REPORT OF THE TEXTILES SURVEILLANCE BODY TO THE
TEXTILES COMMITTEE FOR THE MAJOR REVIEW
OF THE OPERATION OF THE
ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES
1989

CLOSING DATE
30 JUNE 1989
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Chapter 1: Introductory Remarks

1.1 Under Article 10:4 of the Arrangement the Textiles Committee is required to carry out a major review of the operation of the Arrangement during the third year of the MFA. The Textiles Surveillance Body is required to submit a report to assist the Textiles Committee in the Major Review.

1.2 At its fifth meeting under the 1986 Protocol of Extension the Textiles Committee accepted a proposal by its Chairman to conduct its major review of the operation of the Arrangement in October 1989.¹

1.3 The TSB has already presented two annual reports under the current Protocol of Extension. The first, which covered the period 1 August 1986 to 30 September 1987 (COM.TEX/SB/1316 and Addendum 1), contained an interim appreciation of the application of the Arrangement. The subsequent report (COM.TEX/SB/1423 and Addendum 1), which covered the period 1 October 1987-23 September 1988, included an appreciation of the notifications reviewed during the first two years of MFA IV.

1.4 The present report covers the period 1 August 1986 to 30 June 1989. It therefore covers practically three years of the operation of the MFA as extended by the 1986 Protocol.

1.5 Chapter 2 gives the status of acceptances of the 1986 Protocol of Extension; Chapter 3 is devoted to the membership of the TSB since 1 August 1986 and the overall nature of its activities, including general observations related to its work.

1.6 Chapter 4 summarizes (a) reports received under Article 2; (b) unilateral measures taken under Article 3, paragraphs 5 or 6; (c) measures taken under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension; (d) matters referred under Article 11, paragraphs 4 and/or 5, or under Article 3:5(ii); (e) notifications made under Article 4; (f) notifications made or transmitted under Articles 7 and/or 8; and (g) reports received under Article 11, paragraphs 2, 11 and 12, on the status of restrictions maintained by participating countries. Details of restrictions outlined in Chapter 4 are contained in tabular form in the Addendum to this report.

1.7 Chapter 5 contains recommendations and observations made by the TSB during the course of its reviews of notifications outlined in Chapter 4. Observations related to bilateral agreements have been grouped under separate headings.

1.8 The final chapter offers an analysis of the implementation of the MFA as extended by the 1986 Protocol.

¹COM.TEX/60
Chapter 2: The 1986 Protocol extending the Arrangement and the status of acceptances

2.1 On 31 July 1986 the Textiles Committee adopted the Protocol extending the Arrangement for the five-year period from 1 August 1986 to 31 July 1991.

2.2 By 30 June 1989, this Protocol of Extension has been accepted by the following forty participants:

Argentina, Austria, Bangladesh, Brazil, Canada, China, Colombia, Costa Rica, Czechoslovakia, Dominican Republic, European Economic Community, Egypt, El Salvador, Finland, Guatemala, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macao, Malaysia, Mexico, Norway, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, United States, Uruguay and Yugoslavia.¹

¹COM.TEX/51 and Addenda 1 to 7
Chapter 3: Membership and overall activities of the TSB

A. Membership of the TSB

3.1 In accordance with Article 11:1 of the MFA, the Textiles Surveillance Body consists of a Chairman and eight members appointed by the parties to the Arrangement. Throughout the life of the MFA importance has been attached to the requirement that the membership of the TSB be balanced and broadly representative of all participants. The Textiles Committee, bearing in mind the need to preserve such balance, nominates each year the countries which designate the members. In view of the task conferred on the TSB under the Arrangement, importance has been attached to its members being designated ad personam so as to ensure the competence and homogeneity of the Body. The members share with the Chairman the responsibility of carrying out the TSB's functions as set out in the Arrangement. In order to secure the continuity and efficiency of the work of the TSB, members may nominate alternates who receive all the documentation of the TSB and who are eligible to serve as a full member in the event of the unavoidable absence of the nominated member.

3.2 The TSB recalls its opinion stated in its report in 1980 and reiterated in the 1984 report: "Since the TSB is considered as a standing body and given its various activities and the preparatory work involved, members are expected to devote the whole, or at least the greater part, of their time in participating fully in the work of the Body as a coherent team. It has been stressed that attendance of all members in TSB meetings is important in order to ensure that the delicate balance arrived at after lengthy negotiations of all participants to the MFA be maintained." In its reports for 1985 and 1988 the Body stressed the importance of meetings being attended by all members and of the fact that governments, when nominating members, take full account of the heavy work involved and of the continuous nature of the TSB's work.

3.3 At the meeting of the Textiles Committee on 31 July 1986, participating countries reaffirmed that the rôle of the TSB "is to exercise its functions as set out in Article 11 so as to help ensure the effective and equitable operation of the Arrangement and to further its objectives". The Committee also "recognized the need for close co-operation among participants for the effective discharge of the Textiles Surveillance Body's responsibilities".

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1 COM.TEX/SB/610 and 984
2 COM.TEX/SB/1116, paragraph 2.2 and 1423, paragraph 2.3.
3.4 The participating countries agreed that the TSB, in discharging its function of reviewing bilateral agreements or measures taken under the MFA, "may address problems of interpretation of the relevant provisions of the Arrangement".

3.5 At the same meeting, the Textiles Committee accepted the proposal that the term of members of the TSB appointed until 31 July 1986 (COM.TEX/SB/1181) be extended until 31 December 1986. In doing so, the governments of those members were expected to provide letters of acceptance of the new Protocol, even if subject to internal procedures or ratification, before the first meeting of the TSB under the new Protocol.

3.6 The Textiles Committee also agreed to extend the appointment of Ambassador Marcelo Raffaelli as Chairman of the TSB.

3.7 The membership of the TSB, and the nomination of members by participants, as well as alternates of members for the period 1 January 1987 to 31 July 1989, have been as follows:

### Members and Alternates of the TSB in the period of 1 January 1987-31 July 1989

#### 1987

<table>
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<tr>
<th>Member</th>
<th>Alternate</th>
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<tr>
<td>Mr. Jörn Keck (EEC)</td>
<td>Mr. Gérard Boisnon (EEC)</td>
</tr>
<tr>
<td>(replaced by Mr. Piergiorgio Mazzocchi in May 1987)</td>
<td></td>
</tr>
<tr>
<td>Mr. Pekka Säilä (Finland)</td>
<td>Mr. Robert G. Wright (Canada)</td>
</tr>
<tr>
<td>Mr. James Lau (Hong Kong)</td>
<td>Mr. Chong Moo Lee (Korea)</td>
</tr>
<tr>
<td></td>
<td>(replaced by Miss Yvonne Choi</td>
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<tr>
<td></td>
<td>(Hong Kong) from 14 July to</td>
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<tr>
<td></td>
<td>11 September 1987, then by</td>
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<tr>
<td></td>
<td>Mr. Hyuck Choi (Korea) from</td>
</tr>
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<td></td>
<td>14 September 1987)</td>
</tr>
<tr>
<td>Mr. Parampreet S. Randhawa (India)</td>
<td>Mr. Maamoun Abdel Fattah (Egypt)</td>
</tr>
<tr>
<td>Mr. Darry Salim (Indonesia)</td>
<td>Mrs. Apiradi Tantraporn (Thailand)</td>
</tr>
<tr>
<td>Mr. Toru Kawaguchi (Japan)</td>
<td>Mr. Kiyotaka Akasaka (Japan)</td>
</tr>
<tr>
<td>(replaced by Mr. Tadatsuna Koda in May 1987)</td>
<td></td>
</tr>
<tr>
<td>Mr. Robert E. Shepherd (United States)</td>
<td>Mr. Hugo Portugal (Peru)</td>
</tr>
<tr>
<td>Mr. Elbio Rosselli (Uruguay)</td>
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</tbody>
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1 January 1988 to 31 July 1989

Member
Mr. John Gero (Canada)
Mr. Piergiorgio Mazzocchi (EEC)
Mr. Maamoun Abdel Fattah (Egypt)
Mr. Darry Salim (Indonesia)
Mr. Tadatsuna Koda (Japan)
Mr. Hyuck Choi (Korea)
Mr. Alejandro de la Peña (Mexico)
Mr. Robert E. Shepherd (United States)

Alternate
Mr. Tor C. Hildan (Norway)
(replaced by Mr. Otto Wentzel (Norway) from 22 February 1989)
Mr. Gérard Boisnon (EEC)
Mr. Munir Ahmad (Pakistan)
(replaced by Mr. Shalid Gulrez Yazdani (Pakistan) from 1 January to April 1989)
Mr. A. Pharmy (Malaysia)
Mr. Takeshi Nakane (Japan)
(replaced by Mrs. Naoko Saiki (Japan) from 7 April 1989)
Mr. James Lau (Hong Kong)
Mr. Hugo Portugal (Peru)
(replaced by Mr. Julio Muñoz (Peru) from 31 October to 31 December 1988 and by Mr. Joao Carlos Parkinson de Castro (Brazil) from January 1989)

B. Overall activities of the TSB

(i) Review of notifications

3.8 The major activity carried out by the TSB continued to be the review of all measures taken by participants under the provisions of the Arrangement, be they unilateral actions or bilateral agreements. The TSB considers each of the notifications received on a case-by-case basis and on its own merits.

3.9 At its meeting held on 17-19 November 1986, the TSB considered the situation created by the entry into force, on 1 August 1986, of a new Protocol of Extension. It decided that, as a general rule, notifications of actions taking effect no later than 31 July 1986 should be considered as falling under the terms of the 1981 Protocol of Extension, even if their

1 At its meeting held on 16 December 1988, the Textiles Committee agreed to leave the 1988 TSB membership unchanged for a period ending not later than 15 May 1989 (COM.TEX/59). At its meeting of 26 April 1989, the Textiles Committee extended the existing membership to 31 July 1989. (COM.TEX/60)
effect carried over after 31 July 1986. New agreements or measures taking effect from 1 August 1986 or later should be treated as falling under the provisions of the 1986 Protocol, even if they had been negotiated before 1 August 1986. The TSB would continue, however, to consider all notifications on a case-by-case basis. (COM.TEX/SB/1190)

3.10 All notifications received and reviewed and reports on the meetings held over the period have been circulated in the COM.TEX/SB/- series of documents. The reports of the TSB have included summaries of the major points discussed, along with such comments or observations deemed appropriate by the TSB, as well as full statements of any recommendations, findings or decisions taken by the Body.

3.11 The review of measures notified under Articles 3 and 4 of the Arrangement has continued to be conducted under the following procedures laid down in COM.TEX/SB/35 and COM.TEX/SB/83 (Annex):

(a) Participating countries which have concluded bilateral agreements under Article 3, or which have invoked Article 3 in taking unilateral measures, are required to communicate the text of the agreement reached and to submit factual statements of the reasons and justifications for the request for restraint. In this connection, an indicative check-list of elements to be taken into account in the consideration of actions taken under Article 3 was prepared by the TSB to assist participating countries both in the negotiation of agreements and in the preparation of information for the TSB;

(b) Notifications of bilateral agreements concluded under Article 4 are to include the full text of the bilateral agreement and all related documentation as well as a short, reasoned statement demonstrating that the agreement was entered into in order, on the one hand, to eliminate real risks of market disruption in importing countries and disruption to the textile trade of exporting countries, and on the other hand to ensure the expansion and orderly development of trade in textiles and the equitable treatment of participating countries; and indicating that the provisions of paragraph 3 of Article 4 have been satisfied. In the case of several agreements, the comments made by the TSB with respect to certain elements thereof are contained in its reports to the Textiles Committee.

3.12 Notifications of bilateral agreements concluded with, or restrictions imposed on, non-participating countries have continued to be made in accordance with the decision of the Textiles Committee that such actions taken vis-à-vis non-participants should be notified to the TSB. The TSB has taken cognizance of these notifications and has transmitted them to the Textiles Committee for information under Articles 7 and 8.

3.13 The TSB, in compliance with the provisions of Article 11, paragraphs 11, 12 and 2, has each year invited all participating countries to inform the TSB of the status of their restrictions, if any, on textile
products. After reviewing the replies, the TSB had them circulated to the Textiles Committee, for information.

3.14 In connection with the Major Review, the TSB felt that it was necessary to present to the Textiles Committee as complete an inventory as possible of all such restrictions. Accordingly, a letter was sent by the Chairman of the TSB to the participating countries in February 1989, seeking information under Articles 11:11, 11:12 and 11:2 on restrictions introduced or maintained by them on textile products covered by the Arrangement as extended by the 1986 Protocol. (COM.TEX/SB/1467).

3.15 In this connection, information was sought in particular on all existing unilateral quantitative restrictions, bilateral agreements and any other quantitative measures in force which had a restrictive effect, for instance, those subjecting imports to factors such as availability of foreign exchange, priorities in development needs, approval by State or industry bodies, etc., or those where products are imported by State-trading enterprises or other enterprises which enjoy exclusive or special privileges. Furthermore, the TSB asked for information on restrictions be they effected by participating countries under the MFA or outside its provisions vis-à-vis other participants, or non-participants. In cases where restrictions were justified under the provisions of the GATT, including its Annexes and Protocols, these were to be notified for information purposes, with reference to the GATT Article or the Protocol under which they were justified. The information contained in the reports submitted by participating countries and reviewed by 30 June 1989 has been summarized in Chapter 4 of this report.

(ii) Dispute settlement

3.16 Another main function of the TSB is the settlement of disputes arising from:

(a) unilateral actions taken under Article 3, paragraphs 5 or 6;
(b) any matter referred to the Body under Article 11, paragraphs 4 or 5, in the absence of a mutually agreed solution between the parties concerned.

3.17 In all cases of disputes, and before formulating its recommendations, the TSB, as required by Article 11, paragraph 6, invites the participation of such participating countries as may be directly affected by the matter in question. These participants may present their respective cases orally and/or in writing and respond to any relevant questions put to them by members of the TSB. It has been agreed in the TSB that a member of the TSB whose country is party to the dispute should not present the case for that country, but that another spokesman from that country should advocate it.

3.18 The TSB procedures in cases involving disputes between countries which have members on the TSB and others which have not, set down, inter alia, that the spokesmen for both the country having a member on the
TSB and that which has not, should be invited to present their cases fully; and that the party not having a member on the TSB would be invited to designate a person who, after the presentation of the case by the two delegations and the questioning phase, could then participate in the remaining phase of the discussion up to, and including, the drafting of the recommendations. It is understood, however, that consensus within the Body on the form and content of such recommendations does not require the assent or concurrence either of the concerned member of the Body or of the person designated by the other party.

3.19 The TSB, besides exercising its functions in cases of disputes, has always attempted to exercise a conciliatory rôle to bring about an amicable settlement between the parties concerned, and has, in a number of cases, requested the parties to resume consultations with a view to reaching a mutually acceptable agreement. (Chapters 4 and 5 below contain TSB reviews of the dispute cases arising during the period under review.)

(iii) Participation of technical experts in TSB work

3.20 The TSB on occasion sought advise from technical experts mentioned in Article 11:2 of the Arrangement. In so doing the TSB followed the procedure which it put in application on 1 December 1984. Under this procedure (a) in all cases such experts may be present at meetings only if invited by the Body to clarify specific questions at the proposal of one or more of its members; and (b) interested parties should formally notify the Chairman, in advance, the names of their delegation members as well as of experts, if any; such experts may be invited to answer specific questions at the proposal of a delegation participating in the review, provided the TSB so agrees. (COM.TEX/SB/1006)

(iv) General observations

(a) Relating to provisions of the Arrangement as extended by the 1986 Protocol of Extension

3.21 The TSB found it necessary to examine certain provisions of the Arrangement as extended by the 1986 Protocol, in order to help it to conduct its review of measures taken under those provisions. The TSB findings on these provisions are listed below:

(I) Application of paragraph 8 of the 1986 Protocol of Extension

3.22 During its meeting held on 2-3 December 1986 the TSB examined the provisions contained in paragraph 8 of the 1986 Protocol of Extension. It noted that: (a) this paragraph may be invoked only by importing countries

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1 The guidelines for such procedures were first set down in COM.TEX/SB/30, Annex I, revised in May 1978 and contained in COM.TEX/SB/319, Annex I.
which administer restraints imposed under Article 3, paragraph 5, on the basis of date of export; (b) the restraint level for the extension period must include growth and flexibility in accordance with the provisions of paragraphs 3 and 5 of Annex B; (c) such extension may be made only once.

3.23 In a case where an importing country which administers restraints imposed under Article 3:5 on the basis of date of export has utilized Article 3:8 and there is no agreement on the extension or renewal or modification for a further twelve-month period of an Article 3:5 restraint, and the importing country intends to invoke paragraph 8 of the 1986 Protocol, the TSB reached the following conclusions regarding the applicable procedures:

(i) the importing country must notify to the TSB the absence of agreement, giving details of the proposal and reasons for the outcome;

(ii) the importing country must at the same time notify to the TSB and the exporting country concerned its intention to invoke paragraph 8 of the 1986 Protocol, together with information on the "imminent and measurable increase in imports" which "may arise" and "would cause recurrence or exacerbation of market disruption or impede the steady and orderly development of trade";

(iii) the extension of the restraint may not be put into effect by the importing country before submitting its intention to the TSB;

(iv) all steps outlined above should take place before the expiry of the Article 3:5 restraint;

(v) the extension of the restraint shall be put into effect on the day after the expiration of the restraint introduced under Article 3:5;

(vi) the TSB shall make the appropriate recommendations within a period of thirty days whenever practicable, using the procedures of Article 11, paragraphs 6 and 7; they may be made either before or after the restraint for the extended period comes into effect.

(COM.TEX/SB/1201)

(II) General observation relating to Article 6, paragraph 6, of the Arrangement and paragraph 15 of the 1986 Protocol of Extension

3.24 The TSB examined on several occasions the provisions contained in Article 6:6 of the Arrangement and in paragraph 15 of the 1986 Protocol and discussed the existence, in several of the agreements notified to and reviewed by it, of quotas or of guaranteed access levels for outward processing traffic (OPT).

3.25 In the course of its meeting on 28-29 September 1987 the TSB observed that the "special differential and more favourable treatment" mentioned in paragraph 15 of the 1986 Protocol of Extension could be provided under diverse formulations. It was of the opinion that this meant
that in the case of MFA bilateral agreements which include any such formulations, effective increase in access for the product(s) concerned should be provided; in other words, the Body understood that the formulation should not, in principle, have the intent of providing for such access at the expense of quotas for non-OPT trade.

3.26 The TSB, however, understanding that the diverse formulations possible and the different solutions found under them required a flexible approach to the problem, decided that it would review the application of those formulations on a case-by-case basis, bearing in mind: (a) what it had said in the preceding paragraph, and (b) the effect which such a formulation would have on the basic objectives of the Arrangement as extended, particularly that of ensuring the orderly and equitable development of trade. (COM.TEX/SB/1314)

(III) General observation relating to paragraph 24 of the 1986 Protocol of Extension

3.27 The TSB considered the provisions of paragraph 24 of the 1986 Protocol of Extension. It noted that these provisions had been invoked in the agreements notified to it in different ways.

3.28 The TSB considered the following elements: (a) product coverage under the Arrangement, and (b) the introduction of restraints on products falling within the paragraph.

3.29 The TSB was of the opinion that, while this paragraph had not amended Article 12 of the MFA, it had extended, under certain conditions, the product coverage of the Arrangement for the duration of the 1986 Protocol.

3.30 The TSB noted that specific restraints had been introduced on products made of fibres specified in paragraph 24 which were merged with products made of fibres specified in Article 12 when there had been no imports or imminent increase of imports (as defined in Annex A) of products made of fibres specified in paragraph 24, and observed that such specific restraints were not envisaged under that paragraph.

3.31 The TSB understood that specific restraints on products made of fibres specified in paragraph 24 should be introduced only if it was demonstrated that imports of such products were directly competitive with products made of fibres specified in Article 12 and were causing or aggravating market disruption or real risk thereof in the importing country.

3.32 The TSB requested all participating countries to take this observation into account. (COM.TEX/SB/1328)
3.33 Having reviewed certain notifications which featured solutions for significant overshipments, the TSB held a general discussion on the subject of overshipments.

3.34 It was noted that overshipments might arise under different circumstances and for diverse reasons - for example, categorization or classification differences; fraudulent licences; inefficient operation of a textile licensing system; mis-entry or miscalculation of imports; and shipments which were above a restraint level and which were not a subject of dispute between the exporting and importing country.

3.35 The discussion highlighted the adverse effects of overshipments on both parties, possibly on other participants as well as their financial implications for traders. The TSB noted the need for the proper implementation of the Arrangement, and urged participants to cooperate and take the necessary steps to ensure that overshipments would not occur.

3.36 Therefore, the TSB reminded interested parties that it is open for them to bring to the attention of the Body specific cases of significant overshipments for its information under Article 11:2 or seek its review of such cases under Article 11:5. (COM.TEX/SB/1421)

3.37 In accordance with the decision taken by the Textiles Committee during its meeting on 4 December 1987 (COM.TEX/55, paragraph 25) for the TSB to examine and report on the consistency of aggregate and group limits with the provisions of the Multifibre Arrangement, the TSB presented a report to the Textiles Committee in COM.TEX/SB/1423, Annex. The text of the report is given in paragraphs 3.38 to 3.40 below.

3.38 The TSB recalls that participating countries "may, consistently with the basic objectives and principles of this Arrangement, conclude bilateral agreements on mutually acceptable terms in order, on the one hand, to eliminate real risks of market disruption (as defined in Annex A) in importing countries and disruption to the textile trade of exporting countries, and on the other hand to ensure the expansion and orderly development of trade in textiles and the equitable treatment of participating countries". The TSB understands "mutually acceptable terms" to mean that the terms must be consistent with the basic objectives and principles of the Arrangement.

3.39 The Body notes that aggregate and group limits have usually been justified by the notifying country as ensuring the orderly development of trade. The TSB is of the opinion that an aggregate or group limit is inconsistent with the provisions of the Arrangement if it does not ensure the expansion and orderly development of trade in the products covered by such a limit, or if it leads to a situation of disruption of the export trade of such products in the exporting country. The TSB concludes that the consistency or not of such a limit with the provisions of the MFA can be assessed only on a case-by-case basis.
3.40 In view of the preceding, the TSB is of the view that the Textiles Committee should urge participating countries to ensure that such limits do not run counter to the terms of Article 4:2.

(vi) Reports of the TSB

3.41 In addition to its regular reporting to the Textiles Committee on agreements or unilateral measures considered by the Body, the TSB has in the period under review also submitted two reports dealing with its activities during the period from 1 August 1986 to 30 September 1987 and from 1 October 1987 to 23 September 1988. These reports were prepared to assist the Committee in its review of the operation of the Arrangement as provided for in paragraph 4 of Article 10, and also in fulfilment of the TSB's obligations under Article 11, paragraphs 11 and 12. These are contained, respectively, in documents COM.TEX/SB/1316 and COM.TEX/SB/1423.
Chapter 4: Notifications reviewed by the TSB under the 1986 Protocol of Extension

4.1 Notifications which the TSB reviewed under the MFA as extended by the 1986 Protocol of Extension have been summarized below. A tabular list of these notifications is contained at the end of this Chapter. Observations of the TSB on these notifications are contained in Chapter 5.

A. Notifications under Article 2

(i) Under Article 2:1

4.2 Costa Rica, which acceded to the Arrangement on 14 March 1988, reported that it maintained no quantitative restrictions or any other quantitative measures which have a restrictive effect on imports of textile products. (See also paragraph 5.2)

4.3 The Dominican Republic, which participated during the first and second extensions of the Arrangement and accepted the 1986 Protocol of Extension on 23 February 1988, reported under Article 2:1 on the status of restrictions maintained by it. Under two decrees dated April 1979, imports of certain clothing items have been prohibited. The decrees have made reference to the need for the development of the domestic industry, as well as the need to preserve foreign exchange reserves for imports essential for the economic development of the country. No reply was received from the Dominican Republic to the 1989 request. (See Chapter 5, paragraphs 5.3 and 5.4.)

(ii) Under Article 2:4

4.4 The TSB received in 1987 a notification from China updating its notification of 1985 on the status of restrictions maintained by it on textile products covered by the MFA. The notification provided information relating to the importance of textiles and clothing in China's economy. It stated that imports of man-made fibres, of man-made fibre fabrics, and of wool hair, tops and yarn, were subject to import licensing. It further stated that balance-of-payments considerations were the main reason for the maintenance of the import licensing system, but that in the case of man-made fibres and man-made fibre fabrics, "infant industry" protection was also a reason, albeit a secondary one. In late 1988 China supplied information and clarifications in response to the questions stemming from the TSB's review of the 1987 notification. No reply to the 1989 request for information was received from China. (See Chapter 5, paragraphs 5.5 to 5.9.)

B. Notifications under Article 3:5, Article 3:6, Article 3:8 and paragraph 8 of the 1986 Protocol, and matters referred under Article 3:5(ii), Article 11:4 and/or 11:5

(i) Unilateral measures taken under Article 3, paragraphs 5 and 6

4.5 The TSB received notifications of twenty unilateral measures taken under Article 3, paragraph 5; it also received a notification of
unilateral measures taken, which it decided to review under Article 3:5. These concerned the following participants:

Canada: Brazil

United States: Bangladesh, China, Costa Rica, Dominican Republic, Thailand, Turkey.

Canada/Brazil

4.6 In June 1988, the TSB received a notification from Canada of unilateral measures taken under Article 3:5 on imports of bedsheets, pillowcases and cotton terry towels, washcloths and sets from Brazil for the period 5 January 1988 to 4 January 1989. The TSB reviewed the case and made appropriate recommendations. In July, Canada reported the rescission of the restraint on cotton terry towels, washcloths and sets. In September 1988, the parties negotiated an ad referendum solution to the problem.

4.7 In January 1989, the TSB took note of a notification received from Canada of a request to Brazil to consult on bedsheets and pillowcases and, in the meantime, to co-operate in a two-month emergency action under Article 3:6 effective from the 5 January 1989 on imports of those products. In March 1989 Canada notified that the consultations having not resulted in an agreed solution, unilateral measures had been taken with respect to the products for the period 5 January 1989 to 4 January 1990. After hearing the presentations from both parties, in which reference was made to the bilateral consultations for an agreed solution under Article 4, the TSB recommended the parties renew consultations forthwith and report back preferably no later than 23 May 1989. On 23 May, the TSB was informed by both parties that they had not yet held consultations. (For full details of TSB conclusions and recommendations see Chapter 5, paragraphs 5.10 to 5.18.)

United States/Bangladesh

4.8 In June 1987 the TSB received a notification from the United States of unilateral measures taken under Article 3:5 with respect to imports of

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1The United States had notified two unilateral measures on imports from China which were applicable retroactively before China had accepted the 1986 Protocol. The TSB nevertheless decided to review the measures under Article 3:5, as China became a participant in MFA IV before the United States decision to take the measures, and hence before the notification was made. (See paragraph 4.10)

2Although the bilateral solution reached ad referendum by the parties was acceptable to Canada, it had not been considered satisfactory by Brazil. The unilateral measure taken by Canada had, therefore, been kept in place until 4 January 1989.
Categories 645/646 (man-made fibre sweaters) and 338/339 (cotton knit shirts) from Bangladesh for the periods 30 October 1986-29 October 1987 and 28 February 1987-27 February 1988, respectively. In response to a request by Bangladesh, and with the agreement of the United States, the TSB agreed in July 1987 to defer its review of these restraints.

4.9 The TSB was later informed that an agreed solution had been found with respect to Category 645/646; at the same time, Bangladesh requested a new deferral of the review of the measure on Category 338/339; on being informed that the United States supported this request, the TSB agreed to it. Subsequently, the Body was informed that an agreed solution had also been found with respect to this Category. (See also Chapter 5, paragraphs 5.19 to 5.22.)

**United States/China**

4.10 In July 1987 the TSB received a notification from the United States of unilateral measures taken on imports of Categories 833 (men's and boys' suit-type coats of paragraph 24 fibres) and 847 (trousers of paragraph 24 fibres) from China for the periods 30 September 1986-29 September 1987 and 31 December 1986-30 December 1987, respectively. In view of bilateral consultations scheduled later in the month, China requested the TSB to defer its examination of these measures to September; on being informed that the United States was in agreement with this request, the TSB asked both parties to report on the results of their consultations and decided that, if necessary, it would review the case in September.

4.11 In September 1987, the TSB was informed that agreed solutions had been found with respect to both measures. (See also paragraphs 5.23 to 5.25.)

**United States/Costa Rica**

4.12 Measures taken by the United States under Article 3 with respect to imports from Costa Rica concerned two cases. For details on one case, first notified by Costa Rica under Article 11:4, see sub-section (iii), paragraphs 4.29 to 4.30.

4.13 At its meeting of 6-8 June 1989 the TSB received a notification from the United States of a unilateral measure taken with respect to imports of gloves and mittens (Category 331) from Costa Rica for the period 30 November 1988 to 29 November 1989. The TSB invited both parties to present their respective cases at its meeting scheduled for 5-7 July 1989. At its meeting on 28-29 June, the TSB was informed by Costa Rica that further bilateral consultations with the United States had been scheduled in early July. In view of this, Costa Rica requested the TSB to suspend its examination of the case in early July. The United States supported this request and the TSB agreed to it.

**United States/Dominican Republic**

4.14 At the request of the parties, the TSB twice agreed, in January and subsequently in February, 1989, to defer its consideration of a unilateral
measure taken by the United States on imports of Category 633 (man-made fibre coats) from the Dominican Republic for the period 30 June 1988 to 29 June 1989, due to ongoing consultations between the parties. In March, the TSB was informed that an agreed solution had been found. (See also paragraph 5.27.)

United States/Thailand

4.15 In January 1989 the TSB reviewed unilateral measures taken by the United States on imports of Categories 670-L (man-made fibre luggage) and 870 (luggage of silk blends and vegetable fibres, other than cotton) from Thailand for the period 25 May 1988 to 24 May 1989. The United States reported in February that, in accordance with the recommendation of the TSB, the restraint on Category 870 had been rescinded. In March 1989 both parties reported that, in accordance with the TSB's recommendation on Category 670-L, they had begun consultations, which would be continued in early April. In April Thailand reported that these consultations had been postponed at the request of the United States and no new dates had been foreseen. The United States informed the TSB of its decision to let the restraint expire on 24 May 1989 without seeking its renewal. In its meeting of 23-26 May 1989, the TSB heard a statement from Thailand related to the composition of its exports of luggage to the United States. (For details of TSB conclusions and recommendations see Chapter 5, paragraphs 5.28 to 5.33.)

4.16 In May 1989 the TSB examined measures taken under Article 3:5 by the United States on imports of Categories 345 (cotton sweaters), 363 (cotton towels), 369-D (cotton dish towels) for the 1989 calendar year and on Category 301pt/607pt (cotton and polyester blended yarn) for the period 30 January 1989 to 29 January 1990. Since both parties were willing to hold consultations, which had not taken place until then, the TSB recommended bilateral consultations as early as possible. (For details of TSB conclusions and recommendations, see Chapter 5, paragraphs 5.34 and 5.35).

United States/Turkey

4.17 In December 1987 the TSB received a notification from the United States of a unilateral measure taken under Article 3:5 on imports of Category 342/642 (cotton and man-made fibre skirts) from Turkey for the period 27 May 1987 to 26 May 1988. Subsequently, it received a communication from Turkey, under Article 11:5, on this measure.

4.18 Having recommended that the parties resume consultations, in January 1988 the TSB received reports from both Turkey and the United States that consultations had taken place but that no agreed solution had been found.

4.19 In February 1988 the TSB reverted to the matter at the request of Turkey. After hearing the reports from the parties, the TSB concluded that its recommendation of 9 December 1987 had not been correctly interpreted, and therefore recommended that once again the parties resume their consultations. (See Chapter 5, paragraphs 5.36 to 5.43, for TSB observations and recommendations. See also paragraph 4.25 below.)
(ii) Extension of restraints under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension

4.20 The TSB received three notifications of extensions of restraints under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension. These concerned the following participants:

United States: China, Pakistan, Turkey.

United States/China

4.21 The TSB received a notification in September 1987 from the United States under Article 3:8 and paragraph 8 of the 1986 Protocol concerning the extension of a restraint on imports of Category 845/846 (silk blend and other vegetable fibre sweaters) from China for the period 29 August 1987 to 28 August 1988. The original measure was taken when China was not participating in the MFA.

4.22 In October 1987 the TSB agreed to defer its review of the case at the request of both parties, in view of their forthcoming bilateral consultations. In December 1987, the parties informed the TSB that consultations were continuing in the context of the negotiation of a new bilateral agreement, and requested a further deferral of the review of the action. In agreeing to this request, the TSB asked the parties to report on the results of the consultations in time for its first meeting in January 1988. In January 1988, the TSB was informed that the matter had been solved in the context of the new bilateral agreement concluded for the period 1 January 1988 to 31 December 1991. (See also paragraphs 5.48 to 5.50)

United States/Pakistan

4.23 In October 1986, when Pakistan was not participating in the MFA, the United States notified a measure taken under Article 3:5 with regard to imports of lightweight plainweave man-made fibre fabric (Category 613-C) from Pakistan. Although the TSB initially decided to wait for Pakistan's acceptance of the 1986 Protocol, in February 1987, as Pakistan had not yet accepted the 1986 Protocol, it decided to take note of the measure. (COM.TEX/SB/1241) At its meeting of 10-11 June 1987, the TSB reviewed a notification under Article 3:8 and paragraph 8 of the 1986 Protocol concerning the extension of the restraint for the period 27 April 1987 to 26 April 1988. On being informed that both parties were scheduled to hold consultations in July, the TSB agreed to their request that it defer its review of the notification. (COM.TEX/SB/1285).

4.24 At its meeting on 15-17 September 1987, the TSB received a report from the United States that, following consultations, the parties had found an agreed solution, which would be notified in due course. (COM.TEX/SB/1285 and 1312)
United States/Turkey

4.25 In May 1988, the United States informed the TSB that in the absence of agreement between the parties for the extension, under Article 3:8, of the restraint on imports of Category 342/642 (cotton and man-made fibre skirts) from Turkey (see paragraphs 4.17 to 4.19 above), the United States intended to invoke paragraph 8 of the 1986 Protocol and extend the restraint for a further twelve-month period beginning on 27 May 1988. In June, the parties requested the TSB to defer its review of the action in view of forthcoming bilateral consultations. The TSB agreed to the request and asked for reports on the results of the consultations before its meeting scheduled for 13-15 July. In July, the parties reported that an agreed solution had been found. (For full details of the recommendations, see Chapter 5, paragraphs 5.44 to 5.46.)

(iii) Matters referred under Article 3:5(ii), Article 11:4 and/or 11:5

4.26 Four matters covering a total of eight categories or merged categories were referred under Article 11, paragraphs 4 and/or 5, which concerned the following participants:

- Brazil: United States
- Costa Rica: United States
- India: United States
- Turkey: United States

Brazil/United States

4.27 In October 1986 the TSB received a notification from Brazil under Article 11, paragraphs 4 and 5 of the Arrangement, in which it referred measures taken by the United States under paragraph 8 of the United States/Brazil agreement. The first case concerned consultations requested by the United States on Category 314/320pt (cotton poplin and broadcloth fabrics), and the second concerned restraints introduced on Category 341 (cotton woven blouses for women, girls and infants).

4.28 In December 1986 the TSB received reports from the parties that, in accordance with its recommendations (see Chapter 5, paragraphs 5.53 to 5.57 below): (a) the United States was rescinding the restraint on Category 341, and (b) their bilateral consultations had been resumed but no agreed solution had been found with respect to Category 314/320pt. In January 1987 the Chairman informed the Body that he had received reports from Brazil and the United States that, after further consultations, they had reached an agreed solution concerning Category 314/320pt. (See paragraph 5.58 below.)
Costa Rica/United States

4.29 In December 1988 the TSB received a notification from Costa Rica under Article 11:4, referring two requests for consultations on Categories 342/642 (cotton and man-made fibre skirts) and 347/348 (cotton trousers) made by the United States under Article 3:3.

4.30 Subsequent to this notification, the TSB was informed that the United States had taken unilateral measures under Article 3:5, and that the parties were conducting consultations and intended to continue them later in the month. The TSB, therefore, agreed to defer its review of the cases. In January 1989, the TSB was informed that a solution had been found with respect to Category 342/642, and in February it was informed that a solution had been found for the other case. (For details see Chapter 5, paragraphs 5.59 to 5.62.)

India/United States

4.31 In February 1987, the TSB received a notification under Article 11:4 from India referring certain measures taken by the United States under the provisions of their bilateral agreement on Categories 369-S (cotton shop towels), 641 (man-made fibre blouses) and 642 (man-made fibre skirts). Being informed by both parties that agreed solutions had been found with respect to the three Categories, the TSB decided not to pursue the matter; it understood that the agreed solutions would be notified in due time. (See Chapter 5, paragraph 5.63 below)

Turkey/United States

4.32 For details on this case, first notified by the United States under Article 3:5, see paragraphs 4.17 to 4.19.

4.33 Matters were also referred under Article 3:5(ii):

Thailand: United States

Thailand/United States

4.34 In May 1989 Thailand referred under Article 3:5(ii) requests for consultations made by the United States under Article 3:3 on Categories 335, 448 and 635. The Government of the United States having informed the TSB of its decision to cancel the requests for consultations on Categories 335 and 635, the Body decided not to address them. The TSB made appropriate recommendations regarding Category 448. (For the TSB recommendation see Chapter 5, paragraphs 5.65 to 5.68.)
C. Notifications under Article 4

4.35 The TSB received and reviewed one hundred and sixty-five notifications under Article 4 of eighty-six bilateral agreements and seventy-nine extensions and/or modifications of agreements. These concerned the following participants.

Austria: China, Hong Kong, India, Korea, Macao.

Canada: Bangladesh, Brazil, China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Philippines, Poland, Singapore, Sri Lanka, Thailand, Turkey, Uruguay.

EEC: Argentina, Bangladesh, Brazil, China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay.

Finland: China, Hong Kong, India, Korea, Macao, Romania, Sri Lanka, Thailand.

Norway: China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Yugoslavia.

Sweden: Korea, Malaysia, Pakistan, Singapore, Thailand, Yugoslavia.

United States: Bangladesh, Brazil, China, Colombia, Costa Rica, Dominican Republic, Egypt, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macao, Mexico, Pakistan, Peru, Philippines, Romania, Sri Lanka, Thailand, Turkey, Uruguay, Yugoslavia.

4.36 For greater clarity, the notifications have been summarized below under the following headings: (i) validity, product coverage, products under restraints; (ii) changes in base levels; (iii) annual growth rates; (iv) flexibility provisions; (v) additional access; (vi) handloom and cottage industry products; (vii) upward adjustment of quotas; (viii) consultation provisions; (ix) overshipments; (x) revised categorization.

1Agreements between present participants transmitted under Articles 7 and/or 8, because one of the countries was not participating in the MFA at the time of review, are not included in this Section.
Validity, product coverage, products under restraint

4.37 Product coverage (i.e. products under restraint plus those not under restraint but subject to the consultation provisions of the bilateral agreement) and products under restraint in agreements concluded under Article 4 have varied. Broadly, they fall under one of the following descriptions: (a) one to a few product categories, all under restraint; (b) several product categories, with some subject to restraint and others subject to consultation procedures; (c) all products falling within the definition of Article 12:1, with some under restraint and others subject to consultations; (d) products falling within Article 12:1, together with some which fall within the definition of paragraph 24 of the 1986 Protocol, with some under restraint and others subject to consultations.

4.38 The paragraphs which follow give only changes in product coverage and in products under restraint in each agreement as compared to the previous agreement between the parties, or compared to the original agreements in the case of amendments.

Austria

4.39 Notifications from Austria consisted of bilateral agreements (China, Hong Kong, India, Korea, Macao) and modifications (Hong Kong, Korea).

4.40 Validity:

1 January 1987-31 December 1990: Macao;
1 February 1987-31 January 1990: Hong Kong;
1 January 1987-31 December 1991: India, Korea;
1 January 1989-31 December 1991: China;

in two agreements (China, India) there is the possibility of a twelve-month extension.

4.41 Product coverage:

- was reduced: Hong Kong, India, Korea, Macao;
- was increased: China, where one clothing category was liberalized and two new clothing categories added, resulting in a coverage of three categories.

4.42 Under an amendment of the agreement with Korea, the coverage was increased by one category, but the total coverage remained reduced in relation to the previous agreement between the parties. Under an amendment of the agreement with Hong Kong the coverage of one restrained category was reduced.
4.43 Categories under restraint:
- liberalized: China—one, India—one, Korea—two, Macao—one;
- added: China—two, India—one, Korea—one.

4.44 New restraints were introduced in accordance with amendments of agreements: Hong Kong—one, Korea—three.

Canada

4.45 Notifications from Canada consisted of the extension of one agreement (Brazil), of bilateral agreements (Bangladesh, China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Philippines, Poland, Singapore, Sri Lanka, Thailand, Turkey, Uruguay) and of modifications of agreements (Bangladesh, Brazil, China, Malaysia, Pakistan, Philippines, Poland).

4.46 Validity:
- 1 January—31 December 1987: Brazil (extension of previous agreement);
- 1 January 1987—31 December 1990: Turkey;

4.47 Product coverage:
- remained unchanged: Brazil, Czechoslovakia, Hungary, India, Poland, Sri Lanka, Uruguay;
- was decreased: certain made-up items were excluded (Hong Kong, Poland), certain cotton and man-made fibre yarns and fabrics were excluded (Hong Kong), a clothing category was excluded (Pakistan);
- was increased: in two agreements including only the products under restraint (Bangladesh by two categories; Turkey by four categories); coverage was increased to include yarns, fabrics and made-up items (Malaysia, Philippines, Poland, Singapore, Thailand); in one case some clothing categories were added (Poland) and in another two fabric categories (China);
- was increased by the inclusion of products of silk blends and blends of vegetable fibres other than cotton: China—two categories, Hong Kong—ten categories, Indonesia—all categories, Korea—four categories, Macao—seven categories.

4.48 Group limits:
- were maintained: Macao—one, India—one;
- were liberalized: India—one.
4.49 Categories under restraint:

- liberalized: Brazil-one, China-one, Hong Kong-two sub-limits, India-two, Korea-two categories and three part-categories, Pakistan-one, Philippines-one, Poland-one;

- added: Bangladesh-two, Brazil-two, China-three, Hong Kong-three, India-one, Philippines-one, Sri Lanka-three, Thailand-three, Turkey-four;

- handloom products added: India-handloom products corresponding to one category were included in the restraint level.

4.50 New restraints were introduced in accordance with amendments of agreements: Bangladesh-one, China-one, Malaysia-two, Pakistan-one.

4.51 Notifications from the EEC consisted of bilateral agreements in de facto application (Argentina, Bangladesh, Brazil, China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay), and modifications of certain agreements (India, Indonesia, Korea, Pakistan, Philippines, Poland, Thailand). Modifications of the previous agreement with China which expired on 31 December 1988 were also notified.

4.52 Validity:

- 1 January 1987-31 December 1991: all agreements, except China;


4.53 Product coverage:

the comprehensive product coverage remained unchanged in all cases (the number of EEC textile categories, after adaptation to the Harmonized System was reduced from 119 to 93).

4.54 Categories under restraint:

- all liberalized: Bangladesh, Uruguay;

- liberalized: all other agreements except China (Argentina-one regional restraint; Brazil-three Community and two regional restraints; Czechoslovakia-nine regional restraints; Hong Kong-six Community and three regional restraints, with another Community restraint liberalized in all regions except one; Hungary-six Community and three regional restraints; India-three Community and all regional restraints; Korea-one Community and five regional restraints; Macao-two Community
and one regional restraints; **Malaysia**-two Community and five regional restraints; **Pakistan**-six regional restraints; **Peru**-one Community and two regional restraints; **Philippines**-one Community and five regional restraints; **Poland**-five regional restraints; **Romania**-two Community and one regional restraints; **Sri Lanka**-two regional restraints; **Thailand**-five regional restraints).

- added: **China** (one Community and four regional restraints).

4.55 New restraints were introduced by amendments of the following agreements: **China** (previous agreement, which expired on 31 December 1988)-five regional restraints; **India**-two Community restraints; **Indonesia**-two Community restraints, of which one subsumed a previous regional restraint; **Korea**-five regional restraints; **Pakistan**-seven regional restraints and one Community restraint subsuming two previous regional restraints; **Philippines**-one Community and one regional restraint; **Poland**-one regional restraint; **Thailand**-two regional restraints.

**Finland**

4.56 Notifications from Finland concerned bilateral agreements (China, Hong Kong, India, Korea, Macao, Romania, Sri Lanka and Thailand) and modifications of agreements (China, Hong Kong, India, Macao).

4.57 **Validity:**

- 1 June 1986-31 December 1990: **Sri Lanka**;
- 1 January 1987-31 December 1990: **China, Romania, Thailand**;
- 1 January 1987-31 December 1991: **Hong Kong, India, Korea, Macao**;

4.58 **Product coverage:**

- was reduced: **Hong Kong, Korea, Thailand**;
- remained unchanged: **India, Macao, Romania, Sri Lanka**;
- was increased by amendments: **China**-two categories; **Hong Kong**-two categories; **India**-one category; **Macao**-several clothing categories and extension of fibre coverage (cotton) for one category.

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1 The bilateral agreement was transmitted under Articles 7 and 8.
4.59 **Categories under restraints:**

- liberalized: Korea-one, Thailand-two;
- added: Hong Kong-one, Macao-one.

4.60 **Under amendments new restraints were introduced (China-two, Hong Kong-one, Macao-four).**

**Norway**

4.61 Notifications from Norway concerned bilateral agreements with China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand and Yugoslavia, and modifications of agreements with Czechoslovakia, Hong Kong, Hungary, Poland and Yugoslavia. The agreement with Indonesia was the first concluded between the parties.

4.62 **Validity:**

- 1 January 1987-31 December 1990 (with the possibility of a twelve-month extension): Thailand (superseded the last year of the previous agreement);
- 1 January 1987-31 December 1991: Hungary, India, Philippines;
- 1 July 1987-30 June 1990: Hong Kong;
- 1 July 1987-30 June 1992: Czechoslovakia;
- 1 October 1987-30 September 1991: Indonesia;
- 1 January 1988-31 December 1990: Yugoslavia;
- 1 January 1988-31 December 1991: Korea (superseded the last two years of the previous agreement), Macao, Malaysia, Poland, Romania, Singapore (superseded the last six months of the previous agreement), Sri Lanka;

4.63 **Product coverage:**

- was reduced: all agreements; further reductions were made by amendments of the agreements with Czechoslovakia, Hong Kong, Hungary and Poland. As a result, the product coverage is now at a minimum of six categories and a maximum of nine;
- in the agreement with Indonesia: eight categories.
4.64 **Categories under restraint:**

- liberalized: all agreements (China-four; **Czechoslovakia-six** and one part category; **Hong Kong-four**, **Hungary-three**, **India-two**, **Korea-five**, **Macao-two**, **Malaysia-two**, **Philippines-five**, **Poland-two**, **Romania-two**, **Singapore-four**, **Sri Lanka-five**, **Thailand-five**); further liberalization took place by amendments of the agreements with **Czechoslovakia**, **Hong Kong** and **Hungary**;

- added: **Korea-one**, **Macao-one**, **Romania-one**, **Thailand-one**.

**Sweden**

4.65 Sweden notified extensions of three agreements concluded under the 1981 Protocol (Korea, Pakistan, Yugoslavia) and new agreements (Korea, Malaysia, Pakistan, Singapore, Thailand, Yugoslavia).

4.66 **Validity:**

- 1 January-30 June 1987: **Yugoslavia** (extension of previous agreement);

- 1 March-30 June 1987: **Korea** (extension of previous agreement);

- 1 May-30 June 1987: **Pakistan** (extension of previous agreement);

- 1 July 1987-31 December 1991: **Yugoslavia**;

- 1 July 1987-29 February 1992: **Korea**;

- 1 July 1987-30 April 1992: **Pakistan**;

- 1 July 1987-30 June 1992: **Malaysia**;

- 1 November 1987-31 October 1992: **Thailand**;

- 1 December 1988-31 December 1993: **Singapore**.

4.67 **Product coverage:**

- was reduced in all agreements.

4.68 **Rest Groups and aggregate limits:**

- the Rest Group were terminated in all agreements;

- the aggregate limits were terminated under the extensions of the previous agreements with **Korea** and **Yugoslavia**.
4.69 **Categories under restraint:**

- liberalized: all agreements (Korea-five categories and three part-categories; Malaysia-one part-category; Pakistan-one category and one merged category; Singapore-one category and some part-categories; Thailand-two categories and one part-category; Yugoslavia-one category and two part-categories. In addition, one restraint will be liberalized for the last two years of the agreement with Korea).

**United States**

4.70 Notifications from the United States concerned (a) multi-year extensions of agreements (Hong Kong, Hungary, Indonesia, Korea, Macao, Malaysia, Mexico, Uruguay, Yugoslavia); (b) new agreements (Brazil, China, Colombia, Costa Rica, Dominican Republic, Egypt, India, Japan, Mexico, Pakistan, Philippines, Romania - cotton, Sri Lanka); (c) amendments of agreements, including those amending previous or extended agreements (Bangladesh, Brazil, China, Hong Kong, Hungary, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Mexico, Pakistan, Peru, Romania, Sri Lanka, Thailand, Turkey, Uruguay and Yugoslavia). Details concerning notifications falling under (a) and (b) above are contained in paragraphs 4.71 to 4.75, and those concerning (c) above are contained in paragraphs 4.76 to 4.78.

4.71 **Validity** of measures falling under (a) and (b) above:

- 1 January 1986-31 December 1987: Mexico - extension;
- 1 January 1986-31 December 1989: Japan, Korea;
- 1 January 1986-31 December 1991: Hong Kong;
- 1 January 1987-31 December 1989: Egypt, Yugoslavia;
- 1 January 1987 to 31 December 1991: Hungary under two extensions, India, Macao, Malaysia, Pakistan, Philippines;
- 1 April 1987-31 March 1990: Colombia;
- 1 June 1987-31 December 1988: Costa Rica;
- 1 July 1987-30 June 1991: Uruguay;
- 1 July 1987-30 June 1992: Indonesia;
- 1 January 1988-31 December 1989: Romania;
- 1 January 1988-31 December 1991: China, Mexico;
- 1 April 1988-31 March 1992: Brazil;
- 1 June 1988-31 May 1992: Dominican Republic;

The extensions concerning Hong Kong and Korea superseded the last two years of the original agreements.

4.72 Product coverage:

- covered only one product: Colombia, Costa Rica;
- was reduced from comprehensive to some clothing categories: Dominican Republic;
- remained selective and unchanged: Egypt, Uruguay;
- was increased but continued to be selective: Bangladesh, Hungary, Yugoslavia;
- remained comprehensive: Brazil, Japan, Mexico;
- remained comprehensive and was increased by the inclusion of one or more products of silk blends and blends of vegetable fibres other than cotton: China, Hong Kong, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Philippines, Romania, Sri Lanka;
- was increased and became comprehensive through the inclusion of products of man-made fibres, of silk blends and blends of vegetable fibres other than cotton: Pakistan.

4.73 Product coverage was extended through amendments of certain selective agreements: Bangladesh-eight categories or merged categories, Hungary-seven categories, Turkey-two categories. In some cases, it was extended by the inclusion of silk blends and vegetable fibres other than cotton in the agreements: (Jamaica-one category, Romania-one category, Sri Lanka-four categories).

4.74 Aggregate and group limit:

(a) Aggregate limit:
- was eliminated but replaced by group limits: Pakistan, Philippines;
- was maintained: Brazil, Macao;
- was introduced: Romania;

(b) Group limits:
- were eliminated but an aggregate limit was introduced: Romania;
- were maintained: Macao;
- were introduced: China, Hong Kong, Japan, Indonesia, Malaysia, Pakistan, Philippines.

4.75 In certain agreements, all categories subject to specific limits were listed under one group, while other products covered by the agreement but not under specific limits were placed under another or several other Groups. Group limits covering products not under specific limits were agreed in the cases: China, Hong Kong, Japan, Indonesia, Malaysia, Pakistan and Philippines. In certain agreements, some products fell outside the group limits: India (wool products), Pakistan (man-made fibre and products falling within paragraph 24 of the 1986 Protocol).

4.76 Categories under restraint:
- liberalized: Brazil-three, Dominican Republic-two, Malaysia-some sub-limits, Pakistan-one;
- added: Brazil-three, China-twenty-one, Dominican Republic-five categories or merged categories, Egypt-fabric group plus one category, Hong Kong-nine, India-one, Japan-fourteen, Korea-eight, Macao-six, Malaysia-seven, Mexico-fifteen (previously DCLs), Pakistan-ten, Philippines-five, Romania-four, Sri Lanka-seven, Yugoslavia-five.

4.77 New restraints were introduced under amendments of the following agreements: Bangladesh-eight restraints; Brazil-two restraints; Hungary-seven restraints; India-four restraints; Indonesia-seven restraints; Jamaica-five restraints; Pakistan-one, converted from a consultation level; Peru-one restraint; Sri Lanka-eight restraints; Thailand-one merged category; Turkey-six restraints.

4.78 Guaranteed Access Levels or Special Régime:

In three cases (Costa Rica, Dominican Republic, Mexico), special levels (Guaranteed Access Levels or Special Régime) were agreed for products assembled from fabrics formed and cut in the United States. In the case of Costa Rica, the category covered by the agreement was placed under a specific limit for six months and subsequently split into a specific limit and a Guaranteed Access Level (GAL). In the agreement with the Dominican Republic the full separate administration of specific limits and Guaranteed Access Levels was to take effect from the second agreement period. For Mexico, seventeen categories, previously under designated consultation levels or specific limits, were converted to categories under "special régime", under which certain percentages of trade needed to meet the requirement of United States fabric formed and cut in the United States.

1 The agreement with Jamaica, transmitted under Articles 7 and 8, also contains Guaranteed Access Levels for products assembled from fabrics formed and cut in the United States. For amendments, reviewed under Article 4, see paragraphs 4.73, 4.77 and 4.79.
4.79 Also under amendments, Guaranteed Access Levels (GALs) and/or Designated Consultation Levels (DCL) were agreed in certain cases: Jamaica—five categories or merged categories (GAL) and one category and one merged category (DCL); Pakistan—six categories or merged categories (DCL); Romania—eleven categories (DCL). In some agreements these levels were readjusted (Jamaica, Mexico, Pakistan, Romania).

(ii) Changes in base levels

4.80 The paragraphs below summarize the changes in base levels over previous restraint levels, or, in cases of new restraints, over the relevant reference levels.

Austria

4.81 Base level increases under the agreements and modifications were:
- higher or substantially higher than 6 per cent: China—all three limits, Hong Kong—two, India—two, Korea—four, Macao—one;
- lower than 6 per cent: Hong Kong—three, Korea—four, Macao—one.

Canada

4.82 Base level increases in the new bilateral agreements and in the extension of an agreement were in most cases higher or substantially higher than 6 per cent:
- higher or substantially higher than 6 per cent: Bangladesh, Brazil, China—fourteen categories, Hong Kong—nine categories, India—group limit, two clothing categories, Korea—non-clothing categories, Macao—five categories, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand, Turkey and Uruguay;
- at 6 per cent: China—four categories, Hong Kong—three categories, Macao—three categories, Malaysia—one category, Pakistan—one category, Philippines—two categories, Poland—five categories, Singapore—one category and Thailand—eight categories. In the case of Indonesia also were at 6 per cent but with increased fibre coverage;
- less than 6 per cent: China—five categories, Czechoslovakia—one category, Hong Kong—seven categories, Hungary—one category, India—textile category, Korea—clothing categories, Malaysia—one category, Philippines—one category, Poland—five categories, Singapore—three categories, Sri Lanka—one category, Thailand—one category and Turkey—one category;
- no increase: Czechoslovakia-two cases;
- reduction: one category in each of the agreements with Czechoslovakia, Korea;
- calculation not possible: Korea-two cases, India-one clothing category.

**EEC**

4.83 The agreements concluded by the EEC contained mostly Community restraints and relatively few regional restraints. Due to the revised categorization, it was not possible in certain cases to calculate the base level increases. Where calculation was possible, changes in base levels were:

- higher or substantially higher than 6 per cent: Brazil-three EEC; China-nineteen EEC and thirty-nine regional; Czechoslovakia-four EEC and six regional; Hungary-ten EEC; India-three EEC; Indonesia-all restraints (three EEC and four regional; Korea-one EEC and one regional; Malaysia-two EEC; Pakistan-all restraints (three EEC and four regional) except one; Peru-two EEC; Philippines-three EEC and five regional; Poland-two EEC; Romania-two EEC and sixteen regional; Singapore-three EEC; Sri Lanka-all restraints (four EEC); Thailand-six EEC and five regional;

- at 6 per cent: Brazil-two EEC; China-three regional; Czechoslovakia-two EEC; Korea-three EEC and one regional; Romania-four EEC; Thailand-two EEC;

- less than 6 per cent: Brazil-three EEC; China-four EEC; Czechoslovakia-thirteen EEC and three regional; Hong Kong-all restraints (seventeen EEC and two regional); Hungary-seven EEC and two regional; India-six EEC; Korea-nineteen EEC and one regional; Macao-all restraints (eleven EEC and nine regional); Malaysia-two EEC; Pakistan-one EEC; Philippines-five EEC; Poland-ten EEC and five regional; Romania-ten EEC and two regional; Singapore-two EEC; Thailand-two EEC;

- resulted in reductions: Czechoslovakia-two EEC; Macao-two EEC;

- calculation not possible: Argentina-all cases (see paragraph 5.80 below); Brazil-five regional; Czechoslovakia-thirteen EEC and one regional; Hungary-eight EEC and one regional; India-two EEC; Korea-fifteen EEC; Macao-seven EEC and four regional; Malaysia-two EEC; Pakistan-two EEC; Philippines-three EEC; Poland-eight EEC and four regional; Singapore-two EEC; Thailand-four EEC.
4.84 The base levels of restraints introduced under modifications of agreements were substantially above the threshold levels and were agreed pursuant to the relevant provisions of the respective agreements, taking into account the evolution of trade (China, India, Indonesia, Korea, Pakistan, Philippines, Poland, Thailand).

Finland

4.85 In the agreements concluded by Finland, base level increases were:
- higher than 6 per cent: India-two, Macao-one, Sri Lanka-one, Thailand-one;
- at 6 per cent: Romania-two;
- lower than 6 per cent: Hong Kong-four, India-one, Korea-three, Macao-five, Romania-two.

4.86 Under the modifications of agreements, the base levels were higher or substantially higher than 6 per cent over the reference levels in most cases (China-two, Hong Kong-one, India-one, Macao-three). In two cases (Macao) they were increased by less than 6 per cent.

Norway

4.87 In the agreements concluded by Norway base level increases were:
- higher or substantially higher than 6 per cent: China-all (five), Czechoslovakia-three, Hungary-five, India-three, Indonesia-seven, Korea-three, Macao-seven, Malaysia-all (seven, including a merged category), Philippines-all (eight), Poland-all (six, including two merged categories), Romania-three, including one merged category, Singapore-all (eight), Sri Lanka-all (five, including two merged categories), Thailand-five, Yugoslavia-all (three);
- less than 6 per cent: Czechoslovakia-seven, Hong Kong-all (eleven), Hungary-five, India-four, Korea-one, Romania-one, Thailand-one;
- calculation not possible: there was one case in each of the agreements with Indonesia, Korea, Macao and Thailand where restraints were introduced on products of which there were little or no previous imports.

4.88 Under amendments of agreements certain agreed base levels were increased Czechoslovakia-one, Poland-four, Yugoslavia-one.

Sweden

4.89 In the extensions of Sweden's agreements with Korea and Yugoslavia the restraint levels were increased in accordance with the growth rates of the agreement. In the extension of the agreement with Pakistan the increases in levels were slightly higher than the growth rates.
4.90 In the new agreements the base levels were:

- substantially higher than 6 per cent in order to take account of the expansion of coverage: **Malaysia**-two cases where the products had been previously subject to sub-limits within the Rest Group limit;

- lower than 6 per cent: in all other cases in all agreements **Korea**-fourteen, **Malaysia**-five, **Pakistan**-four, **Singapore**-six, **Thailand**-five, **Yugoslavia**-six.

**United States**

4.91 In the new agreements or multi-year extensions of existing agreements, increases in base levels for product categories under specific limit were:

- higher or substantially higher than 6 per cent: **Brazil**-twenty-one, **China**-thirty, including most new restraints, **Colombia**-the only category under restraint, **Costa Rica**-the only category under restraint, **Egypt**-all restraints, **India**-eight, **Japan**-seventeen, **Malaysia**-all restraints, **Mexico**-most restraints, **Pakistan**-most previous and all new restraints on man-made fibre products, **Philippines**-twenty, **Romania**-three, **Sri Lanka**-most restraints, **Uruguay**-all except one restraint, **Yugoslavia**-four;

- at 6 per cent: **Brazil**-one, **China**-two, **Hungary**-one, **Romania**-one, **Sri Lanka**-two, **Yugoslavia**-two;

- lower than 6 per cent: **Brazil**-two, **China**-forty-four, **Hungary**-seven, **India**-three, **Japan**-eight, **Mexico**-three, **Pakistan**-two, **Romania**-one, **Sri Lanka**-eleven, **Uruguay**-one, **Yugoslavia**-seven. Most of these cases concerned wool categories;

- resulted in reductions: **Brazil**-two, **China**-two, **Japan**-three, **Mexico**-three, **Pakistan**-five, **Philippines**-six, **Sri Lanka**-one;

- calculation not possible: **China**-in certain cases it was not possible to calculate the changes in base levels due to the new categorization.

4.92 In certain multi-year extensions where the last one or more years of the original agreement were superseded by the extensions (Hong Kong, Korea, Macao, Malaysia), the base levels remained unchanged or were adjusted to take account of (a) changed growth rates, or (b) inclusion of new fibre products. In one agreement (Dominican Republic) the levels for the first agreement period also took account of products assembled from fabrics formed and cut in the United States. In some cases involving restraints on products of fibres falling within the definition of paragraph 24 of the 1986 Protocol, the base levels were determined on the
basis of negotiated reference levels (Hong Kong, Korea). For one agreement (Japan), as certain categories were previously subject to multi-year restraints, the base levels were determined on the basis of negotiated reference levels.

4.93 The aggregate limit was more than 6 per cent over the previous level in one agreement which had no change in product coverage (Brazil). In two agreements with product coverage extended to include products of paragraph 24 fibres, the base level of the aggregate limit was the reference level for the new fibres plus the level of the previous limit increased by more than 6 per cent in one case (Romania) and increased by less than 6 per cent in the other case (Macao). Group limits in the agreements with China, Japan (one group), as well as the fabric group limit (Egypt), were set at levels higher or substantially higher than the reference levels; they were less than 6 per cent: Japan-one group, Hong Kong, Korea, Macao; there was a reduction in one case (Japan-one group). The group limits introduced in certain agreements (India, Malaysia, Pakistan, Philippines) were negotiated taking into account previous trade levels. The group limits in the agreement with Indonesia were adjusted to take account of the new categorization.

4.94 With respect to restraints introduced under modifications of agreements, the increases in base levels over the relevant reference levels were higher or substantially higher than 6 per cent in all cases for Bangladesh, Brazil, Hungary, India, Indonesia, Jamaica, Malaysia, Peru, Thailand and Turkey; for Pakistan the increase was higher than 6 per cent in one case, and lower than the designated consultation level in another case; for Sri Lanka the increases were higher than 6 per cent, except in one case where it was lower than 6 per cent.

4.95 In the modified extension of the agreement with Indonesia, adjustments were made to the Group and relevant specific limits to take account of changes in product coverage resulting from the new categorization.

(iii) Annual growth rates

Austria

4.96 Annual growth rates were lower than 6 per cent in all cases. They were higher than previous rates: (China-one, Hong Kong-two, India-one, Macao-one), unchanged in other cases except three (Korea-two with the merger of cotton and man-made fibre categories; Macao-one), where they were lower.

Canada

4.97 Annual growth rates were:

- higher than 6 per cent: Bangladesh-all except one category, Korea-four cases, Pakistan-two cases and Philippines-two cases;
- at 6 per cent: Bangladesh—one category, China—nine cases, Hong Kong—textile categories, India—group limit, clothing categories, Indonesia—all categories, Korea—four cases, Macao—all cases, Malaysia—three categories, Pakistan—remaining categories, Philippines—all remaining categories, Poland—five categories, Singapore—five categories, Sri Lanka—two categories, Thailand—nine categories and Turkey—all categories;

- less than 6 per cent: China—twenty categories, Czechoslovakia—all four cases, Hong Kong—all clothing, Hungary—one category, India—textile category, Korea—most categories, Malaysia—three cases, Poland—five categories, Singapore—six cases, Sri Lanka—nine categories and Thailand—six categories.

4.98 Growth rates generally remained unchanged in relation to the previous agreements, except for some clothing categories (Czechoslovakia, Indonesia, Malaysia, Singapore and Thailand), where they were lower; in the agreements with Korea and Hong Kong, the growth rates for most clothing categories were much lower than before.

4.99 Under amendments of agreements, growth rates were set at:

- 6 per cent: Bangladesh, China, Pakistan (one category each);

- less than 6 per cent: Malaysia (two categories).

EEC

4.100 Annual growth rates for EEC or regional limits were:

- higher than 6 per cent: Korea—one EEC, Pakistan—four regional, Peru—one EEC, Philippines—two regional, Poland—one regional, Sri Lanka—all EEC, Thailand—one EEC and three regional;

- at 6 per cent: Argentina—one EEC, Brazil—two EEC, China—five EEC and ten regional, Czechoslovakia—two EEC, Hong Kong—one regional, Hungary—three EEC and one regional, India—three EEC, Indonesia—three EEC, Korea—three EEC and two regional, Malaysia—one regional, Pakistan—two EEC, Philippines—six EEC and four regional, Poland—two EEC, Romania—eight EEC and six regional, Thailand—six EEC and two regional;

- lower than 6 per cent: Argentina—three EEC, Brazil—six EEC and five regional, China—eighteen EEC and thirty-two regional, Czechoslovakia—thirty-three EEC and all regional, Hong Kong—all restraints, except one regional, Hungary—twenty-two EEC and two regional, India—nine EEC, Indonesia—all regional, Korea—all EEC except four and one regional, Macao—all restraints,
Malaysia—all EEC, Pakistan—four EEC, Peru—one EEC, Philippines—five EEC, Poland—nineteen EEC and eight regional, Romania—eighteen EEC and six regional, Singapore—all EEC and Thailand—seven EEC.

4.101 The growth rates in all agreements were, in practically all cases, higher than those of the previous agreements.

4.102 With respect to restraints introduced under modifications of agreements, the growth rates were less than 6 per cent for India, Indonesia, Pakistan and Thailand for categories falling within Group I, for certain other categories for Korea and Poland: at 6 per cent or above for categories falling within Group II: these concerned restraints agreed with Indonesia, Korea, Philippines, Pakistan, Poland and Thailand.

Finland

4.103 Annual growth rates agreed under agreements or amendments were in all cases lower than 6 per cent (Hong Kong, India, Korea, Macao, Romania, Sri Lanka, Thailand). The rates (generally between 2 and 3 per cent), either remained unchanged or were slightly higher than in previous agreements.

Norway

4.104 Growth rates in all cases were lower than 6 per cent, albeit higher than in the previous agreements, ranging between 0.5 and 4 per cent, (China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Yugoslavia), with growth rate at 0.1 per cent in one case (India—one restraint).

Sweden

4.105 Growth rates were in all cases lower than 6 per cent. They were in all cases higher than in the previous agreements, ranging between 1.25 and 2.5 per cent initially and increasing every agreement year by either 0.25 or 0.5 per cent; however, no annual growth rate would be higher than 4 per cent in any agreement year. In the event where the growth rate should reach 4 per cent before the last agreement year, the category shall be liberalized; this applies to one case (Korea).

United States

4.106 Growth rates for the aggregate limits were:

- higher than 6 per cent: Macao;
- at 6 per cent: Brazil, Romania.
4.107 Growth rates for the group limits were:

- higher than 6 per cent: India-one, Indonesia-one, Macao-one, Malaysia-one, Pakistan-one, Philippines-one;
- at 6 per cent: China-one, Indonesia-one;
- lower than 6 per cent: China-two, Hong Kong-three (the growth rates increase every year), Japan-two, Korea-four (for three groups the growth rates increase every year), Macao-one;
- no growth provided: Japan-one.

4.108 Growth rates provided for in agreements or amendments of agreements for specific limits were:

- higher than 6 per cent: Egypt-all except two sub-limits, India-six, Korea-two, Macao-all except one, Pakistan-sixteen, Peru-one, Thailand-one;
- at 6 per cent: all other cases of non-wool categories, except those listed below;
- lower than 6 per cent: all specific limits on wool categories plus China-all specific limits but one, Hong Kong-all, India-two, Japan-all, Korea-all except two with growth of 6 per cent, Macao-one, Mexico-two, Pakistan-two, Philippines-five, Turkey-two;
- no growth provided: Egypt-two sub-limits, Japan-one.

4.109 Growth rates remained unchanged or were higher than in the previous agreements, except for the following cases, where they were lower: China-ten, Dominican Republic-three, Hong Kong-three, India-one, Korea-two, Pakistan-four, Philippines-four, Yugoslavia-one.

(iv) Flexibility provisions

Austria

4.110 Swing was agreed at 5 per cent in all agreements.

4.111 Carryover and carry forward were available at:

- 11/6 per cent: Hong Kong, Macao;
- 10/6 per cent: India;
- 10/5 per cent: Korea;
- 5 plus 5 per cent: China.
4.112 These provisions either remained unchanged or were slightly more favourable to the exporting country than in the previous agreements.

Canada

4.113 In all agreements concluded by Canada, the swing provisions were not applicable between clothing and non-clothing categories except for Hong Kong, where limits on swing from textiles to clothing categories were in place.

4.114 Swing was agreed at:

- 10 per cent: between two fabric categories for China;

- 7 per cent: all categories in agreements with Bangladesh, Pakistan, Philippines, Singapore, Sri Lanka and Turkey, as well as for some categories in agreements with Brazil, China, India (clothing categories), Indonesia, Korea, Malaysia and Thailand;

- 6 per cent: all categories in the agreement with Macao, and some categories for Indonesia;

- 5 per cent: some categories in the agreements with Brazil, China, India, Indonesia, Korea, Malaysia, Sri Lanka and Thailand, all other categories for Poland and all categories for Czechoslovakia and for Hong Kong (though with limitations from textiles to clothing categories);

- less than 5 per cent: Korea (some categories), Poland (one category), Sri Lanka (one category).

4.115 Additional swing was provided for one category under a modification of the agreement with Malaysia.

4.116 Carryover/carry forward were available at:

- 11/6 per cent for Macao, Pakistan, Philippines and Turkey;

- 10/5 per cent for Bangladesh, Czechoslovakia, Hungary, India, Malaysia, Poland, Singapore, Sri Lanka, Thailand and Uruguay;

- between 8/5 and 11/5 per cent for China (with 10 per cent for two categories);

- between 8/5 and 10/5 per cent for Hong Kong;

- between 6/3 and 11/6 per cent for Korea;

- at 7 per cent for carryover and 5 per cent for carry forward for Indonesia.

4.117 A cumulative use of flexibility was limited at:

- 16 per cent for Pakistan and Turkey;
- 15 per cent for India, Indonesia, Macao, Malaysia, Singapore and Sri Lanka;
- 13 per cent for Bangladesh;
- 12 per cent for Poland;
- 11 per cent for Czechoslovakia;
- between 10 per cent and 12 per cent for China and Hong Kong;
- between 6 per cent and 18 per cent for Korea.

4.118 In most cases the flexibility provisions remained unchanged.

EEC

4.119 In all agreements concluded by the EEC limitations were placed on the use of swing between and into categories 1 to 8, which form Group I in the EEC agreements. Where in most cases swing into Category 1 was not possible, this was possible for Argentina (4 per cent), Brazil (2 per cent), Czechoslovakia (4 per cent), Pakistan (7 per cent). Otherwise, swing was set at:

- 12 per cent: Bangladesh;
- 11 per cent: Peru, Sri Lanka, Uruguay;
- 7 per cent: Argentina, Brazil, China, India, Indonesia, Malaysia, Pakistan, Philippines, Singapore, Thailand;
- 5 per cent: Czechoslovakia, Hong Kong, Hungary, Korea, Macao, Poland, Romania;
- 4 per cent: Czechoslovakia, Hong Kong, Hungary, Korea, Macao, Poland, Romania (this rate applies to categories of Group I);

4.120 After consultations, carryover was possible at:

- 10 per cent: Bangladesh;
- 9 per cent: Peru, Sri Lanka, Uruguay;
- 7 per cent: Argentina, Brazil, China, Czechoslovakia, Hungary, India, Indonesia, Malaysia, Pakistan, Philippines, Poland, Romania, Singapore, Thailand;
- between 2 and 7 per cent: Hong Kong, Korea, Macao.
4.121 Carry forward was possible at:
- 5 per cent: all agreements, except the three indicated below;
- between 1 and 5 per cent: Hong Kong, Korea, Macao.

4.122 A cumulative use of flexibility was at:
- 17 per cent: Argentina, Bangladesh, Brazil, China, India, Indonesia, Malaysia, Pakistan, Peru, Philippines, Singapore, Sri Lanka, Thailand, Uruguay;
- 13.5 per cent: Czechoslovakia, Hungary, Poland, Romania (all categories other than those of Group I);
- 13 per cent: Czechoslovakia, Hungary, Poland, Romania (all categories falling within Group I);
- 12 per cent: Hong Kong, Korea, Macao.

4.123 In all cases the flexibility provisions were more favourable to the exporting countries. In addition, it was possible under certain circumstances to transfer quantities of unused regional quota shares to other regions. In the case of amendments, the flexibility provisions of the agreements applied.

Finland

4.124 In all agreements concluded by Finland swing was available at 5 per cent, except those with Sri Lanka and Thailand which have only one restraint each. Carryover/carry forward were set at 10/5 per cent (Korea, Macao, Sri Lanka, Thailand) and at 11/6 per cent (Hong Kong, India, Romania). In one amendment concerning one agreement period only (China), carry forward of 7 per cent was agreed in the event of an extension of two restraints.

Norway

4.125 Swing was available at:
- 5 per cent: China-one restraint, India-one, Korea-one, Philippines-three, Singapore-two, Thailand-two;
- 4 per cent: Malaysia-two, Singapore-one;
- 3 per cent: China-three, Hong Kong-three, India-five, Indonesia-all, Korea-five, Macao-all, Malaysia-three, Philippines-five, Singapore-five, Sri Lanka-all, Thailand-five;
- 2.5 per cent: all limits in the agreements with Czechoslovakia, Hungary, Poland, Romania and Yugoslavia;
- 2 per cent: China-two, Korea-two, Malaysia-three, Thailand-one;
- 1 per cent: Hong Kong-five;
- 0.5 per cent: India-one;
- 0.1 per cent: India-one;
- not available: between textile and clothing categories in the agreements with Czechoslovakia, Poland, Romania and Yugoslavia.

4.126 Carryover and carry forward were set at:
- 10 plus 5 per cent: Indonesia, Philippines, Singapore;
- 8 plus 5 per cent: Czechoslovakia, Poland, Romania, Yugoslavia;
- 8 plus 4 per cent: China, Hungary, Macao, Sri Lanka;
- between 4 plus 2 and 10 plus 5 per cent: Thailand;
- between 6 plus 3 and 8 plus 4 per cent: Korea, Malaysia;
- between 4 plus 2 and 8 plus 4 per cent: Hong Kong;
- between 4/2 and 10/5 per cent: India.

4.127 A cumulative use of flexibility was set at:
- 10 per cent: Indonesia, Philippines, Singapore;
- 8 per cent: China, Czechoslovakia, Hungary, Macao, Poland, Romania, Sri Lanka, Yugoslavia;
- between 6 and 8 per cent: Korea, Malaysia;
- between 4 and 10 per cent: India, Thailand;
- between 4 and 8 per cent: Hong Kong.

4.128 The flexibility provisions were more advantageous to the exporting countries than in the previous agreements, where swing was not available in most cases.

Sweden

4.129 Swing was set at:
- 3 per cent: Pakistan, Thailand, Yugoslavia;
- 3 or 5 per cent: Korea, Malaysia, Singapore.
4.130 Carryover and carry forward were set at:
- 5 plus 5 per cent: Korea-five, Malaysia-two, Singapore-one;
- 3 plus 3 per cent: Korea-seven, Malaysia-five, Pakistan-all, Singapore-five, Thailand-all, Yugoslavia-all.

4.131 A cumulative use of flexibility was set at:
- 6 or 10 per cent: Korea, Malaysia, Singapore;
- 6 per cent: Pakistan, Thailand, Yugoslavia.

4.132 The flexibility provisions were more favourable to the exporting countries than in the previous agreements.

United States

4.133 Where applicable, swing for Group limits was available at:
- 10 per cent: Malaysia, Mexico;
- 7 per cent: Indonesia, Philippines;
- 5 per cent: China;
- 7 and 3 per cent: Macao;
- 2 and 1 per cent: Japan;
- 1 per cent: Hong Kong (except for one group), Korea (with an additional 1 per cent for the first agreement period).

4.134 Swing for restrained categories was set at:
- 7 per cent: Dominican Republic-all, Hong Kong-twenty-nine, India-all but five, Indonesia-all but one, Jamaica-all, Korea-four, Macao-all but one, Pakistan-cotton categories, Peru-all, Philippines-all, Romania-all restraints under the cotton agreement, Thailand-all, Turkey-all, Uruguay-four wool categories;
- 6 per cent: Bangladesh-all, Brazil-all, Egypt-all, Hong Kong-seven, India-four, Korea-ten, Pakistan-man-made fibre categories, Sri Lanka-twenty-eight, Uruguay-one, Yugoslavia-six;
- 5 per cent: China-all, Hong Kong-twenty, Hungary-all, India-one, Indonesia-one, Japan-all, Korea-twelve, Macao-one, Malaysia-all, Sri Lanka-six, Yugoslavia-six;
- 3 per cent: Mexico-all;
- 2 per cent: Korea-three;
- no swing: Japan-five, Korea-five, Mexico-fabric group, Pakistan-one restraint introduced by amendment;
- swing of 5 per cent included in the restraint level: Hungary-one, Korea-three;
- swing of 2 per cent included in the restraint level: Korea-two.

4.135 In certain agreements, additional swing was provided for some limited cases (Bangladesh, Brazil, China, Hong Kong, India, Indonesia, Jamaica, Korea, Mexico, Philippines, Romania, Yugoslavia).

4.136 Carryover and carry forward were available at:
- 11/7 per cent: Dominican Republic, Peru;
- 11/6 per cent: Bangladesh, Brazil, Colombia, Costa Rica, Egypt, Hungary, India, Indonesia, Jamaica, Macao, Malaysia, Mexico, Pakistan, Philippines, Romania, Singapore, Sri Lanka, Thailand, Turkey, Uruguay, Yugoslavia;
- 5 plus 5 per cent: India (for group limits);
- 5 plus 3 per cent: China (for group limits);
- 3 plus 2 per cent: China (for group limits);
- 3 per cent, of which carryover at 1 per cent: Hong Kong, Japan, Korea (in all cases for group limits);
- 2 plus 3 per cent: China (for specific limits, with the cumulative use limited to 3 per cent, except for the 1988 agreement year, when it might reach 5 per cent);
- 2 per cent with carryover not to exceed 1 per cent: Hong Kong, Korea, Japan (in all cases, for specific limits).

4.137 In the cases of China, Hong Kong, Japan and Korea carryover/carry forward may reach 10/5 per cent after consultations. In certain agreements special carry forward was possible for a few cases (China, Hong Kong).

(v) Additional access

4.138 In certain agreements additional access was provided for certain categories by allowing for children's or infants' garments to count against the quota unit at the ratio of 5:3. This possibility applied to the whole
restraint level for some categories (Canada) or to a percentage (ranging from 1 to 5) of the quota for some categories (EEC), namely:

(a) agreements or extension of agreements concluded by Canada with Brazil, China, Hong Kong, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Poland, Singapore, Sri Lanka, Romania, Thailand and Turkey; and

(b) agreements concluded by the EEC with Brazil, China, Czechoslovakia, Hong Kong, Hungary, India, Indonesia, Korea, Macao, Malaysia, Pakistan, Philippines, Poland, Romania, Singapore and Sri Lanka.

4.139 Annual additional quantities were available in some agreements: EEC - China (one category), Hong Kong (some products falling within two categories), Korea (some products falling within one category), Peru (one category); Norway - India (one category). Furthermore, one-time additional access was provided in certain cases: EEC/India (one case), United States/Japan (two cases), and under some amendments of agreements: EEC - Indonesia, Korea, Thailand and United States/Malaysia.

4.140 In two agreements additional access for products made from traditional fabrics applied to certain clothing categories (Canada/Indonesia-three, United States/Indonesia-eight).

4.141 Additional access for Outward Processing Traffic was agreed in some agreements concluded by the EEC: China (four EEC, two regional), Indonesia (three EEC), Macao (two regional), Malaysia (four EEC), Pakistan (three EEC), Philippines (three EEC), Singapore (two EEC), Sri Lanka (four EEC), Thailand (three EEC). (See also paragraphs 4.78 and 4.79 above, concerning special access provided under agreements concluded by the United States with Costa Rica, the Dominican Republic and Mexico and under amendments of the agreement with Jamaica).

(vi) Handloom and cottage industry products

4.142 Most agreements notified during the period covered by this report excluded handloom and cottage industry products from restraint. In some agreements, traditional folklore handicraft products have also been listed and excluded from quotas.

4.143 However, in certain agreements the parties agreed to include such products in the agreements with the provision for additional quotas for handmade garments or traditional garments made of handloom fabrics: Canada - India (one product); EEC - India (four categories); United States - India (four categories).

(vii) Upward adjustment of quotas

4.144 Amendments agreed by the parties during the lifetime of certain agreements resulted in the increase of some restraint levels or had a similar effect. This happened in the following cases: Canada - Poland (one case); Norway - Czechoslovakia (one case), Poland (four cases),
Yugoslavia (one case); United States - Uruguay (one case). In one agreement, Austria/Hong Kong, the product coverage of a restrained category was reduced without any reduction in the restraint level.

(viii) **Consultation provisions**

4.145 Consultation provisions included in agreements concluded by Norway on products covered by the agreements but not under restraint were deleted in the agreements with Czechoslovakia, Hungary and Poland. These provisions were deleted because the agreements were amended to reduce the product coverage to only products under restraint. In one agreement (Austria/Hong Kong) the parties agreed to the reference levels for three product categories subject to the Export Authorization System.

(ix) **Overshipments**

4.146 In certain cases adjustments were made to take account of situations of overshipments: Canada - China; United States - China, Egypt, Indonesia, Pakistan, Turkey.

(x) **Revised categorization**

4.147 Modifications of a certain number of agreements concerned the adjustment in restraint levels to take account of revisions in categorization of products. These concerned the following agreements: Austria/Hong Kong, Finland/Hong Kong, United States/Hong Kong, United States/Indonesia, United States/Pakistan, United States/Uruguay.

D. **Notifications under Articles 7 and 8**

(i) **Notifications concerning participating countries**

4.148 Certain notifications were made to the TSB under Articles 7 and 8 which concerned present participants. These were either non-restraint agreements or agreements notified and reviewed before one of the participants concerned had accepted the 1986 Protocol of Extension. These notifications have been summarized below.

**Austria**

4.149 Austria and Brazil replaced their restraint agreement, which expired on 31 October 1987, by an agreed export authorization system covering cotton yarn and kitchen towels of cotton. The restraint agreement with Singapore, which lapsed on 31 December 1986, was replaced by an export authorization system effective 1 January 1987 for woven blouses of cotton or of man-made fibres.

4.150 A bilateral agreement was concluded with Egypt for the period 1 January 1987 to 31 December 1988. It succeeded the previous agreement concluded under Article 3:4, and covered one product (cotton yarn); at the moment of its notification to the TSB, Egypt had not yet accepted the 1986 Protocol.
4.151 The EEC concluded on Additional Protocol to its bilateral agreement with China consequent to the accession of Spain and Portugal to the EEC as of 1 January 1986; the validity of the agreement expired on 31 December 1988. At the moment of its notification to the TSB, China had not yet accepted the 1986 Protocol.

4.152 The agreements by the EEC with Colombia, Guatemala and Mexico, which expired on 31 December 1986, were replaced by simplified agreements covering the EEC's ninety-three product categories, providing for exchange of information and for cooperation to avoid circumvention. The agreements do not contain any restraints but provide for the possibility of consultations in cases of market disruption or real risk thereof with a view to finding appropriate solutions. A bilateral agreement with Yugoslavia was concluded for the period 1 January 1987 to 31 December 1991 as an Additional Protocol to the Cooperation agreement between the parties.

Finland

4.153 Finland notified agreements concluded with China for the period 1 January 1987 to 31 December 1990 and with Pakistan for the period 1 July 1986 to 30 June 1991; at the time of notification, China and Pakistan had not yet accepted the 1986 Protocol.

Norway

4.154 Norway concluded a bilateral agreement with China for the period 1 January 1986 to 31 December 1988, which replaced the previous restrictions notified by Norway under Article 2:1. This agreement was notified when China had not yet accepted the 1986 Protocol.

4.155 A Certificate of origin arrangement was concluded with Bangladesh with respect to eight product categories, bearing in mind paragraphs 13 and 16 of the 1986 Protocol of Extension. This arrangement was transmitted under Article 8.

United States

4.156 The United States notified agreements concluded with: the Dominican Republic, granting special access to two categories from 1 December 1986 until 31 May 1988; the two countries also amended their restraint agreement valid for the period 1 June 1983 to 31 May 1988, removing restraints on the same two categories; El Salvador, for the period 1 January 1987 to 31 December 1989; with Jamaica for the period 1 September 1986 to 31 December 1989, which superseded the previous consultation agreement between the parties; this agreement contained guaranteed access levels and designated consultation levels for certain products. A modification of the agreement with China for the period 1 January 1986 to 31 December 1987 was also notified. All these notifications were made before the respective exporting countries had accepted the 1986 Protocol.
(ii) Notifications concerning non-participating countries

4.157 In accordance with the request made by the Textiles Committee that agreements concluded with, or actions taken vis-à-vis, non-participants in the Arrangement should be notified to the TSB, the Body received a number of notifications from participating countries.

Canada

4.158 Canada notified restraint agreements concluded with: Bulgaria for the period 1 January 1987 to 31 December 1991; the German Democratic Republic for the period 1 January 1988 to 31 December 1991; Maldives and Mauritius, both for the period 1 January 1986 to 31 December 1990; Vietnam for the period 22 July 1986 to 31 December 1991. Canada also notified import controls with respect to imports from North Korea for the period 23 August 1986 to 31 December 1991 and imports from South Africa for the period 1 January 1988 to 31 December 1991.

EEC

4.159 The EEC notified a restraint agreement concluded with Bulgaria for the period 1 January 1987 to 31 December 1990 and an exchange of letters with Haiti for the period 1 January 1987 to 31 December 1991 containing provisions for consultations.

Norway

4.160 Norway notified a restraint agreement concluded with Malta for the period 1 January 1986 to 31 December 1988. A further agreement was concluded for the period 1 January 1989 to 31 December 1991. Import quotas for the period 1 January 1987 to 31 December 1989 were notified with respect to certain textile products originating in the German Democratic Republic.

Sweden

4.161 Sweden notified a bilateral agreement concluded with Malta for the period 1 July 1988 to 30 June 1993.

United States

4.162 The United States notified restraint agreements concluded with: Bulgaria for the period 1 May 1986 to 30 April 1989; Burma for the period 1 January 1987 to 31 December 1990; German Democratic Republic for the period 1 January 1987 to 31 December 1989; Haiti, as amended, for the period 1 January 1987 to 31 December 1989; Panama for the period 1 April 1987 to 31 March 1990; Trinidad and Tobago for the period 1 October 1986 to 31 December 1989; the USSR for the period 1 August 1987 to 31 December 1988. The agreement with Maldives was extended for the period 29 September 1985 to 28 September 1988 and the agreement with Mauritius was modified.
E. Notifications under Article 11, paragraphs 2, 11 and 12

4.163 In order to fulfill its obligations under Article 11, the TSB annually requested the Chairman to invite all participating countries to provide information under Article 11, paragraphs 2, 11 and 12, on the status of restrictions maintained by them on textile products covered by the Arrangement as extended under the 1986 Protocol of Extension. (COM.TEX/SB/1265, 1377 and 1467)

4.164 The TSB requested information on unilateral restrictions, bilateral agreements and other measures which have a restrictive effect, be they effected under the MFA or outside its provisions. The TSB also requested information on restrictions justified under the provisions of GATT (including its Annexes and Protocols). In the requests made in 1988 and 1989 participating countries were asked to provide information on "any type of measure having a restrictive effect, for instance, those subjecting imports to factors such as availability of foreign exchange, priorities in development needs, approval by State or industry bodies, etc., or those where products are imported by State-trading enterprises or other enterprises which enjoy exclusive or special privileges".

4.165 Reports made under Article 2, paragraphs 1 and 4, also fulfilled those participants' obligations under Article 11. Replies to the requests made in 1987, 1988 and 1989 have been circulated in COM.TEX/SB/1315, 1422 and 1489, and their Addenda.

4.166 Replies to the 1987 request were received from Austria, Brazil, Canada, Czechoslovakia, EEC, Finland, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macao, Norway, Peru, Philippines, Romania, Singapore, Sweden, Switzerland, Thailand, Turkey, United States, Uruguay and Yugoslavia.

4.167 Replies to the 1988 request were received from Austria, Canada, EEC, Finland, Guatemala, Hong Kong, Japan, Korea, Macao, Mexico, Norway, Singapore, Sweden, Switzerland, Thailand, Turkey, United States, Uruguay and Yugoslavia.

4.168 By 30 June 1989, replies to the 1989 request were received from Argentina, Canada, Costa Rica, EEC, Finland, Hong Kong, Hungary, India, Jamaica, Japan, Korea, Norway, Peru, Poland, Singapore, Sri Lanka, Sweden, Thailand, Turkey, United States, Uruguay and Yugoslavia.

4.169 No reports under MFA IV were received from Bangladesh, Colombia, Egypt, El Salvador (which accepted the 1986 Protocol in March 1989), Malaysia and Pakistan.

4.170 Reports under Article 2:1 were made by Costa Rica and the Dominican Republic (see paragraphs 4.2 and 4.3), and under Article 2:4 by China (see paragraph 4.4).

4.171 The paragraphs below summarize the reports received from participating countries:
4.172 Ten participants (Costa Rica, Hong Kong, Hungary, Jamaica, Japan, Macao, Poland, Singapore, Sri Lanka and Uruguay) notified they maintained no restrictions on imports of textile products.

4.173 Switzerland notified it had not introduced or applied any quantitative measures having a restrictive effect on textile products covered by the Arrangement. It notified, however, that automatic licences were required for certain textile products.

4.174 Czechoslovakia notified it does not maintain any unilateral restrictions on imports of textile products by the MFA. The TSB requested clarification, and Czechoslovakia provided some information stating it would provide further details at a later date. The TSB also sought clarifications from Romania which had reported it maintained no restrictions on imports of textile products.

4.175 Guatemala notified that certain textile fabrics which were the same as or similar to those used for making army uniforms or clothing were subject to licensing by the Ministry of National Defence.

4.176 Indonesia notified that certain yarns and fabrics and clothing items with batik or batik motifs may be imported only by Approved or Producer importers.

4.177 Mexico notified that prior import licences were required only for luxury goods such as carpets and carpeting, as well as for used clothing and used made-up items.

4.178 Natural fibre bags and piece goods containing 50 per cent or more of silk are subject to import licensing in Thailand. These measures apply since March 1962 in order to protect local production. Thailand also notified that since December 1988 imports of unfinished garments or components thereof (except collars, cuffs, waist bands, pockets and cuffs for trousers) were banned.

4.179 Eight participants notified restrictions maintained for balance-of-payments reasons: Argentina, Brazil, India, Korea, Peru, Philippines, Turkey and Yugoslavia.

4.180 Argentina notified that since September 1988 prior authorization is required for all textile products. Before September 1988, articles of apparel and clothing accessories of textile fabric were not subject to this requirement.

4.181 Brazil referred to its notification to the Balance-of-Payments Committee of GATT (L/6126) that of import licences would not be issued for all textile products covered by the MFA, except certain man-made fibre yarns, certain industrial textiles and sails.

4.182 Imports into India of certain textile products (mostly man-made fibres and yarns) have been possible through designated agencies or by actual manufacturers for their own production needs, under the General Open
Licence system; cotton and wool yarns, fabrics, carpets, tapestries, terry towelling, knitted and crocheted goods, articles of apparel and clothing accessories, rugs, household linen and furnishings continue to be subject to licensing and may be imported only for export production.

4.183 Korea notified special regulations of the Minister of Trade and Industry with respect to imports of certain silk fabrics, and that the requirement of recommendation by the industry association with respect to imports of certain man-made fibres was abolished on 1 July 1988.

4.184 Peru has notified all restrictions since August 1985; imports of all products are either subject to prior licensing or are prohibited; with respect to certain fabrics, prior licensing has replaced prohibition of imports. These restrictions in almost all cases do not apply to imports from member countries of the Andean Group.

4.185 The Philippines referred to its programme of liberalization notified to the Balance-of-Payments Committee (BOP/269 and Adds. 1 and 2).

4.186 In 1987 Turkey reported that imports of certain silk and man-made fibre fabrics, woollen and worsted yarns, carpets, tapestries, used clothing and furnishing articles were subject to prior authorization. Since 1988 this authorization is required only for imports of used clothing and furnishing articles when imported in bulk.

4.187 Yugoslavia has notified restrictions which have been effective since 1 January 1986. The system of quantitative restriction by volume or value continues to apply to most products covered by the MFA. Previous restrictions on certain man-made fibres and yarns have been removed, and certain wool yarns, net fabrics and a clothing item previously subject to quotas may now be imported subject to the availability of foreign exchange ("conditional liberalized imports"). A number of products (including certain yarns, fabrics and clothing items) which were not subject to any restrictions may now be imported subject to the availability of foreign exchange.

4.188 The reports of the Balance-of-Payments Committee on the last consultations with Argentina, Brazil, India, Korea, Peru, the Philippines, Turkey and Yugoslavia are contained in BOP/R/179, 172, 168, 171, 173, 179, 178 and 179, respectively.

4.189 With respect to restrictions notified under Article 2 by China and the Dominican Republic, see paragraphs 4.4 and 4.3.

4.190 Importing countries (Austria, Canada, EEC, Finland, Norway, Sweden and United States) have generally invoked the provisions of the Arrangement for their restrictions (unilateral or bilateral) on imports of textile products; these have been notified under the relevant Articles of the MFA and outlined in the Sections above.
4.191 In addition, the EEC and Sweden have referred to measures which they notified for information only under Article 11:

(a) the EEC notified restrictions maintained by some member States with respect to imports from Albania, the German Democratic Republic, Mongolia, North Korea, the USSR, and Vietnam;

(b) Sweden notified bilaterally agreed quotas with five participating countries (China, Czechoslovakia, Hungary, Poland and Romania) and two non-participants (Bulgaria and the German Democratic Republic), as well as import quotas on Albania, North Korea, the USSR and Vietnam.

4.192 Canada included information related to bilateral agreements concluded during the life of the MFA III and valid during MFA IV (Maldives, Mauritius, Vietnam); reference was also made to restraints on imports from Taiwan. Norway gave information on its agreement negotiated with Pakistan which shall be notified in due course. Sweden made reference to agreements concluded with participants, still to be notified under Article 4 (China, Hong Kong, India, Indonesia, Macao, Philippines, Sri Lanka, Turkey). The United States referred to bilateral agreements with participants which had been concluded under MFA III and valid during MFA IV (Guatemala, Poland, Singapore and the wool and man-made fibre agreement with Romania), as well as an agreement concluded with a non-participant (Nepal). Reference was also made to sanctions imposed on imports from South Africa as well as to restraints on imports from Taiwan and the United Arab Emirates. Reference has also been made by the United States to certain agreements negotiated under Article 4, superseding or replacing previous MFA III or MFA IV agreements, which have not as yet been notified under Article 4 (Bangladesh, Costa Rica, Czechoslovakia, Jamaica and Peru).

F. Notifications received but not as yet reviewed by the TSB

4.193 By the closing date of this report the TSB had not completed its review of two bilateral agreements (Canada/Romania and United States/Turkey), an amendment of the Finland/China agreement and a notification under Article 11 by Thailand.
Bilateral agreements/modifications/actions
under the 1986 Protocol reviewed by the TSB

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1Decision by the TSB to review the measures under Article 3:5
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1. The bilateral agreement was transmitted under Articles 7 and 8 as China was not participating in the MFA at the time of review.

2. Subject to a twelve-month extension.
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1 Subject to extension to 31 December 1992.
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¹Not participating in the MFA at the time of notification.
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N: New agreement
M: Modification of agreement
E: Extension of agreement
Q: Import quotas
C: Consultation agreement
AP: Additional Protocol
CO: Certificate of origin agreement

1 Not participating in the MFA at the time of notification.
Chapter 5: Observations by the TSB

5.1 The TSB made certain observations relating to the application of the MFA as extended by the 1986 Protocol, but not related to any particular notification or notifications; these observations are contained in Chapter 3 of this report. The present Chapter contains the observations made by the TSB in the course of its review of specific notifications.

A. Observations on notifications received under Article 2

(i) Under Article 2:1

Costa Rica

5.2 Costa Rica notified that it maintained no quantitative restrictions on imports of textile products. After its review, the TSB concluded that Costa Rica's report on the status of quantitative restrictions or any other quantitative measures had fulfilled its obligation under Article 2:1 and agreed to transmit the notification to the Textiles Committee for information. (COM.TEX/SB/1407)

Dominican Republic

5.3 In reviewing the notification by the Dominican Republic on the status of its restrictions on textile products, (paragraph 4.3) the TSB noted that: (a) the Dominican Republic joined MFA II in March 1979, participated in MFA III since February 1984 and in MFA IV as of 23 February 1988; (b) this notification was the first received from the Dominican Republic under the provisions of Article 2:1; (c) imports of certain textile items have been suspended since April 1979.

5.4 In view of the fact that the Dominican Republic is a Contracting Party to the GATT and that its restrictions on imports of textile products have not been notified to the GATT under the relevant provisions of the General Agreement, the TSB drew the attention of the Dominican Republic to the requirements of Article 2, paragraphs 2 and 3 of the MFA, and requested the Dominican Republic to report on this matter at the earliest possible date and in any event not later than 23 February 1989. (COM.TEX/SB/1421) No reply has yet been received.

(ii) Under Article 2:4

China

5.5 In reviewing the notification made in 1987 by China on the status of restrictions maintained by it, (paragraph 4.4 above) the TSB noted that certain products were subject to licensing. It considered that it still needed:

(a) information on imports, by volume and value, of all textile products, including detailed information on imports of products not subject to licensing; and
(b) further clarification on the procedures required for acquiring foreign exchange for textile items not subject to import licensing.

5.6 The TSB nevertheless decided to transmit the notification to participating countries for their information. It was understood that this transmission was without prejudice to the ongoing consultations in the Working Party on China's Status as a Contracting Party. (COM.TEX/SB/1395)

5.7 In its notification made in 1988, China supplied information and clarifications in response to the questions by the TSB stemming from its review of the 1987 notification.

5.8 The Body noted that this was the fourth notification made by China under Article 2. During its review, which took into consideration, inter alia, the provisions of Articles 2:5 and 13:2, the TSB was still not able to determine whether or not all restrictions maintained by China were in conformity with the Arrangement.

5.9 Nevertheless, it decided to transmit this notification to participating countries, for their information. The Body understood that this decision was without prejudice to the ongoing consultations in the Working Party on China's status as a contracting party. (COM.TEX/SB/1443)

B. Notifications under Article 3:5, Article 3:6, Article 3:8 and paragraph 8 of the 1986 Protocol and matters referred under Article 3:5(ii), Article 11:4 and/or 11:5

(i) Unilateral measures under Article 3:5

Canada/Brazil

5.10 With respect to unilateral measures taken by Canada under Article 3:5 with respect to imports of bedsheets, pillowcases and cotton terry towels, washcloths and sets from Brazil, (see paragraph 4.6) the Body heard presentations by delegations from both parties on their respective cases during its meeting of 20-23 June 1988.

5.11 Based on the information supplied to it during the review, which updated that provided at the time of the request for consultations, the TSB was of the opinion that market disruption had been demonstrated for both bedsheets and pillowcases and had not been demonstrated for cotton terry towels, washcloths and sets. The TSB therefore recommended that the restraint on cotton terry towels, washcloths and sets be rescinded.

5.12 The TSB noted that two rounds of consultations under the MFA had taken place between the parties and that they had expressed their intent to resume them; the Body recommended that such consultations be held as soon as possible, that the parties take into account all relevant provisions of the MFA, including paragraph III of Annex A, and that they report back to it on the results before the TSB meeting scheduled for 21-23 September 1988. (COM.TEX/SB/1407)
5.13 The TSB was informed by Canada in July 1988 that in accordance with the recommendation referred to in paragraph 5.11 above, it had rescinded the restraint on cotton terry towels, washcloths and sets. In September both parties reported on unsuccessful bilateral consultations and Brazil requested the TSB to re-examine the case. However, before the TSB addressed the matter, the parties reported that they had concluded a bilateral agreement concerning the products referred to in paragraph 5.11 above; consequently, Brazil withdrew its request to the TSB. (COM.TEX/SB/1418 and 1421)

5.14 However, the agreement, which had been concluded ad referendum, was not finalized as it was not considered satisfactory by Brazil. The unilateral measures taken by Canada were, therefore, kept in place until 4 January 1989.

5.15 In January 1989 the TSB took note of measures for the sixty-day period beginning 5 January 1989 notified by Canada under Article 3:6 on bed sheets and pillowcases, pending bilateral consultations in early February. In March 1989, Canada notified unilateral measures under Article 3:5 on these products to supersede the Article 3:6 actions. (COM.TEX/SB/1455, 1472).

5.16 The TSB examined these measures in April 1989. Canada presented the reasons why it considered that a situation of market disruption existed, thus justifying both the request by the Canadian government for Brazil to consult and, in the absence of a mutually agreed solution, the imposition of restraints under the terms of Article 3:5(i). Brazil presented the reasons why it considered that a situation of market disruption had not been demonstrated, thus justifying the request of the Brazilian government that the TSB recommend the immediate termination of the Canadian measures.

5.17 In their statements, both delegations made reference to their negotiations, started in 1988 and pursued into 1989, in search of an agreed solution under Article 4 of the Arrangement. The TSB noted that those negotiations had progressed considerably, to the point that, in their latest round of consultations, the parties had agreed on all features of such an Article 4 agreement, except the level of the restraints applicable to pillowcases and to bed sheets.

5.18 The TSB therefore recommended that the parties resume consultations forthwith, in order to reach an agreed solution. It requested that the parties report back to it on the result of such consultations preferably no later than 23 May 1989; the TSB would revert to its examination of this case, if necessary. On 23 May the TSB was informed by both parties that consultations had not yet been held. (COM.TEX/SB/1474, 1485)

United States/Bangladesh

5.19 With respect to unilateral measures taken by the United States under Article 3:5 on imports of Categories 645/646 (man-made fibre sweaters) and 338/339 (cotton knit shirts) from Bangladesh, (paragraph 4.8 above), the TSB decided to invite both parties under Article 11:6 to present their respective cases at its meeting of 8-10 July 1987.
5.20 In response to its invitation, the TSB received a communication from Bangladesh requesting the postponement of the review of these measures as consultations with the United States had been scheduled for 29-31 July, and stating that if these consultations did not result in agreed solutions, Bangladesh might request that the restrictions be reviewed in August.

5.21 Having been informed that the United States was in agreement with the request from Bangladesh to postpone its review, the TSB decided to defer its examination of the restraints. It requested the parties to report on the results of the bilateral consultations, and agreed that, if necessary, it would review the case as soon as possible.

5.22 At its meeting on 15-17 September 1987, the TSB received a report from the United States that after consultations with Bangladesh an agreed solution had been found with respect to Category 645/646. The TSB also received a communication from Bangladesh that another round of consultations with the United States on Category 338/339 was scheduled in September. As such, Bangladesh requested the TSB to defer its review of the measure taken by the United States under Article 3:5 on this Category. On being informed that the United States supported this request, the TSB agreed that, if necessary, it would review the case at its meeting scheduled for 13-15 October. At its meeting on 28-29 September 1987, the TSB was informed that the parties had reached agreement on Category 338/339. Both solutions were notified to the TSB in due course. (COM.TEX/SB/1294, 1299, 1312 and 1314)

United States/China

5.23 At its meeting of 8-10 July 1987, the TSB received a notification from the United States of unilateral measures taken with respect to imports of Categories 833 (vegetable fibre suit-type coats) and 847 (silk blend and vegetable fibre trousers) from China (see paragraph 4.10). The TSB decided to review these measures under Article 3:5 and invited both parties to its meeting scheduled for 22-24 July. (See paragraph 4.5 and the relevant footnote)

5.24 China requested the TSB to defer its examination of the measures to its first meeting in September, since bilateral consultations with the United States had been scheduled for 22-24 July. On being informed that the United States was in agreement with this request, the TSB asked both parties to report on the results of their bilateral consultations and decided that, if necessary, it would review the case in September. (COM.TEX/SB/1299 and 1306)

5.25 At its meeting on 15-17 September 1987, the TSB received reports from both parties that at their bilateral consultations agreed solutions had been found with respect to both Categories; these were later notified to the TSB. (COM.TEX/SB/1299, 1306 and 1312)
United States/Costa Rica

5.26 For details see Chapter 4, paragraphs 4.29 to 4.30, and sub-section (iv), paragraphs 5.59 to 5.62, below.

United States/Dominican Republic

5.27 With respect to the unilateral measures by the United States on imports of Category 633 (man-made fibre coats) from the Dominican Republic (see paragraph 4.14 above), the TSB agreed to the parties' request to defer its consideration of the matter in view of bilateral consultations scheduled in February 1989; these consultations were suspended and resumed in March 1989, when the parties found an agreed solution. (COM.TEX/SB/1A55, 1A67 and 1A72)

United States/Thailand

5.28 After the review, during its meeting of 27 and 30 January 1989, of the measures taken by the United States on Categories 670-L (man-made fibre luggage) and 870 (luggage of silk blends and vegetable fibres other than cotton), (see paragraph 4.15 above) the TSB concluded with respect to the measure on Category 670-L, that since the parties were not in agreement on the composition and pattern of trade, the Body was not in a position to pronounce itself on the occurrence of market disruption. It therefore recommended that the parties hold further consultations on the issue of the composition and pattern of trade.

5.29 On Category 870, the TSB was of the opinion that market disruption had not been established, and therefore recommended that the United States rescind the restraint on this Category.

5.30 The TSB asked the parties to report back to it no later than 10 March 1989.

5.31 In February the Body was informed that the United States had rescinded the restraint on Category 870. In March, the TSB was informed that technical consultations regarding the composition of trade of Category 670-L had taken place, and formal consultations were scheduled for 4 April. In April, Thailand reported that these consultations had been postponed at the request of the United States and no new dates had been foreseen. The TSB also heard a statement from the United States that it had conveyed to Thailand its decision not to seek a renewal of the restraint and to allow it to expire on 24 May 1989.

5.32 In view of the information outlined above, the TSB decided it would revert to the matter at its next meeting. (COM.TEX/SB/1A55, 1A67, 1A72, 1474)

5.33 In May 1989, the TSB heard a statement from Thailand related to the composition of its exports of luggage to the United States. The TSB decided that since the restraint had expired, it was not necessary to revert to the matter at that stage, but agreed that it might do so if Thailand found it necessary to raise the matter at a later occasion. (COM.TEX/SB/1485)
5.34 At its meeting of 23 to 26 May 1989, the TSB reviewed unilateral measures taken by the United States on imports of Categories 345, 363, 369-D and 301pt/607pt from Thailand (see paragraph 4.16). The TSB regretted that the restraints had been introduced before the parties held consultations as required by Article 3. It noted that both parties declared their willingness to hold such consultations. It therefore decided not to examine, at that meeting, the occurrence of market disruption, and recommended that the parties consult as early as possible and report back to it on the result of such consultations. The TSB also decided that, after receiving the reports, it would revert to those cases, if necessary.

5.35 The TSB further recommended that, pending the conclusion of the bilateral consultations, the United States pay particular attention to avoid the disruption of the normal flow of Thai exports in the products concerned. (COM.TEX/SB/1485)

United States/Turkey

5.36 During its review (8-9 December 1987) of the measure taken by the United States on imports of cotton and man-made fibre skirts (Categories 342/642) from Turkey, (see paragraph 4.17), the TSB noted the statement of the United States that cotton and man-made fibre skirts constituted one product in its market. It also noted that imports of products falling under Category 642 from Turkey were negligible at the moment of the request for consultations and still small, according to the latest information made available to the Body in the course of the meeting.

5.37 After examining all the available data and other elements related to this case, the TSB was of the opinion that the two parties had not exhausted all possibilities available under the MFA, and recommended they resume consultations on cotton and man-made fibre skirts bearing in mind:

(a) the development of United States' imports of cotton and man-made fibre skirts from Turkey up to September 1987, which was the latest information made available to the Body at the December 1987 meeting;

(b) the position of Turkey in terms of Article 6 and paragraph 13 of the 1986 Protocol of Extension;

(c) paragraph III of Annex A;

(d) the need to avoid market disruption in the United States.

5.38 The TSB requested both parties to report on the results of the consultations by 20 January 1988.

5.39 In January 1988, both parties reported that after consultations no agreed solution had been found. The TSB understood it might revert to the matter at the request of either party, or on its own decision.
5.40 At the request of Turkey the TSB reverted to the matter on 25 February 1988. In its request Turkey reiterated its opinion that Categories 342 and 642 being different products, Category 642 should not be included in the consultations, since Turkey's exports to the United States of Category 642 products were negligible. The TSB recalled that it had examined the case in December 1987, and that the bilateral consultations recommended by it had not resulted in an agreed solution.

5.41 After hearing the reports from the parties, the TSB concluded that its recommendation had not been correctly interpreted. It recalled that the recommendation was based on four elements (items (a) to (d) of paragraph 5.37 above): sub-paragraphs (a), (b) and (c) addressed the fact that the application of a reference level established in accordance with Annex B, paragraph 1(a), i.e. imports in the twelve-month period ending in February 1987, did not take into account Article 6 of the Arrangement, paragraph 13 of the 1986 Protocol and paragraph III of Annex A, while item (d) recognized that the need to avoid market disruption in the United States should be borne in mind by the parties. None of these elements in isolation could represent the sense of the recommendation.

5.42 The TSB noted that in referring to the development of imports up to September 1987, it had not intended to indicate a level of restraint, but only one of the several reference points to be taken into consideration by the parties.

5.43 The Body, therefore, recommended that once again the parties resume their consultations, bearing in mind both its previous recommendation and the above comments, and report to it on the result of such consultations.

5.44 In May 1988, the United States informed the TSB that in the absence of agreement with Turkey on the extension of the restraint under Article 3:8, it intended to invoke paragraph 8 of the 1986 Protocol of Extension.

5.45 In June 1988, the TSB was informed that consultations between the parties were scheduled during that month and in view of the request by both parties that the TSB defer its consideration of the matter, the Body agreed to such deferment. The TSB asked both parties to report back to it on the result of their consultations before its next meeting, scheduled for 13-15 July. (COM.TEX/SB/1345, 1359, 1370, 1407)

5.46 In July, the United States reported that the parties had found a solution in the context of a bilateral agreement which would be notified to the TSB in due course. (COM.TEX/SB/1418)

(ii) Under Article 3:6

Canada/Brazil

5.47 In January 1989 the TSB took note of a notification received from Canada of a request to Brazil to co-operate in a two-month emergency action under Article 3:6, effective 5 January 1989, on imports of bedsheets and
pillowcases. The TSB was informed that bilateral consultations on this matter were scheduled for 1 and 2 February. These measures were superseded by actions under Article 3:5. (COM.TEX/SB/1455) (See paragraphs 5.15 to 5.18 above for the Article 3:5 measures)

(iii) Extension of measures under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension

United States/China

5.48 In considering, during its meeting of 15-17 September 1987, the notification from the United States under Article 3:8 and paragraph 8 of the 1986 Protocol concerning the extension of a restraint on imports of Category 845/846 (silk blend and other vegetable fibre sweaters) from China (see paragraph 4.21 above), the TSB noted that the unilateral measure on this Category had first been taken by the United States when China was not participating in the MFA.

5.49 In October the parties requested the TSB to defer consideration of the case in view of forthcoming bilateral consultations. In agreeing to the request, the TSB recalled the importance it attaches to the consideration of Article 3 cases within a period of thirty days whenever possible. A further request for deferral of review was made by the parties in December.

5.50 In January 1988, the TSB was informed that the matter had been solved in the context of a new bilateral agreement concluded for the period 1 January 1988 to 31 December 1991. The TSB did not find it necessary to pursue the matter. (COM.TEX/SB/1312, 1325, 1345, 1359)

United States/Pakistan

5.51 With respect to the extension of the unilateral restraint on imports of Category 613-C (light-weight plainweave man-made fibre fabric) from Pakistan into the United States (see paragraph 4.23), the TSB agreed in June 1988 to defer its review of the measure in view of bilateral consultations scheduled for July. In September the TSB was informed of an agreed solution which was notified as an amendment of the United States/Pakistan agreement. (COM.TEX/SB/1285, 1312, 1325)

United States/Turkey

5.52 The TSB agreed in June 1988 to the request of Turkey and the United States to defer its review of the extension under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension of the measure on Category 342/642 (see paragraph 4.25) in view of bilateral consultations scheduled for July. An agreed solution was then found in the context of a new bilateral agreement between the parties. (COM.TEX/SB/1407, 1418)
(iv) Matters referred under Article 3:5(ii), Article 11:4 and/or 11:5

(a) Under Article 11:4 and/or 11:5

Brazil/United States

5.53 Under paragraphs 4 and 5 of Article 11, Brazil referred certain measures taken by the United States under paragraph 8 of the United States/Brazil agreement (see paragraph 4.27 above).

5.54 At its meeting in October 1986, the TSB heard presentations by delegations from both parties on their respective cases.

5.55 With respect to Category 314/320pt, the TSB noted that the United States had modified the criteria for collecting production data for 1986, making comparison with data for earlier years difficult. After examining all available data, the TSB noted that whereas the level of imports from Brazil of products falling under Category 314 could have given rise to a situation of real risk of market disruption, imports of products falling under Category 320pt were negligible and did not pose a real risk of market disruption. The TSB noted the United States' explanation on the reasons for requesting consultations on the combined category, but was of the opinion that this placed Brazil in a disadvantageous situation with regard to the reference level due to its negligible level of exports in Category 320pt.

5.56 In view of the elements listed in the paragraph above, the TSB recommended that the parties resume bilateral consultations with a view to reaching an agreed solution and report on the results to the TSB no later than 20 December 1986. During these consultations the parties should bear in mind the observation made with respect to Category 320pt.

5.57 With respect to Category 341, the TSB took account of all information made available, including data on the latest situation, and recommended (a) that the United States rescind the restraint, and (b) that Brazil ensure an orderly development of its exports in this category. (COM.TEX/SB/1184)

5.58 In accordance with the TSB's recommendation, the restraint on Category 341 was rescinded by the United States. Later, after consultations, both parties reported that they had reached an agreed solution concerning Category 314/320pt. (COM.TEX/SB/1226, 1231)

Costa Rica/United States

5.59 In November 1988 Costa Rica referred under Article 11:4 two requests for consultations on Categories 342/642 and 347/348 made by the United States under Article 3:3 (see paragraph 4.29). The TSB was informed that, subsequent to this notification, the United States had taken unilateral measures under Article 3:5 on both merged categories, and that the parties had held further consultations and intended to continue them later in the month.
5.60 Taking note of these developments, the TSB decided that if no agreed solution was found in the forthcoming consultations, it would review these measures at its next meeting, and to this end delegations from the parties involved would be invited.

5.61 In January 1989 Costa Rica informed the TSB that in the consultations a bilateral solution was found with respect to Category 342/642, but no solution was agreed on Category 347/348.

5.62 In view of the fact that the parties intended to hold further consultations on the latter category, the TSB agreed to their request to again defer its consideration of the matter until after such consultations. In February 1989 the United States informed the TSB that agreement had been reached on Category 347/348; the agreed solutions on both merged categories would be notified in due course. The TSB, awaiting notification of the agreed solutions, did not find it necessary to pursue the matter.

5.63 Subsequent to the reference by India under Article 11:4, of measures taken by the United States on three categories (see paragraph 4.31 above), the TSB was informed that bilateral solutions had been found. The TSB therefore decided not to pursue the matter, and understood that these solutions would be notified. This was done through the notification of an amendment of the India/United States agreement containing those solutions.

5.64 For details, see Chapter 4, paragraph 4.32, and sub-section (i) above, paragraphs 5.36 to 5.46.

(b) Under Article 3:5(ii)

5.65 With respect to the matters referred under Article 3:5(ii) by Thailand (see paragraph 4.34), the TSB, at its meeting of 23 to 26 May 1989, was requested by Thailand to decide whether in its requests for consultations under Article 3:3 on Categories 335, 448 and 635, the United States had correctly interpreted the Arrangement when calculating the minimum levels that would be applicable to Thai exports of those Categories.

5.66 Being informed by the Government of the United States of its decision to cancel the requests for consultations on Categories 335 and 635, the TSB decided not to address them.

5.67 After having heard presentations from both delegations on Category 448, the TSB concluded that Designated Consultation Levels such as that appearing in the United States/Thailand Agreement which expired on
31 December 1988, could, under certain circumstances, have restrictive
effects on trade similar to those of specific restraints.

5.68 With respect to the DCL previously existing on Category 448, the TSB
did not examine the effects of its application, but recommended that the
DCL applied under the expired agreement be taken into account, together
with other elements related to the market situation. (COM.TEX/SB/1485)

C. Notifications under Article 4

5.69 All notifications under Article 4, concluded under the 1986 Protocol
of Extension, were after their review transmitted to the Textiles
Committee. The following paragraphs contain observations made by the TSB;
in doing so, the TSB often took note of statements made by parties relating
to the relevant notifications.

(i) Notifications transmitted without any specific observations

5.70 Certain notifications under Article 4 were transmitted to the
Textiles Committee without any specific observations. These concerned some
bilateral agreements: Canada - Bangladesh, Pakistan, Philippines, Turkey
(COM.TEX/SB/1312 and 1385); Finland - Romania (COM.TEX/SB/1312);
United States - Colombia, Hong Kong (COM.TEX/SB/1190 and 1429); certain
extensions of agreements: Canada - Brazil (COM.TEX/SB/1345);
United States - Hungary, Philippines (COM.TEX/SB/1201 and 1256); and some
modifications of agreements: Canada - Bangladesh, China, Pakistan,
Philippines, Poland (COM.TEX/SB/1429, 1443, 1450, 1467); EEC - China,
India, Indonesia, Korea, Pakistan, Philippines, Poland, Thailand
(COM.TEX/SB/1342, 1369, 1407, 1416, 1450, 1472); Finland - China
(COM.TEX/SB/1443); Norway - Czechoslovakia, Hong Kong, Hungary, Poland,
Yugoslavia (COM.TEX/SB/1467, 1485); United States - Bangladesh, Brazil,
China, Hungary, Indonesia, Jamaica, Mexico, Pakistan, Peru, Romania (both
the cotton and the man-made fibre agreements), Sri Lanka, Thailand and
Turkey (COM.TEX/SB/1231, 1241, 1285, 1294, 1299, 1325, 1328, 1359, 1377,
1443, 1450, 1485).

(ii) All elements in agreements

5.71 In reviewing the extension of the previous agreement and the new
agreement between Sweden and Korea, the TSB bore in mind its observations
and recommendation made during the review of the previous agreement
(COM.TEX/SB/1164); the Body noted there had been improvements in all
elements, including the removal of the aggregate limit and the
liberalization of several categories, and concluded that its recommendation
had been taken into account by both parties. (COM.TEX/SB/1391)

(iii) Overall access in agreements with Aggregate/Group limits

5.72 In reviewing the United States/Korea agreement, the TSB noted that
the sum of the specific limits subject to Group limits was lower than the
Group limits in three cases and higher in one case. It was of the opinion
that it was unclear that the agreement as modified offered more access to
Korea than the superseded years of the agreement, in view of the introduction of Group limits, of new specific limits and of features such as the existence of a limit on Group VI which was lower than the sum of its specific limits. (COM.TEX/SB/1272)

5.73 During its review of the United States/Romania cotton agreement, the TSB noted that it evolved from the structure of the previous bilateral agreement and that the merging of certain categories under restraint reflected the particular export interests of Romania to the United States. (COM.TEX/SB/1455)

(iv) New restraints and real risk of market disruption

5.74 In reviewing the Norway/Macao agreement, the TSB noted that the new restraint was set at a very low level with respect to both total imports and market share, and was of the opinion that the imminent increase in imports from Macao foreseen at the moment of negotiation of the agreement was not such as to pose a real risk of market disruption. The same observation was made with respect to the new restraint introduced in Norway's agreement with Korea. (COM.TEX/SB/1443)

5.75 The TSB considered the first agreement concluded between Norway and Indonesia. In view of the fact that prior to the conclusion of the agreement there was little or no trade in certain products placed under restraint, the TSB decided to ask both parties for the MFA rationale under which they had agreed to the different elements in this agreement. In concluding its review of the agreement the TSB took into account supplementary information regarding the notification. (COM.TEX/SB/1455 and 1467)

5.76 During its review of agreements concluded by Norway with Indonesia and Thailand, the TSB gave particular attention to elements related to restraints introduced on the same product (bedlinen) in each agreement:

(a) there was very little or no trade from the countries concerned at the time of negotiation;

(b) a statement by Norway that the new restraints were negotiated on the basis of a perception of an "imminent increase of imports", as defined in Annex A, together with other elements of interest to the exporting country;

(c) Annex B, paragraph 2, and paragraph 12 of the 1986 Protocol were invoked for the low growth and flexibility provisions;

(d) the imminent increases in imports foreseen at the moment of the negotiation of the agreements were not such as to pose a real risk of market disruption;

(e) by the time of notification of the agreements, which was delayed, and of their review by the TSB, the anticipated trade had not developed.
5.77 In view of the points outlined above, the TSB recommended that the parties review the situation, bearing in mind the provisions of the MFA. The TSB observed that the agreements concluded by Norway with Korea and with Macao showed a similar feature. (COM.TEX/SB/1467)

5.78 In reviewing the Norway/Romania agreement, the TSB gave particular attention to the restraint introduced on bedlinen and noted that the trade in this product was at a relatively low level. It heard a statement from Norway that the restraint had been negotiated in view of the pattern of trade from the exporting country in the two years preceding the negotiation of the agreement. (COM.TEX/SB/1485)

(v) Base levels

5.79 In certain cases it was not possible to calculate changes in base levels: (a) for certain categories in the agreements concluded by the EEC, due to modifications in product coverage resulting from categorization changes as adapted to the Harmonized System (COM.TEX/SB/1272, 1285, 1294, 1306); (b) in the United States/Japan agreement, due to the shift from multi-year limits in the previous agreement to annual limits, increases in base levels were not in all cases comparable. (COM.TEX/SB/1276)

5.80 In reviewing the EEC/Argentina agreement, the TSB took note of a statement by the EEC that in setting the base levels the parties had taken into account the 1982 restraint levels together with growth and actual trade flows. (COM.TEX/SB/1272)

5.81 In the multi-year extensions superseding previous agreements concluded by the United States with Hong Kong and with Korea, the base levels of new restraints introduced on products of silk blends and vegetable fibres other than cotton were set at agreed reference levels. (COM.TEX/SB/1190, 1272)

5.82 With reference to the reduction in the base level for one restraint in the Canada/China agreement, the TSB heard a statement from Canada that the reduction had been agreed in return for an increase in another category of export interest to China. (COM.TEX/SB/1391)

5.83 With respect to the reduction in the base level for Category 1 (trousers) in the Canada/Czechoslovakia agreement, the TSB was informed that the new level was substantially higher than average trade for the period 1983-1985, as the quota of the previous agreement had been little utilized. The TSB noted that Canada had proposed to amend the agreement in order to eliminate that quota, and had sought the co-operation of the Government of Czechoslovakia in this regard. The TSB recommended that Canada's initiative to eliminate that quota be agreed to by Czechoslovakia.

5.84 In reply to this recommendation, Czechoslovakia informed the TSB that it did not see the necessity, in spite of the fact that the restraint levels on Category 1 (and sub-category 1A) have been under-utilized over the past several years, to remove them from the agreement as proposed by
the Canadian authorities; if the Canadian authorities wished to review this problem renewed negotiation about the restraint levels was necessary.

5.85 In the light of this reply to its recommendation, the TSB decided not to pursue the matter. (COM.TEX/SB/1450 and 1474)

5.86 During its review of the agreement between Canada and Korea the TSB noted, on the one hand the decrease in the base level for one clothing category, as well as the lower growth rates for all clothing categories, and on the other hand the liberalization of restraints on two non-clothing categories and parts of three non-clothing categories, as well as the increases in base levels of non-clothing categories, in several cases substantially higher than 6 per cent. (COM.TEX/SB/1342)

5.87 With respect to the reduction in base levels for two categories in the EEC/Czechoslovakia agreement, the TSB heard a statement from the EEC that some quota had been transferred between categories in order to respond to Czechoslovakia's export aspirations. (COM.TEX/SB/1306)

5.88 With respect to the reduction in base level for one category in the EEC/Korea agreement, the TSB heard a statement from the EEC that the reduction was agreed in exchange for more access in two categories of export interest to Korea. (COM.TEX/SB/1294)

5.89 Regarding the reductions in the base levels for two Community restraints in the EEC/Macao agreement, the TSB heard a statement from the EEC that they were agreed in order to take into account the true origin of previous imports into the Community. (COM.TEX/SB/1342)

5.90 During its review of the United States/Brazil agreement the TSB heard a statement from the United States that the decreases in base levels, the base level increases at less than 6 per cent and the growth at less than 6 per cent for the wool categories had been agreed in the overall context of the agreement. (COM.TEX/SB/1455)

5.91 In examining the arrangement for the two restraint periods in the United States/Costa Rica agreement where the specific limit for the first restraint period was much higher than the relevant restraint level and where the parties agreed to a specific limit at a lower level plus a guaranteed access level for the second agreement period, the TSB was informed by the United States that all imports were subject to the specific limit in the first restraint period, while in the second, imports of shirts from United States' fabrics cut in the United States were subject to the guaranteed access level, and therefore the coverage falling under the specific limit had been reduced.

5.92 In considering the reductions in base levels for three categories in the United States/Japan agreement, the TSB noted that for two of them the utilization of the quotas was low and that substantial increases in base levels had been agreed for other categories. The TSB also noted that for the remaining category there was a further reduction in the 1987 level for this category with growth applicable for the last two agreement years,
resulting in the 1989 limit being lower than the limit in 1985. The TSB noted the statement by the United States that these levels were agreed to take account of administrative adjustments. (COM.TEX/SB/1276)

5.93 In reviewing the extension and modifications of the United States/Malaysia agreement, the TSB noted the relatively low increase in one base level and the low growth rates applicable to the wool categories, and heard a statement from the United States that these had been agreed taking into account other elements in the agreement, including the merger of certain categories under specific limits, the elimination of some sub-limits, and that the base level increases over 1986 imports for the new restraints were, in all cases except one, more or substantially more than 6 per cent. (COM.TEX/SB/1342)

5.94 The TSB heard a statement from the United States that the reductions in base levels for some categories and other features of the agreement with Pakistan were negotiated to take account of changes in the trade interests of both parties. (COM.TEX/SB/1325)

5.95 With respect to the United States/Philippines agreement, which included substantial reductions and substantial increases, the TSB heard a statement from the United States that the reductions in some base levels and large increases in others were agreed to take account of changes in the trade interests of both parties. (COM.TEX/SB/1306)

(vi) Growth and flexibility provisions

(a) Article 1:2, Annex B, paragraph 2, and paragraph 12 of the 1986 Protocol of Extension

5.96 In reviewing the agreements concluded by Finland with Hong Kong, India, Korea, Macao, Sri Lanka and Thailand, 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.

5.97 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.

5.98 During its review of the Finland/Macao agreement, the TSB understood that the parties had borne in mind paragraph 12 of the 1986 Protocol of Extension in negotiating the growth rates. (COM.TEX/SB/1385)

5.99 During the reviews of modifications of the Finland/India and Finland/Hong Kong agreements, Finland made reference to paragraph 12 of the 1986 Protocol with respect to the growth and flexibility provisions. (COM.TEX/SB/1443)

5.100 The TSB heard statements by Norway and Hong Kong that they had taken into account paragraph 12 of the 1986 Protocol of Extension in negotiating the growth rates and flexibility provisions of their agreement. Norway
referred to this paragraph with respect to the swing provision for a restraint introduced as an amendment of its agreement with China which expired in 1988. (COM.TEX/SB/1359, 1485)

5.101 With respect to the growth and flexibility provisions in the Norway/Czechoslovakia agreement, the TSB heard a statement from Norway that reference was made to Annex B of the Arrangement and paragraph 12 of the 1986 Protocol of Extension. Norway made similar statements concerning the growth and flexibility provisions in its agreements with China (valid from 1 January 1989), Hungary, India, Indonesia, Korea, Macao, Malaysia, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand and Yugoslavia. (COM.TEX/SB/1407, 1443, 1485)

5.102 With reference to the growth and flexibility provisions in both the extension and the new agreement with Korea, Sweden made reference to Article 1:2 and Annex B of the Arrangement, as well as to paragraph 12 of the 1986 Protocol of Extension; similar reference to these provisions was made with respect to the Sweden/Thailand agreement. (COM.TEX/SB/1391 and 1429) Sweden made reference to Annex B of the MFA and paragraph 12 of the 1986 Protocol with respect to the growth and flexibility provisions in its agreements with Malaysia, Pakistan, Singapore and Yugoslavia. (COM.TEX/SB/1369 and 1487)

5.103 Paragraphs 2 and 5 of Annex B

During its review of agreements concluded by Austria with Hong Kong, India, Korea and Macao, the TSB took note of statements made by Austria relating to the growth and/or flexibility provisions in these agreements. On the agreement with Hong Kong, the TSB took note of the statement that the lower than 6 per cent growth was agreed in view of exceptional cases in terms of Annex B of the Arrangement. In addition, Austria also stated that certain improvements were made in the agreement, such as the reduction in product coverage, increase in one base level by more than 6 per cent, higher growth rates for two categories, and improved provisions for carryover/carry forward (COM.TEX/SB/1276). On the agreement with India, Austria stated that swing at 5 per cent had been fixed in accordance with the provisions of paragraph 5 of Annex B of the Arrangement (COM.TEX/SB/1265). With respect to the agreement with Korea, the TSB noted the statement by Austria that the growth rates lower than 6 per cent and swing at 5 per cent were agreed due to the existing exceptional circumstances in terms of Annex B of the Arrangement. For the agreement with Macao, the TSB took note of a statement by Austria which made reference to exceptional circumstances in terms of Annex B, and to the fact that, in determining the growth and flexibility provisions, the parties had taken account of the reduction in product coverage and the removal of the restraint on one product. (COM.TEX/SB/1265)

5.104 The TSB heard a statement from Canada that the growth rates and swing provision in its agreement with Czechoslovakia had been agreed in view of these being exceptional cases in terms of Annex B, paragraphs 2 and 5, of the MFA. (COM.TEX/SB/1450)
5.105 During its review of the Canada/Hungary agreement, the TSB heard a statement from Canada that the lower than 6 per cent growth rate was agreed pursuant to paragraph 2 of Annex B (COM.TEX/SB/1377). Canada made similar statements with respect to the growth rates in its agreements with Malaysia, Singapore and Thailand as well as for the textile category in its agreement with India. (COM.TEX/SB/1369, 1385 and 1418)

5.106 The TSB also noted that the flexibility provisions were less favourable to Thailand than in the previous agreement, and heard a statement from Canada that 5 per cent swing for some categories had been agreed pursuant to paragraph 5 of Annex B. (COM.TEX/SB/1385)

5.107 With respect to the growth and flexibility provisions in the Canada/Poland agreement, the TSB heard a statement from Canada that these were agreed pursuant to paragraphs 2 and 5 of Annex B. (COM.TEX/SB/1418)

5.108 With regard to a number of agreements notified by the EEC, the TSB noted that they contained a number of points in common, which the TSB understood appeared in the other agreements negotiated by the Community to cover the period 1 January 1987-31 December 1991. With respect to these points, the TSB made several general observations, in the understanding that, unless otherwise decided by the Body, they should be equally applicable to all future notifications of agreements containing the same points. One of the general observations referred to growth rates.

5.109 In this context, the TSB heard a statement from the EEC that, while growth rates in the agreements concluded under the 1986 Protocol were in almost all cases higher than in the agreements concluded under the 1981 Protocol, there were cases in which the parties agreed to rates lower than 6 per cent pursuant to paragraph 2 of Annex B. In a number of cases, such lower rates had been compensated by increases in the base levels and other features of the agreements. The TSB took note of this statement and reiterated that it would review each agreement on a case-by-case basis. (COM.TEX/SB/1272)

5.110 These observations applied to the following agreements concluded by the EEC: Argentina, Brazil, China, Czechoslovakia, Hungary, India, Indonesia, Malaysia, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka and Thailand. (COM.TEX/SB/1272, 1285, 1294, 1306, 1342, 1359, 1369, 1407 and 1474)

5.111 In addition, the TSB also noted a statement by the EEC that, in all agreements containing restraints, provision had been made for carryover and carry forward between the last year of the previous agreement and the first year of the new agreement. (COM.TEX/SB/1294)

5.112 The above observations relating to growth rates, and carryover/carry forward provisions between the old and new agreements applied to all EEC agreements containing restraints and reviewed by the Body during the period covered by this report, except that the carryover/carry forward provision did not apply to the agreement with Argentina, as there was no agreement between the parties under the 1981 Protocol.
5.113 With respect to the two EEC agreements containing no restraints (with Bangladesh and Uruguay), the TSB noted that in the event restraints were introduced, the applicable flexibility provisions would be higher than in the previous agreement. (COM.TEX/SB/1294)

5.114 During its review of the extension of the agreement between the United States and Hungary, the TSB heard a statement from the United States that the parties had agreed to no growth between the 1987 and 1988 agreement years for Category 434, due to their agreement of commencing the first restraint period on 1 November instead of 1 October 1986, and by agreeing to the initial restraint period for fourteen months, thereby enhancing carryover/carry forward; furthermore, the parties did not consider this as a decision to have no growth for this category in any future extension of the agreement. (COM.TEX/SB/1306)

5.115 With respect to the growth rates for wool categories in the extension and modification of its agreement with Hungary, the United States stated that they had been sought pursuant to paragraph 2 of Annex B. The United States made a similar statement concerning growth rates for certain categories in the extension and modification of its agreement with Uruguay. (COM.TEX/SB/1325 and 1395)

(c) Paragraph 10 of the 1986 Protocol of Extension

5.116 In certain cases, the TSB heard statements from the importing countries that in some of their agreements the low, and in some cases very low growth and flexibility provisions had been agreed pursuant to paragraph 10 of the 1986 Protocol. These concerned the following agreements: Austria/Korea, Canada/China, Canada/Hong Kong, Canada/Korea, EEC/Hong Kong, EEC/Korea, EEC/Macao, United States/China, United States/Japan and United States/Korea (COM.TEX/SB/1272, 1276, 1294, 1342, 1377, 1391, 1418 and 1450).

(d) In connection with other elements in agreements

5.117 The TSB was informed by Austria that the less than 6 per cent growth rate and the swing provision in its agreement with China were agreed in the context of the base level of the previously restrained category which was increased by more than 6 per cent and the base levels of the new restraints which were substantially higher than the previous trade. (COM.TEX/SB/1467)

5.118 With respect to the less than 6 per cent growth for the new restraint under an amendment of the Austria/Hong Kong agreement, the TSB was informed by Austria that this was agreed in the context of the liberalization of a restraint and of the substantial increase in the base level over previous trade for the new restraint. (COM.TEX/SB/1467)

5.119 The TSB heard a statement from Canada that the growth and swing provisions under the amendment of its agreement with Malaysia were agreed taking into account the increases in base levels and the additional swing for 1988. (COM.TEX/SB/1429)
5.120 With respect to the growth and flexibility provisions in its agreement with Sri Lanka, Canada stated that they had been agreed taking into account the increases in base levels. (COM.TEX/SB/1418)

5.121 The TSB heard a statement from the EEC that, when agreeing on most growth rates and on the flexibility provisions in the agreement with Hungary, the parties had taken into account other elements in the agreement, particularly the removal of six Community and three regional restraints, and the increases in some base levels higher or substantially higher than 6 per cent. (COM.TEX/SB/1342)

5.122 During its review of the agreement between Norway and India, the TSB, while noting improvements in the agreement, such as reduction in the product coverage, liberalization of restraints on two categories and generally more favourable flexibility provisions, as well as the improved growth rates for practically all categories, noted that the growth and swing provisions for one category were now less favourable to India and set at extremely low levels. (COM.TEX/SB/1418)

5.123 With respect to its agreement with Brazil, the TSB heard a statement from the United States that the decreases in base levels, the base level increases at less than 6 per cent and the growth at less than 6 per cent for the wool categories had been agreed in the overall context of the agreement. (COM.TEX/SB/1455)

5.124 In reviewing the new agreement between the United States and China covering one product, the TSB noted that, while the new agreement would take effect on 1 January 1988, the special carry forward was available for the current comprehensive United States/China agreement, valid until 31 December 1987. (COM.TEX/SB/1325)

5.125 The TSB took note of a statement by the United States that in its agreement with Egypt the absence of growth in two sub-categories was agreed taking into account other features of the agreement. (COM.TEX/SB/1407)

5.126 Regarding the modification of the United States/Hungary agreement the TSB heard a statement from the United States that the growth and swing provisions were agreed taking into account increases in base levels and other elements in the amendment. (COM.TEX/SB/1443)

5.127 The TSB noted the low growth rates applicable to the wool categories in the United States/Malaysia agreement, and heard a statement from the United States that these had been agreed taking into account other elements in the agreement, including the merger of certain categories under specific limit, the liberalization of some sub-limits and the higher or substantially higher than 6 per cent base levels over 1986 trade for all new restraints, except one. (COM.TEX/SB/1342)

5.128 With respect to growth rates lower than 6 per cent for certain categories and the swing provisions in the United States/Sri Lanka agreement, the TSB heard a statement from the United States that these had been agreed in the overall context of the agreement. (COM.TEX/SB/1450)
5.129 The TSB noted that the agreements notified by the EEC provided under certain conditions for the automatic transfer of unused regional quota-shares of Community limits to other regions, up to annually increasing percentages of the quota-shares to which the transfer is made. This provided for better flexibility than in previous agreements. (COM.TEX/SB/1272)

5.130 The TSB noted that the reduction in the growth rate for a category in the United States/Romania wool and man-made fibre agreement was agreed to by the parties in the context of the negotiation of a new agreement relating to trade in cotton textiles between both countries. (COM.TEX/SB/1455)

(vii) Paragraph 13 of the 1986 Protocol of Extension

5.131 With respect to the provisions of the EEC/Bangladesh agreement, the TSB heard a statement from the EEC that in concluding it, particular attention had been paid to sub-paragraphs 13(a) and (b) of the 1986 Protocol of Extension. (COM.TEX/SB/1294)

5.132 In the course of its review of the agreement between the EEC and Pakistan, the TSB heard a statement by the EEC that, although growth rates of less than 6 per cent were agreed for some sensitive products, the provisions of paragraph 13(d) of the 1986 Protocol of Extension had been fully taken into account. (COM.TEX/SB/1369)

5.133 With respect to the agreements concluded with Peru and Sri Lanka, the EEC made statements that it had taken into account paragraph 13(b) of the 1986 Protocol of Extension to provide for a more favourable treatment to Peru and to Sri Lanka than that accorded to other groups of suppliers. (COM.TEX/SB/1359)

5.134 The TSB noted a statement from Norway that its certificate of origin arrangement with Bangladesh regarding eight product categories had been concluded bearing in mind, inter alia, paragraph 13 of the 1986 Protocol. (COM.TEX/SB/1485)

5.135 With respect to the new restraint on knit shirts and blouses (Category 339) in the United States/Egypt agreement, the TSB heard a statement from Egypt that it was a new entrant in the United States market in the product, which was of particular commercial interest to Egypt. The TSB, taking note of the statement by Egypt, drew attention to Article 6 of the MFA and sub-paragraphs 13(d) and (f) of the 1986 Protocol of Extension. (COM.TEX/SB/1407)

1 The TSB decided to transmit this notification under Article 8 of the MFA.
(viii) **Paragraph 14 of the 1986 Protocol of Extension**

5.136 During its review of the agreement between Canada and Uruguay, the TSB took note of a statement by Canada that in concluding the agreement, particular consideration was given to paragraph 14 of the 1986 Protocol of Extension. (COM.TEX/SB/1312)

5.137 The TSB heard a statement from the United States that in the extension and modification of its agreement with Uruguay, increases over previous levels, growth rates and the swing provisions were agreed pursuant to paragraph 14 of the 1986 Protocol of Extension and to paragraph 2 of Annex B. (COM.TEX/SB/1395)

(ix) **Article 6:6 and paragraph 15 of the 1986 Protocol of Extension**

5.138 In May 1987, during its review of several agreements notified by the EEC, the TSB noted that they continued to contain provisions relating to re-imports of textile products after processing in the partner country concerned, but decided not to make any observation on that point at the time. (COM.TEX/SB/1272)

5.139 With respect to additional quantities available for three categories for outward processing traffic in the agreement between the EEC and the Philippines, the TSB heard a statement by the EEC that the agreement reached by the parties on these quantities was intended to provide additional access, thereby taking care of specific interests of producers from both parties. In this context the TSB recalled its earlier decision (as contained in the previous paragraph) not to make any observation on provisions relating to re-imports of textile products after processing in the partner country. (COM.TEX/SB/1285)

5.140 At a later meeting, the TSB made a general observation on trade of products falling within Article 6:6 of the MFA and paragraph 15 of the 1986 Protocol, to be found in Chapter 3, Section B(iv) of this report.

5.141 During its review of the agreement between the United States and Costa Rica, the TSB had in mind that the agreement had been concluded before Costa Rica became a participant in the Arrangement. It also had in mind its general observation relating to products falling within Article 6:6 and paragraph 15 of the 1986 Protocol.

5.142 With respect to the arrangement for the two restraint periods, namely, a specific limit for the first restraint period, followed by a specific limit at a lower level plus a guaranteed access level in the second, the TSB was informed by the United States that all imports were subject to the specific limit in the first restraint period, while in the second, imports of shirts from United States' fabrics cut in the United States were subject to the guaranteed access level, and therefore the coverage falling under the specific limit had been reduced. With regard to its general observation referred to in the preceding paragraph, the TSB was informed that exports from Costa Rica of products falling under
the guaranteed access level already existed when the agreement was negotiated. However, since for technical reasons the parties were unable to provide for separate administration of both a guaranteed access level and a specific limit in the first restraint period, they had agreed to cover both types of trade under a specific limit during that period only. (COM.TEX/SB/1391)

5.143 During its review of an amendment of the United States/Mexico agreement, the TSB noted that the parties had agreed that, should a new agreement be entered into, it should take into consideration Article 6:6 of the Arrangement and paragraph 15 of the 1986 Protocol of Extension; the TSB bore this notation in mind when it reviewed the new agreement between the parties. (COM.TEX/SB/1314 and 1395)

(x) Article 12, paragraph 3, of the MFA

5.144 During its review of the agreement between Canada and India, the TSB noted the parties had agreed to include handloom products corresponding to one category in the restraint level, and also to consultation provisions with respect to handloom products corresponding to four clothing categories, and recalled the provisions of Article 12:3. (COM.TEX/SB/1418)

5.145 The TSB heard statements from Indonesia and the United States with respect to additional access provided to four additional categories for products made from traditional folklore fabrics. The parties stated that the clarification previously provided by them remained valid, i.e., that Indonesia may export such additional amounts provided they are products "which, while not traditional folklore garments in the sense of Article 12:3, are made of traditional folklore fabrics, such as Batik, Ikat and Kerawang." (COM.TEX/SB/1151 and 1418).

(xi) Paragraph 24 of the 1986 Protocol of Extension

5.146 Before 19 October 1987 the TSB had received several notifications of agreements which included products falling within paragraph 24 of the 1986 Protocol of Extension. On two such agreements (United States/Korea and United States/Macao) certain observations, as contained in the following paragraph, were made.

5.147 During its review of the United States/Korea agreement, the TSB heard statements from the United States and Korea that the restrictions on categories in Groups III, IV and VI were negotiated due to substantially increased imports of such products which were directly competitive with products made of fibres specified in Article 12 of the Arrangement. The TSB noted that paragraph 24 of the Protocol of Extension had been taken into consideration by the parties, and reviewed those restrictions under the terms of that paragraph. It also heard statements from both parties that, though the levels set in the agreement for the products of silk blends and other vegetable fibres were agreed for the 1986 agreement year, they were applied at pro rata levels from 1 September 1986 (COM.TEX/SB/1272). During its review of the United States/Macao agreement, the TSB noted that in all cases where restraints included new fibres, there had been previous imports from Macao of products of these fibres. (COM.TEX/SB/1306)
5.148 At its meeting held on 19-21 October 1987, the TSB made a general observation relating to paragraph 24 of the 1986 Protocol of Extension. The text of this observation is contained in Chapter 3, Section B(iv). In reviewing several agreements which included restraints on products of fibres falling under paragraph 24, the TSB referred to this general observation.

5.149 The TSB agreed that the observation also applied to notifications then already reviewed, namely, agreements concluded by the United States with Hong Kong, India, Korea, Macao, Pakistan and the Philippines. (COM.TEX/SB/1328)

5.150 In reviewing the agreement between Canada and China, the TSB noted that in the two cases where restraints included new fibres there had been previous imports from China of products of these fibres. (COM.TEX/SB/1391)

5.151 A similar notation was made by the TSB with respect to the Canada/Hong Kong agreement (COM.TEX/SB/1418).

5.152 In reviewing the Canada/Indonesia agreement, the TSB gave particular attention to the fact that most of the categories covered by the agreement had been constructed so as to include without distinction fibres specified in paragraph 24 of the Protocol, along with those specified in Article 12 of the Arrangement, noting that (i) this was the case for all categories under restraint and most of those subject to the consultation mechanism of the agreement; and (ii) there were no imports of paragraph 24 products from Indonesia in any of the categories concerned.

5.153 The TSB questioned the basis for this wide coverage of products made from paragraph 24 fibres when there had been no trade in such products and concluded that its general observation relating to paragraph 24 of the 1986 Protocol of Extension was clearly applicable in this case. In this respect, the TSB reiterated:

(i) its observation that such specific restraints were not envisaged under that paragraph;

(ii) its understanding that specific restraints on products made of fibres specified in paragraph 24 should be introduced only if it was demonstrated that imports of such products were directly competitive with products made of fibres specified in Article 12 and were causing or aggravating market disruption or real risk thereof in the importing country.

5.154 The TSB requested the two countries to take this observation into account. (COM.TEX/SB/1342)

5.155 In reviewing the Canada/Korea agreement, the TSB took into account its general observation relating to paragraph 24 of the 1986 Protocol and the information provided by Canada that there had been imports from Korea of products made of fibres specified in paragraph 24 in the case of all restrained categories with coverage extended to include those fibres. (COM.TEX/SB/1342)
5.156 The TSB observed that all clothing categories covered by the 
Canada/Macao agreement had been constructed so as to include without 
distinction fibres specified in paragraph 24 of the 1986 Protocol, along 
with those specified in Article 12 of the Arrangement. It noted that, 
while there had been imports from Macao of paragraph 24 fibres in the 
period 1983 to 1986, they had shown a declining trend and in the latter 
year had occurred in only one of the categories under restraint. The TSB 
therefore questioned the basis for the restraints on other products made 
from paragraph 24 fibres and concluded that its "General Observation 
relating to paragraph 24 of the 1986 Protocol of Extension", in particular 
the fourth paragraph thereof (see paragraph 3.30), was applicable in this 
case. (COM.TEX/SB/1345)

5.157 With respect to the specific restraint introduced on 
Category 345/845 in the United States/Jamaica agreement, the TSB noted that 
there were no imports in Category 845 (sweaters of other vegetable fibres), 
and recalled its observation that the introduction of specific restraints 
on products made of fibres specified in paragraph 24 when there had been no 
imports or imminent increase of imports (as defined in Annex A) were not 
evisaged under that paragraph. It requested both parties to take this 
observation into account. (COM.TEX/SB/1328) Similar observations were 
made with respect to some restraints on categories which included 
paragraph 24 fibres under an amendment of the United States/Sri Lanka 
agreement, and with respect to the introduction of a restraint on 
Category 842 under an amendment of the United States/Malaysia agreement, 
though the TSB noted that subsequently trade had developed in this 
Category. (COM.TEX/SB/1342)

5.158 The TSB also noted that in the United States/Sri Lanka amendment, 
although the 1986 Protocol had come into force on 1 August 1986, one of the 
restraints including products of paragraph 24 fibres had been made 
retroactive to 1 June 1986. The TSB advised both parties to pay attention 
to this fact. In reviewing the new agreement between the parties, the TSB 
noted that, in the cases where new restraints included products of 
paragraph 24 fibres, there had been previous imports from Sri Lanka. It 
further noted that certain restraints on products made from paragraph 24 
fibres were renewed, when there continued to be no trade in these products. 
The TSB recalled its earlier observations concerning these restraints, and 
reiterated that such specific restraints were not envisaged under 
paragraph 24 of the 1986 Protocol. (See paragraph 5.157 above) 
(COM.TEX/SB/1342 and 1450)

5.159 The TSB recommended that the parties review the situation at an 
appropriate moment, taking full account of its observations on this matter 
and in the light of its general observation relating to paragraph 24 of the 

5.160 With respect to certain modifications (Canada/Macao, 
United States/Malaysia, United States/Sri Lanka), the TSB noted the
consultation provisions contained in the relevant agreements and recalled its understanding that specific restraints on products made of fibres specified in paragraph 24 should be introduced only if it was demonstrated that imports of such products were directly competitive with products made of fibres specified in Article 12 and were causing or aggravating market disruption or real risk thereof in the importing country. The TSB requested the countries concerned to take this observation into account. (COM.TEX/SB/1342 and 1345)

(xii) Consultation provisions

(a) Introduction of restraints

5.161 In reviewing the procedures for introducing restraints on products subject to consultation in the agreements concluded by the EEC, the TSB noted that the threshold levels for the application of these procedures were in all cases twice those applicable in the previous agreements and understood that the EEC would continue to apply these procedures only when, in the view of the Community, there was a real risk of market disruption.

5.162 The TSB would continue to review any new restraints introduced under these provisions as modifications of the bilateral agreements on a case-by-case basis. (COM.TEX/SB/1294)

5.163 During its review of the EEC/Bangladesh agreement, the TSB noted that this agreement contained consultation provisions for introducing restraints and that the threshold levels for the application of the consultation procedures were three times or more than those applicable in the previous agreement. (COM.TEX/SB/1294)

5.164 In reviewing the agreement between the EEC and Uruguay, the TSB noted that it contained consultation procedures for introducing restraints and that the threshold levels for the application of these procedures were more than double those applicable in the previous agreement. (COM.TEX/SB/1294)

5.165 During its review of the Norway/Thailand agreement the TSB noted that the consultation provisions contained in the last paragraph of Article 14 of the agreement were in contradiction to Article 3 therein. Norway made known its view with regard to the intention of this provision which had been proposed by Thailand. The TSB urged the parties to amend the agreement so as to rectify the situation at an early date and understood that both parties were willing to conclude such an amendment. In May 1989 the TSB received a report from Norway that it had accepted a proposal made by Thailand to delete the last paragraph of Article 14 of the agreement. The TSB understood that the exchange of notes between the parties to this effect would be notified in due course. (COM.TEX/SB/1467 and 1485)
(b) **Circumvention**

5.166 In reviewing the consultation provisions in the bilateral agreements concluded by the EEC relating to paragraph 16 of the Protocol of Extension, the TSB noted that the parties may consult with a view to agreeing an equivalent adjustment of quotas in cases where evidence of circumvention had been established. The TSB observed that such consultations would address the question of adjustment of charges to existing quotas to reflect the country of true origin, with its timing and scope being decided in consultation between the countries concerned, with a view to arriving at a mutually satisfactory solution.

5.167 The TSB emphasized the importance to be attached to co-operation between all parties concerned to establish the relevant facts.

5.168 The TSB also took the view that any action taken by the Community in the absence of a mutually agreed solution should be without prejudice to the possibility of continuing consultations and could not substitute the right of recourse to the TSB by either party under Article 8:2 of the MFA and paragraph 16 of the Protocol of Extension.

5.169 The TSB understood that any arrangement or measure introduced under these consultation provisions was notifiable under Article 8:4 of the Arrangement.

5.170 In making this observation, the TSB did not address the meaning of the term "circumvention" as used in the Arrangement but decided it would do so in the future if necessary. (COM.TEX/SB/1272)

5.171 In reviewing the consultation provisions on circumvention in Norway's agreements with Czechoslovakia, Hungary and Poland, the TSB took the view that any action taken by Norway under these provisions does not prejudice the right of recourse to the TSB by either party under Article 8 of the MFA and paragraph 16 of the Protocol of Extension. (COM.TEX/SB/1395)

5.172 Norway referred, inter alia, to paragraph 16 of the Protocol of Extension for its Certificate of origin arrangement concluded with Bangladesh.¹ (COM.TEX/SB/1485)

5.173 During its review of the agreement between the United States and the Dominican Republic, the TSB paid particular attention to the provisions relating to co-operation in the prevention of circumvention and heard a statement of the United States that the provision in paragraph 19 B (II) of the agreement aimed at assuring effective administration of the Special Access Program, in accordance with any relevant domestic laws of either party. (COM.TEX/SB/1472)

¹The agreement was transmitted to the Textiles Committee under Article 8 of the MFA.
(xiii) Provisions not covered by the MFA

(a) Price clause

5.174 In relation to the price clause contained in the agreements concluded by the EEC with Czechoslovakia, Hungary, Poland and Romania, the TSB reiterated its earlier statements that such a price clause falls outside the provisions of the MFA. It expressed the view that in any case of application of the price clause, due consideration should be given to the fact that such application may have the effect of nullifying the objectives of the Arrangement in terms of Article 9:1. The TSB recommended that in the event of the application of the price clause, every effort should be made to ensure that such application would be in conformity with the MFA. (COM.TEX/SB/1272, 1306 and 1342)

(b) Other

5.175 During its review of the agreement between the EEC and China concluded under Article 4 of the MFA and under the EEC/China Trade and Economic Co-operation Agreement, the TSB expressed concern regarding the conformity of the provisions contained in Articles 11 and 12 of the agreement with the MFA. In this respect the TSB heard a statement from the EEC that these Articles and Annex IV of the agreement were concluded under the Trade and Economic Co-operation Agreement and not under the provisions of the MFA; the EEC also stated that it did not intend to seek the inclusion of similar provisions in future MFA agreements with MFA participants. After its review of the provisions of the agreement negotiated under the MFA, and taking into account that Articles 11 and 12 were not concluded under the Arrangement, the TSB decided to transmit the notification to the Textiles Committee. (COM.TEX/SB/1474)

(xiv) Harmonized System and textile categorization

5.176 The TSB heard a presentation from the Commission of the European Communities on the new EEC textile categorization as adapted to the Harmonized System. The TSB noted that the product coverage of the EEC agreements remained unchanged, although the number of EEC textile categories applied therein, as adapted to the Harmonized System, had been reduced from 114 to 93. (COM.TEX/SB/1265 and 1272)

5.177 The TSB heard a presentation from the United States of modifications in its categorization of textile products which would result from its adoption of the Harmonized System (COM.TEX/SB/1294). The agreements concluded by the United States contained consultation provisions on any changes resulting from the adoption of the Harmonized System by the United States.

5.178 In the amendment of the United States/Hong Kong agreement to take account of necessary changes related to the adoption of the Harmonized Commodity Code by the United States, additional swing possibilities were agreed to permit smoother transition in trade. (COM.TEX/SB/1455)
Wool sector

5.179 The TSB heard a presentation concerning the status of the wool sector in the United States market. (COM.TEX/SB/1256)

Other observations or statements heard

5.180 During its review of the United States/India agreement, the TSB noted ambiguities in paragraphs 5B and 19 of the agreement. The TSB suggested that the parties mutually clarify the provisions of these paragraphs and inform it regarding these clarifications. (COM.TEX/SB/1276)

5.181 On the initiative of the Canadian Government, the TSB heard a presentation on the bilateral agreements concluded by Canada under the MFA as extended by the 1986 Protocol. (COM.TEX/SB/1299)

5.182 On the initiative of the Swedish Government, the TSB heard a presentation on bilateral agreements concluded by Sweden under the MFA as extended by the 1986 Protocol. (COM.TEX/SB/1369)

5.183 The TSB heard a statement from the Government of Norway on its policy to liberalize restrictions maintained under the MFA. (COM.TEX/SB/1472)

Notifications under Article 11, paragraphs 2, 11 and 12

5.184 In order to fulfill its obligations under Article 11, the TSB has annually requested participating countries for information on restrictions maintained or introduced by them during MFA IV, be they effected under the Arrangement, or outside its provisions vis-à-vis participants or non-participants, it being understood that where restrictions were justified under the provisions of the GATT, including its Annexes and Protocols, these should be notified for information purposes.

5.185 During its review of certain Article 11 notifications made in reply to its 1987 request, the TSB felt that more information would be desirable regarding elements such as foreign exchange constraints and overall national economic plans which affect textile imports. The TSB was of the opinion that participating countries notifying under Article 11 should, to the extent possible, include such information, and to this end, in its letters addressed to all participating countries in 1988 and 1989 requesting information under Article 11, asked that they provide information on "any type of measure having a restrictive effect, for instance, those subjecting imports to factors such as availability of foreign exchange, priorities in development needs, approval by State or industry bodies, etc., or those where products are imported by State-trading enterprises or other enterprises which enjoy exclusive or special privileges".

5.186 For purpose of the Major Review, the TSB has presented in Chapter 4 as complete an inventory as possible of restrictions maintained or introduced during the MFA as extended under the 1986 Protocol.
5.187 Though most participants responded to the TSB's requests for information under Article 11, they did not all do so in each of the three years 1987, 1988 and 1989.

5.188 In assessing the status of restrictions maintained by participating countries the TSB has made the following observations:

(a) of the ten participants which notified they maintained no restrictions, Costa Rica maintained no restrictions on its accession to the MFA in March 1988, Hungary had begun the process of liberalization under MFA III, Poland previously maintained some indicative quotas, Jamaica had liberalized its restrictions during MFA III, Sri Lanka had last reported in 1982 that certain products were subject to licensing; Hong Kong, Japan, Macao, Singapore and Uruguay maintained no restrictions under MFA III;

(b) Mexico liberalized the prior authorization requirements for practically all textile products;

(c) Guatemala which had notified it maintained no restrictions under MFA III, has introduced licensing for a certain type of product;

(d) the TSB noted that the new Ordinances of 1987 notified by Switzerland had not modified the Swiss régime for textile imports. With respect to the requirement of licensing subject to certain minimum price margins for imports of some products from certain participants, the TSB recalled its opinion that every effort should be made to ensure that the application of the provision would be in conformity with the MFA;

(e) the TSB sought clarification regarding the notification made in 1987 by Czechoslovakia. In this context, the TSB noted that while Czechoslovakia, in providing additional clarification on its import régime, had stated it would give further information relating to 1988, this has not as yet been received;

(f) the TSB is awaiting the clarifications it sought in relation to the notification made by Romania in reply to the 1987 report;

(g) Indonesia has listed products which may only be imported by Approved or Producer importers, and has simplified the licensing procedure;

(h) Thailand introduced in December 1988 a ban on certain imports. The TSB decided to revert to this matter at a later date and seek further information for this purpose;
(i) with respect to two participating countries (China and the Dominican Republic) which have reported under Article 2, the TSB was still not able to determine whether or not all restrictions maintained by China were in conformity with the Arrangement; as to the restrictions notified by the Dominican Republic, a contracting party, the TSB drew attention to paragraphs 2 and 3 of Article 2 of the MFA; no report from either participant has been received in 1989;

(j) of the participants which have referred to Article XVIII B of GATT, Korea and Turkey have continued to liberalize restrictions on textile products, so that they now cover very few products; certain imports previously prohibited are now subject to prior licensing in Peru; the Philippines had communicated a liberalization programme to the Balance of Payments Committee; restrictions in India and Brazil remain unchanged from MFA III; foreign exchange availability determines imports in Yugoslavia; Argentina has since September 1988 brought more products under the prior authorization requirement;

(k) with respect to the importing countries which apply restraints under the Arrangement, the TSB makes reference to the previous Sections of this chapter, concerning all notifications reviewed under the relevant Articles of the MFA; in addition, the TSB noted the clarification made by Sweden that the bilateral quotas on imports of certain products from Czechoslovakia, Hungary and Poland were maintained in accordance with the relevant protocols of accession to GATT and/or bilateral long-term agreements with the countries concerned;

(l) the TSB noted that no notifications had been received during the period covered by this report from certain participating countries and recalled their obligations under Article 11.
Chapter 6: Analysis of the implementation of MFA IV

6.1 The present analysis refers to the MFA IV period, though in some instances the TSB thought it useful to refer, for comparison purposes, to the pre-MFA IV period also. The analysis has been based on:

(i) factual elements drawn from the notifications reviewed; and

(ii) a summary of MFA restraints applied under the MFA.

6.2 The TSB thought it useful to recall certain salient points relating to its review of the notifications:

(i) all notifications were reviewed on a case-by-case basis;

(ii) in each case the review was conducted under the procedures and observations formulated by the Body relevant to the provisions of the Arrangement and the 1986 Protocol of Extension, taking full account of all elements contained in the notification.

6.3 The procedures and observations referred to above have been outlined in Chapter 3. Some of these observations were formulated by the TSB on different paragraphs of the 1986 Protocol (see Chapter 3 B (iv) a).

6.4 It is a matter of fact that many of the measures reviewed in the period covered by this report pre-date the Body's formulation of general observations on several paragraphs of the 1986 Protocol; therefore these general observations could not have been taken into account by the respective parties to each of these measures. Nevertheless, when it thought it appropriate, the TSB bore its general observations in mind in order to comment on, or make recommendations regarding, measures pre-dating those general observations.

A. Factual elements

6.5 This analysis is based on all notifications which the TSB reviewed between 1 August 1986 and 30 June 1989; only notifications of measures entering into force on or after that date have been taken into consideration. Since the Arrangement will be in force until 31 July 1991, the TSB will most certainly receive more notifications under the relevant provisions of the MFA as extended; however, the Body is of the opinion that the notifications already received, including those submitted under

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1 This Chapter refers neither to non-participants in MFA IV nor to MFA agreements that do not include restraints.

2 In addition, the TSB reported on the consistency of aggregate and group limits with the MFA.
Article 11:2, 11:11 and 11:12 of the Arrangement, are sufficient to draw elements for a meaningful analysis of the implementation of the Arrangement to date:

(a) Since 1 August 1986, there has been greater recourse to unilateral measures under Article 3 in comparison to the first three years of MFA III. The number of importing countries having recourse to those measures has decreased, involving Canada in two instances and the United States in all other cases. In two of these cases the restraints were terminated following a recommendation of the TSB (Canada: Brazil; United States: Thailand);

(b) The total number of restraint agreements in force concluded between MFA participants under Article 4 remained practically unchanged in relation to MFA III (from 115 to 114). All previously unrestrained countries that concluded such agreements under MFA IV are developing countries. Also, most of the restraint agreements were concluded with developing countries, which indicates that the MFA has continued to be used almost exclusively to restrain imports originating in those countries;

(c) All bilateral agreements are for multi-year periods. Many of them are valid beyond 31 July 1991 (in most of these cases up to 31 December 1991, but in a few cases they go into 1992);

(d) All agreements concluded by the EEC are comprehensive in product coverage (i.e., products under restraint plus those not under restraint but subject to the consultation provisions of the agreement), while the United States concluded agreements with either comprehensive (most cases) or selective coverage. Norway and Sweden concluded selective agreements which cover almost exclusively clothing items. Canada concluded mostly selective agreements on clothing items, but some also cover a number of made-up items and/or yarns and fabrics. Austria and Finland concluded agreements covering very few products;

(e) The product coverage:

- was reduced: all agreements concluded by Austria, Finland and Norway, three concluded by Canada and one by the United States;

- remained unchanged: all EEC agreements, seven agreements concluded by Canada and five by the United States;

- increased: all other agreements concluded by Canada and the United States;

(f) Products made of fibres covered by paragraph 24 of the 1986 Protocol were included in the coverage of certain agreements concluded by Canada (China, Hong Kong, Indonesia, Korea, Macao) and the United States (China, Hong Kong, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Pakistan, Philippines, Romania, Sri Lanka);
(g) In agreements replacing previous ones, the number of restraints was reduced in all (EEC, Norway, Sweden) or in certain agreements reviewed (Austria, Canada, Finland, United States); it remained unchanged in some agreements (Austria, Canada, Finland, United States) or was increased in others (Canada, United States). One restraint agreement (United States/Guatemala) expired without being renewed, while seven agreements with no restraints replaced previous restraint agreements (Austria: Brazil, Singapore; EEC: Bangladesh, Colombia, Mexico, Uruguay; Sweden: Brazil. In the case of Bangladesh, the EEC stated that this was agreed pursuant to paragraph 13 of the 1986 Protocol);

(h) Products made of fibres covered by paragraph 24 were placed under restraint in Canada's agreements with China, Hong Kong, Indonesia, Korea and Macao, and in the United States' agreements with China, Hong Kong, Jamaica, Korea, Macao, Malaysia, Romania and Sri Lanka; in the United States' agreements with India, Indonesia and the Philippines, group limits encompassing those products were established;

(i) Additional access for specific products in certain agreements (Canada, EEC, Norway, United States) is possible: (a) by providing favourable terms to count children's garments against quota units (Canada, EEC); (b) by providing additional quotas for products re-imported after processing under OPT arrangements (EEC); (c) by providing additional access possibilities for products re-imported after processing, under Guaranteed Access Levels (GALs) or "Special régime" (United States) or (d) by providing additional access annually for one category (Norway);

(j) Access for products covered by certain agreements which was limited during MFA III, continues to be limited through aggregate or group limits (Canada: India, Macao; United States: Brazil, India, Indonesia, Macao, Pakistan, Philippines, Romania); limits to access were introduced in some United States' agreements (Japan - group limits which affect the total coverage of the agreement; China, Hong Kong, Korea - group limits);

(k) Most agreements continue to contain consultation provisions making it possible to introduce restraints on products covered but not yet under restraint; Norway has eliminated the consultation provisions of this kind in almost all of its agreements;

(l) In the consultation provisions of the EEC's agreements, the threshold levels below which consultations may not be requested are, in all cases, double those in the agreements concluded under MFA III;
(m) Base level increases over previous restraints or, in the case of new restraints, over reference (rollback or trade) levels, were in most cases more or substantially more than 6 per cent in the agreements concluded by Austria, Canada, Norway and the United States, and in amendments of agreements by the EEC. Increases in base levels lower than 6 per cent were negotiated in many agreements, notably those concluded by the EEC, Finland and Sweden. In certain cases concerning Canada, the EEC and the United States, it was not possible to calculate the increases due to modifications in the categorization of products. There were also a few cases of reductions in base levels, most of which reportedly were negotiated against other elements in the agreements;

(n) Annual growth rates, though in most cases higher than previously, are still lower than 6 per cent in all agreements concluded by Austria, Finland, Norway and Sweden, as well as in a large number of cases in EEC agreements. Rates lower than 6 per cent are the rule in the United States' agreements with China, Hong Kong, Japan, Korea and Singapore, as well as for all United States' restraints on wool products. Growth rates unchanged at 6 per cent apply in agreements concluded by Canada and the United States, though in some of their agreements annual growth rates for some products are lower than previously. Growth rates higher than 6 per cent occur in a number of agreements concluded by Canada and the United States, as well as for some restraints in EEC agreements. Lower than 6 per cent growth rates were generally agreed either pursuant to paragraph 2 of Annex B and/or paragraph 12 of the 1986 Protocol, or in the overall context of the agreement, including elements such as the base level increases; in many cases the base level increases contributed to a result of compounded annual growth rates of more than 6 per cent. However, for certain agreements reference was made to paragraph 10 of the Protocol (Austria: Korea; Canada: China, Hong Kong, Korea; EEC: Hong Kong, Korea, Macao; United States: China, Hong Kong, Korea, Japan);

(o) Improvements in flexibility provisions were made in some or all agreements by all importers; they remained unchanged in others (Canada, United States) or were less favourable in a few agreements (Canada, United States). Limits on cumulative use of flexibility were set in several agreements (Canada, EEC, Norway, Sweden), resulting in certain cases for the cumulative level to fall below the sum of the levels for swing and carryover/carry forward set out in Annex B. For certain agreements, reference was again made to paragraph 10 of the 1986 Protocol (see sub-paragraph (n) above); in other cases, reference was made to paragraph 5 of Annex B and/or paragraph 12 of the Protocol;

(p) In certain cases, new restraints were introduced on products with little or no previous trade. These concerned one product in some agreements concluded by Norway and products made of paragraph 24 fibres in certain other agreements (Canada: Indonesia;
United States: Jamaica, Malaysia, Sri Lanka). In one case (Canada: Macao) the trade of a product of paragraph 24 fibres showed a declining trend;

(q) Provisions relating to problems of circumvention were included in several agreements, but no notification concerning their utilization under MFA IV agreements was received to date;

(r) Complaints were made by exporting countries, in relation to measures taken by importing countries; three cases were referred under Article 3:5(ii), one under Article 11:4 and one under Article 11:5. In all cases the measures had been taken by the United States under Article 3:5 (Costa Rica, Thailand, Turkey).

6.6 A number of new restraints, introduced after the entry into force of the respective agreements, was notified to the TSB by Austria, Canada, the EEC, Finland and the United States. The Body mentions this fact in the understanding that the number of restraints in force at the outset of each agreement may have a bearing on the need to introduce additional restraints.

6.7 Norway notified amendments concerning a reduction in the product coverage in its agreements with Czechoslovakia, Hong Kong, Hungary and Poland; this brought it in line with the coverage of agreements concluded with other exporting countries. The amendments also terminated several restraints in the agreements with Czechoslovakia, Hong Kong and Hungary.

6.8 The notifications reviewed by the TSB, and in some cases additional information transmitted to the Body in regard of such notifications, specifically mentioned the utilization of several paragraphs of the 1986 Protocol of Extension:

(i) paragraph 2 was mentioned by the United States as a provision particularly relevant to its agreements with Hong Kong, Japan and Korea;

(ii) paragraph 8 was invoked by the United States, in relation to renewals of Article 3:5 restraints, on three occasions (China, Pakistan, Turkey);

(iii) paragraph 10 was invoked to justify the growth and flexibility provisions of agreements concluded by Austria (Korea), Canada (China, Hong Kong, Korea), the EEC (Hong Kong, Korea, Macao) and the United States (China, Hong Kong, Japan, Korea);

1 In some cases mentioned in this paragraph, there is a repetition of information included in points (f), (g), (h), (n), (o) and (p) of paragraph 6.5.
(iv) paragraph 12 was generally invoked by Finland, by Norway (for all its agreements) and by Sweden (all six agreements reviewed). In most cases the reference to paragraph 12 was linked to Annex B of the Arrangement;

(v) paragraph 13 was cited by Canada as having been taken into account in its agreements with Bangladesh, India and Sri Lanka, by the EEC as the basis for the replacement of its restraint agreement with Bangladesh by an agreement without restraints, and by Norway as one of the reasons for the conclusion of a Certificate of Origin agreement between Norway and Bangladesh. Sub-paragraph (b) of paragraph 13 was cited as having been taken into account in the EEC agreements with Peru and Sri Lanka, while sub-paragraph (d) was cited as having been taken into account in the EEC/Pakistan agreement;

(vi) paragraph 14 was invoked as the explanation for the improved terms accorded Uruguay in its agreements with Canada and the United States;

(vii) paragraph 15 was mentioned by the United States as having been taken into account regarding the provisions of the "special régime" categories in its agreement with Mexico;

(viii) paragraph 24 was

(a) utilized for the inclusion, in the coverage of several agreements, of products made of fibres mentioned therein:

- Canada: China, Hong Kong, Indonesia, Korea, Macao;

- United States: China, Hong Kong, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Pakistan, Philippines, Romania, Sri Lanka;

(b) equally invoked for the introduction of restraints on product categories in all of the above agreements, except those of the United States with India, Indonesia, Pakistan and the Philippines. However, the agreements with India, Indonesia and the Philippines include group limits which encompass all apparel made of paragraph 24 fibres. Under Article 3:5, the United States introduced a restraint on a made-up item made of paragraph 24 fibres when imported from Thailand, but subsequently rescinded the restraint, in accordance with a recommendation made by the TSB.
B. Summary of MFA restraints

6.9 In the paragraphs that follow an attempt is made to provide a summary picture of restraints applied within the MFA framework as extended by the 1986 Protocol of Extension:

(a) Austria

(i) The number of restraint agreements decreased from eight to six, those with Brazil and Singapore having lapsed. The extant agreements were concluded with five developing countries and China;

(ii) they continue to be very selective in product coverage (twenty restraints in total, this number including restraints introduced by amendments to the agreements with Hong Kong and Korea);

(iii) annual growth rates, while generally higher than in the previous agreements, continue to be lower than 6 per cent; however, in certain cases base levels increases of more than 6 per cent (specially in the case of new restraints) result in higher compounded growth rates;

(iv) swing is in all cases lower than 7 per cent, but some flexibility provisions are now more advantageous to the exporting country than those of the preceding agreements.

(b) Canada

(i) The number of restraint agreements increased from nineteen to twenty, as an agreement was concluded for the first time with Turkey in 1987. The twenty agreements were signed with three Eastern European countries, China and sixteen developing countries: of these one agreement was not renewed on expiry (see also paragraph 6.5(a));

(ii) the number of product categories included in the coverage of the agreements was reduced in two cases (Brazil and Hong Kong) and increased in several cases (Bangladesh, China, Malaysia, Pakistan, Philippines, Poland, Singapore, Thailand, Turkey). The product coverage was expanded to include products made of paragraph 24 fibres in the cases of China, Hong Kong, Indonesia, Korea and Macao;

(iii) the total number of restraints negotiated by Canada increased, due to the agreements with Bangladesh, China, Hong Kong, Korea,

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1As stated in page 96, Chapter 6 refers neither to non-participants in MFA IV nor to MFA agreements that do not include restraints.
Sri Lanka, Thailand and Turkey containing several new restraints, while restraints liberalized were limited to one product category in each of the cases of India, Pakistan and Poland;

(iv) increases in base levels in Canadian agreements were in most cases higher than 6 per cent. Annual growth rates were, for several product categories, lower than in the previous agreements: this occurred mostly in the cases of Hong Kong, Korea, Malaysia, Singapore, Sri Lanka and Thailand; growth rates for clothing categories in the agreements with Hong Kong and Korea were in most cases both lower than 6 per cent and only a fraction of the rates of the previous agreements. In practically all other cases the growth rates were unchanged; as a result, in several Canadian agreements most or all growth rates were set at 6 per cent and in a few cases above 6 per cent;

(v) the flexibility provisions are more favourable to the exporting country in very few cases, unchanged in most agreements and less advantageous to the exporting country in some agreements. Limits on the cumulative use of flexibility were set in some cases, which result in the limit to fall below the sum of the levels for swing and carryover/carry forward set out in Annex B. All in all, it might be said that the flexibility provisions are more strict under MFA IV than under MFA III.

(c) EEC

(i) The number of restraint agreements concluded by the EEC decreased from twenty-three to nineteen (China, three Eastern European countries and fifteen developing countries); an agreement with Argentina which had existed under MFA II was revived under MFA IV, the restraint agreements with Bangladesh, Colombia, Mexico and Uruguay were replaced by agreements without restraints¹, and the agreement with Egypt lapsed;

(ii) the comprehensive product coverage remained unchanged;

(iii) the number of restraints was reduced in all agreements, although the total sum of those in force continues to be high;

(iv) base level increases were lower than 6 per cent in many cases, but were set at more or substantially more than 6 per cent in other cases, notably those of regional limits or of amendments of agreements. Annual growth rates are in practically all

¹Under the consultations provisions of these agreements there is the possibility of introducing restraints.
cases higher than previously; otherwise, they remained unchanged; however, they are still lower than 6 per cent in a large number of cases;

(v) improvements in flexibility provisions were made in all agreements\(^1\). Limits on the cumulative use of flexibility were set in all agreements, resulting in certain cases for the cumulative level to fall below the sum of the levels for swing and carryover/carry forward set out in Annex B.

(d) Finland

(i) The number of restraint agreements remained at nine, concluded as before with China and eight developing countries;

(ii) the coverage continues to be very selective, having been increased in three agreements, decreased in two agreements and remaining unchanged in four cases;

(iii) the number of restraints remained unchanged in four agreements, increased in three agreements and decreased in two. In some cases the increase is due to restraints which were agreed under amendments to the respective agreements. However, the total number of restraints remains at this point in time at thirty-six, of which ten agreed with Macao and seven with China;

(iv) the increases in base levels were in practically all cases lower than 6 per cent. The annual growth rates, while higher than in the previous agreements in practically all cases, were all under 6 per cent;

(v) the flexibility provisions were either unchanged or offered slight improvements in regard to swing which, however, was in all cases set at 5 per cent.

(e) Norway

(i) Norway, which resumed its participation in the MFA on 1 July 1984, has increased the number of its restraint agreements from fifteen to sixteen, as an agreement was concluded for the first time with Indonesia and entered into force in 1987. The sixteen agreements were negotiated with China, three Eastern European countries and twelve developing countries;

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\(^1\)In addition it is possible, under certain circumstances, to transfer quantities of unused regional quota shares to other regions.
(ii) the product coverage is selective and was reduced in all agreements concluded by Norway since the entry into force of MFA IV. In some cases, amendments were negotiated which further reduced the coverage;

(iii) the number of restraints decreased in all Norwegian agreements;

(iv) the increases in base levels, specially in the case of new restraints, were in most cases more or substantially more than 6 per cent; there were, however, a few cases of increase below 6 per cent. The annual growth rates, though in most cases higher than previously, were still lower than 6 per cent for all restraints;

(v) improvements in flexibility provisions were made in practically all agreements; however, except for a few cases where it was set at 5 per cent, swing was lower than 5 per cent, and all agreements set a cumulative use of flexibility below the sum of the levels for swing and carryover/carry forward set out in Annex B.

(f) Sweden

(i) The number of restraint agreements increased from thirteen to fourteen, as that with Brazil lapsed in 1987 and new agreements were concluded for the first time with China and Turkey. All other Sweden's agreements were concluded with developing countries;

(ii) the product coverage is selective and was reduced in all agreements reviewed;

(iii) the number of restraints decreased in all agreements;

(iv) increases in base levels were below 6 per cent, and the annual growth rates are in all cases below 6 per cent;

(v) improvements in flexibility provisions were made in all agreements reviewed, but swing is never more than 5 per cent, and in most cases less than 5 per cent, and all agreements set a cumulative use of flexibility below the sum of the levels for swing and carryover/carry forward set out in Annex B.

1Until this date, only six MFA IV agreements were notified to the Body and reviewed by it. In a presentation on the agreements it concluded under MFA IV, the Swedish Government stated that they all followed the same pattern.
(g) United States

(i) The number of restraint agreements increased from twenty-eight to thirty, as agreements were concluded for the first time, after entry into force of the 1986 Protocol, with Costa Rica, El Salvador and Jamaica, while the agreement with Guatemala lapsed. The agreements now in force have been concluded with Japan, China, three Eastern European countries and twenty-five developing countries (see also paragraph 6.5(a));

(ii) the product coverage continues to be comprehensive in most cases; it was expanded to include products made of paragraph 24 fibres in the agreements with China, Hong Kong, India, Indonesia, Jamaica, Korea, Macao, Malaysia, Pakistan, Philippines, Romania and Sri Lanka;

(iii) aggregate and/or group limits continue to feature in the agreements with Brazil, China, Hong Kong, India, Indonesia, Macao, Poland and Singapore. Group limits were introduced in the agreements with Japan, Korea and Malaysia (in the last case, only for categories not under specific limit). In the agreements with Pakistan and the Philippines, the previous aggregate limits disappeared and group limits were introduced. In the extension and modification of the cotton and man-made fibre agreement with Romania, the group limits were eliminated and an aggregate limit was introduced;

(iv) the total number of restraints negotiated by the United States increased considerably, and a number of new restraints was further introduced after the entry into force of the new agreements;

(v) increases in base levels were in most agreements more or substantially more than 6 per cent, the exceptions being found mainly in the agreement with China, where most increases were lower than 6 per cent. Also, some agreements with a large number of restraints were extended with the increase over previous limits being limited to the annual growth rate (Hong Kong, Korea);

(vi) the annual growth rates were lower than 6 per cent in several agreements (China, Hong Kong, Japan, Korea, Singapore) and for wool products in all cases. In other agreements, non-wool products have growth rates at 6 per cent and, in some cases, higher than 6 per cent (mainly Egypt, India, Macao and Pakistan);

(vii) as for the flexibility provisions, in general the pattern prevailing under MFA III has been maintained: swing at 7 per cent for non-wool products and 5 per cent for wool categories,
with carryover/carry forward at 10/5 or 11/6 per cent. There are, however, many exceptions to this pattern:

(a) swing was set at 7 per cent for wool products in the agreement with Uruguay;
(b) swing was set at 6 per cent for all non-wool products in the agreements with Bangladesh, Brazil, Egypt, Pakistan, Sri Lanka, Uruguay and Yugoslavia;
(c) swing was set at 5 per cent also for non-wool products in the cases of China, Hong Kong, Hungary, India, Japan, Macao and Malaysia;
(d) swing was set at less than 5 per cent for some cases in the agreements with Hong Kong and Japan (group limits), as for all cases in the agreements with Korea and Mexico;
(e) there are also a few instances of no swing, of swing at more than 7 per cent, of swing included in the restraint levels or of additional swing (shift);
(f) carryover/carry forward was set below 10/5 per cent in the agreement with Japan;
(g) carryover/carry forward is below 10/5 per cent in the agreements with China, Hong Kong and Korea, but may be raised up to this level if the parties so agree after consultations.

C. Analysis and conclusions

6.10 In the application of MFA IV by importing countries, as compared to the application of MFA III, four groups can be identified:

(a) Austria and Finland continued to conclude agreements with very selective coverage and few restraints (even taking into account restraints added through amendments of the agreements). While the growth and flexibility provisions were improved in practically all cases, they are still below the levels set out in Annex B. Austria and Finland continue to apply the MFA very sparingly, and the number of their restraint agreements either decreased (Austria) or remained unchanged (Finland). The TSB believes that these agreements are less restrictive than those under MFA III;

(b) The number of restraint agreements concluded by Norway and Sweden remained practically unchanged (one more for each country). Both countries reduced the coverage of all their agreements, reduced the number of restraints (in the case of Norway a further reduction was made in some agreements through amendments) and improved both growth rates and flexibility provisions. Further, Norway provided
large base level increases and Sweden eliminated the aggregate and group limits. However, the TSB is of the opinion that these improvements are tempered by the restrictive interpretation given to the Arrangement by these countries during MFA III and the fact that growth rate and swing provisions still remain, in all cases, below 6 per cent and 7 per cent, respectively;

(c) The EEC decreased the number of restraint agreements, reduced the number of restraints in all agreements and improved growth rates and flexibility provisions. On the other hand, the total number of restraints continues to be high (and further restraints were added by amendments of some agreements), in many cases growth rates are lower than 6 per cent and the cumulative use of flexibility is limited in some agreements. In conclusion, the TSB is of the opinion that while improvements in EEC agreements made its application of MFA IV less restrictive than that of MFA III, this assessment is tempered by the restrictive terms of EEC agreements concluded under previous Protocols of Extension;

(d) Canada and the United States have increased the number of restraint agreements under MFA IV. Their agreements have: in general a wider coverage, more restraints (of which several were added through amendments of the agreements), growth rates generally unchanged or lower than before, flexibility provisions that, while largely in line with Annex B, are either unchanged or more strict than under MFA III. Also, Canada and the United States are the only countries applying restraints under the MFA on products made of fibres specified in paragraph 24 of the 1986 Protocol and the only countries having negotiated aggregate and/or group limits. They also are the only countries that invoked Article 3 for the imposition of unilateral measures. While this picture is tempered by the fact that Canada and the United States were the only importing countries generally applying the levels of Annex B to their MFA III and MFA IV agreements, the TSB is in no doubt that both are applying MFA IV more strictly than they applied MFA III, and have thus followed a trend contrary to that followed by all other importing countries.

6.11 In observing the above implementation of the Arrangement, the TSB was not able, however, to determine to what extent this was attributable to a change in the underlying economic factors relevant to trade in textiles and clothing, to a change in attitudes of governments towards the utilization of the MFA, or to a combination of both, i.e. a change of attitude attributed to a change in the economic and trade situation.

1This conclusion is based only on the features of MFA IV agreements, and has no connection with the decision taken or proposals made by the Governments of both countries to either cease applying quantitative restrictions under the MFA upon the termination of the 1986 Protocol or substantially liberalize their restrained imports.
6.12 In the light of the above, the TSB, bearing in mind, inter alia:

(a) the basic objectives of the MFA and its various provisions, including those related to developing countries and the importance of trade in textiles to the promotion of their economic and social development;

(b) the delicate balance of rights and obligations of participating countries;

(c) that differences in the application of the restraint possibilities of the MFA show that each importing country has a different perception of the rôle of imports in the context of its prevailing economic situation;

Observes that while some progress may have been made by some importing countries in reducing barriers under MFA IV:

(i) restraints continue to be applied almost exclusively to products from developing countries (of the 114 restraint agreements concluded, 94 were with developing countries), thus demonstrating that the brunt of restraint measures taken under the Arrangement continues to be borne by such countries, even though the MFA explicitly recognizes the need for developing countries to receive special treatment;

(ii) overall, the objectives of achieving the reduction of barriers and the progressive liberalization of world trade have not yet been achieved.