REPORT OF THE THIRD MEETING (1987)¹

1. The Textiles Surveillance Body held its third meeting of 1987 on 5-10 March.

2. Present at this meeting were the following members and/or alternates: Messrs. Kawaguchi, Keck/Boisnon, Lau/Lee, Randhawa, Rosselli/Portugal, Saila/Wright, Salim and Shepherd.

3. The report of the second meeting has been circulated in COM.TEX/SB/1241.

Notifications under Article 4
Finland/Macao

4. The TSB received a notification from Finland of a new bilateral agreement concluded with Macao for the period 1 January 1987 to 31 December 1991.

5. In this agreement:

(a) the coverage was the same as in the previous agreement;

(b) five clothing categories were placed under restraint, including one category previously under surveillance; a category previously under restraint was made subject to administrative control;

(c) base levels for the previously restrained categories were increased by between 2 and 7.6 per cent over previous restraint levels; the base level for the newly restrained category was 2.2 per cent above the rollback level;

(d) annual growth rates were 2 per cent in one case and 2.5 per cent in the others; for three categories previously restrained, the new growth rates were somewhat higher (between 0.5 and 1.5 per cent) than before. For the remaining category, the growth rate was unchanged;

(e) swing at 5 per cent was now possible among all five categories, and therefore more favourable to Macao than before;

(f) carryover/carry forward were unchanged at 10/5 per cent.

6. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1242)

¹Two hundred and eighth meeting overall
Finland/Korea

7. The TSB received a notification from Finland of a new bilateral agreement concluded with Korea for the period 1 January 1987 to 31 December 1991.

8. In this agreement:

(a) the coverage was substantially reduced, with the removal of nine categories;

(b) the five categories previously restrained were reduced to three by the merger of two categories and placing a restrained category under surveillance;

(c) base levels were 4 per cent over the last year of the previous agreement;

(d) annual growth rates were 2.5 per cent, or 0.5 per cent above previous rates;

(e) swing at 5 per cent, and carryover/carry forward at 10/5 per cent, were unchanged.

9. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1243)

Finland/Thailand

10. The TSB received a notification from Finland of a new bilateral agreement concluded with Thailand for the period 1 January 1987 to 31 December 1990, with the possibility of extension to 31 December 1991.

11. In this agreement:

(a) the coverage was reduced from three to two categories;

(b) one product previously under restraint was made subject to consultation; only one product was restrained;

(c) the base level represented an increase of 9.6 per cent over the last year of the previous agreement and the annual growth rate was increased from 2 to 3 per cent;

(d) carryover/carry forward remained available at 10/5 per cent.

12. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1244)

Finland/India

13. The TSB received a notification from Finland of a new bilateral agreement concluded with India for the period 1 January 1987 to 31 December 1991, with the possibility of extension to 31 December 1992.

14. In this agreement:

(a) the product coverage and the three categories under restraint were unchanged;
(b) the base levels were between 5 and 9 per cent above the restraint levels of the last year of the previous agreement; the annual growth rates, at 2.5 per cent in two cases and 3 per cent in the other, were between 0.5 and 1 per cent higher than previous growth rates;

(c) swing, carryover/carry forward were unchanged at 5 per cent and 11/6 per cent, respectively.

15. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1245)

Finland/Hong Kong

16. The TSB received a notification from Finland of a new bilateral agreement concluded with Hong Kong for the period 1 January 1987 to 31 December 1991.

17. In this agreement:

(a) the product coverage was reduced;

(b) restraints on three categories were maintained and one new category was brought under restraint;

(c) base levels for the previously restrained categories were increased by 3.5 per cent, and annual growth rates at 2 per cent were the same as in the previous agreement; base levels and growth rates for two sub-limits were increased slightly; the base level of the category newly brought under restraint was higher than 6 per cent over previous trade, with annual growth at 2 per cent;

(d) swing, at 5 per cent for all categories, was more favourable to Hong Kong than before;

(e) carryover/carry forward remained unchanged at 11/6 per cent.

18. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1246)

Observation on the bilateral agreements notified by Finland

19. In reviewing the agreements notified by Finland, the TSB gave particular attention to paragraph 12 of the 1986 Protocol of Extension, and noted a statement by Finland in which it reiterated the commitments made in the Textiles Committee on 31 July 1986.

20. In this context, the TSB decided that it would give the same particular attention to that paragraph in reviewing all notifications made by participating countries availing themselves of its provisions.

Sweden/Philippines

21. The TSB received a notification from Sweden of a modification of its agreement with the Philippines, for the period 1 November 1985 to 31 October 1987.

1 Agreements concluded with Sri Lanka (COM.TEX/SB/1233), Macao (COM.TEX/SB/1242), Korea (COM.TEX/SB/1243), Thailand (COM.TEX/SB/1244), India (COM.TEX/SB/1245) and Hong Kong (COM.TEX/SB/1246).
22. Under this modification, the parties agreed to take Group 11a (track suits) out of the Rest Group and establish a restraint limit on it, with no change in the limit for the Rest Group. In order to maintain unchanged the total access under the agreement, the parties also agreed to an equivalent reduction in the restraint level on Group 10 (blouses).

23. The base level for the new restraint was 13.6 per cent higher than 1985 imports, and the growth rate for the last agreement period was 0.3 per cent, resulting in a compounded growth of 6.8 per cent in relation to 1985 imports. Flexibility provisions of the agreement, namely swing, carryover and carry forward at 3 per cent each, with the cumulative use of flexibility at 3 per cent, applied to the new restraint.

24. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1247)

**United States/Thailand**

25. The TSB received a notification from the United States of a further modification of its bilateral agreement with Thailand. The parties agreed to a special carry forward, for the 1986 agreement year only, for the apparel group limit (Group II).

26. After its review, the TSB agreed to transmit this notification to the Textiles Committee. (COM.TEX/SB/1248)

**United States/Philippines**

27. The TSB received a notification from the United States of a three-month extension of its agreement with the Philippines starting 1 January 1987, pending the negotiation of a new agreement between the parties. The TSB agreed to transmit the notification to the Textiles Committee for its information. (COM.TEX/SB/1249)

**Sweden/India, Sweden/Yugoslavia**

28. The TSB began its review of a notification received from Sweden concerning the extensions of its agreements with India and Yugoslavia.

**United States/Yugoslavia**

29. The TSB began its review of a notification received from the United States of a further extension and modification of its agreement with Yugoslavia.

**Notification transmitted under Articles 7 and 8**

**Norway/China**

30. The TSB received a notification from Norway made under Article 4 concerning a bilateral agreement concluded with China, a former participant, but which has not as yet accepted the MFA as extended by the 1986 Protocol.

31. The agreement, concluded for the period 1 January 1986 to 31 December 1988, has replaced the previous restrictions notified by Norway under Article 2:1.

32. The TSB took note of this notification and agreed to transmit it to the Textiles Committee under Articles 7 and 8, for the information of participating countries. (COM.TEX/SB/1250)
Notifications under Articles 7 and 8

33. The TSB received a number of notifications made under Articles 7 and 8 in accordance with the request made by the Textiles Committee that participating countries notify any actions or measures taken regarding trade in textiles with non-participating countries. The TSB agreed to transmit these notifications to participating countries for their information. The following notifications were in question:

(a) **Finland/China**

Finland notified a bilateral agreement concluded with China for the period 1 January 1987 to 31 December 1990. (COM.TEX/SB/1251)

(b) **United States/China**

The United States notified two further amendments of its bilateral agreement with China for the 1986 and 1987 agreement years. (COM.TEX/SB/1252)

(c) **United States/Trinidad and Tobago**

The United States notified a new bilateral agreement concluded with Trinidad and Tobago for the period 1 October 1986 to 31 December 1989. (COM.TEX/SB/1253)

(d) **United States/Haiti**

The United States notified a bilateral agreement concluded with Haiti for the period 1 January 1987 to 31 December 1989. (COM.TEX/SB/1254)

Reference of matter under Article 11:4 and 11:5

**Brazil/EEC**

34. The TSB resumed its review of the matter referred by Brazil under Article 11, paragraphs 4 and 5, of the MFA concerning an action taken by the EEC under Article 11 of the EEC/Brazil bilateral agreement. It also had before it a notification by the EEC under Article 8:4 of the MFA of an adjustment of the 1986 Brazilian quota on Category 1 (cotton yarn) into the Federal Republic of Germany consequent to alleged circumvention of the agreement.

35. The TSB had been requested by Brazil to decide on the question whether the EEC was entitled to apply the provisions of Article 11(4) of the bilateral agreement with Brazil in view of the provisions of Article 8 of the Arrangement and paragraph 22 of the 1986 Protocol of Extension.

36. In accordance with its invitation extended under Article 11, paragraph 2, the TSB received information from Hungary. The Hungarian Government informed the TSB that the Hungarian company which imported the Brazilian cotton yarn had changed the certificates of origin and subsequently shipped the goods to the EEC. The Hungarian Government stated that it had acted in good faith in issuing the relevant certificates of origin and was not responsible for their

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1 COM.TEX/SB/1231, report of the first TSB meeting (1987).
2 The notification is contained in COM.TEX/SB/1255.
3 COM.TEX/SB/1231
misuse. The Hungarian Government informed the TSB of the steps it had taken to reinforce controls for the issuance of certificates of origin in order to prevent recurrence of such incidents.

37. The TSB took note that, following a request by the EEC, Brazil had cooperated by conducting an investigation which, according to the Brazilian Government's finding, showed no involvement on the part of the Brazilian exporting firms. The TSB further noted the Brazilian position that circumvention implied the will, on the exporting side, to commit fraud with respect to quotas established under a bilateral agreement.

38. The TSB also took note that the EEC had conducted an investigation, which, according to the Community, showed no involvement on the part of the importers in Germany. The TSB further noted the position of the EEC that Article 8 of the MFA and paragraph 16 of the 1986 Protocol underline administrative cooperation and the principle of adjusting quotas in cases of circumvention, without need of proof of the will to commit fraud by the country of origin.

39. During its review of the case, the TSB bore in mind (a) all elements and information provided to it by the two parties; (b) the information provided by Hungary; and (c) observations made by it during the review of the EEC bilateral agreements relating to the provisions contained in Article 11 of the EEC/Brazil agreement.

40. The TSB did not reach an agreement regarding the interpretations of circumvention as set out by the two parties in paragraphs 37 and 38 above. However, it found that:

(a) there was trans-shipment into the EEC regional market of the Federal Republic of Germany, by a Hungarian company, of Brazilian cotton yarn exported from Brazil for internal consumption in Hungary;

(b) investigations conducted had not produced any evidence of involvement by Brazilian exporters or German importers;

(c) the EEC had made an adjustment of the quota in its agreement with Brazil based solely on the evidence that Brazil was the country of true origin of the shipments concerned;

(d) the orderly trade between Brazil and the EEC, and Brazil's access rights as envisaged under their bilateral agreement, had been affected by actions taken by a Hungarian company.

41. The TSB concluded that adjustment of charges to existing quotas is neither mandatory nor the sole solution in terms of paragraph 16 of the 1986 Protocol of Extension. The TSB was of the view that the parties had not exhausted all options available to them under the Arrangement, and therefore recommended that they hold further consultations with a view to reaching an agreed solution, which could include the replacement of the measure taken by the EEC.

42. The TSB requested the parties to report to it on the result of these consultations no later than 15 May 1987.

Wool sector in the United States market

43. The TSB heard a presentation concerning the status of the wool sector in the United States market.