MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA CONCERNING TRADE IN TEXTILE AND APPAREL PRODUCTS

With a view to further developing the bilateral economic and trade relationship between the United States of America (the "United States") and the People's Republic of China ("China"), providing the textile and apparel industries in the United States and China with a stable and predictable trading environment, and resolving trade concerns through consultations, representatives of the United States and China held friendly and constructive consultations under Paragraph 242 of the *Report of the Working Party for the Accession of China to the World Trade Organization* ("Paragraph 242") concerning trade in Chinese-origin textile and apparel products and agreed as follows:

1. Exports from China and imports into the United States of Chinese-origin textile and apparel products in 2006, 2007, and 2008 shall be subject to this Memorandum.

2. China shall permit the export into the United States, and the United States shall permit the import, of Chinese-origin products in the categories of 200/301, 222, 229, 332/432/632pt (plus baby socks),[1] 338/339pt, 340/640, 345/645/646, 347/348,349/649, 352/652, 359S/659S, 363, 443, 447, 619, 620, 622, 638/639pt, 647/648pt, 666pt,[2] and 847 in accordance with the annual levels indicated in Annex I.

3. The products listed in Annex II are excluded from the categories listed in paragraph 2 and, accordingly, shall not be subject to the agreed levels described in Annex I.

4. China may elect to increase the agreed level for a product category in any year by not more than 2 percent by allocating to such level an unused portion of the base level (or base level as reduced pursuant to "carryforward" provision) for that category from the previous year ("carryover"), or by not more than 3 percent, by allocating to such level a portion of the level for that category for the succeeding agreement year

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[1] Category 632pt covers HTS numbers 6115209010, 6115936020, 6115939020, 6115991420, and 6115991820. Baby socks covers HTS numbers 6111206050, 6111305050, and 6111905050.

[2] Category 666pt - window shades and window blinds - covers HTS numbers ex6303120000 and ex6303922020.

("carryforward"). Any quantity allocated as carryforward in a particular year shall be subtracted from the agreed level for that category in the succeeding year. Combined use of carryover and carryforward in any year may not increase an agreed level for a category by more than 3 percent. No carryover is available in 2006, and no carryforward is available in 2008.

5. The United States and China will cooperate in enforcing the agreed levels and in preventing circumvention of the agreed levels by transshipment, rerouting, false declaration concerning country or place of origin, falsification of official documents, or any other means. If the United States obtains evidence that circumvention has occurred, it may charge the actual quantities of goods that entered the United States in circumvention against the agreed levels for those goods. If the United States and China agree that the United States has erroneously charged any amount against an agreed level, that amount shall be restored to that agreed level.

6. To assist in the administration of this Memorandum, the United States and China will establish an electronic visa system in accordance with the arrangement provided in Annex III.

7. The United States and China will work to create a stable environment for bilateral trade in all textile and apparel products. The United States shall not request consultations with China pursuant to Paragraph 242 with respect to any textile or apparel product integrated into the *General Agreement on Tariffs and Trade 1994* before January 1, 2002. In addition, the United States shall not request consultations with China pursuant to Paragraph 242 with respect to any textile or apparel product listed in Annex I. With respect to all other textile and apparel products not subject to agreed levels under this Memorandum, the United States shall exercise restraint concerning the application of its rights under Paragraph 242.

8. Promptly after the signing of this Memorandum, the United States shall allow entry into the commerce of the United States products[3] that were denied entry before the signing of this Memorandum due to the application of Paragraph 242 in 2005. The products that enter into the commerce of the United States under this paragraph shall not be charged to any of the annual levels listed in Annex I.

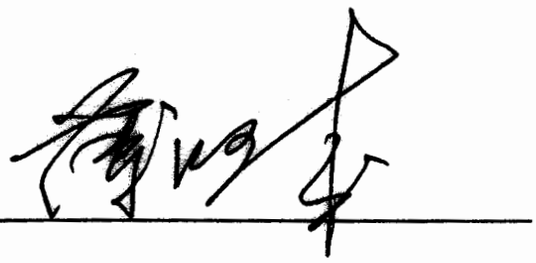
9. The United States and China shall cooperate in a timely manner to resolve any issues related to the application or interpretation of this Memorandum.

10. This Memorandum shall enter into force on January 1, 2006[4], and shall terminate on December 31, 2008.

11. The English and Chinese texts of this Memorandum are equally authentic.

November 8, 2005

United States Trade Representative



Minister of Commerce
People's Republic of China

[3] This paragraph shall not apply to products in category 332/432 and 632 part (*i.e.*, HTS numbers 6115.91.0000, 6115.92.6000, 6115.92.9000, 6115.93.6010, 6115.93.6020, 6115.93.9010, 6115.93.9020, 6115.99.1410, 6115.99.1420, 6115.99.1810, and 6115.99.1820).

[4] Notwithstanding Paragraph 10, Paragraph 8 shall enter into force upon the signing of the this Memorandum.

ANNEX I

AGREED LEVELS OF CERTAIN PRODUCTS

Category	Unit	2006 Level	2007 Level	2008 Level
200/301 - sewing thread/combed cot yarn	kg	7,529,582	8,659,019	10,131,052
222 – knit fabric	kg	15,966,487	18,361,460	21,482,908
229 – special purpose fabric	kg	33,162,019	38,467,942	45,007,492
332/432/632 pt (plus baby socks) - T	dp	64,386,841	73,963,859	85,058,437
sublimit 332/432/632 pt (plus baby socks) – B[5]	dp	61,146,461	70,318,431	80,866,195
338/339 pt– cotton knit shirts	dz	20,822,111	23,424,875	26,938,606
340/640 – MB woven shirts	dz	6,743,644	7,586,600	8,724,590
345/645/646 – sweaters	dz	8,179,211	9,201,612	10,673,870
347/348 - cotton trousers	dz	19,666,049	22,124,305	25,442,951
349/649 – bras	dz	22,785,906	25,634,144	29,479,266
352/652 – underwear	dz	18,948,937	21,317,554	24,515,187
359S/659S – swimwear	kg	4,590,626	5,164,454	5,990,767
363 – pile towels	no	103,316,873	116,231,482	134,828,519
666 pt – window blinds/window shades	kg	964,014	1,084,516	1,268,884
443 - wool suits, MB	no	1,346,082	1,514,342	1,756,637
447 – wool trousers, MB	dz	215,004	241,880	280,581
619 – polyester filament	m2	55,308,506	62,222,069	72,177,600
620 – other syn. filaments	m2	80,197,248	90,221,904	103,755,190
622 – glass fabric	m2	32,265,013	37,104,765	43,412,575
638/639 pt – mmf knit shirts	dz	8,060,063	9,067,571	10,427,707
647/648 pt – mmf trousers	dz	7,960,355	8,955,399	10,298,709
847 – sbvf trousers	dz	17,647,255	19,853,162	23,029,668

General Notes

(1) The products included in the textile and apparel categories listed above and in paragraph 2 of the Memorandum are those set out in the *Correlation: U.S. Textile and Apparel Category System with the Harmonized Tariff Schedule of the United States*, or successor document, published on the website of the Office of Textiles and Apparel, U.S. Department of Commerce.

[5] Excludes HTS number 6115209010.

(2) Imports of a product subject to this Annex shall be charged against the annual level based on the date of export of the product from China. For greater certainty, if the United States allows entry into the commerce of the United States of products denied entry into the United States in 2005 due to the application of Paragraph 242 or for any other reason, those products shall not be charged to any of the annual levels listed above.

(3) The United States may deny entry into the United States of exports of the relevant products in excess of the levels described above. Notwithstanding General Note (2) above, and in accordance with Annex III (ELVIS Arrangement), if the United States permits entry of excess exports, the United States will charge the excess to the applicable agreed level for the succeeding annual period.

[6] Excludes HTS number 6115209010.

ANNEX II

PRODUCTS EXCLUDED FROM COVERAGE

General Notes

The products subject to this Annex are products listed in the Harmonized Tariff Schedule of the United States ("HTS").

Category	HTS	Description
338/339	Ex 6110.20.1025	Knit to shape on flat-bed knitting machines, having a stitch count exceeding 9 stitches per 2 centimeters, but less than or equal to 18 stitches per 2 centimeters, measured on the outer surface of the fabric, in the direction in which the stitches are formed. All of the components of the garment are knit-to-shape and all are looped and linked, including the side seam and pocket (if any).
	Ex 6110.20.1030	
	Ex 6110.20.2065	
	Ex 6110.202075	
	Ex 6110.90.9068	
	Ex 6110.90.9070	
638/639	Ex 6110.30.2050	
	Ex 6110.30.2060	
	Ex 6110.30.3050	
	Ex 6110.30.3055	
	Ex 6110.90.9076	
	Ex 6110.90.9078	
647/648	6203.43.3510	
	6204.63.3010	
	6210.40.5031	
	6210.50.5031	
	6211.20.1525	
	6211.20.1555	

ANNEX III

ELECTRONIC VISA INFORMATION SYSTEM (ELVIS) ARRANGEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND CHINA CONCERNING CERTAIN TEXTILE AND APPAREL PRODUCTS

1. Definitions

A. For the purpose of this Arrangement, the term "textile or apparel products" means the articles listed in the *Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States*, or successor document ("Correlation"), for categories listed in the Memorandum to which this Arrangement is annexed.

B. The term "category" includes part categories and merged categories as established in the Memorandum.

C. An "ELVIS transmission" is a message that the Ministry of Commerce, People's Republic of China ("Ministry of Commerce"), sends electronically to the U.S. Bureau of Customs and Border Protection ("CBP"), that describes a shipment, as set out below.

2. Electronic Visa Information System (ELVIS) Requirements

A. China shall issue an ELVIS transmission for each shipment of textile or apparel products produced or manufactured by China and exported to the United States, regardless of value, that fall within the categories, including part categories and merged categories but excluding products listed in Annex II, listed in the Memorandum, and which are not eligible for the exemptions noted in paragraph 3 of this Arrangement.

Should a category, including a merged category, or part category, be added to or modified in the Memorandum, the additional or modified category shall also be included in the coverage of this Arrangement. Merchandise exported on or after the date the category is added to or modified in the Memorandum shall require a transmission.

The ELVIS transmission shall certify the products' country of origin and shall authorize the United States to charge the shipment against any agreed levels within the Memorandum. The United States recognizes that China shall be free to issue additional documents, such as paper visas or certificates of origin. While these additional

documents will not be a requirement of entry into the United States, CBP may review these documents on a case-by-case basis.

B. CBP will not authorize the entry of a shipment, or its withdrawal from warehouse, for consumption in the customs territory of the United States until it receives an ELVIS transmission.

C. Each transmission shall include the following information:

I. The Visa Number: The Visa Number shall begin with one numeric digit corresponding to the last digit of the year of export from China, followed by the two-character alpha country code specified by the International Organization for Standardization (the code for China is CN), and ending with a six digit numeric serial number identifying the shipment; e.g., 6CN123456. The first digit after the ISO country code should not begin with the number 9.

II. The Date of Issuance: The date of issuance shall be the day, month, and year on which the visa was issued.

III. The correct category(ies), part-category(ies); merged category(ies); quantity(ies), and unit(s) of quantity, e.g., "Cat 340/640- 510 dz." Products covered by a merged category agreed

level must be accompanied by either a transmission referring to the merged category or by a transmission referring to the specific category corresponding to the actual shipment (e.g., if the shipment consists of both category 340 and category 640 merchandise, it may be transmitted as "category 340/640"; if the shipment consists solely of category 340 merchandise, it may be transmitted as "category 340" but not as "category 640"). Quantities must be stated in whole numbers. CBP will not accept a transmission that describes the quantity in decimals or fractions.

IV. The Manufacturer Identification Code (MID). The MID shall begin with CN, followed by the first three characters from each of the first two words (of the English rendition) of the name of the entity performing the origin-conferring operations, followed by the largest number on the address line of the entity, up to the first four digits, followed by the first three letters from the city name where the entity is located. (For example, if the transmission relates to a product manufactured by "Acme Textiles Company", located at 1234 Acme Boulevard, in Shanghai, China, the MID shall be "CNACMTEX1234SHA".)

D. Entry of a shipment:

I. The United States will not permit entry of a shipment if an ELVIS transmission has not been received for the shipment from China.

II. The United States will not permit entry of a shipment if the ELVIS transmission is missing any of the following information:

A. Visa Number
B. Category, Part Category, or Merged Category
C. Quantity
D. Unit of Quantity
E. Date of Issuance, or
F. MID.

III. The United States shall not permit entry of a shipment if the ELVIS transmission for the shipment does not match the information supplied by the importer regarding:

A. Visa Number
B. Category, Part Category, or Merged Category, or
C. Unit of Quantity.

IV. The United States shall not permit entry of a shipment if the quantity being entered is greater than the quantity specified in the transmission.

V. The United States shall not permit entry of a shipment if the Visa Number has previously been used (except in the case of a split shipment) or cancelled.

VI. If the quantity in the ELVIS transmission is greater than that of the shipment, the United States shall permit entry and shall charge only the amount entered against any applicable level.

E. A new, correct transmission from China will be required before a shipment that has been denied entry under Paragraph 2.D will be released.

F. During any period in which the ELVIS is not operating, CBP may detain shipments for up to forty-eight hours after the importer presents the entry to CBP. If the ELVIS fails to operate for more than forty-eight hours, for the remaining period of the system failure, CBP will release shipments on the basis of the visa data provided by the Ministry of Commerce, if the Ministry of Commerce is able to provide that data by some means other than an ELVIS transmission.

The Ministry of Commerce shall promptly retransmit all data that was affected by the system failure when the system is functioning normally.

G. If a shipment from China is allowed entry into the customs territory of the United States based on an incorrect ELVIS transmission or no ELVIS transmission, and the importer does not comply with a CBP request to redeliver the shipment to CBP, CBP will charge the correct quantity and category of the shipment against the appropriate agreed level. Should either Party disagree on such quantity charge, both Parties agree to hold technical consultation for verification on categories charged upon request of the Party. CBP will provide to the Ministry of Commerce monthly data reflecting the quantity charged against the agreed annual level for each category. Where practicable, CBP will provide to the Ministry of Commerce the name of the entity responsible for each shipment charged against the agreed level. .

H. CBP will provide access to ELVIS to enable China to produce electronic reports on visa utilization. These reports will contain:

I. Visa Number

II. Category, Part Category, or Merged Category

III. Unit of Quantity

IV. Quantity Charged to Agreed Level

V. Entry Number

VI. Entry Line Number

3. Other Provisions:

A. Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at $800 dollars or less may be entered without an ELVIS transmission, or any other documentation (including a paper visa or certificate of origin) referred to in this Arrangement, and shall not be charged to the agreed levels.

B. The United States shall publish a notice in the Federal Register regarding the Electronic Visa Information System provided for under this Arrangement.

C. The Ministry of Commerce shall provide CBP with two original, clear and reproducible examples of each visa form and stamp, if Ministry of Commerce issues a paper visa.

D. Certification of Origin

I. China will promptly notify CBP of the office(s) responsible for issuing paper certificates of origin to accompany each shipment of products listed in the Memorandum.

II. This paper document will not have an accompanying electronic transmission to CBP.

III. CBP will not require a certificate at time of entry, but may elect to review certificates on a case-by-case basis.

IV. CBP will require an importer to provide a certificate of origin to CBP upon request.

V. China shall promptly verify the authenticity of a certificate of origin upon request by CBP.

VI. The Ministry of Commerce will designate a specific authority in which all documents issued by the Ministry of Commerce that relate to a shipment to the United States (e.g., paper visa and certificate of origin) can be verified for authenticity.

VII. CBP may detain a shipment while CBP and the Ministry of Commerce confirm the authenticity of the documents described in subparagraph VI above.