

**UNITED STATES OF AMERICA
and
MALAYSIA**

**Exchange of notes constituting an agreement relating to
trade in textiles and textile products (with annexes).
Kuala Lumpur, 17 May and 8 June 1978**

**Exchange of letters constituting an agreement amending the
above-mentioned Agreement. New York, 20 October
1978, and Washington, 29 November 1978**

Authentic texts: English.

Registered by the United States of America on 14 November 1979.

**ÉTATS-UNIS D'AMÉRIQUE
et
MALAISIE**

**Échange de notes constituant un accord relatif au commerce
des textiles et produits textiles (avec annexes). Kuala
Lumpur, 17 mai et 8 juin 1978**

**Échange de lettres constituant un accord modifiant l'Accord
susmentionné. New York, 20 octobre 1978, et Wash-
ington, 29 novembre 1978**

Textes authentiques : anglais.

Enregistrés par les États-Unis d'Amérique le 14 novembre 1979.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND MALAYSIA RELATING TO TRADE IN TEXTILES AND TEXTILE PRODUCTS

I

*The American Ambassador to the Malaysian Deputy Prime Minister
and Minister of Trade and Industry*

EMBASSY OF THE UNITED STATES OF AMERICA
KUALA LUMPUR

May 17, 1978

Excellency,

I have the honor to refer to the Arrangement regarding international trade in textiles (hereinafter referred to as the Arrangement), done at Geneva on December 20, 1973.²

I have also the honor to refer to discussions between representatives of the Government of Malaysia and the Government of the United States of America in Washington from November 11 to November 15, 1977, concerning exports to the United States of cotton, wool and man-made fiber textiles and textile products. As a result of these discussions, and in conformity with Article 4 of the Arrangement, I have the honor to propose, on behalf of the Government of the United States of America, the following agreement relating to trade in cotton, wool and man-made fiber textiles and textile products between Malaysia and the United States:

1. This agreement shall enter into force on January 1, 1978, and shall remain in force through December 31, 1980, except as provided in paragraph 19.

2. Textiles and textile products covered by this agreement shall be classified in three groups, as follows:

<i>Group</i>	<i>Definition</i>
I	Yarns, fabrics, made-up goods and miscellaneous textile products of cotton and man-made fibers. (Categories 300-330, 360-369, 600-630 and 660-669)
II	Apparel of cotton and man-made fibers. (Categories 331-352 and 631-659)
III	Wool textiles and textile products. (Categories 400-469)

The determination of whether a textile or textile product is of cotton, wool, or man-made fiber shall be made in accordance with the terms of paragraph 9. The categories referred to in the above definitions of groups are those summarized in Annex A.

3. Each "Agreement Year" shall be a calendar year, with the first agreement year commencing on January 1, 1978, and ending on December 31, 1978. "Limit" or "limits" means, as the context requires, a group limit, a specific limit, a sub-limit, or any combination thereof, as described in paragraph 5. "Flexibility" means the amount by which a specific limit or sub-limit may be exceeded pursuant to paragraph 7.

4. (A) The system of categories and the rates of conversion into square yards equivalent listed in Annex A shall apply in implementing this agreement except as set out in subparagraph 4 (B).

¹ Came into force on 8 June 1978 by the exchange of the said notes, with retroactive effect from 1 January 1978, in accordance with their provisions.

² United Nations, *Treaty Series*, vol. 930, p. 166.

(B) For purposes of this agreement, and in recognition of the patterns of trade of Malaysia with the United States of America, the groups of categories below are merged and treated as single categories and subcategories as indicated, with limits for categories and sub-limits for subcategories as set out in Annex B:

<i>Categories merged</i>	<i>Designation in agreement</i>	<i>Subcategories</i>
333, 334, 335	333/334/335	333, 334, 335
638, 639	638, 639	639

For purposes of computing charges to group and specific limits and sub-limits for the categories and subcategories cited above, rates of conversion for individual categories set out in Annex A shall be applied.

5. Commencing with the first agreement year, and during the subsequent term of this agreement, the Government of Malaysia shall limit annual exports from Malaysia to the United States of America of cotton, wool, and man-made textiles and textile products manufactured in Malaysia to the group and specific limits and sub-limits set out in Annex B, as such limits may be adjusted in accordance with paragraphs 7 and 8. The limits set out in Annex B do not include any adjustments permitted under paragraphs 7 or 8.

6. (A) Categories not subject to specific limits are subject to consultation levels and to the applicable group limits. Except as specified in Annex C, which sets out certain consultation levels for the first agreement year, consultation levels for each agreement year for categories not subject to a specific limit or subject to Annex C, shall be 1,000,000 square yards equivalent for categories in Group I, 700,000 square yards equivalent for categories in Group II, and 100,000 square yards equivalent for categories in Group III.

(B) In the event the Government of Malaysia wishes to export to the United States of America textiles or textile products in excess of an applicable consultation level, the Government of Malaysia shall request the higher level and the Government of the United States shall consider the request sympathetically and shall respond promptly.

(C) The Government of Malaysia may also request consultation levels in excess of those set out in subparagraph 6(A) for the following agreement year during the last quarter of any agreement year. The Government of the United States will consider the request sympathetically and shall respond promptly. If requested by the Government of Malaysia, the Government of the United States shall consult promptly with the Government of Malaysia with respect to the consultation levels for any categories for which it has not agreed to the request of the Government of Malaysia. Until a mutually satisfactory consultation level for any such category is established, the Government of Malaysia shall not permit exports in such category to exceed the consultation level in force at the time of the request.

7. During any agreement year, and within the applicable group limits for such agreement year, as they may be adjusted pursuant to paragraph 8, any specific limit or sub-limit set out in Annex B may be exceeded by not more than:

- 7 percent if included within Group II, and
- 5 percent if included within Group III.

Adjustments made pursuant to this paragraph are in addition to those pursuant to paragraph 8.

8. (A) In any agreement year, in addition to any adjustments pursuant to paragraph 7 (in the case of specific limits or sub-limits) exports may exceed by 11 percent any group of specific limit or sub-limit by allocating to such limit for that agreement year an unused portion of the corresponding limit for the previous agreement year ("carry-over") or a portion of the corresponding limit for the succeeding agreement year ("carry forward") subject to the following conditions:

- (I) Carry-over may be utilized as available up to 11 percent of the receiving agreement year's applicable limits.

- (II) The combination of carry-over and carry forward shall not exceed 11 percent of the receiving agreement year's applicable limits in any agreement year;
- (III) Carry forward may be utilized up to 6 percent of the receiving agreement year's applicable limits and shall be charged against the immediately following agreement year's corresponding limits.

(B) For purposes of this agreement, a shortfall occurs when exports of textiles or textile products of Malaysian origin to the United States during an agreement year are below any applicable group limit, specific limit or sub-limit. In the agreement year following the shortfall, such exports from Malaysia to the United States of America may be permitted to exceed the group and specific limits and/or sub-limits, subject to the conditions of subparagraph 8(A) by carry-over of shortfalls in the following manner:

- (I) The carry-over shall not exceed the amount of shortfall in either the applicable group limit or any specific limit or sub-limit;
- (II) In the case of shortfall in a category or sub-category subject to a specific limit or sub-limit, the shortfall shall be used in the category or sub-category in which the shortfall occurred; and
- (III) In the case of shortfall not attributable to categories (or combinations of categories) or sub-categories subject to specific limits or sub-limits, the carry-over shall be used in the same group in which the shortfall occurred.

(C) The limits referred to in subparagraphs (A) and (B) of this paragraph are without any adjustment under this paragraph or paragraph 7.

(D) The total adjustments under this paragraph shall be in addition to adjustments to limits permitted by paragraph 7.

9. (A) Tops, yarns, piece goods, made-up articles, garments and other textile manufactured products, all being products which derive their chief characteristics from their textile components, of cotton, wool, or man-made fibers, or blends thereof, in which any or all of those fibers represent either the chief value of the fibers or 50 percent or more by weight (or 17 percent or more by weight of wool) of the product, are subject to this agreement.

(B) For the purposes of this agreement, textile products shall be classified as cotton, wool or man-made fiber textiles if wholly or in chief value of any of these fibers. Any products covered by sub-paragraph 9(A) but not in chief value of cotton, wool or man-made fiber shall be classified as:

- (I) Cotton textiles if containing 50 percent or more by weight of cotton, or if the cotton component exceeds by weight the wool and/or the man-made fiber component;
- (II) Wool textiles if not cotton, and wool equals or exceeds 17 percent by weight of all component fibers; and
- (III) Man-made fiber textiles if neither of the foregoing applies.

10. Mutually satisfactory administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of this agreement, including differences in points of procedure or operation.

11. (A) The Government of the United States of America shall promptly supply the Government of Malaysia with data on monthly imports of cotton, man-made fiber and wool textiles and textile products into the United States of America from Malaysia.

(B) The Government of Malaysia shall promptly supply the Government of the United States of America with data on monthly exports of cotton, man-made fiber and wool textiles and textile products from Malaysia to the United States of America.

(C) Each government agrees to supply promptly any other available statistical data necessary to the implementation of this agreement requested by the other government.

12. The Government of Malaysia shall use its best efforts to space exports from Malaysia to the United States of America within each category or sub-category evenly throughout each agreement year, taking into consideration normal seasonal factors. Exports from Malaysia in excess of authorized levels, if allowed entry into the United States, will be charged to the applicable levels for the agreement year following the year of export.

13. If, having regard to the provisions of the Arrangement, the Government of Malaysia considers that Malaysia is being placed in an inequitable position *vis-à-vis* a third country, the Government of Malaysia may request consultations with the Government of the United States of America with a view to taking appropriate remedial action such as reasonable modification to this agreement. The Government of the United States of America shall consult with the Government of Malaysia in the event of such a request.

14. For the duration of this agreement, the Government of the United States of America shall not invoke the procedures of Article 3 of the Arrangement to request restraint on the export of cotton, wool and man-made fiber textiles and textile products from Malaysia to the United States. Each government reserves its rights under the Arrangement with respect to textiles and textile products not subject to this agreement.

15. The Government of Malaysia shall administer its export control system under this agreement. The Government of the United States of America may assist the Government of Malaysia in implementing the limitation provisions of this agreement by controlling imports of textiles and textile products covered by this agreement.

16. In conformity with Article 12, paragraph (3) of the Arrangement, this agreement shall not apply to exports of handloom fabrics of the Malaysian cottage industry, or handmade Malaysian cottage industry products made of such handloom fabrics, or to traditional Malaysian folklore handicraft textile products, provided that such products are properly certified under arrangements established between the two governments.

17. The Government of the United States of America and the Government of Malaysia agree to consult, upon the request of either government, on any question arising in the implementation of this agreement.

18. The Government of the United States of America and the Government of Malaysia may at any time propose revisions in the terms of this agreement. Each government agrees to consult promptly with the other government about such proposals with a view to making such revisions to this agreement, or taking such other appropriate action as may be mutually agreed upon.

19. Either government may terminate this agreement, effective at the end of an agreement year, by written notice to the other government, to be given at least 90 days prior to the end of such agreement year.

If the foregoing conforms with the understanding of the Government of Malaysia, this note and Your Excellency's note of confirmation on behalf of the Government of Malaysia shall constitute an agreement between our two governments.

Accept, Excellency, the renewed assurances of my highest consideration.

Sincerely yours,

[Signed]

ROBERT H. MILLER
Ambassador

Enclosures

Dato Seri Dr. Mahathir bin Mohamed
Deputy Prime Minister and Minister
of Trade and Industry
International Trade Division
Kuala Lumpur

ANNEX A

<i>Category</i>	<i>Description</i>	<i>Conversion Factor</i>	<i>Unit of Measure</i>
Yarn			
Cotton			
300	Carded	4.6	Lb.
301	Combed	4.6	Lb.
Wool			
400	Tops and yarn	2.0	Lb.
Man-made fiber			
600	Textured	3.5	Lb.
601	Cont. cellulosic	5.2	Lb.
602	Cont. non-cellulosic	11.6	Lb.
603	Spun cellulosic	3.4	Lb.
604	Spun non-cellulosic	4.1	Lb.
605	Other yarns	3.5	Lb.
Fabric			
Cotton			
310	Ginghams	1.0	Syd.
311	Velveteens	1.0	Syd.
312	Corduroy	1.0	Syd.
313	Shecting	1.0	Syd.
314	Broadcloth	1.0	Syd.
315	Printcloths	1.0	Syd.
316	Shirtings	1.0	Syd.
317	Twills and sateens	1.0	Syd.
318	Yarn-dyed	1.0	Syd.
319	Duck	1.0	Syd.
320	Other fabric, n.k.	1.0	Syd.
Wool			
410	Woolens and worsted	1.0	Syd.
411	Tapestries and upholstery	1.0	Syd.
425	Knit	2.0	Lb.
429	Other fabrics	1.0	Syd.
Man-made fiber			
610	Cont. cellulosic, n.k.	1.0	Syd.
611	Spun cellulosic, n.k.	1.0	Syd.
612	Cont. noncellulosic n.k.	1.0	Syd.
613	Spun noncellulosic n.k.	1.0	Syd.
614	Other fabrics, n.k.	1.0	Syd.
625	Knit	7.8	Lb.
626	Pile and tufted	1.0	Syd.
627	Specialty	7.8	Lb.
Cotton			
330	Handkerchiefs	1.7	Dz.
331	Gloves	3.5	Dpr.
332	Hosiery	4.6	Dpr.
333	Suit-type coats, M and B	36.2	Dz.
334	Other coats, M and B	41.3	Dz.
335	Coats, W, G and I	41.3	Dz.
336	Dresses (inc. uniforms)	45.3	Dz.
337	Playsuits, sunsuits, washsuits, creepers	25.0	Dz.
338	Knit shirts (inc. T-shirts, other, and sweatshirts) M and B	7.2	Dz.
339	Knit shirts and blouses (inc. T-shirts, other, and sweatshirts) W, G, and I ..	7.2	Dz.
340	Shirts, n.k.	24.0	Dz.
341	Blouses, n.k.	14.5	Dz.
342	Skirts	17.8	Dz.

<i>Category</i>	<i>Description</i>	<i>Conversion Factor</i>	<i>Unit of Measure</i>
345	Sweaters	36.8	Dz.
347	Trousers, slacks, and shorts (outer) M and B	17.8	Dz.
348	Trousers, slacks, and shorts (outer) W, G, and I	17.8	Dz.
349	Brassieres, etc.	4.8	Dz.
350	Dressing gowns, inc. bathrobes, and beach robes, lounging gowns, house coats, and dusters	51.0	Dz.
351	Pajamas and other nightwear	52.0	Dz.
352	Underwear (inc. union suits)	11.0	Dz.
359	Other apparel	4.6	Lb.
Wool			
431	Gloves	2.1	Dpr.
432	Hosiery	2.8	Dpr.
433	Suit-type coats, M and B	3.0	No.
434	Other coats, M and B	4.5	No.
435	Coats, W, G and I	4.5	No.
436	Dresses	4.1	No.
438	Knit shirts and blouses	15.0	Dz.
440	Shirts and blouses, n.k.	24.0	Dz.
442	Skirts	1.5	No.
443	Suits, M and B	4.5	No.
444	Suits, W, G, and I	4.5	No.
445	Sweaters, M and B	14.88	Dz.
446	Sweaters, W, G, and I	14.88	Dz.
447	Trousers, slacks, and shorts (outer) M and B	1.5	No.
448	Trousers, slacks, and shorts (outer) W, G, and I	1.5	No.
459	Other wool apparel	2.0	Lb.
Man-made fiber			
630	Handkerchiefs	1.7	Dz.
631	Gloves	3.5	Dpr.
632	Hosiery	4.6	Dpr.
633	Suit-type coats, M and B	36.2	Dz.
634	Other coats, M and B	41.3	Dz.
635	Coats, W, G, and I	41.3	Dz.
636	Dresses	45.3	Dz.
637	Playsuits, sunsuits, washsuits, etc.	21.3	Dz.
638	Knit shirts (inc. T-shirts), M and B	18.0	Dz.
639	Knit shirts and blouses (inc. T-shirts), W, G, and I	15.0	Dz.
640	Shirts, n.k.	24.0	Dz.
641	Blouses, n.k.	14.5	Dz.
642	Skirts	17.8	Dz.
643	Suits, M and B	4.5	No.
644	Suits, W, G, and I	4.5	No.
645	Sweaters, M and B	36.8	Dz.
646	Sweaters, W, G, and I	36.8	Dz.
647	Trousers, slacks, and shorts (outer), M and B	17.8	Dz.
648	Trousers, slacks, and shorts (outer), W, G, and I	17.8	Dz.
649	Brassieres, etc.	4.8	Dz.
650	Dressing gowns, inc. bath and beach robes	51.0	Dz.
651	Pajamas and other nightwear	52.0	Dz.
652	Underwear	16.0	Dz.
659	Other apparel	7.8	Lb.
Made-ups and misc.			
Cotton			
360	Pillowcases	1.1	No.
361	Sheets	6.2	No.

<i>Category</i>	<i>Description</i>	<i>Conversion Factor</i>	<i>Unit of Measure</i>
362	Bedspreads and quilts	6.9	No.
363	Terry and other pile towels	0.5	No.
369	Other cotton manufacturers	4.6	Lb.
	Wool		
464	Blankets and auto robes	1.3	Lb.
465	Floor covering	0.1	Sft.
469	Other wool manufactures	2.0	Lb.
	Man-made fiber		
665	Floor coverings	0.1	Sft.
666	Other furnishings	7.8	Lb.
669	Other man-made manufactures	7.8	Lb.

ANNEX B

Group II

	Sye.	21,827,869	23,246,680	24,757,714
Specific Limits				
331	Sye.	1,410,800	1,502,502	1,600,165
333/334/335				
	Doz.	53,235	56,695	60,380
	Sye.	2,100,000	2,236,500	2,381,873
(333) Sub-limit				
	Doz.	(21,271)	(22,654)	(24,127)
	Sye.	(770,000)	(820,050)	(873,353)
(334) Sub-limit				
	Doz.	(18,644)	(19,856)	(21,147)
	Sye.	(770,000)	(820,050)	(873,353)
(335) Sub-limit				
	Doz.	(18,644)	(19,856)	(21,147)
	Sye.	(770,000)	(820,050)	(873,353)
340	Sye.	5,145,181	5,479,618	5,835,793
347	Sye.	1,400,000	1,491,000	1,587,915
348	Sye.	844,833	899,747	958,231
638/639	Doz.	142,222	151,466	161,311
	Sye.	2,400,000	2,556,000	2,722,140
(639) Sub-limit				
	Doz.	(53,333)	(56,800)	(60,492)
	Sye.	(800,000)	(852,000)	(907,382)
<i>Group III</i>				
	Sye.	1,030,000	1,040,300	1,050,703

ANNEX C

CONSULTATION LEVELS (FIRST AGREEMENT YEAR)

<i>Category</i>	<i>Unit</i>	<i>Limit</i>
313	Syd.	1,800,000
315	Syd.	2,000,000
317	Syd.	3,000,000
319	Syd.	1,350,000
320	Syd.	6,500,000
369	Sye.	3,000,000
605	Sye.	3,500,000

<i>Category</i>	<i>Unit</i>	<i>Limit</i>
613	Syd.	2,000,000
338	Sye.	1,500,000
339	Sye.	1,000,000
351	Sye.	2,000,000
640	Sye.	2,000,000
641	Sye.	1,100,000
446	Sye.	200,000

II

MENTERI PERDAGANGAN DAN PERINDUSTRIAN
(MINISTER OF TRADE AND INDUSTRY)
MALAYSIA

Kuala Lumpur, June 8, 1978

Excellency,

I refer to your letter of May 17, 1978, which reads as follows:

[See note I]

I have the honour to confirm that the proposal contained in your letter is acceptable to the Government of Malaysia and that your letter and this reply shall constitute an agreement between our two governments.

Please accept, Your Excellency, assurances of my highest consideration.

Yours sincerely,

[Signed]

Dr. MAHATHIR BIN MOHAMAD
Minister of Trade and Industry
Malaysia

H.E. Mr. Robert H. Miller
Ambassador of the United States of America
Kuala Lumpur

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN
THE UNITED STATES OF AMERICA AND MALAYSIA AMENDING
THE AGREEMENT OF 17 MAY AND 8 JUNE 1978 RELATING TO
TRADE IN TEXTILES AND TEXTILE PRODUCTS²

I

*The Malaysian Assistant Commercial Attaché to the Chief, Textiles
Division, Office of International Trade, Department of State*

KEDUTAAN BESAR MALAYSIA
Bahagian Perdagangan

EMBASSY OF MALAYSIA
Trade Office

October 20, 1978

Our Ref: TC. NYC. 0.202/7 Vol. 2

Dear Mr. St. John,

I have the honour to refer to the Textile Agreement between Malaysia and USA and would like to submit the request of my government seeking an increase of the consultation level in the following categories:

<i>Category</i>	<i>Extra amount requested</i>
317.....	141,667 square yards
613.....	300,000 square yards
339.....	263,058 square yards

Hoping to hear from you soon and thank you for your much appreciated cooperation.
Sincerely,

[Signed]
BAHAR AHMAD
Asst. Commercial Attaché

Mr. Jack St. John
U. S. Department of State
Washington, D.C.

II

*The Deputy Assistant Secretary of State for International Trade Policy
to the Malaysian Assistant Commercial Attaché*

November 29, 1978

Dear Mr. Ahmad,

I refer to the Agreement between the United States of America and Malaysia relating to trade in cotton, wool and man-made fiber textiles, with Annexes, effected by exchange

¹ Came into force on 29 November 1978 by the exchange of the said letters.

² See p. 78 of this volume.

of notes May 17 and June 8, 1978 (the "Agreement"). I also refer to your letter of October 20, 1978, to Mr. John J. St. John, in which you request permission to exceed consultations levels during the first agreement year as follows:

[See letter I]

I am pleased to inform you that my Government agrees to this request, and that this letter and your letter shall constitute an amendment to the Agreement.

Sincerely,

[Signed]

WILLIAM BARRACLOUGH
Deputy Assistant Secretary
for International Trade Policy

Mr. Bahar Ahmad
Embassy of Malaysia
Trade Office
New York, NY
