The following document has been submitted by the delegation of Indonesia on behalf of the group of developing countries, members of the International Textiles and Clothing Bureau (ITCB), for circulation to the members of the Negotiating Group on Textiles and Clothing.

A FRAMEWORK FOR PHASING OUT OF MFA RESTRICTIONS

Preamble

RECALLING the Declaration of the Ministers at Punta del Este on 15-20 September 1986 that the multilateral trade negotiations should formulate modalities that would permit the integration of the textiles and clothing sector into GATT, and the decision of the Trade Negotiations Committee held on 5-8 April 1989 that such modalities should cover the phasing out of restrictions under the MFA;

RECOGNIZING that the integration of the textiles and clothing sector into GATT will strengthen the multilateral trading system based on the principles and rules of the GATT;

NOTING the importance of production of and trade in textiles and clothing for the economies of many countries and their particular importance for the economic development of developing countries;

SEEKING progressive liberalization of trade through the process of integration;

DESIRING that the process of integration into GATT should cause minimal disturbance to trade flows in both exporting and importing countries;

It is agreed as follows:
ARTICLE 1

Treatment of Existing Restrictions

1. With the expiry of the Protocol Extending the Arrangement Regarding International Trade in Textiles on 31 July 1991, all existing bilateral agreements thereunder between the participants shall cease to have any effect from 1 August 1991.

2. All existing unilateral quantitative restrictions, and quantitative restrictions and other quantitative measures which have a restrictive effect contained in bilateral agreements, under the MFA, in force on 31 July 1991 shall be notified in detail by the restraining participant to the monitoring body established under Article 9. The monitoring body shall review and circulate the notifications to other participants for information.

3. Quantitative restrictions and measures which are not thus notified by a participant within sixty days of the commencement of this Agreement, i.e. 1 August 1991, shall be terminated forthwith.

4. The quantitative restrictions notified under paragraph 2 of this Article shall continue to exist from 1 August 1991 until they are terminated in accordance with the programme of progressive elimination of restrictions under Articles 2 and 3 of this Agreement or earlier if the restraining participant so decides.

5. The base levels of quantitative restrictions so continued shall not be reduced and shall be annually enlarged by the application of growth rates and flexibility provisions contained in this Agreement.

6. The quantitative restrictions shall be administered by the exporting participants. The exporting participants shall maintain necessary control systems to regulate its exports of textile products, and the importing participants shall admit imports of such products up to the applicable quantitative limits including adjustments in accordance with Article 5, provided they are authorized by the competent authorities of the exporting participants which are notified to the restraining participant concerned. The date of consignment of goods to the carrier will be used for debit to the quota period.

7. Product categorization prevailing in the importing participant on 1 January 1990 may be changed only with the approval of the monitoring body.
ARTICLE 2

Immediate Elimination of Certain Restrictions

1. At the commencement of the process designed to eliminate existing restrictions in stages in accordance with Article 3, the importing participants shall terminate with immediate effect quantitative restrictions of the following types:

(i) restrictions at aggregate level of imports of all textile products from a particular source;

(ii) restrictions at aggregate level of imports of a group of textile products from a particular source;

(iii) restrictions on re-imports into a participant's territory of textile products which that participant has exported to another participant's territory for processing, including restrictions described as "special régime", "guaranteed access levels", "outward-processing trade" quotas, imports under TSUSA 807 and 807 A and other similar restrictions;

(iv) restrictions on textile products made of vegetable fibres; blends of vegetable fibres with cotton, man-made fibres and/or wool; and blends containing silk in which any or all of the vegetable fibres and/or silk in combination represent either the chief value of the fibres or 50 per cent or more by weight of the products;

(v) restrictions on developing country exports of hand-loom fabrics of the cottage industry, or products made of hand-loom fabrics or traditional folklore handicraft textile products;

(vi) restrictions on products other than those included in Section XI (heading 50-63) of the International Convention on the Harmonized Commodity Description and Coding System;

(vii) restrictions on children's clothing up to size 164;

(viii) sub-divisions of quantitative restrictions among the member States of a customs union;

(ix) restrictions on textile products which are not produced or which are produced in insignificant quantities by the domestic producers of the importing participants;

1To be elaborated if necessary.
(x) restrictions on textile and clothing exports of suppliers having a de minimis share of 1 per cent or less of total textile and clothing imports in a given market;

(xi) restrictions on the least-developed countries.

2. The importing participants shall notify within sixty days of the commencement of this Agreement, i.e. 1 August 1991, the elimination of the above types of restrictions to the monitoring body which shall circulate the notifications to the other participants for their information.

3. The monitoring body shall, at the request of a participant, review any particular restriction which that participant considers to be due for removal under the provisions of this Article but which has not been eliminated. It shall make appropriate recommendations within sixty days to the concerned participant or participants after inviting the participation of the parties directly affected by the restriction. It shall also report to the GATT Council if its recommendations are not accepted within sixty days.

ARTICLE 3

Programme of Progressive Elimination of Restrictions

1. The quantitative restrictions remaining on particular products shall be progressively eliminated in four stages. Each importing participant shall eliminate the restrictions on products described in Section XI of the Harmonized Commodity Description and Coding System in the respective stages in the manner enumerated in Annexure 1.

2. The duration of Stages I and II would be two years each, and that of Stages III and IV one year each.

ARTICLE 4

Growth Rates

1. The base level of quantitative restrictions on product categories included in the programme of progressive elimination shall be increased by at least 6 per cent for the twelve-month period beginning 1 August 1991, compared to the levels of the previous year, provided that such increase shall in no case be at a rate lower than that established in the bilateral agreement applicable immediately before the commencement of this Agreement.

1To be elaborated if necessary.
2. For the subsequent periods, the base levels shall be increased by 8 per cent in the second year, 11 per cent in the third year, 15 per cent in the fourth year, 20 per cent in the fifth year and 25 per cent in the sixth year.

3. Exporting participants which are substantial producers of cotton and whose exports are heavily dependent on textile products made of cotton shall be accorded an additional yearly increase of 2 per cent in growth rates for restrictions in those products.

ARTICLE 5

Flexibility Provisions

1. At any time during the life of this Agreement the following provisions for flexibility will be applicable to all quantitative restrictions under the Agreement including those that are pending removal under the phase-out programme as well as those established under the transitional safeguard measures during the phase-out period.

2. Where such restrictions are in existence for more than one product, an exporting participant may exceed the level of restriction of any product by 7 per cent in the first stage, 10 per cent in the second stage, 15 per cent in the third stage and 20 per cent in the fourth stage, provided that the total exports subject to restraints do not exceed the total level for all products so restrained, on the basis of a common unit to be agreed.

3. Where restraints continue for more years than one, an exporting participant may exceed the restraint level for a product in either year of any two subsequent years by carry forward and/or carry-over to the extent of 10 per cent of which carry forward shall not represent more than 5 per cent during the first stage of the phase-out period. These levels shall be increased to 15 and 10 per cent in the second stage and 20 and 15 per cent in the last two stages of the phase-out period.

4. Where higher rates of flexibility were accorded in bilateral agreements applicable immediately before the commencement of this Agreement, these will be maintained and increased by the same percentage as in paragraphs 2 and 3 above.

5. The restraining participants shall not place any quantitative cumulative limits on the combined use of swing, carry-over and carry forward.
ARTICLE 6

Emergency Action on Imports of Particular Products

1. The participants agree that when particular textile products, which are not under quantitative restraints from any particular source at the commencement of this Agreement or which have been liberalized from all quantitative restrictions during the phase-out period in accordance with Articles 2 and 3, are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers, an importing participant may take emergency action on an m.f.n. basis in accordance with Article XIX of the General Agreement, following the normal GATT procedures.

2. An emergency action shall not be taken in respect of a particular product during a period of two years following the date of removal of all quantitative restrictions in that product in accordance with the programme of progressive elimination of restrictions in Articles 2 and 3.

ARTICLE 7

Transitional Safeguard Measures

1. Participants recognize that, during the term of this Agreement the application of safeguard measures may become necessary in exceptional circumstances in respect of particular products whose imports from certain sources are already under restraint.

2. The participants agree that safeguard measures under this Article should be resorted to sparingly.

3. An importing participant may take safeguard action under this Article when a sharp and substantial increase in imports of a particular product covered by paragraph 1 above, takes place from an exporting participant and such increased imports cause or threaten serious injury to its domestic producers.

4. The existence or threat of serious injury shall be determined on the basis of an examination of the appropriate indicators having a bearing on the actual decline in the health of the industry in question such as: output, employment, export performance, inventories, productivity, profits, return on investment, sales, utilization of capacity and wages. No one or several of these factors can necessarily give decisive guidance. In particular, specific levels of any of these indicators or other factors such as market share shall not be considered as a decisive factor for the determination of serious injury. Serious injury must demonstrably be caused by sharp and substantial increase in imports from a particular
source and not by factors such as technological changes, changes in market demand or changes in consumer preference.

5. In determining the causal link between the existence of serious injury, and the sharp and substantial rise in imports, consideration shall be given to the share of imports from the concerned source in total imports and its rate of growth.

6. In the application of safeguard measures under this Article account shall be taken of the interests of the exporting participant, specially in regard to its stage of development, the importance of the textile sector to its economy and the overall situation of its balance of payments, including the trade balance with the importing participant.

7. A participant shall not be subjected to quantitative restrictions if any other exporting participant with an equal or a larger market share in the product is not under restriction.

8. The safeguard measures under this Article shall not be applied to products of the least-developed countries and those supplying participants with a de minimis share of 1 per cent or less in total imports in a given market during the preceding three years.

9. If an importing participant has determined that its domestic producers are facing serious injury or threat thereof by a sharp and substantial increase in the imports of a particular product, it shall seek consultations with the exporting participant(s) concerned. Its request for consultations shall be accompanied by available, specific and relevant factual information, particularly in respect of the factors set out in paragraph 4 on which it has based its determination of the existence of serious injury. The importing participant may also indicate therein the specific level at which it considers that exports of such products should be restrained. Simultaneously it shall communicate this request, along with the factual information, to the monitoring body. The exporting participant(s) shall respond promptly to such request for consultations.

10. If, in the consultations, there is mutual understanding that the situation calls for restrictions on trade in the textile product concerned, the level of restriction shall be fixed at a level not lower than the level of actual exports or imports during the twelve-month period terminating two months preceding the month in which the request for consultation is made. Details of the agreement reached shall be communicated to the monitoring body which shall determine whether the agreement is justified in accordance with the provisions of this Article and, depending upon its findings, make appropriate recommendations to the concerned parties.

11. If, however, after a period of sixty days from the date on which the request has been received by the exporting participant, there has been no agreement between the parties, the matter may be brought to the attention of the monitoring body. It will be open for either party to refer the
matter to the monitoring body even before the expiry of sixty days. In either case, the monitoring body shall promptly conduct the examination of the matter and make appropriate recommendations to the parties concerned within thirty days from the date of such reference.

12. Measures taken under this Article may be introduced for a limited period not exceeding one year. If, in the view of the importing participant there is a need to continue with a measure, it shall produce evidence in terms of paragraph 9 and justify before the monitoring body the need for the continuation. The monitoring body shall examine the matter and make appropriate recommendations to the parties concerned within thirty days. Should the continuation be decided upon, the base level of the quantitative restriction shall be increased by the growth rate applicable for the year as prescribed in Article 4 and shall have the relevant rate of flexibility for the year as prescribed in Article 5.

13. The safeguard measures taken under this Article shall also be eliminated in accordance with the programme of progressive elimination contained in Article 3.

ARTICLE 8

Additional Trade Measures

1. Notwithstanding the rights and obligations available under the General Agreement, all importing participants shall refrain from levying anti-dumping or countervailing duty on the importation of any textile product which is currently subject to quantitative restrictions during the phase-out period.

2. In view of the measures provided for in this Agreement and notwithstanding the rights and obligations under the General Agreement, no importing country shall levy any anti-dumping or countervailing duties during the transition period on textile products which have been liberalized in pursuance of the programme of progressive elimination contained in Articles 2 and 3.

3. In view of the measures provided for in this Agreement, participating importing countries shall not take other trade measures (such as changes in practices, rules, procedures, categorization and classification of the textile products, or changes in the interpretation of application of rules of origin) which may have the effect of creating additional trade barriers; of disrupting trade, of upsetting the balance of rights and obligations between the parties concerned, of adversely affecting the economic content of arrangements under this Agreement for exporting participants; or of nullifying the objective of the integration of the textile sector into GATT.
4. If any participant finds that its interests are being seriously affected by any measure described in the preceding paragraphs, it may request the participant applying the measures to consult with a view to remediing the situation.

5. If the consultations fail to achieve a mutually satisfactory solution within a period of sixty days, the affected participant may refer the matter to the monitoring body for its consideration. It shall be open for either party to refer the matter to the monitoring body even before the expiry of sixty days. The monitoring body shall make appropriate recommendations to the parties concerned.

6. If, following recommendations by the monitoring body, problems continue to exist between the parties, these may be brought before the GATT Council through the normal GATT procedures, particularly the procedures of Article XXIII of the General Agreement.

**ARTICLE 9**

**Monitoring Body**

1. A monitoring body shall be established to supervise the implementation of this Agreement. It shall consist of a Chairman and ( ) members. Its membership shall be balanced and broadly representative of the parties and provide for rotation of all its members at appropriate intervals.

2. The monitoring body shall be considered as a standing body and shall meet as often as necessary to carry out the functions required of it under this Agreement. It shall rely on notifications supplied by the participants, supplemented by any necessary details it may decide to seek from them or from other sources.

3. The monitoring body shall take actions specifically required of it in the Articles of this Agreement.

4. The importing participants maintaining restrictions shall notify to the monitoring body all measures they have taken during the phase-out period which have a bearing on the implementation of this Agreement. The other participants may also notify actions taken by the importing participants.

5. In a dispute regarding the implementation of the provisions of this Agreement, the monitoring body at the request of either party concerned in the dispute, and following a thorough and prompt consideration of the matter, shall make recommendations to the parties concerned.

6. The monitoring body shall, at the request of any party, review promptly any particular measure which that party considers to be detrimental to its interests. The monitoring body shall make appropriate recommendations to the parties concerned.
7. Before formulating its recommendations, the monitoring body shall invite participation of such parties to this Agreement as may be directly affected by the matter in question.

8. The monitoring body shall make recommendations, wherever it is called upon to do so, preferably within a period of thirty days unless a different time period is specified. All such findings and recommendations shall be communicated to the GATT Council.

9. Parties to this Agreement shall accept in full the recommendations of the monitoring body.

10. The monitoring body shall exercise proper surveillance over the implementation of its recommendations.

11. If, following the recommendations by the monitoring body, problems continue to exist between the parties, these may be brought before the GATT Council through the normal GATT procedures.

12. The parties to this Agreement may mutually agree upon the administrative aspects of the implementation of the transitional arrangements. They shall promptly notify the monitoring body which shall review them and, if necessary, make appropriate recommendations.

13. The monitoring body shall review annually the implementation of this Agreement and reports its findings to the GATT Council.

ARTICLE 10

Duration

1. This Agreement shall enter into force on 1 August 1991 and terminate on 31 December 1997 at which time the textile and clothing sector shall be fully integrated into the GATT.
ANNEXURE

Description of Textile Products for Phase Out
(According to the Harmonized Commodity Description and Coding System)

SECTION XI

Textiles and Textile Articles

TOPS AND YARNS in Stage I including:

- Headings 51.05-51.10: Wool and fine or coarse animal hair, carded or combed; yarns of carded wool, combed wool and yarns of fine animal hair; yarns of coarse animal hair or of horsehair.

- Headings 52.04-52.07: Cotton sewing thread and cotton yarn.

- Headings 55.06-55.11: Synthetic staple fibres and artificial staple fibres, carded, combed or otherwise processed for spinning; sewing thread of man-made staple fibres; yarns of synthetic staple fibres and artificial fibres.

FIBRES in Stage II including:

- Headings 51.11-51.13: Woven fabrics of carded wool or of carded fine animal hair, combed wool or of combed fine animal hair, or coarse animal hair or of horsehair.

- Headings 52.08-52.12: Woven fabrics of cotton.

- Headings 52.07, 54.08, 55.12-55.16: Woven fabrics of synthetic filament yarn and artificial filament yarn; woven fabrics of synthetic staple fibres; woven fabrics of artificial staple fibres.

Chapter 58: Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery.

- Headings 59.01-59.06, 59.11: Textile fabrics coated with gum or amylaceous substances; tyre cord fabrics; textile fabrics impregnated, coated, covered or laminated with plastics, linoleum; textile wall coverings; rubberized textile fabrics; felt-lined woven fabrics for technical use.

Chapter 60: Knitted or crocheted fabrics.

MADE UPS in Stage III including:

- Chapter 56: Wadding, felt and non-wovens; special yarns, twine, cordage, ropes and cables and articles thereof.

- Chapter 57: Carpets and other textile floor coverings.
Headings 59.07-59.10: Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio backcloths or the like, textile wicks; incandescent gas mantles; textile hose-piping and similar textile tubing; transmission or conveyor belts or belting of textile material.

Chapter 63: Other made-up textile articles; sets; worn clothing and worn textile articles; rags.

CLOTHING in Stage IV including:

Chapter 61: Articles of apparel and clothing accessories, knotted or crocheted.

Chapter 62: Articles of apparel and clothing accessories, not knitted or crocheted.