1. Hong Kong, several other exporting countries, and a number of importing countries, have now had experience of the operation of the Short-Term Cotton Textiles Arrangement. The first steps in the application of this Arrangement necessarily involved some exploration of a new technique governing international trade in a manufactured product, and difficulties which have arisen in connexion with the Short-Term Arrangement may not recur under the Long-Term Arrangement. On the other hand, the Long-Term Arrangement, which was negotiated before any experience had been acquired of the working of the Short-Term Arrangement, is intended to last for five years and may bring a substantial number of importing and exporting countries within its ambit. This may, therefore, be an appropriate moment for consideration to be given to the experience offered by the operation of the Short-Term Arrangement.

2. The main features in the operation of the Short-Term Arrangement which attract attention are:

(i) The extensive invocation of the Short-Term Arrangement between a number of countries and over a large number of categories of cotton textiles suggests that the Arrangement has not been used as an exceptional emergency mechanism but as one capable of being extended to cover a substantial part of world trade in cotton textiles. It was to guard against a situation of this kind that Hong Kong attached a reservation to its accession to the Short-Term Arrangement.

(ii) The process of invoking the Arrangement has not allowed time for the interested countries to deal adequately with the difficulties which have arisen, such as the mitigation of the impact on trade and production in exporting countries. The Arrangements, as they stand, do not give exporting countries precise and positive safeguards against disruption such as they afford importing countries, but the need to take measures to avoid such disruption was recognized during the negotiations leading up to the Arrangements. (See, for example, GATT document L/1659, paragraph 52.)

(iii) Bearing in mind that recourse to action under the Arrangement involves a waiving of GATT rights by exporting countries, it is important that there should be adequate justification of the need to act to avoid market disruption, and that action should not be taken regardless of the effects on the exporting country concerned.
(iv) There has been a tendency in importing countries to regard the so-called "base level" as a standard by which to determine disruption or threat of disruption rather than as a minimum below which exporting countries may not be unilaterally restricted; and, as a consequence, to request restraint at the "base level" without relating it to be the maximum level of imports which would not cause disruption. This tends to freeze trade at existing levels.

3. In a number of important respects, the Short-Term and the Long-Term Arrangements differ, so that valid conclusions cannot necessarily be drawn from the one for the other. Nevertheless, experience of the Short-Term Arrangement goes to show that if the Long-Term Arrangement is applied rigorously and without any flexibility, it will be difficult to avoid serious damage to the exporting countries concerned, and could lead to the virtual removal of international trade in cotton textiles from the scope of the GATT.

4. It is apparent from the provisions of the Long-Term Arrangement that its invocation should be an exceptional procedure and not a matter of course; it offers no grounds for any general limitation by quantitative restrictions of world trade in cotton textiles. While it is clear that an importing country has the unilateral right to determine whether or not a threat of disruption exists, Article 3 provides that the safeguard measures should only be resorted to sparingly, and the Record of Understandings, in relation to Article 3, indicates that the safeguard provisions should be strictly limited to cases where market disruption, as defined, exists or is threatened.

5. Disruption in the exporting country under the operation of the Short-Term Arrangement has arisen largely from the presentation by the importing country of a large number of requests for restraint in such a way that they have been tantamount to requests for immediate cessation of exports, i.e. have requested restraint at the level already reached by the date of the request for restraint. Immediate cessation of exports has serious implications for an exporting industry. These are recognized by the GATT "Standard Practice for Import and Export Restrictions or Exchange Controls" (1950). The thirty-day consultation period in the Short-Term Arrangement has not offered adequate protection against such disruption in exporting countries as importing countries have had recourse to the "critical circumstances" clause (Clause A in Part I) to exclude by unilateral import controls shipments made after the date of request, but within the consultation period, irrespective of the quantities involved.

6. The danger of such situations arising is much reduced under the provisions of the Long-Term Arrangement, since the period of restraint will start from the date of the request for consultations and not, as was the case in the Short-Term Arrangement, from an earlier fixed date; restraint, if agreed, will relate to any exports made after the date on which restraint is requested. Nevertheless, a request for restraint may involve the complete, or virtually complete, cessation of exports where exports in the base period were nil or negligible.
This may also occur by virtue of an invocation of the substitution clause (Article 8(6)). In such cases it would be reasonable to expect that provision would be made to avoid any abrupt cessation of trade, and that the request for restraint should bear some relation, at least for a stipulated discussion period, to the level of trade in the three months preceding the date of the request.

7. Neither the Short-Term nor the Long-Term Arrangement provides for the venue of consultations under Article 3. It is considered that negotiations should, in keeping with the spirit of the Arrangement, take place on the territory of the country being requested to exercise restraint unless otherwise mutually agreed, or in Geneva.

8. The provision in paragraph 1 of Article 3 of the Long-Term Arrangement, that a request for restraint should be accompanied by a detailed factual statement of the reasons and justification for the request, is intended to prevent abuse of the provisions of Article 3. It is assumed that such a statement, bearing in mind the Record of Understandings and the definition of market disruption in Annex C, would present a reasoned and detailed case both as to the existence of disruption or the threat thereof, and the relation of disruption to the level of restraint requested.

9. The above comments are offered in the spirit that if the Long-Term Arrangement can be operated in a sympathetic and reasonable way, with full regard to the objectives in the preamble and the statements made to the Cotton Textiles Committee at its meeting in February this year, the fears of the exporting countries, which might otherwise have been increased by their experience of the operation of the Short-Term Arrangement, will be allayed. It is also suggested that the proposals in paragraph 6 above about the level of restraint when exports in the base period were nil or negligible and in paragraph 7 about the venue of consultations, might be discussed by the Cotton Textiles Committee at the earliest opportunity.