs before the random control
  2. It is not compulsory to indicate the name, address, registration number of the EU exporter

2. the labels can be affixed on imported goods in customs before the random control
3. the penalties applied in 1998 for infringement to the labelling requirements have been significantly reduced (from 70%-100% down to 2%-10% of the value of the goods).

### *Compulsory data*

- The basic text which sets the labelling requirements for textile products is the SECOFI NOM 004/94<sup>85</sup>. The main complaints focused on the importer data requirements and the additional costs they induced. It has to be understood in relation with the provisions set forth by the Acuerdo of 2 June 1997<sup>86</sup>
- **The NOM 004/94** applies both to domestic and imported products. It sets the commercial information required from domestic producers and importers. It establishes the commercial information required for apparel products and accessories (4.1.1.) and textiles (4.1.2.) Under the NOM 004, the label of the imported apparel product must contain the trade mark, the description of components, the size of clothing products, the care instructions, the country of origin and the « the name of the importer and its registration number in the Registro Federal de Contribuyentes ». For textiles (fabrics) are required only description of contents, country of origin, name or social reason. However, the Acuerdo of 1997<sup>87</sup> foresees that « *the name, the social reason and fiscal registration number of the importer foreseen in the NOM 004 are not required while the products are in the national territory* ». Under this article, the EU producer is therefore not required to affix these information on the labels of the goods to be exported to Mexico. However, these data will have to be added in customs before the random control by the Customs agent. .
- According to the Authorities, such legislation, is to provide the Mexican consumer with adequate information and protection. For example, the fiscal registration number is justified by the necessity of identifying the manufacturer/importer in case of problems. According to the authorities, such requirements are not difficult to satisfy. Implementation is not discriminatory given that domestic products are also subject both to the same requirements and to the same controls.
- According to SECOFI, importers can avoid problems during clearance if they use the services of the **Verification Units**. These units verify the conformity of imported products to the compulsory legislation, including the requirements of NOM 004/94 and NOM 050/94. The basic requirements for these verification procedures are set by a regulation of February 1997<sup>88</sup>.

<sup>85</sup> “Norma Oficial Mexicana NOM 004 SCFI 1994, información comercial – etiquetado de productos textiles, prendas de vestir y sus accesorios”. DOF 24 de enero de 1996. (Last modification reference to be confirmed)

<sup>86</sup> « Acuerdo que identifica la fracciones arancelarias de la tarifas de la ley de Impuesto General de importación y de la Ley de impuesto General de exportación, en las cuales se clasifican las mercancías sujetas al cumplimiento de las normas oficiales mexicanas en el punto de su entrada de la mercancía en el país, conforme a lo dispuesto por el artículo 26 de la Ley de comercio exterior. » DO 2 June 1997.

<sup>87</sup> Article 3, par. 1.

<sup>88</sup> “Acuerdo por el que se establecen los procedimientos de verificación a que se sujetarán los importadores de mercancía que opten por cumplir con las normas oficiales mexicanas 0050 SFI 1994 y NOM 51 SCFI 1994 en el territorio nacional. DOF 24 de Febrero de 1994.



- The label should be placed before the import by the EU producer. However, the importer can modify or put the label in customs under certain conditions set forth by the Acuerdo of 1997.
- Under the **Acuerdo of 1997**, the importer can choose among 4 different options in order to prove the compliance with the NOM 004:
  - \*. Under the first option, the goods will be subject to the usual customs procedure. They will be checked into detail by the customs officials if the products are selected through the random control. According to Mexican authorities, there is no other control than the checks operated at random. For infringement, the Customs authorities charge a penalty of 2-10% of the value of the goods.
  - \*. Under the other options, the importer will use the services of the Verifications units agreed by the Governments. In the second option, the goods arrive in clearance with a document already issued by the Verification unit (constancia de conformidad) attesting the compliance with the requirements of NOM 004. In the fourth option, the goods are verified in customs warehouse by the Verification units. In the last option, the importer, under certain conditions, can have the verification made at its personal address, outside customs. In all cases, when an infringement to NOM is found by the Customs authority while a verification unit did not find any irregularity, no sanction is imposed to the importer, unless fault of the importer can be established.

*the problems mentioned by the EU producers*

- Various problems are mentioned by the EU industry. Firstly, information requirements go beyond the production process (name of the importer and registration number). EU producers encounter difficulties because they do not know the importer when finishing and labelling their products. Secondly, these specific requirements force the producer to make a different label, which results in additional costs. A German operator estimated the cost of each label at 2,5 DM and losses resulting from this barrier at about 250.000 DM for 1997.
- However, under the Acuerdo of 1997 (article 3) it is not necessary to affix the name and the registration number of the importer on the label before export.

*the problems mentioned by importers*

- During interviews with the importers and the Customs Agents, CEEI inquired about problems encountered during and after clearance.
- Some importers of textile fabrics and of apparel accessories said that they are currently encountering no or few difficulties. After many problems when the regulation was first implemented in 1996, providers modified the labels in order to conform to the new requirements and there are currently no major complaints.

- However, it seems that some importers of EU clothing products are still facing some problems regarding the implementation of the labelling legislation by Customs authorities.
  1. Customs insisted that labels should be placed outside leather clothing products: all imported products were damaged and the importer had to negotiate with Customs in order to be authorised to place labels inside the products (clothing, shoes, bags).
  2. Customs reject the international wording such as “cashmere” and require such labels to be changed to “cachemira”. The same is also true for “swater” instead of “sweater”.
  3. According to an importer of Italian fashion apparel, customs are indeed inflexible. Any minor error or lack in the data required by the regulation is treated as an absence of label and severely sanctioned by high fines. Until December 1998 fines were from 70% to 100% of the value of the imported good. In some cases, the products may even be confiscated. When this happens, it generally takes 2 to 3 months to recover the goods. This causes an important damage to the importer, textile and clothing products often being seasonable goods. However, according to the Customs Agent association, under the new articles 184 and 185 of the Customs Law, fines charged by Customs have been reduced down to 2%-10%.
- Given the restrictive attitude of Customs and the detailed label requirements, importers are often led to produce and place labels in Mexico, including translation of confection data. Importers must put the labels in customs before the random control. Some operators complained about the on site labelling in unfit conditions (lack of space, dirty facilities, bad storage conditions).
- According to the legal department of the Customs Agents Association, the situation of control of labels has significantly improved. before January 1999, when the Customs agent found infringement to the labelling requirements, he could block the goods, charge a penalty of 70% and require the re-labelling into the 30 days. Since January, the Customs agents only charge a penalty of 2%-10%. They can not retain the goods anymore.

#### *Antidumping, countervailing duties/actions and safeguard measures*

- No measure concerning textile and clothing products are taken for the time being.

#### *Impact*

- Some operators gave their personal appreciation of the impact of trade barriers applied by Mexican authorities. They all consider that the advantage granted to domestic producers is important and amounts to more than 20% in price. If these barriers were eliminated, the EU operators would expect an increase in turnover ranging from 5% to above 25%. Operators mentioned losses in market shares in the EU and losses of clients in the domestic market.

# PAKISTAN

## 1. INTRODUCTION

### *General features of the access to the Pakistani market*

- Operators characterised Pakistan as a difficult market. Since the market was closed to the import of textiles for a long period of time, their knowledge of trade barriers and practices remains limited: some operators stress their incapacity to export to Pakistan (embargo or unbearable tariff barrier), while others who do export are facing important barriers during clearance which hamper their exports (customs valuation of products, classification, clearance duration).
- However, since the implementation of the 1994 Market access agreement between the Community and Pakistan (MoU), the access to the Pakistani market has been significantly improved. Under this agreement, in November 1994, Pakistan authorities removed the quantitative restrictions on some products (import prohibition on all fibres and yarns and on most fabrics). Under the MoU, Pakistan also agreed to reduce and bind the existing tariffs levels on some textile and clothing products over a period of 10 years (1995 - 2005<sup>89</sup>)
- Consequently, the second agreement with the United States opened the Pakistani market for most of the textile products from June 1995.

### *Trade in textile products between Pakistan and the EU*

- Trade in textile and clothing products between Pakistan and the EU is regulated by a bilateral agreement. Under this agreement, exports of several products from Pakistan are limited to the quantities provided in Annex 1 of the Agreement. The EU is Pakistan's first trade partner in textiles, followed by the USA. In 1997, Pakistan was EU 13th supplier of textiles and clothing with imports in the EU of 1.41 billion ECU, after Bangladesh (1.54 billion ECU and before Korea, 1.23 billion ECU. Imports reached respectively 931.51 Mio ECU for textiles and 478.43 Mio ECU for clothing.
- Access to the Pakistani market for textile and clothing products was restricted for most of products until 1995. In 1997, exports to Pakistan of EU products reached only 48.19 Mio ECU, including 47.12 Mio ECU for textiles and 1.07 Mio ECU for clothing.

### *Domestic structure of the textile and clothing industry*

- Textile and clothing sector is of growing importance for the Pakistani economy and employment. The textile industry generates over 60% of Pakistani exports, over 38% of employment and over 20% to value added production by manufacturing.

<sup>89</sup> Products concerned: from HS 51 to 63. In 2000, the existing duty will be reduced to a maximum of 15 to 40%. In 2005, the reduction will range from 10% to 35%.

The sector is comprised of enterprises in spinning, weaving, knitted fabrics and clothing, woven garments and also woollen spinning, weaving and garments.

There are about 442 large textile companies, 50 of them integrated units are engaged in spinning as well as weaving, and in some cases garments as well.

Besides the above mentioned companies there are at least 300 large enterprises of knitted and woven garments (more than 100 employees).

In addition, there are thousands of small factories and workshops in different sectors of weaving, finishing, woven garments, knitwear, home textile etc.

- Pakistan is one of the four largest producers of cotton in the world. The annual production is about 10 million bales of 170 kgs . Pakistan has the advantage of a large labour force with one of the lowest wages in the world. Most of the domestic production is distributed on the domestic market, even if exports have continuously increased.
- Foreign private capital is mostly linked with ITP/OTP operations. The main EU partners are Italy, France, UK and Netherlands. Some joint ventures have taken place (Pierre Cardin, and TRIUMPH for women's under garments).
- After a sustained growth in all the sectors of spinning, weaving and value added sectors like bedwear, knitwear and woven garments, the textile industry of Pakistan faced difficult times in 1997.
- Exports of all textile and clothing increased at less than 2% per year in value from 1996 to 1998. . However, cotton yarn exports decreased in value by 8.4% in 1996-97 and 18% in 1997-98.
- In 1998, exporters were concerned about the sanctions following the nuclear tests of June/July 1998. There was also a substantial loss of trade due to the Asian crisis and the dislocation of the markets in the far East. Overall exports of textile and clothing have decreased in value by 4% during July 98 to December 1998 as compared to the same period last year. During this period cotton yarn exports fell by 12.3% cotton cloth exports by 1.4% and woven garments by 2.5%. However Knitwear and hosiery showed a 25% increase and bedwear also increased by 31%.<sup>90</sup>
- The serious and financially strong operators in the textile sector are not pessimistic about the industry and there is a drive to modernise the textile industry. This is evident from the increase of 68% in the imports of textile machinery from 130 million \$ during 1996-97 to 212 million \$ during 1997-98.

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<sup>90</sup> World Trade and Production trends, Textile outlook International, July 1998, p. 55.

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round Commitments***

- In questionnaires completed by EU operators, tariffs applied by Pakistan were mentioned as a very important obstacle for their exports (FR, SP, IT). Products that can be imported are subject to high customs duties, even if their level was recently reduced.
- Tariffs have decreased in accordance with the provisions of the Memorandum of Understanding (MoU) signed with the EU in 1994. Tariffs have been lowered down to 35% for textiles and to 45% for clothing. For some raw materials, the basic duty decreased down to 0 % (wool, cotton), to 15% for raw silk and to 10% for some yarns. For some fabrics, basic duty decreased to 25% from 35% previously.
- The Import Policy Order 1998 improved the tariff access for inputs used in finished products aimed to be exported. Since the first of July 1998, the importer can import inputs duty free provided that the finished goods in which they are incorporated be re-exported (before he could only obtain the refund when the finished goods were exported. The delay for reimbursement could extend to several months (up to 8 months). It also established specific schemes allowing the import of inputs with preferential access : temporary import scheme, no duty, no drawback, inward processing, common bounded warehouses.
- Therefore, this new import regime should enlarge the scope of the import of EU yarns and fabrics that will be processed and re exported in the form of finished products.
- Current rates for 1999 are as follows<sup>91</sup>:
  1. raw material (raw cotton, silk, etc.): 0 - 15%
  2. yarns: 10% - 45%
  3. fabrics: 25%- 45%
  4. clothing products: 45%
  5. carpets 45%.
- Tariffs and other import duties are calculated ad valorem on the CIF value of products.

### ***Tariffs predictability (bindings)***

- WTO consolidated rates for some textile and clothing products (493 positions) range from 30% to 50%.

### ***Tariffs quotas***

- There are no tariff quotas.

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<sup>91</sup> Market Access Database. Updated on 15/02/1999

### ***Duties and charges other than tariffs***

- In addition to tariffs, import taxes increase the amount of duties. This is considered as an important barrier for several EU operators (IT, ES, FR).
- Tariffs are levied on the basis of CIF prices.
- According to Customs Authorities, Sales Tax and Advance Income Tax are the only import taxes charged by Customs authorities. The Octroi tax is a communal tax levied by local bodies (and is also levied for domestic products). These taxes are levied as follows:
- The Sales tax (equivalent to VAT) was 12.5% until 1998 but now has been raised to 15%. It is levied on the basis of CIF price + Tariff (duty paid value). The Sales tax is also levied on domestic products.
- The « advance income tax » or « Income tax » is **5%** It is calculated and charged on the resulting amount (customs duty + sales tax).<sup>92</sup> The importer pays in advance this amount (fully due 16 months later). Deduction of the Advance Income Tax is adjustable with the final tax liability of the importer at the end of the tax year.

According to importers customs duties, additional taxes and clearance costs (including the cost of clearance agents) amount overall to 60% to 70% of the CIF value. This remains a significant cost for the import of EU products.

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

- EU operators complained about non transparent customs formalities. Required visas and documentation are complex. The clearance procedure is time consuming and troublesome. Wrong classification of products was also reported.

#### **1. Visas, documents required for clearance**

- According to Customs the following documents are required:
- Documents required for clearance are :
  - copy of invoice;
  - certificate of origin;
  - copy of bill of lading;
  - copy of the letter of credit;
  - income tax registration number;
  - sales tax registration number;
  - import/Export registration number (given by Ministry of Commerce);
  - the declaration of origin in the invoice itself can be sufficient.

<sup>92</sup> According to the information contained in the Market Access database - Applied tariffs, the Income tax is 5% of FOB value.

- There is no specific sanitary certificate or requirement for importing textile products (even raw materials).
- For temporary importation, the importer, when he is a trader (this is not the case for manufacturers) must give a financial guarantee which will be released once he brings evidence that the imported items will be re-exported.
- Drugs problems (cases of drugs hidden in textiles consignments) increased the necessity of detailed controls of goods. However, there is a tremendous lack of equipment, machines and training for these controls.
- System of the analysis card: when a manufacturer wants to import textile items (fabrics), he applies to the Central Board of Revenues, explaining the purpose of the import. The Central Board of Revenues prepares an analysis card (officials specialised in textiles products visit companies). The system is transparent and is working smoothly. It is further enhanced by the developing use of computerised design in companies.

## 2. Clearance delays

- Clearance duration has sharply improved over the years. It is less than 2 days for exports, and 2-3 days for imports. Some importers benefit from express procedures on the basis of their good behaviour

## 3. Customs valuation

- According to Customs officials, declaration of value made by the exporter is accepted by Customs authorities. In case of doubt, they can undertake a more detailed investigation on the value of goods in Pakistan. Nevertheless, under Pakistani Law, there should be a documentary evidence. According to them, under-evaluation of goods has come down recently. The Customs authorities may accept the declaration of value made by the exporter, and other times when they suspect under evaluation they refer to their own Valuation Manual.
- Pre-shipment inspection was abandoned because of excessive corruption involving the control agencies. Pre-shipment is not obligatory anymore for imported textile items.

## 4. Classification

- Pakistan follows the Combined Nomenclature. According to Customs, there are no major classification problems during clearance. According to importers interviewed, these problems still exist but have significantly decreased.

## 5. Origin requirements

- There are no specific requirements for textiles products.

### ***Minimum import price***

- No minimum import price system.

### ***Import restrictions***

- Before the Import Policy Order of 1995, majority of the products from chapters 50-63 of the Tariff were in the negative list of imports. It was not possible to import them for the domestic market and for domestic consumption purposes. For example a manufacturer producing for the domestic market could not import any item from the negative list and use it as an input in its production process.
- The producers who wished to use inputs from the negative list in their production could request an import authorisation from the Ministry of Commerce. However the producers had to prove these imported items would be used to produce re-exported goods. Authorisation was delivered (or not) on a case by case basis.
- Following the accords with the EU and the United States in 1994, most of the textile items listed in the negative list were allowed to be imported.
- Textile products which still remain in the negative list include products from the categories 52, 55, 57, 58, 59, 60, 61, 62, 63 and 68. But majority of the products from these categories are now importable since the exceptions provided in the Import Policy Order 1995 are quite broad.
- The list has not been modified since the Import Policy Order of 1995.

### ***Import licensing***

- No import licensing for textiles and clothing products

### ***Standards and other technical requirements***

- No specific technical measure are required for the imports into Pakistan of EU textiles and clothing products.

### **Intellectual property issues (protection of drawings and models).**

- German operators complained about infringement of intellectual property rights (copies of drawings and models). Counterfeit products using famous French brands are also known to be produced illegally.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure concerning textile and clothing products are taken for the time being.



### **Export restrictions**

- Officials indicated that all export restrictions implemented in the past have been removed in 1998. There are no cotton export restrictions. However according to the production of raw cotton a restriction can be placed by the government on the exports of raw cotton temporarily. The export prohibition on raw hides and skins was also removed.

### **Others**

#### ***Recent currency exchange measures***

- In July 1998, the Pakistani Government issued several measures concerning the currency exchange rate. These measures were caused by the current shortage of foreign currency in Pakistan. In particular, a system of multiple foreign exchange rates was established, which considerably changed conditions of imports („two tier foreign exchange rate mechanism »).

***These were the temporary measures which have been practically removed. The currency has stabilised after the debts of Pakistan have been rescheduled by the IMF and have started the release of the funds.***

- Importers at the time when these measures were taken had shown their concerns regarding these measures which were meant to restrict imports. They feared that it could result in a significant decrease of imports of EU products. As the import figures show, there was a decrease in imports of all products during July 1998 and December 1998. However the present scenario is more positive for imports.
- **At present the increase of 60-70% of the net total cost due to high custom duties and other taxes is the single most important barrier against imports.**
- Sources:
  1. Textile Commissioners Organisation
  2. Export Promotion Bureau, Statistics department
  3. Federal Bureau of Statistics
  4. Pakistan Customs
  5. Pakistan Economic Survey
  6. Various industrialists/ professional organisations

# PARAGUAY

## 1. INTRODUCTION

### *General features of the access to the Paraguayan market*

- A few EU operators indicated having encountered serious problems in their exports to Paraguay. Tariffs are considered as an important obstacle for some of them (ES, IT, FR). Problems during clearance and specific inspection controls were also reported. The labelling is of some concern for the EU industry. As a Member of the Mercosur zone, Paraguay is in a specific situation.

### *Trade in textile products between Paraguay and the EU*

- There is free trade in textile and clothing products between Paraguay and the EU (no bilateral agreement). In 1997, imports into the EU of textiles and clothing originating in Paraguay remained modest. They reached 2.18 Mio ECU (122nd EU supplier).
- In 1997, exports of EU textiles and clothing products reached 6.29 Mio ECU, Paraguay being the 121st export market for these products.

### *Domestic structure of the textile industry*

- Paraguay is a traditional cotton producer (between 150 000 and 200 000 tonnes/year). Exports reach about 95% of the local production. The yarn and fabric sectors are not important. However, the clothing sector has recently developed. Clothing industry uses mainly imported fabrics from Mercosur and other third countries. The local industry represents only 20% of total sales on the domestic market.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- In questionnaires completed by EU operators, tariffs applied by Paraguay were mentioned as an important obstacle.
- The tariff structure is based on the Harmonised system. It is contained in the Mercosur Nomenclature. Since 1995, Paraguay applied the Common External tariff of Mercosur. There are eleven applicable rates ranging from 0% to 23%, except for some sensitive products listed in a derogatory list. Current rates are as follows <sup>93</sup>:

<sup>93</sup> Market Access Database. Updated on 30/09/1998

Type of product	Ad valorem duty
Yarns	17% to 21% silk: 19% wool: 17% cotton: 17% to 21% flax: 17% synthetic: 5% to 21%
Fabrics	5% to 21% silk: 21% wool: 5% to 21% cotton: 12% to 22% flax: 12% to 21% synthetic: 5% to 21%
Carpets:	23%
Clothing products	20% to 24% 6103: 23% to 24% 6105: 23% 6107: 23% 6203: 23% to 24% 6205: 23% 6214: 20% to 23% 6302: 20% to 24%
Bed linen	6302: 20% to 24%

- Tariffs and other import duties are calculated ad valorem on the CIF value of products.

#### ***Tariffs predictability (bindings)***

- The WTO consolidated rate for textile and clothing products is 35%.

#### ***Tariffs quotas***

- There are no tariff quotas.

#### ***Duties and charges other than tariffs***

- In addition to tariffs, import taxes increase the total amount of duties. This was mentioned as an important barrier by several Spanish operators.
- The following taxes are levied by Customs for import:
  - **VAT (sales tax)** is 10%. It is calculated on the basis of CIF value + customs duty + other taxes
  - **Consular Tax** is 7.5%. It is levied on the total value of the imported good as presented in the commercial invoice.
  - **Administrative fee:** 0.5% of CIF value
  - **Air cargo service fee:** 1% of customs value

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

- Only some EU operators complained about customs formalities.

#### **1. Visas, documents required for clearance**

- The following documents are required:
  - commercial invoice,
  - certificate of origin,
  - bill of lading,

##### ***Commercial invoice***

- The Commercial invoice must include one original in Spanish and two copies. It must be legalised at the Consulate of Paraguay in the Member State of shipment. It must contain the following indication : name and complete address of the exporter, means of shipping, date and place of legalisation, the weight, the measurement, the global quantity, the value of the goods and transportation costs. Before legalisation, prices must be certified by a Chamber of Commerce.
- A consular invoice is also compulsory.

##### ***Certificate of origin***

- The Certificate of origin must be presented in two originals (in Spanish). It must contain the same information as the commercial invoice. It must be signed by a representative of the export company and be certified by a Chamber of Commerce in the Member State of shipment.

##### ***Bill of lading***

- The Bill of lading must be presented in three originals and one copy in Spanish. It must be legalised by the consulate and after returned to the exporter. It must be written in Spanish with indelible ink and must be legalised. If applicable, it must indicate the country of transit (for example, Argentina in transit for Paraguay).

#### **2. Origin requirements**

- There are no specific requirements for the certificate of origin.

#### ***Minimum import price***

- No minimum import price system.

### ***Import licensing***

- There are no import licensing for textile products. Existing import licenses apply for reasons of national security and public health and safety.

### ***Import quotas***

- No import quotas.

### ***Standards and other technical requirements***

#### **1. Quality and conformity controls**

- German companies complained about quality and conformity controls. There are no evidence that these controls constitute a trade barrier. It is likely that these complaints are linked with the compulsory pre-shipment inspection. The pre-shipment inspection is regulated by the Decree n° 1231 of 31/1/1996. It is compulsory for all shipments above USD 3000. The inspection focus on the identification of the product and a verification of the declared value of the goods. It is carried out by either by SGS or VERITAS. The exporter must provide the inspection agency with the following information: the final invoice with the FOB value, the bill of lading. After inspection, the company delivers a report.

#### **2. Certification / Mutual recognition**

- No certification requirements for textiles and clothing products. Consular charges range from 15 USD to 30 USD.

#### **3. Sanitary requirements**

- Idem.

#### **4. Marking, labelling, packaging requirements.**

- The EU Industry expressed its concern on the implementation of the labelling legislation of Paraguay for textiles, clothing and shoes.
- The applicable texts are the Presidential Decree n° 18.568 of 1st October 1997<sup>94</sup> and its enforcement text, the Resolution n° 4 of Ministry of Industry and Trade of 12 January 1998<sup>95</sup>. Under these texts, the EU exporter must sew a label on each exported product (art. 1 resol. 4). The label must contain the following information:
  - country of origin
  - name or social status of the producer

<sup>94</sup> Decreto n° 18.568 por el cual se establece el control de etiquetado en prendas de vestir , confecciones textiles y calzados, a comercializarse en el territorio de la república.

<sup>95</sup> Resolución n° 4 que reglamenta el Decreto n° 18.568.

- status or Fiscal Registration Number (RUC) of the importer
  - product composition, including the percentage of fibre or materials of the inputs, with -
  - the obligation to indicate if it is recycled material or not.
  - care instructions.
- These requirements are also prescribed for « commercialised products » (domestic products to be sold in the domestic market). There is a discrimination between the EU producer (who must produce and put the label on the product, with the corresponding additional costs) and the domestic producer, who does not have the same obligation.
  - The Resolution n° 4 establishes penalties for the non-observance of the above mentioned requirements by the « *establecimientos de comercialización* ». These include penalties of 50% of the sale value of the products (when it is the first time), confiscation of the goods (art. 6). The Decree does not explain clearly if these sanctions are also applied to domestic products during clearance or if the imported products are only controlled in the shops.

#### ***Import balancing requirements***

- All imports must be handled with banks approved and supervised by the Central Bank of Paraguay (one operator only mentioned credit restrictions)

#### ***Impact***

- According to the EU operators affected by import measures implemented by Paraguayan authorities, the advantage granted to the domestic producers by these measures is above 20%. The expected increase in turnover of the EU operators if the alleged barriers would be removed is above 25%.

# POLAND

## 1. INTRODUCTION

### *General features of the access to the Polish market*

- Poland is mentioned by several operators as the Central and Eastern European Country (CEEC) with the most important difficulties. They encounter very important or important problems on this market (BE, DE, PT, ES, IT, AUT, FR). The main difficulties arise during customs clearance formalities. In particular, operators mentioned the following problems:
  - Level of import duties: this seems to result from high import taxes (files fees, clearance duty, additional VAT, fees for registration (FR, ES)).
  - Clearance duration is excessive in many cases. In early 1998, various French operators encountered problems in Polish customs (upholding of goods, requirement of new original invoices and new EUR 1 certificates).
  - Customs valuation is mentioned by operators in several Member States (DE, ES, IT, FR)
  - Certificate of origin: especially German operators encountered difficulties with the certificate of origin.
  - Some technical barriers are mentioned by a few operators such as: quality and conformity controls, certification procedures and labelling. Credit restrictions could also constitute a problem.
- Problems occurred after the implementation of the new customs code in January 1998. The main problems were apparently linked to IPT requirements and procedures applicable to EU producers and Polish importers. The EU producer is requested to inform the Polish administration on its production planning, and on the identification of the products to be used in the IPT operations. This creates an important additional administrative burden for the EU operator. Polish importers are requested to deposit a 3% guarantee in order to get the IPT permit from the Polish administration

### *Trade in textile products between Poland and the EU*

- There is free trade in textile and clothing products between Poland and the EU. In 1997, Poland was the EU 7th supplier of textile and clothing products. Imports of these products into the EU reached 1 996 Mio ECU and 191 847 tonnes.
- Over the same period EU textile and clothing exports to Poland were 2 158 Mio ECU and 388 000 tonnes, the EU maintaining a significant trade surplus (+ 159 Mio ECU and 196 156 tonnes).

### *Textile and clothing domestic industry*

- There is a deficit between imports and exports of textile and clothing products. Most exports go to Southeast Asia and Turkey and have been affected by the recession in the former. It is estimated that up to 30% of Southeast Asian imports into Poland are not

registered. In addition, these imports are suspected of dumping. At the end of 1997, the Polish Government decided to restrict imports from Southeast Asia.

- The Polish textile sector has been subject to dramatic changes since the beginning of the 1990 when production dropped to pre-second world war production levels. Production has started to adapt to new products but exports remain minimal. In the meantime, production capacity have dropped 30% from the 1980s. In addition about a third of the remaining equipment should be replaced to make products competitive, representing 2.5 billion USD over 5 years.
- However, only 20% of Polish textile factories are estimated to be in good financial condition and 50% in a satisfactory financial condition. The remaining 30 % are on the verge of bankruptcy. As a consequence, there is a need for foreign investment and joint-ventures both for technical and financial reasons.

## 2. TARIFF BARRIERS

### *Tariff levels*

- A new Customs code is in force since 1st January 1998. Numerous operators complained about the level of applied duties.
- Current rates for ad valorem duties and specific duties are as follows<sup>96</sup>:

Type of product	Applied duty
Yarns	0% silk: 0% wool: 0% cotton: 0% flax: 0% synthetic: 0%
Fabrics	0% silk: 0% wool: 0% cotton: 0% flax: 0% synthetic: 0%
Others: carpets	0%
Clothing products	0%0 6302: 0%)
Bed linen	

### *Tariffs predictability (bindings)*

- The WTO consolidated rates for textiles and clothing products are generally set at 9%, 12%, 15% or 18% (highest consolidated rate for textiles and clothing).

<sup>96</sup> Market Access Database. Updated on 18/03/1999



### ***Duties and charges other than tariffs***

- VAT (22%) is applicable. It is calculated on CIF value plus customs duties.
- The Ministry of Finance regulation NR 937 of 14 November 1997 has established “Customs clearance charges”. This includes a “Handling Fee” to cover the costs of the normal customs procedure and a “Additional Handling Fee” to cover costs beyond the normal customs procedure. Some of the charges should be removed as of 1st January 1999.

### ***Tariff quota***

- Polish authorities declared that no tariff quota was implemented for EU products.

## **3. NON-TARIFF BARRIERS**

### ***Registration, documentation and customs procedures***

- Poland has adopted the Unified Customs Declaration which is similar to the single administrative form used in the EU.

#### **1. Visas, documents required for clearance**

- Articles 39 to 43 of the Customs code set the requirements for the presentation of goods in customs. The person responsible for the import must complete a summary declaration which may be waived in some cases. The content of the summary declaration is determined by order of the President of the central board of customs (art 43, §3).
- The summary declaration may address the concerns previously expressed by EU operators regarding the exaggerated amount of documents required on imported goods.
- In addition, the following documents must be presented for customs clearance:
  - the commercial invoice
  - the letter of transportation (as well as a packing list),
  - the EUR 1 certificate,
  - a certificate of origin,
  - a certificate of quality

#### ***the commercial invoice***

- The commercial invoice must be presented in 3 copies in English, German, French or Polish; it should include the invoice number and date, the name and address of the seller and the buyer, the number and date of the purchaser order, the description of the product and the HS number, specification and quantity, per unit and total price, incoterms and delivery deadline, name and address of the intermediary or of the seller agent, other indications such as insurance, transportation costs, packaging, net and gross weight, the declaration of origin, signature)

### *The letter of transportation*

- (as well as a packing list),

### *the certificate of origin*

- the EUR 1 certificate and a proof of direct transport is also necessary to benefit from the preferential tariff. A certificate of origin is required for textile products since 1998,

### *The certificate of quality*

- A certificate of quality may also be required for certain products (see “certification”).

## **2. Clearance delays**

- Operators reported long clearance delays (French, Italian and Portuguese producers of hosiery, socks, apparel). In early 1998, various French producers of fabrics encountered problems in Polish customs (upholding of goods, requirement of new original invoices and new EUR 1 certificates). However, a further inquiry with the industry shows that the problems have been solved.
- Polish interlocutors underlined the difficulties resulting from the implementation of the new customs code (1998) such as the need to train customs officers and inform importers. Other aspects also explain this situation. The tremendous rise of exports due to Poland being the EU fourth export market and the first transit country in Europe. In addition, German customs offices are closed on Saturdays and Sundays which delays Polish-German joint customs clearance.
- Poland is a member of the international conventions on the single administrative form and on customs transit.

## **3. Customs valuation**

- Poland is implementing the WTO Customs Valuation Agreement. Importers must declare the value of goods in a specific form “Deklaracja Wartości Celnej”. Given recurrent under valuation in customs, a minimum customs value has been instituted for some products since 1997.

## **4. Origin requirements**

- the EUR 1 certificate is required. There were initial difficulties with the implementation of the protocol 4 of the Europe Agreement but no specific problem was mentioned in the questionnaires received by the consultant.

### ***Standards and other technical requirements***

#### **1. Quality and conformity controls**

- The Polish Committee for Standardisation is responsible for the definition and the setting of technical standards on products (Law of 3 April 1993, OJ NR 55, pt. 251). The Polish Committee for Test and Certification, PCTC, is responsible for guaranteeing the conformity of products<sup>97</sup>.

#### **2. Certification / Mutual recognition**

- Textile products are no longer included in the list of products subject to mandatory certification.

#### **3. Marking, labelling, Packaging requirements.**

- The same rules apply to national and imported products. The labelling requirements are set out by the Regulation of the Council of Ministers of 30 May 1995. Labels should be written in Polish, although other languages may be accepted. In addition there is a law on measurement<sup>98</sup>.

### ***Import balancing requirements***

- Only one EU operator mentioned difficulties in access to credit.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- There has so far been no action taken regarding antidumping. There is however a safeguard clause applicable to textiles (other than EU origin).

### ***Others***

- The new Customs Code (1998) includes new IPT rules and mechanisms (see “Inward processing”, articles 121 to 136). Further to these rules, IPT authorisation may only be given to a person residing in Poland. Two systems are available : the suspension or the draw back of customs duties
- Problems occurred after the implementation of the new customs code in January 1998. The main problems were apparently linked to IPT requirements and procedures applicable to EU producers and Polish importers. The EU producer is requested to inform the Polish administration on its production planning, and on the identification of the products to be used in the IPT operations. This creates an important additional administrative burden for EU operators. Polish importers are requested to deposit a 3% guarantee in order to get the IPT permit from the Polish administration

<sup>97</sup> Law of 3 April 1993, OJ NR 55, pt. 250).

<sup>98</sup> Law of 03.04.1993, OJ NR 55, pt. 248

***Impact***

- Price advantage granted to Polish producers by the implementation of the alleged trade barriers was estimated by EU operators from 5% up to above 20%. If these barriers were removed, the expected increase in turnover would range from 10% to 25%.

# ROMANIA

## 1. INTRODUCTION

### *General features of the access to the Romanian market*

- Some operators mentioned important problems (DE, ES, FR, NL, AU, DE). More than in other CEECs, tariffs constitute still a very important obstacle for EU producers (ES, IT, FR). Import taxes additional to the Customs duty were also criticised. Problems occurring during customs formalities mainly concern the documents required and clearance delays. Only one German operator mentioned problems of origin. No technical barrier was mentioned. Conversely, there is apparently a restriction on credit and a re-export obligation, both mentioned by French operators.

### *Trade in textile products between Romania and the EU*

- Trade in textile and clothing products between the EU and Romania is regulated by the ATC.. In 1997, Romania was the EU 11th supplier of these products. Imports of these products into the EU reached 1 570.63 Mio ECU and 99 749 tonnes.
- Over the same period, exports of EU textile and clothing products to Romania were 1 180.21 Mio ECU and 111 093 tonnes. The trade balance was slightly negative (-390.42 Mio ECU).

### *Textile and clothing domestic industry*

- In 1998, the textile and Clothing industry included 302 large units (over 250 employees), 349 medium sized units (between 50 and 249 employees) and 5125 small and micro units (less than 50 employees). In June 1998, 98.2% of these companies were privatised. The State is however major shareholder in 99 textile companies and 5 clothing companies. Employment in the sector represents 15.6 % of the national workforce. According to 1994 ILO figures, the Romanian domestic textile and clothing sector employs 300 000 people.
- In 1997, the textile and clothing sectors benefit from significant investment (162 Mio USD), from which more than half was foreign capital. The apparel sector attracted more than 50% of investment. In the textile sector, investment was aiming at increasing competitiveness of cotton and wool products. Existing capacities are often oversized and unprofitable. In the clothing sector, large investments were made after the 1990 in existing enterprises. New companies were also created with private capital.
- Exports are mainly directed to the EU which is the main (and almost only) export market (89% of total exports). Private companies account for 89% of total exports. Imports of EU products represent 85% of total imports.<sup>99</sup>

<sup>99</sup> Information transmitted by the Romanian Authorities. Trade data, source National Commission for statistic and Ministry of Industry and Trade (1998).

## 2. TARIFF BARRIERS

### *Tariff levels*

- A new customs code has taken effect as of 1998 (Law 149 of 1997). Enforcement provisions are contained in the Government Decision 326 of 1997. Although this has led to initial problems, the situation has markedly improved.
- The Europe Agreement provides for the progressive reduction of tariffs on textile products for EU-Romanian trade. Tariffs applied to Romanian imports of textile and clothing products in the EU is zero. The tariffs applied by Romania to EU products will be reduced as follows:
  - 01.01.1999 -50%
  - 01.01.2000 -75%
  - 01.01.2001 -80%
  - 01.01.2002 exemption
- It should be noted that, products under the HS positions 520100 (cotton), 5301 (flax) et 5302 (true hemp) are subject to the rules applicable to agricultural products.
- Current rates for ad valorem duties and specific duties are as follows <sup>100</sup>:

Type of product	Applied duty
Yarns	0% to 6% silk: 6% wool: 6% cotton: 6% flax: 0% to 3%
Fabrics	9% to 15% silk: 9% wool: 15% cotton: 15% flax: 15% synthetic: 12 % to 15%
Carpets:	24%
Clothing products	18%
Bed linen	18%

### *Tariffs predictability (bindings)*

- WTO consolidated rates for textile and clothing products are up to 40% and mostly 25% and 35%.

### *Duties and charges other than tariffs*

- In addition to applied tariffs, various import tax increase the total amount of import duties. Operators cited:

<sup>100</sup> Market Access Database. Updated on 04/11/1998

- file fees,
  - clearance duty
  - additional VAT
- VAT (22%) is collected on imported products (CIF value plus customs duties) and domestic products alike. Some products are exempted (i.e. some children garments)
  - **The clearance duty** applicable to EU products was removed in December 1997.
  - However **an import surcharge** of 6% of duty paid value has been implemented as part of an effort to stabilise the balance of payments<sup>101</sup>.

### 3. NON-TARIFF BARRIERS

#### *Registration, documentation and customs procedures*

##### 1. Visas, documents required for clearance

- Romania has recently introduced a single administrative document (Government Decision 946 of 1997). Customs documents required are the same as for the EU.
  - The following documents are required for customs clearance:
    - the commercial invoice (7 copies which should include the invoice number and date, the name and address of the seller and the buyer, the number and date of the purchaser order, the description of the product and the HS number, specification and quantity, per unit and total price, incoterms and delivery deadline, name and address of the intermediary or of the seller agent, other indications such as insurance, transportation costs, packaging, net and gross weight, the declaration of origin, signature),
    - the letter of transportation,
    - the packing list,
    - a declaration of conformity (waived for product with Romanian or CE conformity marks),
    - a certificate of quality may also be required for certain products (see “certification”).
- May also be required:
- the EUR 1 certificate and a proof of direct transport is also necessary to benefit from the preferential tariff,
  - the certificate of origin,
  - the warrantee certificate.

##### 2. Customs valuation

- Romania applies the WTO Customs Valuation Agreement. The Romanian legislation specifies that Customs check the invoice price with the “reference value” of the product

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<sup>101</sup> Romanian OJ of 30 September 1998, nr 370.

(article 29 of the Customs law). If the invoice value differs by over 20% from this “reference value”, the importer must deposit an amount equivalent to the difference in value until the completion of the full investigation. Fines may eventually be imposed.

- The import reference prices used by Romanian customs on some imported products concern among others: tee-shirts, shirts and menswear. The Customs new evaluation of the price is subject to legal recourse.

### **3. Origin requirements**

- Origin certificates EUR1 are required. There is no specific procedure for imported textile and clothing products.

#### ***Import quotas***

- Import quotas on textiles were removed in 1997.

#### ***Standards and other technical requirements***

##### **1. Certification / Mutual recognition**

- There is no certification required for textile and clothing products. Certification requirements apply only to products harmful to human health or the environment.

##### **2. Marking, labelling, packaging requirements.**

- There is no requirement concerning labelling.

#### ***Import balancing requirements***

- Importers appear not to be required to pay invoices within 90 days. Such terms are freely negotiated by the parties to the contract.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applied to EU textile and clothing products.

#### ***Export restrictions***

- The export restriction applied on virgin wool was lifted in 1997. The Romanian authorities do not intend to implement new exports restrictions.



# RUSSIA

## 1. INTRODUCTION

### *General features of the access to the Russian market*

- Three main features set the Russian market apart:
  - the high interest of EU operators to develop their current exports to Russia
  - the high level of difficulties encountered with Russian authorities in daily trade activities
  - the importance of indirect trade (covers 80% of total exports). According to operators, the level of smuggling results essentially from the existence of problems such as theft, corruption and trade barriers.
  
- Among trade barriers the most cited are:
  - tariffs barriers
  - import taxes
  - problematic customs formalities
  - certification
  - sanitary regulation
  - labelling
  
- Direct trade is seriously hampered by a large number of obstacles. A peculiar feature of trade with Russia lies in the high level of corruption and the absence of the rule of law. This situation forces operators to circumvent trade barriers by various (material) means. Sometimes, Russian operators come directly to buy goods in EU factories and process customs formalities themselves. This explains that some EU operators do not have precise information on difficulties encountered in Russian customs or prefer not to talk about the solutions they found. Other operators systematically send their goods through third countries.

### *Trade in textile products between Russia and the EU*

- There is free trade in textile and clothing products between Russia and the EU. In 1997, Russia was the EU 37th supplier of textile and clothing products. Imports of these products into the EU reached 245.59 Mio ECU and 56 243 tonnes.
  
- Over the same period, EU exports of textile and clothing products to Russia were at 1 049.22 Mio ECU and 179 735 tonnes, Russia being the EU 10th export market. The trade balance remained largely positive (+ 805 Mio ECU and + 123 493 tonnes), net exports increasing by over 23% in 1997.

### ***Textile and clothing domestic industry***

- Information is hard to come by and is often not up to date. The WTO in Geneva appears to be the most trustworthy source of information and legislation in English language.

## **2. TARIFF BARRIERS**

### ***Tariff levels***

- Many EU operators ((IT, ES, FR, AUT, BE, DE, IT) made complaints about the high level of tariffs applied for the import of EU textile and clothing products
- The last amendments to the tariff took effect on 01.01.1997. Some positions have markedly increased. Chapters 50 to 63 are subject to alternative tariffs, either an ad valorem rate or a duty per unit (m<sup>2</sup> or kg); the rate leading to the highest amount of customs duties being applied.
- Current rates for ad valorem duties and specific duties are as follows <sup>102</sup>:

Type of product	Applied duty	Minimum duty
Yarns	8% to 23% silk: 8% wool: 23% cotton: 8% flax: 8% synth. 13%	
Fabrics	8% to 23% silk: 8% wool: 23% cotton: 23% flax: 13% synth. : 13%	
Carpets	33%	but not less than 0.75 ECU/sqm
Clothing products	33% 6103 6104 6105 6204 6211 6214	but not less than 7 ECU/kg but not less than 7 ECU/kg but not less than 5 ECU/kg but not less than 7 ECU/kg but not less than 5 ECU/kg but not less than 5 ECU/kg
Bed linen	6302	but not less than 1 ECU/sqm

### ***Tariffs predictability (bindings)***

- Russia is not a member of the WTO and its tariffs are not bound.

<sup>102</sup> Market Access Database. Updated on 11/11/1998

### ***Duties and charges other than tariffs***

- EU operators reported prohibitive and changing import duties and taxes additional to tariffs, namely:
  - files fees
  - clearance duty
  - additional VAT
  - fees for importer registration
- This situation generates insecurity and considerably harms business. Operators must often resort to under-evaluation and under-billing of their products.
- **VAT** is set at 20%. A Customs Clearance Fee of 0.15% is also collected (0.10% for imports made on a non-profit basis). The detail of rules regarding these taxes is included in the memorandum on external trade.
- A **Supplementary Import Tax** of 3% is applied on imports into Russia except for humanitarian aid, investment in kind and partners of the Customs Union concluded with Russia<sup>103</sup>.
- Finally a **Sales Tax** of 5% is being implemented and applies to all products sold domestically<sup>104</sup>. It is collected on the price of goods and services including VAT and excises.

## **3. NON-TARIFF BARRIERS**

### ***Registration, documentation and customs procedures***

- In addition to endemic corruption, theft and constant hassle, operators reported many difficulties in Russian Customs:
  - documents and formalities are complex and numerous
  - clearance delays are excessive
  - customs valuation: problems occur in connection with the implementation of a minimum import price by Customs authorities who are competent to determine the value of imported products.
  - classification: wrong classification results in higher import duties
  - rules of origin: problems encountered by several operators (FR, AU, DE, BE, ES).

#### **1. Visas, documents required for clearance**

- The following documents are required for customs clearance:

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<sup>103</sup> RF Government Decision nr 791 of 17 July 1998 "on extra import duty introduction".

<sup>104</sup> RF Law nr 150-FZ of 31 July 1998 on Amendments to the RF Law on the basic principles of the taxation system in the RF.

- the invoice (at least three copies),
  - the transportation document,
  - the certificate of origin,
  - the detailed packing list (5 copies),
  - and as the case may be:
    - a certificate of conformity,
    - a warrantee,
    - a document establishing the product value,
    - a sanitary certificate.
- The Customs declaration is made with a TD-1 form similar to the EU single document.
  - There is no pre-shipment inspection. Russian customs conduct controls themselves on the value, the identity and the classification of goods.

## 2. Customs valuation

- Customs officers may control and challenge the declared value of goods. To discourage undervaluation, Russian customs often require the presentation of the EU single document.

### ***Minimum import price***

- Several EC operators complained about minimum import prices and their unpredictable level and implementation by customs.

### ***Import restrictions***

- Russian quantitative restrictions on EU products, e.g. carpets, clothing, were lifted on 1st May 1998. This results from the new EU-Russia agreement on textiles concluded in March 1998 (signed on 21 July 1998, implemented on 23 July 1998). The agreement main provisions is the prohibition to take unilateral quantitative restrictions.

### ***Import licensing***

- No import license is required for textile and clothing products.

### ***Standards and other technical requirements***

- EU operators identified technical barriers as the most damaging restrictions, especially labelling and certification (Italian operators):
  - quality and conformity controls: examination performed by SGS caused problems for some products (e.g. underwear).
  - certification issues: operators encounter problems with existing legislation (GOSSTANDARD) and expressed their fears regarding plans for a new legislation.
  - sanitary regulations: Problems occurred with the hygiene certificate. Additional costs supported by operators are mentioned. Other operators mentioned the obligation to

- provide a certificate for the protection of consumers, which caused, for a German operator, a loss of about 50,000 DM. This new regulation, combined with particularly unpredictable customs clearing deadlines is of great concern for producers exporting large numbers of articles.
- labelling: EU operators complained about the obligation to write labels in Cyrillic from July 1998 (DE) including the name of the importer and of the producer. For some operators the most damaging obligation is to have to write invoices in Cyrillic (Italian operators).
  - protection of drawings and models: the absence of an effective protection of intellectual property rights constitutes an additional barrier.

## **1. Certification / Mutual recognition**

- Products subject to certification are contained in a mandatory list which was updated in October 1998. It includes textile and clothing products.
- Many complaints have been made about the burdensome certification procedures. As requested by the Commission, a new legislation is being prepared in order to set the place of certification either at the place of shipping or at the place of delivery, rather than at the border. Current rules require an original “certificate of conformity”, in Cyrillic language, to accompany each consignment.
- The required information to obtain such a certificate is:
  - name and address of the producer or exporter,
  - name and address of the importer,
  - a description of the goods,
  - tariff position,
  - standards applicable,
  - contract or pro forma invoice reference numbers.
- The draft legislation provides for simpler and more transparent procedures. Despite the commitment made to the EU in July 1998, to try and have the bill passed quickly in the Douma, it is difficult to make an prediction as to when the new legislation will be adopted. The legislation currently in force is Law 508 adopted in 1993.
- The certification issue is connected to the issue of private companies accredited to operate it. The accreditation is open to Russian and foreign companies. However, the GOSSTANDARD -integrated into the Ministry of External Trade and Industry since May 1998- has so far approved only a few foreign companies: SGS, the Hungarian certification institute Mertcontrol/TüV-Rheinland and DIN GOS TüV Berlin-Brandebourg.

## **2. Marking, labelling, Packaging requirements.**

- A new regulation has taken effect on 1st July 1998. All data must be written in Russian (i.e. Cyrillic), including the name of the producer. The name of the importer may also be required. There may also be specific requirements for the marking of fabrics.

- There are complaints that these requirements are too burdensome. No specific difficulties were mentioned regarding textile products.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- A new legislation on antidumping, safeguards and countervailing measures has been adopted. It is based on WTO rules. Enforcement texts still have to be adopted.
- There are no safeguard measures on Chinese products as China is classified as a developing country. In practice, few Chinese and Russian products are in competition, contrary to the situation between Russia and the EU.

#### ***Impact***

- Operators indicate a significant advantage granted to domestic producers (in excess of 20%). Operators expect a significant increase in their turnover if barriers were removed: between 10% and 25% for French operators and above 25% for Austrian and Belgium producers.

## SOUTH AFRICA

### 1. INTRODUCTION

#### *General features of the access to the South African market*

- Some operators (DE, EN, PT, IT, BE) encounter very important problems to export their products to South Africa. The main issue is tariff barriers and the customs valuation system. Tariffs are considered to be a very important obstacle. In addition, surtaxes such as additional VAT, file fees and customs taxes increase the total amount of import duties up to a level which takes away the product price competitiveness. Specific problems have occurred in:
  - certification
  - quality and conformity controls
  - rules of origin.
  - for OPT, apparently Customs authorities require a deposit for 100% of value of the product to be processed

#### *Trade in textile products between South Africa and the EU*

- There is free trade in textile and clothing products between South Africa and the EU. In 1997, South Africa was the 38th EU supplier of textile and clothing products. Imports of these products in the EU reached 233.17 Mio ECU and 52 000 tonnes.
- Over the same period, exports of EU textile and clothing products to South Africa were 231.25 Mio ECU and 94 810 tonnes, the EU experiencing a slight trade deficit in value terms (-1.9 Mio ECU).

#### *Textile and clothing domestic industry*

- The South African textile industry ranks is the sixth largest employer in the manufacturing sector with 75 500 workers and over 200 000 dependent jobs. There is an extension production of raw materials (especially cotton). The domestic textile industry counts 200 companies. Their production is mainly devoted to the domestic market. About 20% of the total production of textile and clothing is exported, 50% of these are raw wool fibre exports. Imports of knitted fabrics increase significantly from R 195 Mio to R2435 Mio in 1996. The textile industry is enjoying relatively high trade protection. However, according to the industry, this protection was significantly eroded by the failure of customs controls and the development of smuggling in textile and clothing products over the recent years<sup>105</sup>

<sup>105</sup> ITMF country statements 1997, op. cit, p. 29.

## **2. TARIFF BARRIERS**

### ***Tariff levels and Uruguay Round commitments***

- Current textile and clothing product tariffs are going through a reduction over 8 years, ending in 2002. The target levels are 40% for clothing, 22% for fabrics, 15% for yarns and 7,5% for polyester fibre.
- Duty rates have been further reduced since January 1999. Any updates may be checked at : <http://www.rapidttp.co.za> .

#### **1. Fibres**

- R 1,60/kg for cotton
- 19,5% for polyester (to be phased down to 7,5%)
- Free for silk, wool, vegetable fibres

#### **2. Yarns**

- 26% coupled with minimum and maximum specific duties (to be phased down to 15%) for silk, wool, cotton and man made staple fibres
- 15% for man made filaments
- 10% (metal yarns) and 20% (gimped yarn) for non-woven
- Free for other vegetable fibres

#### **3. Fabrics**

- 22% or 36% coupled with minimum and maximum specific duties (to be phased down to 22%) for silk, wool, cotton, man-made filaments, man-made staple fibres, knitted or crocheted fabrics
- 12% for other vegetable fibres
- Variable from 10% to 36% for fabrics of chapter 58 (Special woven fabrics)
- Various duties for fabrics of chapter 59 (Impregnated and coated fabrics)

#### **4. Clothing products**

- 40% or 72% coupled with a minimum and maximum specific duty (to be phased down to 40%) for knitted clothing, clothing not knitted or crocheted
- 46% coupled with a minimum and maximum specific duty (to be phased down to 30%) for bedlinen, curtains and other furnishing articles (chapter 63); other products of chapter 63 are subject to various duties, generally from 20% to 25%; Worn clothing are subject to strict import control (60% or 2500c/kg).
- The tariff complex structure is designed to heavily tax cheap products (in order to protect the SAR market labour intensive and cheap products) and apply more reasonable duties on more sophisticated products.
- The customs duty is calculated on the basis of the Customs price or "Price actually paid" which is equivalent to the Free on board (FOB) price.



- To take an example, position 53.13 offers three options : (i) an ad valorem duty (22%), (ii) a combined ad valorem rate (33%) or a maximum of 10 Rd/kg and (iii) a strictly per unit rate of 4 Rd/kg. For each good imported under this position all three options are calculated. The highest figure is applied.
- For instance, if a product corresponding to position 53.13 has a value of 1000 Rd and weighs a 100 kg the calculation will be as follows :
  - (i) duty of 22% : 220 Rd,
  - (ii) duty of 33% : 330 Rd, or a maximum of 10 Rd/kg : 1000 Rd,
  - (iii) duty of 4,46 Rd/kg : 446 Rd.
- In this case the duty applied is the ceiling provided in option (ii), i.e. the ceiling calculated at 10 Rd/kg : 1000 Rd, or 100%. This indicates that the three options lead in fact to the calculation of four rates (two rates in option (ii)). This means that in option (ii), the rate calculated per kg is both a possible rate and a cut-off point for the ad valorem duty.
- A second example under the same position also underlines a specific objective of this tariff structure. If under the position 53.13, a product is imported at a value of 10 000 Rd and weighs 10 kg, the calculation will be as follows :
  - (I) duty of 22% : 2200 Rd,
  - (ii) duty of 33% : 3300 Rd, or a maximum of 10 Rd/kg : 100 Rd  
(i.e. the 3300 Rd duty calculated under option (ii) cannot apply because it is above the maximum of 100 Rd determined by the rate per kg as a ceiling),
  - (iii) duty of 4,46 Rd/kg : 44.6 Rd.
- In this case, the duty applied is 2200 Rd, or 22%, as determined by option (I). In the previous example the duty was equivalent to 100% of the value. The two above examples illustrate that duties tend to be heavier as the value of products lowers. Our interlocutor confirmed that the main objective of this tariff structure was to protect the SAR market from cheap imports.
- This structure is adapted according to the type of products and the SAR market sensitivity. For instance problems occurred with excessive imports of second hand clothing which created competition even to new clothing. In this case (position 63.09) the duty was structured as follows : 60% or 25 Rd/kg with no ceiling or maximum.

#### ***Tariffs predictability (bindings)***

- Tariffs are subject to constant changes due to the commitment to significantly reduce levels of tariffs on textile and clothing products by 2002. Most consolidated rates for products of chapter 50 to 63 are at 25% to 30% (other consolidated rates are lower). However, some textile products are subject to “schedule XVIII for South Africa” providing for longer transition periods (up to 12 years) and higher consolidated rates (up to 60%).

#### ***Duties and charges other than tariffs***

- VAT (14%) is applied on domestic and imported products. It is applied on the so-called “VAT value” which includes the Customs Value + 10% mark up + customs duty. There is no cumulative imposition with the 10% mark up, i.e. both the mark up and the customs duty are calculated separately on the basis of the customs price.
- The cost of clearance in customs (“Wharfage”) is evaluated to be 1,5% of CIF value. In addition, there is a stamp duty on customs clearance costs (0.4 ZAR)

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- certificate of origin,
- commercial invoice,
- bill of lading,
- packing list.

*Other documents may be required (importers identification, banking and financing references).*

- A certificate of composition is not required but is provided with 90% of imported goods. There is no specific regulation on this question. However the practice is that a certificate of composition limits the risk of detailed product composition controls at the border. In many cases, the composition is indicated on the commercial invoice.
- There is no pre-shipment inspection. The private companies conducting pre-shipment are criticised notably for not applying valuation methods correctly.

##### **2. Clearance delays**

- According to authorities, the clearance procedure is normally 48 hours for air shipment and 3 days for sea shipment.

##### **3. Customs valuation**

- Some operators mentioned an automatic 15% overvaluation of goods made by Customs authorities, while several others operators mentioned customs valuation as a problem (BE, DE, FR).
- There is a lot of fraud with regards to the valuation of products. The high level of customs duties is an incentive to undervalue products. Previously, currency exchange restrictions were also used as a way to undervalue imported goods, however these restrictions have now been removed.

- The SAR is a member of the Convention on customs method. The main principle applied by customs is the “Price actually paid” (equivalent to the FOB price as seen above). There is a list of prices updated weekly. A state laboratory can collect and analyse samples. Customs also use experts in the most complex cases of wrong description or wrong valuation.
- There is differentiation made between enterprises, the type of products and the countries of origin, i.e. some are considered reliable others systematically checked depending on their record. A computerised system has been in place since 1980. On average 4% to 5% of imported goods are checked by customs.
- In cases of disagreement or of uncertainty, the valuation of imported products can be made by Customs on the basis of a global evaluation of the goods.

#### **4. Origin requirements**

- Control of origin is a major problem in the SAR with the phenomenon of “Transit fraud”. It is particularly the case for textile products which are subject to high duties. In most cases goods coming from Eastern Asia (especially China) are imported into the SAR and slightly transformed (e.g. new labels or packaging) before being exported as South African products. This allows some producers to escape bilateral quotas. This phenomenon was reduced over the recent years following the reunification of the country which was accompanied by significant efforts to limit Transit fraud.
- Another aspect of the problem is that certificates of origin are often delivered by Chambers of Commerce. Their control over matters have often been too limited which encouraged fraud.
- The WTO rules of origin currently being drafted within the WCO in Brussels are taking these issues into consideration.

#### ***Import licensing***

- There are currently no licenses on imported textiles (from Europe?). However the agreement being negotiated between the RSA and the EU could lead to the introduction of licenses and quotas.

#### ***Standards and other technical requirements***

##### **1. Marking, labelling, Packaging requirements.**

- There is no specific legislation for textiles. Labels only indicate, in English -there are 11 official languages in SAR-, the name, the size and the place of production. The “Merchandise Markt Act” also specifies that labels should not mislead consumers as to the origin of the product.
- There is a quality scheme -SABS- including a specific label.

### ***Antidumping duties***

- Definitive antidumping duties were applied on 24 December 1997 against the import of acrylic fibre originating in Portugal. Definitive duty is 10.3%.

### ***Others***

- **Industrial Rebate of Customs duties**  
(Tariff chapter 3, item 3.11, textile and textiles articles 3.11.01 to 3.11.40)  
Ref. SAR Customs and Excise tariff, schedule 3, Customs and excise Act  
This scheme allows, under strict conditions, the import of goods free of duty for the production and sale on the domestic SAR market of a restricted list of goods, notably clothing.
- **IPT/OPT (Tariff chapter 4)**  
This scheme also allows, under strict conditions, duty free import for the production of goods to be re-exported. This scheme is subject to a specific permit.

# THAILAND

## 1. INTRODUCTION

### *General features of the access to the Thai market*

- Customs formalities (documents, duration, valuation, classification, origin) were mentioned by some operators. During interviews, some operators indicated that the high level of tariffs and import duties really harms their exports.

### *Trade in textile products between Thailand and the EU*

- Trade in textile and clothing products between Thailand and the EU is regulated by a Bilateral Agreement. Under this agreement, exports of some textiles and clothing from Thailand are limited to the quantities provided in Annex of the Agreement.. In 1997, Thailand was the 18th supplier of EU in textile and clothing products. Imports of Thailand's products into the EU reached 990.17 Mio ECU and 133 803 tonnes
- Over the same period, exports of EU textile and clothing products to Thailand were 122.06 Mio ECU and 17 033 tonnes. The trade deficit significantly increased (- 866 110 Mio ECU and -116 170 tonnes).

### *Domestic structure of the textile and clothing industry*

- Further to the economic recession which started in 1996, the new economic policy includes measures to restore and enhance export competitiveness. In 1997, contacts between the authorities and the private sector materialised in a "work plan" monitored monthly. This plan includes :
  - "the reduction of the waiting time for the rebate of duty on raw material import",
  - the reduction of the waiting time for VAT refund for exports,
  - the streamlining of customs procedures,
  - the rationalising of the customs valuation system,
  - the privatisation of handling services of Bangkok harbour,
  - easing the credit arrangement of the EXIM bank,
  - other measures.
- In 1997, export figures for the first 8 months have been above that of the same month of 1996 (except for February). The forecast for 1998 is an export growth rate of 6% to 7%. However, in view of the continuing fall of the Thai currency exchange rate, there are worries that rising import prices will in turn further damage Thai export competitiveness (source Thailand official economic briefing).
- The textile sector is facing difficult times. Two of the largest textile plants have been shut. This seems linked both to sharp import price increases (due to the Thai currency

devaluation) and to wage increases. One of the sector current priority is to improve product quality in order to enhance competitiveness.

- More information may be obtain at this site : <http://www.moc.go.th>

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- The Thai Customs Code sets out the stages of the on-going reduction of tariffs. It should be noted that the Thai calendar corresponds to the Gregorian calendar plus 543 years (i.e. 1998 corresponds to 2541).
- Two tariff rates (a general tariff and a specific tariff) may be applicable to the same product. In this case, the highest rate applies. The tariff in force is based on the Harmonised System (HS) adopted par the World Customs Organisation (WCO) in 1988. The last updated version of the HS prepared by the WCO in 1996 is still under discussion in the Thai parliament. This gap as well as translation issues could explain problems linked to classification.
- Current rates for ad valorem duties and specific duties are as follows <sup>106</sup>:

Type of product	Applied duty
Yarns	10%
Fabrics	10 to 40% <sup>107</sup>
Clothing products	30 to 60 % <sup>108</sup>

### *Tariffs predictability (bindings)*

- In the tariff, the columns “1995”, “1999” and “2004” indicate the tariff levels to which Thailand is committed at the WTO. The last two columns of the tariff indicate the rate in place in 1995 and 1997. The WTO consolidated rate for Thailand is 30% (15% for some positions) and should be achieved in 2004.

### *Duties and charges other than tariffs*

- VAT (7%) is calculated on CIF value, customs duty and an estimated margin (10% to 20%). Thai operators may recover their loss if the margin turns out to be lower than evaluated by customs.
- Excise duties exist but are not collected on textile products.

<sup>106</sup> Market Acces Database. Updated on 12/10/1998

<sup>107</sup> For some fabrics a minimum duty is applied if it is higher than the custom duty. For instance, for all 5208 (cotton fabrics) the applied duty is 20% or 15.00 BAHT/sqyd, whichever is higher.

<sup>108</sup> Idem. For instance, for 6105 (mens shirts), the applied duty is 30% or 12.00 BAHT/e.a, whichever is higher.

- Other taxes are calculated cumulatively with tariff duties. These additional taxes result in raising the effective level of tariffs.
- Firstly, an additional tax corresponding to 10% of the tariff is added to the base customs duty rate. For instance, in case of a tariff at 30%, the effective tariff rate is in effect :  $30\% + 10/100(30\%) = 33\%$ . This additional tax is only collected on products subject to customs duty rates above 5%.
- Secondly, a local tax coming on top of the tariff and the additional tax is collected directly by customs. Its rate is equal to 10% of the combined rate of the tariff and the additional tax. Referring to the previous example, the combined rate is, in this case, 33%, the effective customs duty becomes :  $33\% + 10/100(33\%) = 36.3\%$ .
- A Customs clearing and handling fee of 3% is also collected.
- There is also an export promotion tax of 0.5% applied on all imports.
- Finally, the Ministry of Commerce may establish a special temporary tax on some products or on categories of products. It is currently not the case.

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

##### **1. Visas, documents required for clearance**

- For the import of clothing, the following documents are required :
  - invoice,
  - inventory list,
  - import license (when required),
  - insurance,
  - a certificate of payment must be presented for all imports above 40 000 THB,
  - product composition (in case of IPT),
  - registration number of the importer.
- There is no pre-shipment inspection.

##### **2. Clearance delays**

- Clearance last from 1 to 3 days, only one operator complained about this.

##### **3. Customs valuation**

- The WTO Customs Valuation Agreement has not taken effect yet since Thailand is granted a transition period until 2005. The rules of the Brussels Definition Value (BDV) are currently applied.

- Customs may recalculate the price of imported goods. In such cases, customs contact other importers to evaluate the price of goods. Customs also regularly update a reference price list.

### ***Import licensing***

- The import of some textile products is subject to a non-automatic license. This covers products of chapters 61 and 62. The list of products concerned is available at the Ministry of Commerce and is regularly updated.
- Silk and notably clothing containing 50% of silk are subject to both import and export licenses.

### ***Standards and other technical requirements***

#### **1. Certification / Mutual recognition**

- Certification regarding textile products is managed by the Ministry of Industry. -also contact the Ministry of Commerce-

#### **2. Sanitary requirements**

- Sanitary certificate are only required for foodstuffs.

#### **3. Marking, labelling, packaging requirements.**

- There are no specific rules applying to imported products. Domestic labelling rules do not apply to IPT goods.

#### **4. Intellectual property issues (protection of drawings and models).**

- Updated information about Intellectual property legislation may be obtained at the following site: <http://www.dbe.moc.go.th>.

### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure applied to the import of EU textile and clothing products.

### ***Export restrictions***

- There are export restrictions on natural and synthetic thread. These restrictions apply to exports to the USA. There are no restrictions on raw materials exports to the EU. Applicable rules can be obtained with the Ministry of external trade.

### ***Foreign exchange measures***

- Foreign exchange protection measures have been taken following the economic recession.



**Others**

- There are no specific requirements applying to IPT. The import of products to be later re-exported is made duty-free provided the goods are delivered into Bonded warehouses or free zones. The procedure of product transformation, so-called “19bis”, requires a declaration of product composition, the deposit of bank guarantee and re-exporting the resulting goods within the following 12 months.

# UKRAINE

## 1. INTRODUCTION

### *General features of the access to the Ukrainian market*

- Access to the Ukrainian market is made very difficult by high and rapidly changing tariffs as well as additional taxes. In addition to this obstacle the cumbersome clearance process is made more complex by certification requirements for a growing number of textile products.

### *Trade in textile products between Ukraine and the EU*

- Trade in textile and clothing products between Ukraine and the EU is regulated by a Bilateral Agreement. Under this agreement, exports of some textiles and clothing from Ukraine are limited to the quantities provided in Annex of the Agreement. In 1997, Ukraine was the EU 41st supplier of textile and clothing products. Imports of these products into the EU reached 227.77 Mio ECU and 21 503 tonnes.
- In 1997, exports of EU textile and clothing products to Ukraine were 247.75 Mio ECU and 38 745 tonnes. The trade balance remained positive for the EU (+ 19.98 Mio ECU and + 17 243 tonnes).

## 2. TARIFF BARRIERS

### *Tariff levels*

- The last version of the tariff is from 1st June 1998. The numerous amendments to the tariff run against the Ukrainian “stand still” commitment made along its application to the WTO. These changes are linked to the fact that customs duties represent an increasing share of the country budget (13% in 1996 and 22% in 1997).
- Tariffs on textile products are high, up to 30%. For example, for CN 5701 -5703, their level reach 30% with a minimum of 3 USD/m<sup>2</sup> with the rate leading to the highest customs duty being applied.
- A new tariff and a new customs code should be approved in Parliament in 1999. The new tariff contains a schedule over three years to reduce tariffs to an average of 7% to 7.5% by 2002. This commitment is linked to the preparation of Ukraine for WTO accession.

- Current rates for ad valorem duties and specific duties are as follows <sup>109</sup>:

Type of product	Applied duty	Minimum duty
Yarns	0% to 15% silk: 2% wool: 0% flax: 15% cotton: 5% synth. 10%	
Fabrics	0% to 20% silk: 2% wool: 10% cotton: 0% -20% flax: 20% synth. : 0 to 20%	
Carpets	30%	
Clothing products	30% 6103: 30% 6105: 30% 6107: 30% 6204 (61): 30% 6214: 30%	but not less than 1.5 and 2 ECU/piece but not less than 0.2 and 3 ECU/piece but not less than 3 ECU/piece
Bed linen	6302: 30%	but not less than 1.8 ECU/piece

#### ***Duties and charges other than tariffs***

- A Customs clearance fee is charged, at 0.2% of the product value and a maximum of 1000 USD<sup>110</sup>. A fixed customs procedure fee of 0.05% was also mentioned for the purpose of financing customs belowstructure.
- VAT is also collected on imported products (currently 20%). It is based on the value of the imported goods including duties and all additional taxes.
- Excises are applied on carpets (40%).

### **3. NON-TARIFF BARRIERS**

#### ***Registration, documentation and customs procedures***

- Most complaints of importers stress the complete lack of transparency and the unpredictability of the Ukrainian customs rules.

#### **1. Visas, documents required for clearance**

- The customs declaration is made on a single document (Unifikovanyi Administrativniy Dokument) which is similar to the EU single document.

<sup>109</sup> Market Access Database. Updated on 22/10/1998

<sup>110</sup> Regulation of the Cabinet of Ministers of Ukraine nr 133, of 2 march 1994.

- The following documents are required in customs:
  - the signed sales contract,
  - the invoice (2 copies); the invoice may be required in Ukrainian,
  - the transportation document,
  - the certificate of origin (2 copies),
  - the packing list (5 copies).
- The following documents may also be required:
  - a certificate of conformity,
  - a warrantee certificate.

## **2. Clearance delays**

- According to authorities, customs clearance usually takes from 18 to 24 hours.

## **3. Customs valuation**

- In reportedly 20% of import operations, customs review the product value according a reference price list. Indicative values for each tariff position are established through information gathered from importers and Ukrainian diplomatic services (see also minimum import prices).

## **4. Classification**

- Only a few operators complained about classification problems occurring during customs clearance.

## **5. Origin requirements**

- A certificate of origin is required for imported textile clothing. It may be delivered by Chambers of Commerce of the country of origin.

### ***Minimum import price***

- In 1998, minimum import prices have been applied on wool coats (50 USD), pants (30 USD), blankets and bed linen.

### ***Import licensing***

- The licensing system does not apply to the import of textile and clothing products.

## ***Standards and other technical requirements***

### **1. Certification / Mutual recognition**

- Some textile products are included in the list of imported products subject to a mandatory certification procedure<sup>111</sup>. Two types of certificates may be obtained : the “certificate of acceptance” based on a foreign certificate (Law NR 333/97-WR of 11.06.1997) and the “certificate of compliance” delivered after a control of the goods.
- The certificates may be requested from the State Committee of Ukraine on Standardisation, Metrology and Certification” or from one of many Ukrainian test and certification institutions.
- The certification procedure itself appears costly and overly detailed

### **3. Sanitary requirements**

### **4. Marking, labelling, Packaging requirements.**

- There is to date no regulation applying to the labelling of durable consumer goods.

### **5. Intellectual property issues (protection of drawings and models).**

- A law on international copyright was adopted in 1997.

## ***Import balancing requirements***

- Foreign currency restrictions have been introduced in the summer of 1998. Advance payment for imports into Ukraine are prohibited. Ukrainian banks may only request foreign currencies for same day exchange transactions and may not keep assets in the form of foreign currency holdings. In addition, commercial banks must observe the exchange rates as set by the National bank. Furthermore international transactions are more strictly controlled.

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<sup>111</sup> Decree nr 46-93 of 10 May 1993.

# URUGUAY

## 1. INTRODUCTION

### *General features of the access to the Uruguayan market*

- Several operators (IT, ES, PT, FR, BE) mentioned problems with this country.
  1. High import duties (customs duties and additional taxes) : some producers of wool cloths have indicated that their products were subject to duties representing 41% of the CIF value.
  2. The existence of a minimal import price or a reference price for textile and clothing products
  3. The existence of a subsidy for wool, wool cloth and wool clothing producers
  4. Some other problems : documents required, classification and credit restrictions.
- However, Uruguay is considered as being the most liberal country of Mercosur. It is a smaller market than Argentina but a very important outlet (Mercosur market). The access to the Uruguayan market appears to be less problematic than at the beginning of the research. Several trade measures apply to the import of textile products and in particular the implementation of a minimum import price system, high import duties for some products. However, these measures do not affect significantly EU exports.

### *Trade in textile products between Uruguay and the EU*

- There is free trade in textile and clothing products between Uruguay and the EU. There is no quantitative restriction affecting the exports of Uruguayan products to the EU. Uruguay is the EU 60th supplier. In 1997, imports of textile and clothing products from Uruguay reached 99 Mio ECU and 25 347 tonnes.
- In 1997, exports of EU textile and clothing products were 38 Mio ECU and 4 426 tonnes. The Community is experiencing a trade deficit (- 61 Mio ECU and -20 000 tonnes).

### *Domestic structure of the textile and clothing industry*

- Uruguay has developed an important domestic industry, specialised in the wool sector (significant producer of wool and producer of carded wool). Ovine livestock is about 23 Mio heads. Most of the wool production is exported (only 5% of the wool is used by the domestic industry).
- Two other sectors are also important: cotton fabrics and synthetic yarns (raw material imported from Mercosur) and the wool fabric industry. The clothing industry produces mainly jeans, women and men woven apparel and some specific knitted articles.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- Interviews with customs and the Ministry of the economy have confirmed that customs duties on Extra-Mercosur products are these of the « AEC » (ex : clothing 23%).
- Applied tariffs for some items were mentioned by Spanish, Italian and French operators as a very important obstacle. These tariffs peaks concern wool items.
- Current rates are as follows <sup>112</sup>:

Type of product	Ad valorem duty
Yarns	10% to 21% silk: 19% wool: 17% cotton: 17 to 19% flax: 10 to 21% synthetic: 19% to 21%
Fabrics	5% to 21% silk: 21% wool: 5% to 21% cotton: 21% flax: 21% synthetic: 5% to 21%
Carpets:	23%
Clothing products	23% 6103: 23% 6105: 23% 6107: 23% 6203: 23% 6205: 23% 6214 23% 6302: 23%
Bed linen	

### *Tariffs predictability (bindings)*

- The WTO consolidated rate for textile and clothing products is 35%

### *Tariffs quotas*

- There are no tariff quotas.

### *Duties and charges other than tariffs*

- Contrarily to what was said by some operators, it is not demonstrated that import taxes increase significantly the total amount of duties. Additional duties and taxes collected by Customs authorities are as follows

<sup>112</sup> Market Access Database. Updated on 11/03/1999

- VAT 18 + 5% of duty paid value
- Tax Banco Republico : 1.1% of the imported value
- Customs service tax : proportional to the value of import. For example, it is 108 USD for imports worth between 8.000 and 30.000 USD.
- Harbour tax : 12 USD by fraction of 200 kg and 0,25% of the CIF value for the loading and unloading.

### ***Minimum import price***

***There is a minimum price regime to define the value on which to apply customs duties***

- Decree 315/93 established a system of minimum prices called "*sistema de precio mínimo a la exportación*" and that in reality applies to the import of most textiles/clothing products in Uruguay and originating from Extra-Mercosur countries <sup>113</sup>.
- The system has been established in 1990 (Decree 523/90, modified by the Decree 315/93). It is meant to offset unfair trade practices through the minimum price taxation of export (MEP) when the export price of the country of origin is inferior to normal international prices. It is aimed therefore at fighting low import prices of textile/clothing products. It originally also concentrated on sugar imports. At that time, Uruguay had no antidumping instrument (such regulation was notified to the WTO in 1996).
- The decree is described as a transparent regulation. Decree 315/93 is the judicial basis defining the criteria on the basis of which competent authorities (Ministry of the Economy) decide to establish or to extend for a year minimum export prices (MEP). The inquiry lasts 6 months. It seeks to establish the existence of the price distortion, the damage caused to economic activity and the causality of one with the other. The enquiry must demonstrate the prejudice or the risk of prejudice to domestic production. Minimum prices are close to international prices applied for similar products. The regime was extended until September 1998 and should soon come to an end according to the authorities.
- The system functions as follows :
  1. When a product is imported into Uruguay, the customs duty is collected on the basis of the highest value between the CIF value and the minimum price (MEP). Example: CIF value of 100 and MEP of 110, the customs duty of 23% is applied on 110.
  2. The MEP system affects the importer when the merchandise is imported at a price inferior to the MEP. In this case, the customs authority not only applies the customs duty on basis of the MEP but it also collects the difference between the price of export (invoice) and the MEP. If, for example, the MEP is 10 and the CIF value is 8, the customs right is paid on the basis of 10 (23% of 10 : 2,3). Moreover, the importer must pay the difference between 8 and 10 (i.e. 2). In total, he pays therefore 12.3, which represents a 54% increase from the initial CIF value. This would explain why some operators, whose product CIF value is inferior to the MEP mention such high import duties – e.g. in the case of wool -.

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<sup>113</sup> D.O 29/7/93.



3. It is therefore in the importer best interest not to import products at a price under the MEP. Indeed, Uruguayan importers confirm that the MEP mainly affects South-Eastern Asian products, especially from China. This system is particularly designed to restrict imports of Chinese products. Uruguay having a commercial surplus with China for textile products (exports of woolltops), authorities do not envisage to take an ATV safeguard clause. Moreover, no regulation provides for the enforcement of a safeguard clause (for the same reasons, Uruguay has no general safeguard instrument).
- Uruguayan authorities as well as importers insist on the small impact of MEP: the list of products covered by minimum prices has been constantly reduced since 1990, from 400 to 150 tariff positions of CN chapters 52, 54, 55, 61, 62 and 63. Furthermore, minimum prices have not been increased for several years. MEP do not affect products originating from the EU whose value is superior to the minimum price.

### 3. NON-TARIFF BARRIERS

#### *Registration, documentation*

- EU operators complained about excessive customs formalities.
  - wrong classification of products, resulting in higher customs duties and blockage
  - systematic blockage of samples
  - inflated customs valuation
  - lengthy clearance procedures

#### 1. Visas, documents required for clearance

- the following documents are required at clearance:
  - commercial invoice,
  - certificate of origin

##### *Commercial invoice*

- The Commercial invoice must be presented in 5 originals in Spanish.

##### *Certificate of origin*

- The Certificate of origin must be presented in original, in Spanish.

#### 2. Clearance delays

- No specific problem reported.

#### 3. Customs valuation

- EU operators and representatives of importers reported some valuation problems. It seems that these cases were due to the application of Minimum Export Prices to clothing products shipped by EU companies but originating in China.

#### 4. Classification

- Some cases were mentioned but there is no major problem.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- No measure concerning the textiles and clothing products are taken for the time being.

#### ***Others***

- The authorities, the representatives of industry as well as the importers have denied the existence of other commercial measures mentioned by operators in questionnaires (subsidy for wool, classification problems or credit restrictions).

# THE US

## 1. INTRODUCTION

### *General features of the access to the US market*

- Several operators mentioned this market to be the source of very important or important problems (DE, ES, PORT, IRL, IT, FR). The barriers indicated in questionnaires and interviews concentrate mainly on four issues:
  - rules of origin,
  - tariff barriers and import taxes;
  - clearance formalities
  - technical barriers (labelling)

### *Trade in textile products between The US and the EU*

- There is free trade in textile and clothing products between the EU and the US (no quantitative restrictions). In 1997, the US was EU 5th. supplier. Imports into the EU of textile and clothing products of US origin reached 2 262.95 Mio ECU and 669 922 tonnes.
- In 1997, exports of EU textile and clothing products to the US reached 4 068.74 Mio ECU and 493 097 tonnes. The EU has a significant trade surplus in value terms (+ 1 805.798 Mio ECU) while having a deficit in volume terms ( - 176 829 tonnes).

### *Domestic structure of the textile and clothing industry*

- The domestic textile and clothing sector employs 1.44 Mio workers (1997), from which .630,000 people are employed in the textile sector.
- US consumption per head continuously increased <sup>114</sup>while the self sufficiency in textiles and clothing will probably continue to decrease (from 80% in 1990 to 74% in 1995, and 66% for 2005)<sup>115</sup>.
- Competitive US textile companies (Burlington, Cone mills, Interface ...) have strengthen their respective competitive position through acquisitions and divestments. They have restructured and most succeeded in improving sales and earnings in 1997<sup>116</sup>. Investments and construction of new plants (e.g. Dupont, Burlington) in Mexico have increased. Even if the prospects for growth were promising at the end of 1997, the US textile industry growth appears to be moderating by mid-1998.

<sup>114</sup> ITMF Country statements 1997, op. cit, p. 34.

<sup>115</sup> China, the UE, Japan and the USA: Forecast s to 2005, Textile outlook international, September 1997, p. 33.

<sup>116</sup> See Trevor A Finnie: Profile of US Textile companies, Textile outlook international, July 1998, p. 154.

- The production decline of the apparel industry was 2.6% in 1997 and 2.2% by mid-1998. It will probably continue as facilities are relocated to the South (Mexico and Latin America). The apparel industry has much suffered from the restructuration process that took place just after the implementation of NAFTA. However, the NAFTA rules offer to US textile companies opportunities to supply the Mexican plants with US raw materials, since clothing manufactured in Mexico from NAFTA yarns and fabrics have duty free access in the US market. Many domestic apparel producers have chosen to relocate the labour intensive parts of their production to Latin America. The domestic apparel industry suffered from the rise in imports in 1997 (+ 12% in value) and in 1998 (+15% in value). Except China and Taiwan, all Asian suppliers increased their export performances, as it is also the case for Mexico and Canada.
- There was a shift in apparel sourcing from Asia to Mexico and the Carribeans (share of Asian countries decreased from 83% in 1980 down to 40% in 1996). In mid 1998, the main suppliers of the US market in textiles and clothing products were Mexico (13%), Canada (9.3%) followed by China (7.7%) and Pakistan (6%). Conversely imports from the EU have decreased.
- Exports represents roughly 10% of the total US production. In 1997, US export growth reached 7.5 billion USD (+8%) in textile and 7 billion USD (+14%) in apparel. The trade deficit widened still further in 1998 (+ 17% in the first 6 months 1998)<sup>117</sup>.

## 2. TARIFF BARRIERS

### *Tariff levels and Uruguay Round commitments*

- US tariffs still constitute a very important obstacle for various EU exporters (ES, PORT, EN, FR, IT). According to a major Wool producer in the EU, it is impossible to sell their products on the US market because of tariff peaks. The main products affected by tariff peaks are **wool products** (27% on some suits and 35% on some wool fabrics), some **synthetic fabrics** or **apparel products** (28,3% on synthetic suits) as well as **embroideries**. Importers avoid importing these products because the level of tariffs makes them too expensive.
- High tariffs on fabrics cause a problem to US manufacturers who want to use EU fabrics (in particular Italian fabrics). In addition, US producers importing Italian fabrics to which high tariffs are applied are in competition with Canadian producers of similar products who can import these inputs at a lower rate (12%) and can also export to the US the manufactured products at a preferential rate (a concession (tariff quota) given by the US to Canada in the context of NAFTA).
- High tariffs on high quality apparel do not stop EU exports but these remain restricted and cannot develop (e.g. synthetic and wool men suits).

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<sup>117</sup> Idem, p. 19.

- Current rates are as follows <sup>118</sup>:

Type of product	Ad valorem duty
Yarns	2.5% to 12.21% silk: 2.5% wool: 7.5% cotton: 2.5 to 12% flax: 3.0 to 3.3% synthetic: 0 to 12.2%
Fabrics	0% to 31.5% silk: 0 to 5.8% wool: 0% to 31.5% cotton: 3.9% to 24.8% flax: 1.5% to 19.8% synthetic: 1.7% to 31.5%
Clothing products <sup>119</sup> wool men's suits men suits with 70% silk scarves bed linen	6103.12.10 : 68.8 + 17.8% 6103: 19.60 : 3.4% 1.2. % (silk) to 6.7% (wool) 1.2% to 22.4%

- Tariffs and other import duties are calculated ad valorem on the CIF value of products.

#### ***Tariffs quotas***

- There are no tariffs quotas for textile and clothing products.

#### ***Duties and charges other than tariffs***

- According the EU operators , several additional taxes significantly increase the total amount of taxes paid by the importer. Taxes identified by the industry were as follows: Clearance duty, Harbour fees, Statistical duty, Bond fee requirement.
- In fact, other import duty or additional tax to the Customs duty are :
  - the Merchandise Processing Fee (0.24% with a maximum of 485 USD),
  - the Harbour Maintenance Tax (0.125%),
  - the Cotton Fee (when applicable).
- The purpose of the User fees are to cover the use of customs services (MPF) or the use of harbour belowstructures (HMT).
- The **MPF** sets a Fee schedule for formal entries (over 1250 USD) at a minimum level of 0.24%. For informal entries (under 1250 USD), the fee is 2 USD for automated entries, 5 USD for manual entries not prepared by Customs, and 8 USD for manual entries prepared by Customs. The MPF does not apply to imports from Canada and will be phased out in

<sup>118</sup> Market Acces Database. Updated on 18/01/1999

<sup>119</sup> Given the large variety of applied duties, we took only a few examples.

June 1999 for imports from Mexico.

- **HMT** is an ad valorem fee based on cargo imports and admissions into foreign trade zones. The fee is 0.125% of the value of the cargo and is paid at the time of entry (without a maximum ceiling). Customs deposit the revenues of the fee in the Harbour Maintenance Trust fund. The fund is designed to improve and maintain the equipment of US harbours.
- US importers and retailers are opposed to the **Merchandises Processing Fee (MPF)** and to the **Harbour Maintenance Fee (HMT)**. Their arguments are that (i) developing belowstructure is the role of the government; (ii) being ad valorem, the fees often exceed the services they are supposed to cover (costs of clearance and maintenance of harbour installations); (iii) User Fees are discriminatory and affect especially EU operators shipments of high quality and high value products which are smaller than Asian shipments; (iv) since the decision of US Court of Appeal, exempting exports from the payment of the HMT, only importers are paying for the maintenance of harbour facilities.

### *Cotton fee*

- an **additional import fee** is collected on the **import of all cotton products**. The **Cotton Fee** was established in order to provide money to raw cotton producers (for advertisement purposes). At first, only cotton producers were required to give a financial contribution. The payment of the fee has been extended to all imported cotton products. This creates situations where a given product may be subject to the fee twice. For example, raw cotton is exported to Portugal and manufactured there into clothing. Afterwards it is exported to the US (the fee is paid once by the US producer of raw cotton and a second time by the US apparel importer).
- The level of the fee is calculated according to the price of cotton. The Agriculture Department makes an automatic calculation. Customs authorities transfer the funds collected during clearance to the Cotton Board.

## **3. NON-TARIFF BARRIERS**

### *Customs formalities*

- Problems were reported by the EU industry on customs valuation, product classification, excessive clearance delays, technical requirements on products composition and the bond requirements fee. However, a further investigation including a field mission led to the conclusion that most of these problems were not confirmed, except the following issues:
  - custom valuation increasing the total amount of duties; (2) Wrong product classification increasing the total amount of import duties in particular for wool, viscose and cotton fabrics
  - excessive clearance delays: which cause deterioration of the goods. Various cases of blockage of samples by customs authorities are reported
  - technical requirements on the product composition, established in the technical fiche to be completed by the EU producer, are particularly complex. According to operators,

they include confidential information on the production process (such as the type of dye used, type of finishing technique)

- **bond requirement**: forces the importer to deposit an amount of money as a financial guarantee that the exported textile or apparel products are from the country declared in the certificate of origin

### ***Registration, documentation***

#### **1. Visas, documents required for clearance**

- The documents to be presented before the Customs authority by the importer are the following:
  - an Entry form
  - a legal evidence attesting that the importer is entitled to import the goods (contract..)
  - the commercial invoice
  - certificate of origin;
  - product description
  - bill of lading
  - packing list

#### ***Commercial invoice***

- The Commercial invoice must be presented in 4 original copies in English and signed by the salesman, the carrier or its agent. It must contain detailed information: (air) harbour of destination, date of sale, name and address of the salesman, place and date of emission, the complete name and address of the importer and the exporter, a detailed description of the product (type, quality, marks, numbers and indications used by the salesman or the producer when the sale is made in the export country, marks and number of packing), quantities in weight and measures, price of sale by unit, kind of currencies, all additional costs specified by type and amount, including cost of insurance, commissions, containers packing and costs of packing and all cost related with the transportation of goods from the airport of shipment to the airport of arrival in USA. All refunds, rebates and subsidies granted for the export, country of origin, all goods and services used in the processing of goods and not mentioned in the invoice. At the end of the invoice: name of the responsible for export.
- A Pro Forma invoice can be delivered by the importer against a financial guarantee.

#### ***Certificate of origin***

- A certificate of origin must be presented. US customs do not recognise the EC certificate. For textiles, US customs require a specific certificate of origin according to whether the declaration in customs is, a “single”, a “multiple”, or a “negative declaration”.

#### ***Packing list***

- This is not compulsory but will facilitate clearance. Requirements are the number, types, content weight and measures of pieces /unit.

### ***Bill of lading***

- The bill of lading must include all necessary information related to the number of containers, number and content of each package.

### ***Product description***

- Several EU operators made complaints about the extremely detailed requirements of Customs Authorities to the EU exporter concerning product description. They indicated that these requirements were sometimes difficult to understand. They lead to additional costs and, in some cases, include confidential processing methods (type of finishing, of dyeing, etc.). The lack of a single legal text listing the requirements for each tariff position creates confusion and uncertainty for EU producers.
- There is no a single regulation listing all requirements on products composition. The requirement of any additional information on the imported product is at the discretion of Customs authorities. The importer must provide sufficient information to Customs authorities for classification purposes or in order to determine the origin of the product.
- Product description requirements made by Customs authorities can constitute a financial burden both for EU exporters (time consuming, delays) and importers (delays when additional requirements are made at the time of clearance). In addition, during the liquidation period, Customs may still request any additional information necessary to establish the classification and the country of origin. According to importers, problems are more connected with the strict attitude of Customs when evaluating the accuracy of declarations (e.g. fibre content) than in the amount of information itself. When controlling the accuracy of the declaration, Customs may retain the goods in case of even a slight discrepancy. In the case of the fibre content of textiles, the maximum tolerance for discrepancies between the declaration (e.g. on the invoice) and Customs control analysis is 3%. This is particularly true for wool products for which a slight difference in composition or weight leads to sanctions (retention, penalties).
- The information required depends on the type of product (e.g. products processed from grey fabrics initially imported into EU Member States). In the case of cotton fabrics for instance, Customs will ask the percentage of cotton and of other fibres, the type of weaving and break outs for dyed fabrics. The type of dyeing will be required for the determination of the product origin.
- The amount of information required from the EU producer will depend also on the type of declaration made by the importer to US customs at the time of entry (single or multiple entry). The single entry declaration is a simple form. The multiple entry declaration is more detailed: the importer must describe the processes carried out in each country (e.g. if the fabric was woven in Pakistan, printed and dyed in Spain and assembled in Italy before being exported as a clothing product to the US).
- US Customs administration and the Textile Industry representative justify the amount of information as follows. Firstly, the US tariff structure is much more detailed (10 digit) than



the EU structure (8 digit). Furthermore, tariff levels are not harmonised as is the case in the EU. This explains why US customs need a more detailed description of the imported product. Secondly, the information required aims at fighting quota circumvention. In case of doubt about the origin of textile and clothing products, Customs ask very detailed information, e.g. time cards (workers, salaries), evidence of production capacity (machinery, workers), the number of employees. This is especially the case for products originating in Hong-Kong, China and Macao.

- The importer is responsible for the description of the product and its composition. Therefore, according the US textile industry, the product description requirements are in fact more a problem for the importer than for the EU exporter. In any case, these requirements significantly hinder EU products imports.

#### ***The Bond requirement***

- **The Bond** is part of the formal entry documentation required from the importer, the consignee or the authorised agent for releasing the imported good (entry is the Customs transaction to obtain the release of the goods)<sup>120</sup>. The main purpose of the Bond is to guarantee that proper entry not only covers the payment of estimated duties and taxes but also of “any duty and taxes subsequently found to be due”. It also guarantees redelivery of imported goods into Customs custody if they are found not to comply with applicable laws and regulations (markings, labels, etc.). It is also used with respect to missing documents which are required for clearance (missing invoices, declarations, certificates).
- According to Customs the bond serves as a guarantee for origin purposes (when the Customs find there is circumvention or incorrect marking). For some sensitive countries where circumvention is recurrent, such as Honk-Kong, importers must apply for single entry and single entry bond for each shipment.
- The Bond is in principle due for every single entry but usually, importers pay in advance for a continuous bond covering all their imports. In this case, the bond is calculated on the basis of imports of the previous year (2%). The calculation of the bond is at the discretion of the Director of the Customs Authority at the Harbour of entry. If the importer had previously violated Federal rules, the bond can be increased up to 5%.
- There is a **specific regime for textiles products**, which is stricter (more expensive) than for other imports. In 1997, the US administration increased the bond fee for the import of textile products originating in Honk-Kong and Macao. Threatening to open WTO consultations with these countries, the US administration extended this bond increase to all imported products.
- In 1997, the US administration extended the power of Customs authorities to ask for the return of goods from 30 days up to 210 days (liquidation period) and instituted a penalty equal to 100% of the value of the goods for not complying. Because no operator can afford to block the merchandise over such a long period of time, almost all operators take the risk of selling the goods before the end of the 210 days liquidation period and are exposed to the

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<sup>120</sup> See Customs regulation 19 CFR, part 13. Conditions imposed to the importer are listed in part 162.

penalty. Because the penalty is very high, Customs authorities requested and obtained an additional increase of the Bond to 2% of the value of goods.

- Importers of Italian products confirmed that the Bond is a supplementary charge for the importer but all stressed that it is not excessive, compared to the burden of applied tariffs. The Bond can amount from 2% up to 5% of the total value of imports of previous year.

#### ***Classification***

- EU operators mentioned classification problems in the questionnaires. According to the US authorities, these problem occur rarely. Some cases were however mentioned, including, for example, cashmere products from the EU and for which a re-classification was recently imposed by US Customs for a higher customs duty.

#### ***Extension of the liquidation period***

- The extension of the liquidation period up to 210 days is described by importers as an important trade barrier. In practice, the retailer of EU imported products has no other choice but to infringe the law. Apparel articles often have a short life span (e.g. fashion items must be sold within 2 to 3 months) and therefore have to be marketed immediately. Consequently, the retailer or the importer is often not in a position to re-deliver the goods upon Customs request. In these cases, Customs apply a high penalty (100% of the value of the goods). According to importers, Customs often extend the liquidation period beyond 210 days, sometimes up to a period of 3 years. Customs are not required to give a detailed motivation for extending the liquidation period. There were some cases of extension for minor problems or errors in invoices. This situation has led to uncertainty and added costs due to penalties and to the Bond remaining blocked.

#### ***Customs valuation***

- Customs authorities refer to the transaction value. There are no specific problems with EU products (high quality, expensive products). Problems of undervaluation usually occur with products originating in Asian countries. Customs asked for more detailed information when the EU producer purchased the fabric in a non-EU country. There were some problems with Italian exports (sales for further export, third party sales).

#### ***Rules of origin***

##### **1. New rules of 1996**

- Under the new US rules of origin of 1996<sup>121</sup>, the origin of apparel products is determined by the country where they are assembled. These rules being quite similar to EU rules of origin, there was no complaint made by EU producers of apparel.

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<sup>121</sup> Reference: 19 CFR , section 102.21.

- However, for most products (mainly fabrics, bed and table linen, silk accessories) the country of origin is where the fabric is made.
- Implementation of existing rules of origin was indicated as a major problem by EU operators. Two categories of operators insisted on the impact these rules had on their exports: EU producers of fabrics and of bed and table linen, and producers of silk accessories. This new legislation particularly affected EU products imported into the EU as grey fabric from third countries (such as Pakistan or India) and processed into dyed, printed fabrics or table linen. The difference with the old rules of origin applied before 1996<sup>122</sup> is that the former legislation was based upon a “last transformation standard”: the origin was determined by the country where the last transformation of the product had taken place. In practice, under the previous legislation, an EU producer could import into the EU a grey fabric and give it EU origin through printing and dyeing plus two additional finishing techniques. The resulting product could then be exported to the US with EU origin. Under the new rules, the origin of the product becomes the third country origin (e.g. India or Pakistan). The implementation of this new rule had two main consequences for EU producers. For some, their products were falling under the US quota system. For others (e.g. silk accessories) the new rules requires the products to indicate the name of the country where the fabric was made (e.g. “made in China”).
- Divergent opinions are expressed on some new processing techniques (*dévorage*/ silk & viscose yarns: for the Italian it is a chemical process, which gives the origin, for the US, it is still a printing operation that does not give the origin).

## 2. The agreement with the EU of July 1997

- On 30 July 1997, the EU signed an agreement with the US (hereafter referred to as the PV)<sup>123</sup> with the EU for certain products (silk scarves and fabrics, printed cotton and printed man-made fabrics). The PV concerned specifically two aspects: (1) US authorities agreed to reinstate former rules of origin by introducing a draft bill in Congress after a transition period ending in July 1998; (2) The US authorities exempted a limited number of products from existing marking rules (the requirement to indicate the country where the fabric is produced, i.e. “made in”) in order to allow the import into the US of silk accessories with a different marking. For example, a silk scarf processed (dyed and printed) in Italy with imported silk fabric could be marked “designed in Italy with Chinese fabric”. The US administration presented an amendment to the existing law in order to grant the exemption. The draft bill introduced in Congress was finally not adopted.

## 3. Implementation of the PV

- According to Italian operators FEDERTESSILE, there still are difficulties in the implementation of this agreement.
- Importers will continue to suffer from the negative effects of the PV not being implemented in two ways.

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<sup>122</sup> See 19 CFR (1995) 12.130.

<sup>123</sup> Procès Verbal WT/DS85/9 G/RO/D/1/add1 G/TBT/D/D/13/add1, pages 4-5

- **The part of the Agreement on Marking.** Under the P.V., the US Authorities had agreed to amend the marking law<sup>124</sup> and to exempt imported silk scarves and silk fabrics from marking requirements. Under this amendment, silk scarves and dyed and printed fabrics will not have to be marked as “made in “(China or other) but could be marked with any of the appellations set out in the annex of the agreement (such as created in Italy, designed in Italy etc.).
- In the absence of a formal amendment of the existing rules, the importer is still subject to current rules on marking. The Customs can theoretically stop imported goods marked with “created in Italy” instead of “made in China”. Many importers do not want to take the risk of infringing the law. Therefore, they mark the products “made in China” and in some cases add “created in Italy”.
- The authorities needed to modify existing rules in order to enforce the PV. The draft bill to exempt silk scarves and accessories from marking requirements was introduced in Congress in early 1998. It has not been approved so far.
- The consequences of the extension of current marking rules is difficult to evaluate. However, some examples indicate its possible effects. Before 1996, some importers of Italian scarves, were forced to change their sources and now import silk scarves entirely made in Italy from Italian silk yarns. An American importer importing scarves produced in Korea declared that the present rules prevent US producers from carrying out transformation (“ennoblissement”) in Europe (for the moment they print scarves in Korea) because it is more expensive, with the same result (made in China).
- **Return to the previous rules of origin.** Importers indicated various problems. The most important concern is the exclusion of finished products from the exemption regime agreed under the PV. According to the US administration and to the US Textile Industry Association, these products were never included in the negotiations between the Commission and the US. According to the Importers association, printed and dyed products and products thereof were included in the exemption in an initial draft version of the Agreement but the final version of the PV did not include a US commitment to apply previous US rules of origin to these products.
- The PV was not implemented because Congress has not accepted the Amendment to section 334 of the Uruguay Round Agreements Act clarifying rules of origin with respect to certain textiles products which was presented to the House of Representatives on 9 September 1998.
- Current rules applying to EU exports only directly affect a category of importers (i.e. these importing textiles and silk accessories). A number of importers interviewed during the mission were importing either clothing products or finished products processed with EU fabrics. This explains why the information gathered is more limited than had been anticipated.
- The change in origin rules has affected more acutely the importers of woven fabrics, than the producers/importers of apparel products. However, in the case of multiple entry

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<sup>124</sup> 19 USC 1304, general country of origin marking law.

declarations (when the apparel product is processed in various countries –yarns, fabrics, clothing-), customs may require a lot of information to check the product origin. This is particularly the case for apparel products from Asia. US Customs have special teams surveying Asian factories and checking their production. Therefore Customs can request information such as : label records, material delivery record, sewing records (even for EU companies). The importers estimate that the development of US Customs control teams will also affect EU countries (e.g. verification if a men suit is really assembled in Italy, checks on the number of machines, employees etc.).

## 2. Clearance delays

- There are various evaluations. Successful private companies with good customs agents may clear customs rapidly while others may take several weeks.

### ***Minimum import price***

- No minimum import price system.

### ***Import quotas***

- EU operators complained about the implementation of import quotas. However, there is no import quota applying to the import of textile and clothing products originating in the EU.
- Quotas are applied for products partly processed under OPT outside the EU (mainly China and other Asian markets). According to existing rules of origin, these products are not considered to be of EU origin and fall consequently under existing quotas applied by USA to imports from Asia.

### ***Standards and other technical requirements***

- In questionnaires, EU operators had indicated several technical measures affecting their exports: conformity controls, certification, sanitary requirements and labelling requirements. The only technical measure applied to the import of textiles and clothing is the labelling legislation.

## 1. Quality and conformity controls

- EU operators had complained about quality and conformity controls. However, the research demonstrated that there is no specific control on quality or conformity implemented by Customs authorities during clearance or even by independent surveillance agencies before shipment (no pre-shipment inspection for EU products). The only conformity control is performed by the Verification Units in order to verify the compliance with the labelling legislation (see below). However, these controls are not compulsory.

## 2. Certification / Mutual recognition

- There is no specific regulation on certification.

### 3. Labelling regulations

- EU operators identified various technical measures as causing difficulties: labelling, conformity controls, certification, sanitary regulation.
- According to the FTC (Federal Trade Commission) and Customs the only technical requirement is the labelling legislation: the General legislation and the wool labelling legislation (Wool labelling Act of 1939). There were no complaints regarding certification or sanitary requirements for textile. According to Customs, however, pyjamas for children may be subject to additional requirements. The Responsible Agency to be contacted is the Consumer Product Safety Commission (CAPS).
- The main texts in force are the Textiles Fibre Product Identification Act of 1957, for textile products and the Wool Products Labelling Act of 1939, for wool products. Furthermore, some 30 US States have requirements in addition to the Federal legislation. The FTC does not have the list of these additional requirements. In any case, these additional requirements are not checked by Customs officials (they may be checked later by state agents).
- The Textiles Fibre Product Identification Act sets the rules for the stamping, tagging, labelling or marking of all textiles fibre products, unless such products are exempted by Section 12. Any product containing woollen fibre imported into the US (except for carpets, rugs mats and upholsteries more than 20 years old) must be tagged, labelled or otherwise clearly marked as required in the Wool Products Labelling act of 1939
- Labelling requirements include (1) the fibre content, (2) the country of origin, (3) the name and the importer registration number, and (4) the care instructions and the size.
- Customs have their own marking requirements, distinct from the marking regulations<sup>125</sup>. Customs is the agency that determines the country of origin and check if the origin marking (“made in”) is appropriate. Customs check the conformity to FTC regulations on marking and labelling of textile products, especially regarding product identification and care instructions. While inspecting the goods, Customs also check the labelling requirements and when necessary inform the FTC about possible infringements of the Textiles Fibres Act or of the Wool Act. According to the information provided by Customs, FTC officials will in turn advise Customs officials either to release the goods or to retain them for re-labelling purposes. The FTC will also decide on a penalty.
- Contrarily to what was said by some EU operators, the indication of size is not a federal requirement. This means that Customs will not block the goods for lack of size indication or sizes different to the US standard.
- The FTC does not have inspectors in Customs. However, some controls are carried out by FTC inspectors in domestic shops in order to control product conformity to labelling requirements. Such controls are made at random. When, for instance, inappropriate care instructions are found, the FTC may impose penalties.

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<sup>125</sup> Ref: 19 US States code 1304. Implementation regulation: 19 CFR part. 134.

- EU operators also complained about additional requirements other than Federal requirements. According to Customs, any requirement for labelling other than the Federal legislation on labelling and consumer protection (i.e. a State regulation) is legal as long as it does not conflict with federal rules (e.g. the State of California may ask for additional information on the identity of the importer).
- Some EU producers of clothing products complained about the labelling requirements and the fact that the label must be placed in the collar of the imported piece of clothing.
- According to a few importers, domestic manufacturers are not controlled on a regular basis (or are not controlled at all). This causes a discrimination against imported products which are much more controlled. The absence of control on domestic products affects even the care instruction labelling: the FTC, which is the agency responsible for domestic controls, has no inspectors to carry them out.
- The importer must provide a detailed description of the imported product made by the EU operator. This information must be either on the invoice or attached to it. There is no indicated compulsory format for the description.

#### ***Antidumping, countervailing duties/actions and safeguard measures***

- **Antidumping duties** apply: to imports of

rayon staple fibre originating in Finland (since 1979).

rayon yarn originating in Germany (since 30 June 1992)

aramid fibre originating in the Netherlands (since 24 August 1996)

spun rayon single yarn originating in Austria (since 8 August 1997)

- **Countervailing duties** are applied against the import of staple fibre originating in Sweden.

#### ***Others***

- An operator denounced the enforcement of the last extension of the “Berry amendment Act” (1997). According to operators, EU products are fully excluded from military sectors and domestic producers benefit from an exclusive supply position. This regulation aims at giving an exclusive advantage to US providers of the US army as well as to US companies whose production is used for civil and military purposes.

#### ***Impact***

- The impact estimation varies significantly depending on the operators, their level of production, as well as that of their exports to the USA.
- For most EU operators oriented towards the US market, the advantage granted to US producers by the identified barriers is above 20% (ES, PORT, NL). If barriers were eliminated, EU operators estimate the possible increase in their turnover to be above 25% (DE, PORT, EN, FR, NL, ES).

- In one case, an operator reported a loss of 5% in volume terms as a result of the Berry amendment act. This provision creates an uncertainty which can provoke a strong indirect damage



## VIETNAM

### 1. INTRODUCTION

#### *Market Access situation*

- Spanish, French, Italian and Belgium operators mentioned that they encounter important problems to export to Vietnam. They indicated that the tariff level constitutes the most important obstacle along with burdensome clearance procedures.

#### *Trade in textile products between Vietnam and the EU*

- Trade in textile and clothing products between Vietnam and the EU is regulated by a Bilateral Agreement. Under this agreement, exports of some textiles and clothing from Vietnam are limited to the quantities provided in Annex of the Agreement. In 1997, Vietnam was the EU 28th. supplier of textile and clothing products. Imports into the EU of textile and clothing products from Vietnam reached 493.7 Mio ECU and 29 158 tonnes.
- Over the same period, exports of EU textile and clothing products to Vietnam were modest (50.35 Mio ECU and 4 579 tonnes).

#### *Textile and clothing domestic industry*

- The textile industry is the fifth industrial sector of Vietnam. Although IPT is currently a major aspect of the Vietnamese textile industry, Vietnamese domestic enterprises are encouraged to turn to the production of their own models. This is accompanied by the acceptance of foreign investment. The textile sector is also given priority because it is labour intensive.
- A growing part of the Vietnamese textile production is exported (817 Mio USD in 1996, 1.3 billion USD in 1997). This indicates the progress made since the collapse of low and medium quality products export markets at the end of the 1980s. The upgrading of production equipment remains problematic due to the lack of financing. However, foreign investments project have increased (94 Mio USD by 1996) and access to better quality raw material has improved. Indeed, import dependence for raw materials is significant (426 Mio USD including IPT in 1997) but remains largely under the level of exports. Furthermore the Vietnamese Government has taken steps to encourage the domestic cotton production. Among exporters to Vietnam, Germany (10 Mio USD) and France (6 Mio USD) are the leading European countries.

## 2. TARIFF BARRIERS

### *Tariff levels*

- Current applied levels are as follows <sup>126</sup>:

Type of product	
Yarns	5% to 25% silk: 10% wool: 20% cotton: 25% flax: 5% synth. 25%
Fabrics	35% to 40% silk: 35% wool: 35% cotton: 40% flax: 40% synth. 40%
Clothing products	50%%

### *Tariffs predictability (bindings)*

- Vietnam is not a member of the WTO.

### *Tariffs quotas*

### *Duties and charges other than tariffs*

- VAT is in force since 1998 and is collected on imported products (CIF value plus tariff duty). The VAT rate is variable and reaches a maximum of 21%. There is also a luxury tax, reportedly not applying to textiles and clothing.

## 3. NON-TARIFF BARRIERS

### *Registration, documentation and customs procedures*

#### 1. Visas, documents required for clearance

- The following documents are required for customs clearance
  - customs declaration made by the Vietnamese importer,
  - quality certificate,
  - quantity certificate
  - certificate of origin (form T),
  - bill of lading,

<sup>126</sup> Market Access Database. Updated on 03/06/1998

- commercial invoice and contract.

## **2. Origin requirements**

- A certificate of origin is required for all products. According to the EU-Vietnam Agreement on textiles, the origin is granted subject to two transformations (60% to 65% of the value).
- The certificate is delivered by accredited authorities in the country of origin, e.g. the Chambers of Commerce and Industry. Vietnamese customs may contest this certificate and require the establishment of a new certificate by specialised companies such as SGS.

### ***Import quotas***

- There are no import quotas applicable to EU products.

### ***Import surveillance***

Importers are required to be registered. About 50% of the importers are private companies.

### ***Standards and other technical requirements***

#### **1. Certification / Mutual recognition**

- Certification documents vary according to the product concerned. For instance, there are sanitary controls for foodstuffs. For textile products, a quality certificate is required in most cases.

#### **2. Intellectual property issues (protection of drawings and models).**

- The legislation on the protection of industrial designs and models includes two texts : the Decree enforced by the ordinance NR 13 LCT/HDNN 8 of the State Council of 11 February 1989 on the protection of industrial property rights and the Ordinance enforced by the Decree of the council of Ministers NR 85 HDBT of 13 may 1988. The former text includes the provisions on the legal recourses open to intellectual property right holders. The latter deals specifically with the definition and protection of industrial designs and models.

### ***Export restrictions***

- There are no export quotas on textile products. However, the EU-Vietnam Agreement appears to contain such provisions.

**Others**

- ITP schemes include two systems : the suspension of tariffs duties and the drawback of tariff duties.

## CONCLUSION

### 1. Identification of trade barriers affecting EU exports of textile products

- The main objective of the study was to identify trade barriers affecting EU exports of textile products implemented by 24 third countries. The enquiry conducted in collaboration with the EU textile industry enabled to identify a certain number of trade measures suspected to hamper significantly our exports.
- The task of the consultant was to check in each case the existence and the implementation of the alleged trade barriers. For some countries, it was possible to conduct an in depth investigation. In some cases, it was concluded that the trade measure either did not exist anymore or did not hamper EU exports. Various alleged obstacles to trade were confirmed to be applied by certain countries under review

#### 1.1. The countries under review

- Some countries are causing increasing difficulties to EU exporters. These countries are either already important export markets for the EU textile industry or markets recently opened to free trade where they encounter huge difficulties to export. Operators have indeed indicated their concern in seeing trade barriers removed in particular in the following countries:
- The **USA** and **Mexico** were clearly identified as priority countries by the Industry. The implementation of NAFTA creates more problems than expected. This is important not only from the specific perspective of the textile sector, but also from a general point of view. However, the result of the field missions shows that the Mexican market causes more difficulties than the US market.
- The **Mercosur zone** poses significant problems and especially **Brazil** and **Argentina** which are constantly mentioned. There exists a huge variety of restrictions, and a danger of expansion of these restrictions at the Mercosur level.
- For the time being, operators mention less problems with Asian countries than expected. This situation results from the Asian financial crisis and present economic circumstances (e.g. currency devaluation) which have drastically reduced EU exports to these countries. Nevertheless, this may change in the future. **India**, and, to a lesser extent, **Pakistan**, are however important exceptions and are considered as priority countries for future action. For the time being, and given specific circumstances affecting South Asian countries (reduction of trade and consequently the number of trade barriers and their impact) these countries were not considered as target countries in this study. This does not mean that these markets are not problematic under normal circumstances and that their level of priority for the industry and Commission services could not change in the near future.
- In addition, in the Mediterranean, **Egypt** appeared as one of the most protectionist markets for EU exports of textile products and for the supply of raw materials.

- China and Russia create problems, as expected. As usual, information on these two countries was difficult to gather and many problems do not come from the national regulations or their implementation. In any case, considering current negotiations regarding their accession to WTO, it must be expected that legal procedures will be less effective than political pressures. This explains why these markets are not considered as priority markets in terms of their import and export regime.
- Central European markets (Poland, Czech Republic, Romania) were found less problematic than indicated at the first stage of the research (see interim report). There were only a few complaints made by the EU industry. A detailed research undertaken with the export textile companies concerned confirmed either that the problems evoked at a earlier stage were solved or that they were bearable. Consequently, the consultant, in agreement with the Commission services, devoted more time to the analysis of the numerous trade barriers identified by the industry for the most difficult export markets (e.g. Argentina, Brazil, Egypt, India, Pakistan, Mexico and the US)

## 1.2. The categories of barriers involved

The main barriers identified by EU operators for the countries under review are as follows:

- Many countries under review implement import taxes and tariffs, additional duties. These are often discriminatory and increase significantly the total amount of import duties. (e.g. Argentina, Brazil, India, Pakistan, Mexico).
- A lot of trade barriers mentioned concern customs rules (customs valuation, product composition requirements). Complicated questions relating to origin rules and certificate of origin requirements were encountered in various countries (Argentina, Mexico, Egypt, USA).
- There is a clear growth of trade problems related to labelling and marking requirements, which are either difficult or costly to respond to (Mexico, Argentina, Egypt, Russia, India, Brazil).
- Problems concerning various forms of intellectual property seemed certainly more numerous than expected at first but concrete information on these problems is often difficult to obtain.

## 2. Analysis

- The present report has been realised in a specific economic and geopolitical context. This explains its particular characteristics, which are easily noticeable for the experimented observers of the international trade in textile and clothing.
- From the economic point of view, a violent crisis erupted in South-East Asia during 1997 and 1998. The economic growth became negative, the currencies went down, the importations declined. European exports in that direction declined also considerably. Complaints from European producers are therefore abnormally limited. This explains the limited place of South-East Asia countries in this report.

- From the legal point of view, the trade disarmament decided in the textile and clothing sector during the Uruguay Round negotiations has finally begun to take place. Consequently, some classical barriers have disappeared. By compensation, other barriers have appeared. One obvious lesson of the present report is that this requires a reorientation of the trade negotiations.

### **2.1. The growth of customs and technical barriers**

- The liberalisation of textile and clothing trade in developing countries does not result in very significant business opportunities for the European producers, most often because important trade barriers remain. In various countries, the reduction of traditional quantitative restrictions is compensated by the growth of new non tariff barriers. Mostly, these barriers can be divided into two different categories : customs barriers on one side, technical barriers on the other one.
- Paradoxically, customs barriers (very complex requirements about the description of products, costly and burdensome certificates of origin, need of a direct transportation between the country of origin of the product and the final consumption country) often create more difficult problems from the legal point of view. Before the Uruguay Round negotiations, trade conflicts based on customs regulations were relatively rare between developed countries. Moreover, the World Customs Unions often provided solutions. Trade conflicts with developing countries did not concern as much customs practices than quantitative restrictions. Now the number of customs conflicts with developing countries grows in a relatively poor regulatory context. Hence the extreme importance of articles 4 and 7 of the ATC agreement.
- Technical barriers have already been dealt with by a special GATT agreement. Nevertheless, most developing countries were not bound by this agreement until 1995. The scope of the agreement was not as broad as it is now. The jurisprudence has consequently remained limited. That is why articles 4 and 7 of the ATC agreement still provide essential arguments in this debate. Furthermore, most problems come from measures which are not pure “technical” barriers, though covered by the agreement. They mostly concern marks of origin, other marking requirements, or labelling.
- In some countries (India, Brazil), it remains necessary to observe the implementation of the WTO agreement about licensing procedures.

### **2.2. The increasing problems created by regional integrations**

- The second essential lesson of the present report is the growth of problems created by regional integrations, such as NAFTA or MERCOSUR. This is particularly the case in MERCOSUR, since the presence of developed countries in NAFTA limits the scope of the problem.
- The creation of such zones offers the opportunity to apply discriminatory treatment to third countries, very often in the fields of customs requirements and technical regulations. Moreover, this can create some kind of contagion, where the worst practices are

disseminated into countries which had previously better behaved. This requires a particular surveillance in the future.

### **3. The strategy**

- In such an evolving context, it is naturally difficult to present long term recommendations. Nevertheless, some basic orientations can be useful and a few difficulties can already be foreseen.
- Various legal interpretations of articles 4 and 7 of the ATC agreement are possible. Nevertheless, the EU should adopt the broadest one and increase its consultations about the new customs and technical barriers in the WTO. It would be very positive to define a set of basic principles in this context to increase the real efficiency of these provisions.
- This strong approach must also be taken in the context of bilateral negotiations about new agreements (Mexico and Egypt are obvious examples).
- This approach must also be taken in the present negotiations about the accession of China and Russia to the WTO. It is obvious that these two countries are already preparing some kind of rebalancing of their protectionist arsenal. If this is not foreseen, the opening of an increased access to the Chinese and Russian products risks creating a huge trade imbalance. This threat has of course been increased by the present economic crisis in South-East Asia and in Russia.
- This approach must finally be taken in the EU policy of encouraging regional trade integrations in the developing world. This is absolutely necessary to prevent some kind of contagious spreading of malpractices. Otherwise, trade-diverting effects will become much stronger than trade-creating ones in these new regional zones.
- We suggest to give a particular attention to the problems related to customs and technical barriers in the next WTO negotiation. These could be addressed, at least partially, in the context of discussions on « *trade facilitation* », but are likely to go beyond them. Otherwise, there is a risk that increased competitive pressures in the European market, due to its openness is not matched by new opportunities resulting from a real opening in developing countries.
- From that point of view, one could wonder whether it would not be opportune to integrate some basic texts and principles of the World Customs Organisation in the WTO rules (just as the TRIPS agreement has harmonised and integrated basic principles of some essential WIPO conventions).



***ANNEXE 3:  
LIST OF ACRONYMS***

## LIST OF ACRONYMS

AEC :	Arancel Externo Común
AFRMM :	Import Tax for the Renovation of the Merchant Fleet (Brazil)
ALADI :	Association of Latin American Integration
APT	Associação Portuguesa de Têxteis e Vestuário
ASEAN :	Association of South-East Asian Nations
ATEVAL	Asociación de empresas textiles de la Comunidad valenciana
ATC :	Agreement on Textile and Clothing
BACEM :	Central Bank of Brazil
CANAINTEX :	Mexican Association of Textile Producers
CCPIT :	China Council for Promotino of International Trade
CCZ :	Conformity mark (Czech Republic)
CGC :	Fiscal Registration Number (Brazil)
CEEC :	Central and Eastern European Countries
CIE	Consejo Intertextil (España)
CIS :	Community of Independant States
CN :	Combined Nomenclature
CNSIEC :	Silk Purchase Agency (China)
CONMETRO :	Brazilian Institute of Normalisation
CUIT :	Fiscal Registration Number (Argentina)
DECEX :	Department of SESEX
DGFT :	Directorate General of Foreign Trade (India)
DTA :	Derecho de Tramite Aduanero (Clearance Duty, Mexico)
EDI :	Electronic Data Interchange (China)
ERSAP :	General Restructuration Plan of the Egyptian Economy
EU :	European Union
EUR :	Certificate of Origin (EC)
EURATEX :	European Apparel and Textile Organisation
EXIM :	Export/ Import
FEBELTEX	Belgium textile Federation
FEDERTESSILE :	Italian Association of Textile and Clothing Producers
FOB :	Free On Board
FTC :	Federal Trade Commission (USA)
GDP :	Gross Domestic Product
GOIEC :	General Organization of Import and Export Control (Egypt)
GOSSTANDARD :	Certification Institute (Russia)
GST :	Goods and Services Tax (Canada)
HMF :	Harbour Maintenance Fee (See HMT)
HMT :	Harbour Maintenance Tax (USA)
HST :	Harmonized Sales Tax (Canada)
HS :	Harmonized System
HUF :	Hungarian Currency
ICMS :	Import Tax (Brazil)
IMF :	International Monetary Fund
INCOMEX :	Institute of External Trade (Colombia)
IPT :	Inward Processing Traffic
IVA	Value Added Tax (Mexico/Argentina/Colombia/Paraguay/.Uruguay):

LC	Letter of Credit:
LE :	Egyptian Currency
LEALTAD COMERCIAL :	Service of the Ministry of Economy (Argentina)
M.F.N. :	Most Favourite Nation
MEOSP :	Ministry of Economy (Argentina)
MEP :	Minimum Export Price
MERCOSUR :	Mercado Comun del Sur
Mio :	Million
MOFTEC :	Ministry of Foreign Trade (China)
MoU :	Memorandum of Understanding (India/Pakistan)
MPF :	Merchandise Processing Fee (USA)
NAFTA :	North American Free Trade Association
NAL :	Non Automatic License (India)
OPT :	Outward Processing Traffic
P.V. :	Procès-Verbal
PCTC :	Comitte for test and certification (Poland)
Rs :	Roupiés (Indian Currency)
RSA :	Republic of South Africa
RUC :	Fiscal Registration Number (Paraguay)
SABS :	Quality Scheme (South Africa)
SACI :	State Administration of Import and Export Commodities Inspections (China)
SADD :	Special Additional Duty (India)
SAR :	South African Republic
SECOFI :	Secretaría de Comercio y de Fomento Industrial (Mexico)
SEK :	Product Safety Label
SESEX :	Ministry of External Trade (Brazil)
SEZ :	Special Economic Zones (China)
SGS :	Société Générale de Surveillance (pré-embarquemnt)
SIL :	Special Import License (India)
SISCOMEX :	Computerized System for Import Licenses (Brazil)
SME :	Small and Medium Entreprises
SQM :	Square Meters
SRF :	Secretary of Federal Income (Brazil)
TBR :	Trade Barriers Regulation
TBT :	Technical Barrier to Trade
TCA :	Textiles and Clothing Agreement
TDRO :	Textile Commissionner Office
TEXTIMEI :	Hungarian certification institute
VERITAS :	Pre-shipment Inspection (Argentina)
WCO :	World Customs Organization
WTO :	World Trade Organization
YEN :	Japanese Currency
ZAR :	South African Currency