

GENERAL AGREEMENT ON  
TARIFFS AND TRADE

RESTRICTED

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Textiles Surveillance Body

ACTIVITIES OF THE TEXTILES SURVEILLANCE BODY

(21 October 1978-30 November 1979)

REPORT TO THE TEXTILES COMMITTEE BY THE TEXTILES SURVEILLANCE BODY

Attached is a report by the Textiles Surveillance Body on its activities during the period from 21 October 1978 to 30 November 1979.

This report is submitted to the Textiles Committee pursuant to the requirements of Article 10, paragraph 4, and Article 11, paragraphs 11 and 12 of the Arrangement.

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Introduction

1. Under Article 10:4 the Textiles Committee is required to review annually the operation of the Arrangement. The present report is submitted by the TSB to assist the Committee in its review. This report also fulfils the TSB's obligation under Article 11, paragraphs 11 and 12, which require the Body to review all restrictions and bilateral agreements entered into by participating countries, and to report annually its findings to the Textiles Committee.

2. It is to be recalled that the last TSB report covered the period ending 20 October 1978. This report, which covers the period 21 October 1978 to 30 November 1979, has been divided into two parts:

(i) The first part outlines:

- (a) reports on status of restrictions notified under Article 2 by participants, non-contracting parties of GATT;
- (b) measures taken under Article 3, paragraphs 5 and 6, and the TSB's recommendations thereon;
- (c) bilateral agreements concluded under Articles 3 and 4;
- (d) notifications received for information under Articles 7 and/or 8;
- (e) reports received from participating countries under Article 11, paragraphs 11 and 12.

(ii) The second part has been devoted to the TSB's findings arising from its review of the bilateral agreements notified to it, together with its general comments related to the requirements of participating countries under the provisions of the Arrangement, as extended.

Status of acceptances of the Protocol extending the MFA

3. The Protocol extending the Arrangement has been accepted by Austria, Bangladesh, Bolivia<sup>1</sup>, Brazil, Canada, Colombia, Dominican Republic, the European Economic Community, Egypt<sup>1</sup>, El Salvador, Finland, Ghana, Guatemala, Haiti, Hungary, India, Indonesia, Israel, Jamaica, Japan, Korea, Malaysia, Mexico, Pakistan, Peru, the Philippines, Poland, Portugal on behalf of Macao, Romania, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, United Kingdom on behalf of Hong Kong, United States, Uruguay and Yugoslavia.

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<sup>1</sup>Accepted subject to completion of internal procedures.

Membership of the TSB during 1979

4. At its meeting on 27 October 1978, the Committee agreed on the composition of the TSB for 1979. The participating countries, and members nominated by them, as well as alternates for the year, are as follows:

<u>Members</u>	<u>Alternates</u>
Mr. J. Beck (EEC)	Mr. L. de Gouvion St. Cyr (EEC)
Mr. M. Hamza (Egypt) (replaced by Mr. A. El Gowhari in August)	Mr. M. Hamid (Pakistan)
Mr. K. Kujirai (Japan)	Mr. N. Abe (Japan) (replaced by Mr. T. Imai in September)
Mr. R.J. Martin (Canada)	Mr. S. Patek (Sweden) (replaced by Mr. M. Pullinen (Finland) in November)
Mr. H. Phelan (United States) (replaced by Mr. R. Shepherd in August)	
Mr. J. Suarez (Colombia)	Miss Arciniaga (Peru)
Mr. P. Tsao (Hong Kong) (replaced by Mr. T.H. Chau in September)	Mr. N.S. Park (Korea)
Mr. V.B. Valdepenas (Philippines)	Mr. M. Seng Paselleri (Indonesia)

SECTION I

Review of notifications

All notifications received and reviewed by the Body have been transmitted to the Textiles Committee in the COM.TEX/SB/- series of documents.

A. Status of restrictions under Article 2 from participants, non-contracting parties to the GATT

5. Bolivia, in connexion with its accession to the MFA had submitted a memorandum justifying its restrictions on imports of textiles under Article 2:1.1/ Additional information was supplied by Bolivia on its economy,

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<sup>1/</sup>See COM.TEX/W/44/Add.1

foreign trade and balance of payments, in accordance with the procedures evolved for the review of restrictions notified under Article 2:1 by countries which are not contracting parties to the GATT. The TSB concluded that Bolivia was not at this stage required to remove its restrictions, and requested a report on the evolution of its textile industry and its relation to the restrictions in force by 1 January 1980.

6. Thailand submitted its periodic report under the same procedures for non-contracting parties. This report stated that previous restrictions on imports of polyester fibres and yarns and on nylon filament and nylon stretched yarn had been lifted as of 21 February 1979.

7. Mexico had submitted its last report in June 1978. A further report by the end of January 1979 had been requested by the TSB; no such report has, as yet, been received.

B. Article 3 notifications

8. During the period under review, the TSB received seven notifications under Article 3, of which two were bilateral agreements concluded under paragraph 4 of the Article, four related to actions taken under paragraph 5 and one to action taken under paragraph 6.

9. In accordance with its procedures, the TSB reviewed the bilateral agreements, and transmitted them to the Textiles Committee. The TSB also examined the unilateral measures notified to it under paragraphs 5 and 6. In discharging its functions under the Arrangement, and in particular under paragraphs 5 and 6 of Article 3, the TSB made its recommendations having due regard to its established conciliatory rôle. These bilateral agreements and unilateral measures concerned the following countries:

Austria:	Brazil, Hong Kong
Canada:	India, Malaysia, Philippines
United States:	Dominican Republic

The following paragraphs and the table below summarize the notifications on a country-by-country basis:

Austria

10. A bilateral agreement was concluded with Brazil for the period 1 November 1978 to 31 October 1981, with regard to exports of cotton yarn and printed fabrics. An agreement with Hong Kong was concluded for the period 1 February 1979 to 31 January 1980, with regard to exports of shirts, not knitted or crocheted, of cotton or discontinuous synthetic fibres; blouses not knitted or crocheted of cotton or man-made fibres. The agreement included a memorandum of understanding on a system of export authorization to cover other textile exports from Hong Kong.

Canada

11. Three measures taken under paragraph 5 and one measure under paragraph 6 were notified by Canada.
12. The first measure was taken with respect to imports of cotton terry-towels, wash cloths, bath mats and sets from India. Restrictions were imposed for the period 15 November 1978 to 31 December 1979.
13. The TSB heard presentations by delegations from India and Canada of their respective cases. The TSB noted that both parties were in the process of resuming consultations with a view to concluding a bilateral agreement which could include these products. In the circumstances, the TSB requested both parties to report on the results achieved by 1 August 1979. The parties were unable to notify the TSB on this matter by that date. Subsequently, the Canadian authorities informed the Chairman that negotiations between the parties were continuing, and that they would inform the TSB of their results.
14. The second action notified by Canada under Article 3:5 concerned imports of worsted spun acrylic yarn from Malaysia. Restrictions on imports of this item were imposed for a thirteen-month period beginning 1 November 1978.
15. The TSB heard presentations by delegations from Canada and Malaysia, and noted that this action, which was notified to the Malaysian authorities on 22 January 1979, arose from a request made by Canada on 30 August 1978, to Malaysia with a view to concluding an export restraint arrangement regarding this item.
16. The TSB also noted that at the time the request was made both Canada and Malaysia were not parties to the MFA, and that they subsequently accepted the Protocol of Extension on 24 October 1978 and 19 February 1979 respectively. Malaysia, following its acceptance of the Protocol of Extension, invoked its rights under Article 11:5 requesting the TSB to review the Canadian action.
17. It emerged from the discussion that both parties agreed to meet on 12 April 1979 with a view to arriving at a mutually satisfactory solution. The TSB noted, that at the time of such forthcoming negotiations, the measure continued to be in force. In the circumstances, the TSB recommended both parties to report on the results forthwith and decided to defer examination of this matter pending the outcome of the negotiations. Both parties have informed the TSB that negotiations were continuing.
18. The TSB considered the unilateral measures taken by Canada under Article 3:5 to restrict imports from India of (a) shirts with tailored collars for men and boys; (b) blouses and shirts for women and girls; and (c) dresses and skirts, for the twelve-month period beginning 1 October 1979. These measures had been imposed in the absence of an agreement having been reached in the consultations and negotiations so far held between the two parties under Articles 3 and 4.

19. The TSB heard statements by both parties of their respective positions, in the course of which it appeared that more precise information could have been given at the time of the consultation. The TSB noted that there was a probability that Canadian imports of the above-mentioned products from India included such products made of handloom fabrics by the Indian cottage industry and, thus, possibly subject to the provisions of Article 12, paragraph 3. In the absence of a breakdown of the component products, however, the TSB could not establish the relative level of products that could be exempt.

20. The TSB noted that additional data had recently been provided, and believed that the possibility still existed for further consultation between the parties concerned aimed at arriving at a mutually acceptable solution, and took note of their willingness to do so. In the circumstances, the TSB recommended that the parties enter into consultation promptly with a view to reaching a mutually acceptable agreement, and requested both parties to report back to the TSB not later than 29 February 1980, at which time the TSB would revert to this matter.

21. The TSB took note of an interim measure taken by Canada under Article 3:6 concerning imports from the Philippines of men's structured suits and jackets for the calendar year 1979. This interim measure was then notified by Canada for the information of the TSB, pending the outcome of consultations. Recently the TSB was informed by the Philippines' Authorities that such consultations had yet to lead to a mutually acceptable solution. The TSB will revert to this matter at a forthcoming meeting.

#### United States

22. The United States notified a unilateral measure taken by it under Article 3:5(i) of the MFA with respect to imports from the Dominican Republic of brassières. This measure which followed a request addressed by the United States to the Dominican Republic on 30 November 1978, became effective as of 12 March 1979, prior to the acceptance by the Dominican Republic of the MFA as extended by the Protocol.

23. Following its acceptance on 14 March 1979, the Dominican Republic requested the TSB to review the measures taken by the United States in accordance with the relevant provisions of Article 3 and with Article 11, paragraph 5.



24. The TSB heard presentations by delegations from the United States and the Dominican Republic concerning their respective case. The TSB noted that the two parties had previously negotiated under Articles 3 and 4, and that they had agreed to resume negotiations on 2 May 1979. The TSB, therefore, recommended that these negotiations be continued having regard to all the relevant provisions of the MFA, and requested both parties to report on the results achieved when the TSB would revert to this matter, if necessary.

25. A new agreement concluded with the Dominican Republic under Article 4<sup>1/</sup> was notified by the United States. This agreement superseded the above-mentioned restraint action.

Measures Taken Under Article 3 Since  
21 October 1978 Until 30 November 1979

N: New      M: Modification      E: Extension      T: Termination

Importing country	Bilateral agreements under 3:4	Unilateral action under 3:5	Unilateral action under 3:6	COM.TEX/SB/-
Austria	Brazil (N) (1.11.78- 31.10.81)			385
	Hong Kong (N) (1.2.79- 31.1.80)			417
Canada		India a. (15.11.78- 31.12.79)		407
		b. (1.10.79- 30.9.80)		480, 521
		Malaysia (1.11.78- 31.12.79)		429
			Philippines (1.1.79- 31.12.79)	429
United States		Dominican Rep. (1.11.78- 31.10.79)		431 <sup>2/</sup>

<sup>1/</sup> See Article 4 notifications, page 14.

<sup>2/</sup> The action was superseded by a bilateral agreement concluded under Article 4 (COM.TEX/SB/472).

C. Article 4 notifications

26. The TSB received one hundred and six notifications under Article 4 during the period under review; of these, seven notifications recently received have not as yet been reviewed.<sup>1</sup> Sixty notifications relate to new agreements, four to extensions of existing agreements and forty-one concerned modifications to original agreements. One notification concerned the termination of a previous agreement. The participants involved are:

Austria	:	Korea, Pakistan
Canada	:	Hong Kong, Korea, Macao, Philippines, Poland, Romania
EEC	:	Bangladesh, Brazil, Colombia, Egypt, Guatemala, Haiti, Hungary, India, Indonesia, Korea, Macao, Malaysia, Mexico, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay, Yugoslavia
Finland	:	Hong Kong, India, Malaysia, Singapore, Thailand
Sweden	:	Hong Kong, India, Korea, Macao, Pakistan, Philippines, Singapore, Sri Lanka, Thailand, Yugoslavia
United States	:	Brazil, Colombia, Dominican Republic, Haiti, Hong Kong, India, Japan, Korea, Macao, Malaysia, Mexico, Pakistan, Philippines, Poland, Romania, Singapore, Thailand, Yugoslavia

27. The TSB transmitted the notifications to participating countries in the COM.TEX/SB/- series of documents, after having reviewed them in accordance with its procedures for submissions under Article 4. As stated above, four notifications recently received have not as yet been reviewed by the Body. The following paragraphs and the table below summarize the notifications on a country-by-country basis.

Austria

28. Austria notified the extension of its agreement covering fabrics, garments and other finished products of cotton, with Korea for a seven-month period ending 31 July 1979. A new three-year agreement, beginning

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<sup>1</sup>These relate to the following agreements: Canada/Japan, Canada/Macao, Canada/Romania, Canada/Singapore and Canada/Sri Lanka; United States/Korea and United States/Macao.

1 August 1979 was concluded with Korea. This agreement covers shirts and blouses of cotton and synthetic fibres and outer garments. Other textile items covering cotton fabrics, bed, table and kitchen linen, and other garments, not under restraint, are subject to a consultation provision.

29. A previous agreement with Pakistan, which expired on 31 December 1977, was replaced by a consultation arrangement with respect to exports of cotton textiles from Pakistan.

#### Canada

30. Canada had notified nine bilateral agreements with Hong Kong, Japan, Korea, Macao, Philippines, Poland, Romania, Singapore and Sri Lanka. Of these, the agreements with Japan, Macao, Romania, Singapore and Sri Lanka have been recently notified, and have not as yet been reviewed.

31. The agreement with Hong Kong includes thirty categories of textile products, covering yarns, fabrics, inner and outer garments, and household products. The agreement with Korea covers yarns, woven fabrics, household textiles and miscellaneous textiles. The agreement with the Philippines covers acrylic yarn, inner and outer garments and handbags. The agreement with Poland covers garments, broadwoven fabrics and household goods.

#### EEC

32. Twenty-three new agreements were notified by the EEC. These were concluded with Bangladesh, Brazil, Colombia, Egypt, Guatemala, Haiti, Hungary, India, Indonesia, Korea, Macao, Malaysia, Mexico, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand, Uruguay and Yugoslavia. Of these, four (with Egypt, Hungary, India and Pakistan) were concluded for a four-year period beginning 1 January 1978 and subject to an extension by one year; the agreement with Poland was concluded for the period 1 January 1979 to 31 December 1981, and subject to extension by one year; all other agreements cover the period 1 January 1978 to 31 December 1982.

33. In 1978, the Community introduced a new category system, which covered all textile items. The MFA products have been divided into 114 categories which fall under five Groups. The agreements notified are thus comprehensive in nature, where all categories are subject to the provisions of the agreements, though the number of categories under restraint vary from agreement to agreement. All agreements provide for consultation procedures under which restraints may be introduced with respect to those categories not under restraint.

34. Five agreements, i.e. with Bangladesh, Guatemala, Haiti, Indonesia and Uruguay were concluded as consultation agreements, where no items were put under restraint. Under its consultation procedure, the agreement with Uruguay was modified and limits on imports of wool tops into the United Kingdom and Italy were introduced with effect from 1 January 1979.
35. The agreement with Brazil contains twelve categories under restraint, including cotton yarns and fabrics, garments and household items. Under an amendment to this agreement, wool tops were put under restraint. The agreement with Colombia contains restraint on cotton yarns, cotton fabrics and fabrics of discontinuous synthetic fibres. The agreement with Egypt applies to textile products of cotton with only cotton fabrics under restraint. Thirty categories are under restraint in the agreement with Hungary, covering fabrics, garments, household and other made-up goods. Cotton yarns and fabrics, garments and household articles falling under fourteen categories are under restraint in the agreement with India. In accordance with an amendment to this agreement, regional restraints were introduced with respect to imports of five categories. The agreement with Korea contains forty-two categories under restraint, including yarns, fabrics, garments, household and other made-up goods. Garments and household articles under twenty categories are subject to restraints in the agreement with Macao.
36. Fabrics, garments and yarns of discontinuous synthetic fibres, falling within ten categories are under restraint in the agreement with Malaysia. Cotton yarns and fabrics are under restraint in the agreement with Mexico. The agreement with Pakistan provides for restraints on cotton yarns, fabrics, clothing items and towelling falling under eight categories. Cotton yarns, fabrics, jerseys, pullovers etc. are under restraint in the agreement with Peru. Clothing items falling under eight categories are subject to restraint in the agreement with the Philippines. This agreement was twice amended to introduce regional limits with respect to clothing items falling under four categories. Twenty-six categories covering fabrics, garments and made-up goods are under restraint in the agreement with Poland. An amendment to this agreement provided for the establishment of a regional limit with respect to one category.
37. The agreement with Romania has restraints on twenty-nine categories, covering yarns, fabrics, clothing and household items. Regional limits were later introduced with respect to five categories. Yarns of synthetic fibres, fabrics and clothing items falling under sixteen categories are under restraint in the agreement with Singapore. A regional limit with regard to one category was introduced in an amendment. The agreement with Sri Lanka contains restraint limits with regard to five categories of clothing items. Restraints on imports from Thailand fall in eight categories including yarns, fabrics and clothing items. This agreement has subsequently been modified to introduce regional limits with respect to three categories. Restraint limits on imports from Yugoslavia affect yarns, fabrics and clothing items, falling under nineteen categories.

Finland

38. Finland notified five new bilateral agreements concluded with Hong Kong, India, Malaysia, Singapore and Thailand. The agreements are selective in nature.

39. The agreement with Hong Kong is valid for a two-year period beginning 1 August 1978. Briefs and drawers for men, boys, women and girls, shirts and blouses are under restraint. Several other textile items are under an agreed export authorization system. In the case of the agreement with India, woven blouses and shirts and bedlinen are under restraint for the period 1 January 1978 to 31 December 1981. The agreement with Malaysia concerns trade in men's and boys' shirts of cotton and man-made fibres, and is valid for the period 1 March 1979 to 31 December 1981. Briefs, drawers, panties etc. for women and girls are under restraint for the period 1 June 1978 to 31 December 1981 in the agreement with Singapore. The agreement with Thailand includes restraints on brassières and men's and boys' shirts, and an agreed export authorization system with regard to jumpers, sweaters, pull-overs etc. This agreement is valid for a three-year period beginning 1 January 1979.

Sweden

40. Sweden notified agreements with Hong Kong, India, Korea, Macao, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Yugoslavia. These are more comprehensive in nature than the previous Swedish agreements. The most sensitive items of textile products within CCC chapters 60-62 were divided into fourteen groups. All agreements cover these fourteen groups.

41. Two agreements with Hong Kong were notified. They cover the periods 1 January 1978 to 31 March 1979 and 1 April 1979 to 31 March 1981. The first agreement covered the fourteen groups of products; other textile items were subject to an agreed export authorization system. In the second agreement most items under export authorization were either added to Group XIV or were divided into three new groups. This agreement, therefore, has restraints on seventeen groups of products, and an aggregate limit. A few items not subject to group limits, but covered by the export authorization system, are subject to the aggregate limit. Two agreements with Korea for the periods 1 March 1978 to 28 February 1979, and from 1 March 1979 to 28 February 1981, were notified. Restraint limits applied to fifteen and fourteen groups respectively. In the first agreement, the groups included products of non-MFA fibres. The second agreement includes only MFA products, and in addition to group limits, it has aggregate limits for the two agreement years.

42. The agreements with India, Macao, Singapore, Sri Lanka, Thailand and Yugoslavia provide for limits on the fourteen groups. The periods of validity for each of these agreements are: India - 1 March 1978 to 30 June 1979; Macao - 1 January 1979 to 31 December 1980; Singapore - 1 March 1978 to 30 November 1979; Sri Lanka - 1 August 1978 to 31 July 1979; Thailand - 1 December 1977 to 30 June 1979; Yugoslavia - 1 January 1979 to 31 December 1979.

43. Two agreements with Pakistan and one with the Philippines were notified to the TSB. In the first agreement with Pakistan, and that with the Philippines, the fourteen groups included products of non-MFA fibres. The second agreement with Pakistan covered only MFA products. The periods of validity of these agreements were as follows: Pakistan - 1 March 1978 to 28 February 1979 and 1 March 1979 to 28 February 1981; Philippines - 1 August 1978 to 31 October 1979.

#### United States

44. The United States notified new bilateral agreements with Colombia, the Dominican Republic, Haiti, Japan, Mexico, the Philippines, Singapore, Thailand and Yugoslavia. All new agreements are based on the category system introduced in January 1978. Except for Yugoslavia they are comprehensive in nature although the number of categories under restraint varies. Unless stated otherwise, those categories not under restraint or designated consultation levels, are subject to minimum consultation levels. In addition, several modifications of existing agreements and three extensions of agreements were notified.

45. The agreement with Colombia which runs from 1 July 1978 to 30 June 1982, has four categories under specific limits and twenty-two categories under designated consultation levels. A four-year agreement ending 31 May 1983, was concluded with the Dominican Republic. This agreement superseded a measure taken by the United States under Article 3:5 (see paragraph 25). The agreement covers cotton shirts and nightwear, man-made fibre shirts and blouses for women, girls and infants, and man-made fibre brassières. Consultation provisions have been included for other textile items. The agreement with Haiti is valid for three years beginning 1 May 1979. It has five categories under specific limits and fourteen categories under designated consultation levels. This agreement succeeded an extended agreement which expired on 31 March 1979.

46. A consultation agreement with Japan had been extended to 31 December 1978. This was superseded by a three-year consultation agreement which came into effect on 1 January 1979. Pursuant to the terms of this agreement Japan agreed to restrain exports with respect to eleven categories. A new agreement with Mexico for the period 1 May 1978 to 31 December 1981 has nine categories or merged categories under specific limits, and fifteen categories under designated consultation levels. The agreement with the Philippines which runs from 1 January 1978 to 31 December 1982, provides for specific limits with respect to all textile categories. The agreement with Singapore

which covers the period 1 January 1978 to 31 December 1982, has nine categories or merged categories under restraint, and thirteen categories under designated consultation levels. The five-year agreement beginning 1 January 1978 with Thailand has eleven apparel categories or merged categories under restraint, and seven categories under designated consultation levels. The agreement with Yugoslavia concerns trade in men's and boys' wool and man-made fibre suits, for the period 1 January 1978 to 31 December 1980.

47. The agreement with Brazil which was due to expire on 31 March 1978, was extended for a further three-year period. Modifications with regard to existing agreements with Hong Kong, India, Korea, Macao, Malaysia, Pakistan, Poland and Romania consisted of changes in designated consultation levels. The agreements with Colombia, the Philippines, Singapore and Thailand have also been modified. The United States has recently notified two amendments with regard to its agreements with Korea and Macao; these are still to be reviewed by the TSB.

D. Articles 7 and/or 8 notifications

48. The TSB received fourteen notifications under Articles 7 and/or 8 of safeguard actions taken against, or agreements concluded with, non-participating countries. These notifications were made bearing in mind the request made by the Textiles Committee that actions taken vis-à-vis non-participants in the Arrangement should be notified to the TSB. The TSB has taken note of these notifications and transmitted them to the Textiles Committee. The EEC notified a bilateral agreement with Argentina as well as an amendment to it. The Community also notified safeguard measures taken with respect to imports of certain textile items from Greece and Malta. A safeguard measure with regard to 1978 imports of certain textile items from Turkey was also notified. The measure was of temporary duration and having lapsed at the end of 1978 the TSB agreed to circulate the communication to the Textiles Committee under Article 7, although Turkey is a participating country. Finland notified an agreement with Macao; this agreement was notified before acceptance by Portugal on behalf of Macao of the Protocol extending the Arrangement. Sri Lanka notified an agreement with Norway. Sweden notified an agreement with Mauritius. The United States notified an agreement with Malaysia, before acceptance by the latter of the Protocol of Extension. Also notified were restrictions imposed by the United States on imports of one textile item from the Republic of South Africa, and certain textile items from the People's Republic of China. The United States also notified an agreement with Sri Lanka for the establishment of an export visa system. Although both parties in this last case are participating countries, the notification was made pursuant to the provisions of Article 8:4. The TSB recently received two notifications from Canada of bilateral agreements with Bulgaria and the People's Republic of China, and one from Sweden of an agreement with Malta; these have yet to be considered by the TSB.

Notifications received and/or reviewed under Article 4  
since 21 October 1978 until 30th November 1979

N: New agreement E: Extension M: Modification T: Termination C: Consultation agreement

Importing country	Exporting country	Period	COM.TEX/SB/-
Austria	Korea (E) <sup>1/</sup>	1.1.79-31.7.79	416
	" (N)	1.8.79-31.7.82	471
	Pakistan (T/C)	-	384
Canada	Hong Kong (N)	1.1.79-31.12.81	444
	Japan (N)	1.1.78-31.12.79	2/
	Korea (N)	1.1.79-31.12.81	418
	Macao (N)	1.1.79-31.12.81	2/
	Philippines (N)	1.1.79-31.12.81	443
	Poland (N)	1.1.79-31.12.81	445
	Romania (N)	1.1.79-31.12.81	2/
	Sri Lanka (N)	1.1.79-31.12.81	2/
EEC	Bangladesh (N/C)	1.1.78-31.12.82	377
	Brazil (N+M)	" "	404, 482
	Colombia (N)	" "	447
	Egypt (N)	" " <sup>3/</sup>	461
	Guatemala (N/C)	" "	448
	Haiti (N/C)	" "	449
	Hungary (N)	1.1.78-31.12.81 <sup>3/</sup>	467
	India (N+M)	" " <sup>3/</sup>	382, 427
	Indonesia (N/C)	1.1.78-31.12.82	419
	Korea (N)	1.1.78-31.12.82	389 + Add.1
	Macao (N)	1.1.78-31.12.82	458
	Malaysia (N+M)	1.1.78-31.12.82	420, 476
	Mexico (N)	1.1.78-31.12.82	450
	Pakistan (N)	1.1.78-31.12.81 <sup>3/</sup>	383 + Add.1
	Peru (N)	1.1.78-31.12.82	451
	Philippines (N+M)	1.1.78-31.12.82	452, 483
	Poland (N + M)	1.1.79-31.12.81 <sup>3/</sup>	453, 484
	Romania (N+M)	1.1.78-31.12.82	454, 485
	Singapore (N+M)	1.1.78-31.12.82	405, 475
	Sri Lanka (N)	1.1.78-31.12.82	378 + Add.1
Thailand (N+M)	1.1.78-31.12.82	455, 486	
Uruguay (N/C+M)	1.1.78-31.12.82	456, 487	
Yugoslavia (N)	1.1.78-31.12.82	426	
Finland	Hong Kong (N)	1.8.78-31.7.80	391
	India (N)	1.1.78-31.12.81	387
	Malaysia (N)	1.3.79-31.12.81	470
	Singapore (N)	1.6.78-31.12.81	386
	Thailand (N)	1.1.79-31.12.81	469

<sup>1/</sup> The original agreement expired on 31.12.78 (COM.TEX/SB/59).

<sup>2/</sup> Notification recently received and has not as yet been reviewed by the TSB.

<sup>3/</sup> May be extended by one year.



Importing country	Exporting country	Period	COM.TEX/SB/-
Sweden	Hong Kong		
	a) - N)	1.1.78-31.3.79	422
	b) - N)	1.4.79-31.3.81	479
	India (N)	1.3.78-28.2.79)	371
		1.7.78-30.6.79)	
	Korea		
	a) - N)	1.3.78-28.2.79	381
	b) - N)	1.3.79-28.2.81	478
	Macao (N)	1.1.79-31.12.80	468
	Pakistan		
	a) - N)	1.3.78-28.2.79	375
	b) - N)	1.3.79-28.2.80	432
	Philippines (N)	1.8.78-31.10.79	376
	Singapore (N)	1.3.78-30.11.79 )	459
		1.12.78-30.11.79)	
	Sri Lanka (N)	1.8.78-31.7.79	374
	Thailand (N)	1.12.77-30.6.79)	373
	15.1.78-30.6.79)		
	1.7.78-30.6.79 )		
Yugoslavia (N)	1.1.79-31.12.79	424	
United States	Brazil		
	a) - M)	1.4.78-31.3.79	434
	b) - E) <sup>1/</sup>	1.4.79-31.3.82	435
	Colombia (N+M)	1.7.78-30.6.82	410, 436
	Dominican Rep.(N) <sup>2/</sup>	1.6.79-31.5.83	472
	Haiti		
	a) - M)	1.1.76-31.12.78	392
	b) - E) <sup>3/</sup>	1.1.79-31.3.79	437
	c) - N)	1.5.79-30.4.82	497
	Hong Kong (M) <sup>4/</sup>	1.1.78-31.12.78	393
		1.1.78-31.12.82	413
		1.1.79-31.12.82	438, 488
	India (M) <sup>5/</sup>	1.1.78-31.12.78	394, 439
		1.1.79-31.12.79	462, 489
	Japan		
	a) - E) <sup>6/</sup>	1.1.78-31.12.78	398
	b) - N)	1.1.79-31.12.81	498
Korea (M) <sup>7/</sup>	1.1.79-31.12.79	414	
Macao (M) <sup>8/</sup>	1.1.78-31.12.78	415	
	1.1.79-31.12.79	463	

<sup>1/</sup> Original agreement was due to expire on 31.3.79 (COM.TEX/SB/178).

<sup>2/</sup> The agreement superseded an Article 3:5 action.

<sup>3/</sup> Original agreement was valid for the period 1.1.76-31.12.78 (COM.TEX/SB/179).

<sup>4/</sup> Duration of original agreement: 1.1.78-31.12.82 (COM.TEX/SB/321).

<sup>5/</sup> Duration of original agreement: 1.1.78-31.12.82 (COM.TEX/SB/315).

<sup>6/</sup> Duration of original agreement: 1.10.74-31.12.77 (COM.TEX/SB/47).

<sup>7/</sup> Duration of original agreement: 1.1.78-31.12.82 (COM.TEX/SB/329).

<sup>8/</sup> Duration of original agreement: 1.1.75-31.12.79 (COM.TEX/SB/92).

Importing country	Exporting country	Period	COM.TEX/SB/-
United States (cont'd.)	Malaysia (M) <sup>1/</sup>	1.1.79-31.12.80	490
	Mexico		
	a) - M) <sup>2/</sup>	1.5.77-30.4.78	395
	b) - N)	1.5.78-31.12.81	441
	Pakistan (M) <sup>3/</sup>	1.1.78-31.12.79	491
	Philippines <sup>4/</sup> (N+M)	1.1.78-31.12.82	421, 492
	Poland (M) <sup>5/</sup>	1.1.78-31.12.80	396
	Romania (M) <sup>5/</sup>	1.1.78-31.12.80)	397, 493,
		1.1.78-31.12.82)	494
		1.1.78-31.12.82)	
	Singapore (N+M)	1.1.78-31.12.82	399, 400, 464, 495
Thailand (N+M)	1.1.78-31.12.82	411, 412, 473, 496	
Yugoslavia (N)	1.1.78-31.12.80	440	

<sup>1/</sup> Original agreement transmitted under Articles 7 and 8 as Malaysia had still not signed the Protocol. Agreement's period 1.1.78-31.12.80 (COM.TEX/SB/358).

<sup>2/</sup> Duration of original agreement: 1.5.75-30.4.78 (COM.TEX/SB/90).

<sup>3/</sup> Duration of original agreement: 1.1.78-30.6.82 (COM.TEX/SB/300).

<sup>4/</sup> Duration of original agreement: 1.1.78-31.12.80 (COM.TEX/SB/314).

<sup>5/</sup> Amendments to two agreements: wool and man-made fibre products, covering the period 1.1.78 to 31.12.80 (COM.TEX/SB/267) and cotton textile products, from 1.1.78 to 31.12.82 (COM.TEX/SB/301).

Notifications under Articles 7 and/or 8 since  
21 October 1978 until 30 November 1979

Notifying country	Exporting/Importing country	Period	COM.TEX/SB/-
EEC	Argentina	1.1.78-31.12.82)	379 + Add.1
	"	1.8.78-31.12.82)	433, 481
	Greece	1.1.78-31.12.78	409
	Malta	1.1.78-31.12.78	408
	Turkey	13.9.78-31.12.78	425
Finland	Macao	1.8.78-31.12.81	370
Sri Lanka	Norway	1.1.78-31.12.82	428
Sweden	Mauritius	1.1.79-31.12.79	474
	Malta	1.7.79-30.6.81	<u>1/</u>
United States	Malaysia	1.1.78-31.12.80	401
	Rep. of South Africa	1.1.79-31.12.79	402
	Rep. of China	31.5.79-30.5.80	465
	Sri Lanka	-	499
Canada	Bulgaria	1.1.79-31.12.81	<u>1/</u>
	Peoples' Rep. of China	1.1.79-31.12.81	<u>1/</u>

1/ Notification recently received and has not as yet been reviewed by the TSB.

E. Article 11, paragraphs 11 and 12

49. The provisions of Article 11, paragraphs 11 and 12, require the TSB to annually review the status of all restrictions maintained by participating countries. The TSB requested the Chairman to invite all participants in the Arrangement to inform the TSB of the present status of their restrictions, if any. The TSB received and reviewed reports from Austria, Brazil, Canada, the EEC, Finland, Haiti, Hong Kong, Hungary, Israel, Japan, Malaysia, Peru, Romania, Singapore, Sri Lanka, Sweden, Turkey, the United States and Uruguay. In the context of the submission by Brazil, the TSB referred to the conclusions set out in the report of the Balance-of-Payments Committee (BOP/R/103) and the report of the GATT Council (C/M/132). After its review the TSB agreed to circulate these notifications to the Textiles Committee in the COM.TEX/SB/- series. A recent report by El Salvador has yet to be reviewed. The reports received from Bolivia and Thailand on the status of their restrictions are considered to have met the requirements of Article 11, paragraphs 11 and 12.

50. The TSB was concerned that a large number of participants (Bangladesh, Colombia, Dominican Republic, Egypt, Ghana, Guatemala, India, Indonesia, Jamaica, Korea, Mexico, Pakistan, Philippines, Poland, Macao, Switzerland, Trinidad and Tobago and Yugoslavia) had not responded to its request to submit the required information. The TSB herewith urges those participants to do so without further delay.

SECTION II

51. During the period in question, i.e. from 21 October 1978 to 30 November 1979\*, the TSB, in the course of its review of actions taken under the Arrangement as extended, found it necessary to make a series of observations, or recommendations, regarding certain of the agreements notified to it (see Section I). With a view to assisting the Committee in its review of the operation of the Arrangement during this period, the following section provides a listing of all the relevant TSB observations or recommendations, both general and/or specific, under the pertinent headings hereunder. The footnote number in each paragraph refers to the accompanying Annex which gives a list of corresponding references to all the citations from the relevant reports of the TSB.

52. Unless specified otherwise, all the comments enumerated below were established during the TSB's review of Article 4 agreements.

A. Observations of General Application

(a) Delay in notifications<sup>1</sup>

53. In its review of a certain number of Article 4 bilateral agreements, the TSB noted that there had been a considerable delay in the notification of these agreements. It also noted that there were several instances where certain agreements, or amendments to agreements, had only been notified to the Body after their expiry date. Given this situation, the TSB found it incumbent to remind all participants that they should make every effort to comply with the notification requirements of the Arrangement, and particularly those set out in paragraph 4 of Article 4. This observation, it may be recalled, also appeared in the TSB's last report to the Textiles Committee.

(b) Recourse to Article 11, paragraph 4<sup>2</sup>

54. The TSB also had occasion to issue a general reminder with respect to the rights of participants when there are disputes concerning the implementation of Article 4 agreements. In this connexion, the TSB had no doubt that the availability of recourse to Article 11:4 was always open to the parties in question.

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\*From its twelfth meeting in 1978 to its seventeenth meeting in 1979.

(c) Importance of handloom fabrics and handloom products (Article 12, paragraphs 3 and 4)<sup>3</sup>

55. In a general discussion of the issues pertaining to the provisions of Article 12, the TSB noted the importance of handloom fabrics and hand-made products thereof to many participating countries, and in this regard drew the attention of all participants to the provisions of Article 12, paragraph 3. The TSB also recalled that, in cases where difficulties arose out of the interpretation of these provisions, recourse to Article 12, paragraph 4, was always available to all participants. The TSB was of the view that the effective operation of the provisions of paragraph 3 of this Article depend primarily upon those parties concluding agreements thereunder. In this respect, the TSB observed that should a question be referred to it in this context then the Body would discharge its responsibilities having due regard to the provisions of Article 12, paragraph 4, and its established procedure for the review of notifications.

B. General observations relating to notifications from particular participants

I. Sweden

(a) Restraint levels set in value terms<sup>4</sup>

56. The TSB also made an observation of a general nature in the context of its review of certain Swedish notifications. In this connexion, it noted that part of the quotas agreed upon had been fixed in terms of value rather than of quantity. The TSB was of the view that participating countries should always respect the requirements of Article 5 of the Arrangement regarding normal commercial usage in such matters as the denomination of quotas and restraint levels in quantitative units in order to avoid, inter alia, any trade distortion that might arise from variations in exchange rates. A similar observation had also appeared in the TSB's "major review" of the Arrangement in 1976 and in the TSB's last report to the Textiles Committee.

57. The TSB's comment on the denomination of quotas also appeared in its specific observations on the Sweden/Pakistan agreement.

(b) Minimum viable production<sup>5</sup>

58. In the course of its examination of several Swedish agreements during which it had had full regard to the concept of minimum viable production, as set out in Article 1:2 of the Arrangement, the TSB nevertheless found occasion to make an observation of general application in this respect. The TSB held that while fully recognizing Sweden's right to protect its minimum viable production, paragraph 6 of the Understanding reached by the Textiles Committee on 14 December 1977, could not be invoked as a general waiver of particular obligations under the Arrangement. It further recommended that, if the agreements to which this comment was attached were to be extended, modified or renewed, then both parties thereto should adhere to this principle.

59. This observation was made in the context of the TSB's review of the Swedish agreements with India, Korea, Singapore, Sri Lanka and Thailand.

II. EEC

60. As the TSB was informed that, with few exceptions, all the new EEC bilateral agreements followed a similar pattern with respect to most of their substantive provisions, it was agreed that the TSB would give certain of its observations, or recommendations, a general applicability to all the EEC Agreements notified to it, in order to avoid repetition or duplication in any comments that might arise from its review of such agreements.

(a) Consultation provisions: basket exits<sup>6</sup> and 7

61. In reviewing the consultation provisions for establishing quantitative limits on basket categories in the EEC bilateral agreements, the TSB noted that, where operation of the provisions resulted in the establishment of a quantitative limit, or limits, the relevant agreement would thus be modified within the purview of paragraph 4 of Article 4, and thus subject to the notification and review requirements of that Article. The TSB recommended that these provisions should be applied sparingly, with moderation, as well as in a reasonable manner.

62. In considering further the consultation provisions for establishing quantitative limits on basket categories, the TSB noted that a real risk of market disruption, as referred to in Article 4 of the Arrangement, must be deemed by the Community to exist, before such consultations are initiated.

(b) Regional breakdown<sup>8</sup>

63. The TSB noted that restraint levels in the Community's agreements were generally expressed as Community limits. The TSB considered that the regional breakdown of these restraint levels was, in terms of paragraph 3 of Article 4, of legitimate interest to participating countries and noted the Community's intention to communicate to the TSB the annual breakdown of the Community's quotas at the regional level, as it becomes definitive. This information was communicated separately in several instances; in some other cases the breakdown was contained in an attachment to the agreement when notified to the TSB.

(c) Restraint levels<sup>9</sup>

64. In reviewing the comprehensive bilateral agreements notified by the Community, the TSB noted that the Community had negotiated most 1978 restraint levels on the basis of 1976 trade figures, rather than on the basis of the restraint levels in effect in the selective agreements which were in force in 1977. However, the TSB was informed that the Community's

new categorization system was based on revised product descriptions and that, in most cases, no correlation was possible between the categories in the new system and those subject to restraints under the previous agreements. The TSB was, therefore, unable to determine in particular cases how new restraint levels compared with previous restraint levels, or with trade in the proper reference period, but concluded that, to the extent that those provisions of Annex B relating to the extended restraint levels in Article 4 agreements had not been followed, departures were involved.

(d) Transmission to the Textiles Committee: status of the agreements<sup>10</sup>

65. In circulating the text of the EEC agreements to the Textiles Committee for information, the TSB noted that the said agreements had, at the stage of their notification to the Body, been initialled and were in de facto application, but had not yet been formally concluded. The TSB confirmed the right of the parties to modify the agreement by mutual consent. In that event, the modifications would, in turn, be notifiable under Article 4, paragraph 4.

66. The observations listed in paragraphs 61 to 65 above were applied to the EEC agreements to the extent that they were relevant.<sup>11</sup>

C. Observations relating to specific aspects of agreements

(a) Price clauses<sup>12</sup>

67. In its review of certain EEC agreements, the TSB had the occasion to make an observation with respect to particular provisions contained therein concerning imports arriving in the European Community at "abnormally low prices". In this connexion the TSB found that such price clauses fell outside the framework of the MFA. The TSB was of the further view that the application of such clauses could be in conflict with the provisions of Article 9:1 of the Arrangement and that in implementing bilateral agreements containing such clauses, the provisions of Article 9:1 should be fully observed.

68. This comment was addressed to the EEC agreements with Hungary, Poland and Romania, respectively.

(b) Coverage of non-MFA products<sup>13</sup>

69. In the case of a few agreements notified to it, the TSB noted that the said agreements covered textile products of non-MFA fibres. The TSB thus concluded that such agreements were inconsistent with the definition laid down in Article 12:1, and it did not address itself to the other aspects of the agreements in question. The TSB recommended therefore that should such agreements be extended, modified or renewed, they should include only products within the purview of Article 12:1.



70. This observation was applied to Swedish agreements with Korea, Pakistan and the Philippines, respectively. When new agreements were negotiated with the first two aforementioned countries the TSB took note that its earlier recommendation regarding MFA product coverage had been put into effect.

(c) Differences in product categorization<sup>14</sup>

71. In its review of a number of agreements, the TSB noted that the restraint levels which had been established had been based on a product categorization system which differed from the classification of the import and export statistics of the countries concerned. The TSB simply noted that the difference in product classification had made it difficult for the Body to determine the extent to which the new restraint levels compared with the actual level of trade in the proper reference period in terms of Annex B.

72. This comment applied to the Canadian agreements with Hong Kong, Korea and Poland, respectively. Part of the general observation on EEC notifications (paragraph 64) is also of relevance in this connexion.

(d) Growth rate lower than 6 per cent (MVP)<sup>15</sup>

73. In reviewing agreements where the growth provided for was lower, or in certain cases considerably lower than the 6 per cent prescribed in the Arrangement, the TSB recognized that the lower growth rate reflected the parties' understanding that implementation of the 6 per cent growth provisions could contribute to the then existing threat to certain recognized countries' minimum viable production (Finland/Sweden), as foreseen in paragraph 2 of Annex B.

74. Given the relevant wording of paragraph 2 of Annex B, the TSB accepted positive growth of less than 6 per cent in the following agreements: Finland with Hong Kong, India, Malaysia, Singapore and Thailand, respectively; and Sweden with Hong Kong, India, Korea, Macao, Singapore, Sri Lanka and Thailand, respectively. With respect to the Swedish agreements with Hong Kong and Korea, the TSB especially recommended that some growth be contained in any future agreements. In its review of the Sweden/Pakistan agreement, the TSB noted that, whereas the restraint levels established therein had remained unchanged from those applied in the previous agreement (all fibres), the present levels related to a lesser fibre coverage (MFA products only), and that this thus provided for built-in growth.

(e) Growth rate lower than 6 per cent (non-MVP)<sup>16</sup>

75. In a number of agreements presented to it, the TSB noted that the growth rates provided for certain categories varied according to the import sensitivity of the products and groups in question, or that the growth provided for certain products, or the growth in the overall aggregate was less than the 6 per cent prescribed in Annex B. In such cases, the TSB found that the lower positive growth rates, of less than the 6 per cent figure prescribed in the MFA, had been agreed to by the parties due to the exceptional circumstances prevailing in the importing country's market, as envisaged in paragraph 2 of Annex B, of the Arrangement.

76. The TSB's recognition of this factor is to be found in its observations on the following agreements: Austria/Brazil (Article 3) and Austria/Korea (two agreements); Canadian agreements with Hong Kong, Korea and Poland, respectively, where there was a net increase in accession in each case; and the EEC's agreement with Korea. In the latter case, the TSB considered that, should circumstances change, the provisions which exist in the bilateral agreement for negotiating improved access should be used. Apart from this observation, the TSB also accepted no growth in the aggregate, for the first year of the agreement between the United States/Singapore, bearing in mind the substantial increase in access for certain product categories, as well as the growth rate provided for in subsequent years.

(f) Swing provisions<sup>17</sup>

77. In a large number of agreements notified to it, the TSB remarked that the swing possibilities provided therein do not accord with the provisions of paragraph 5 of Annex B relating to swing, whereby the restraint level for any one product may be surpassed by 7 per cent and, in sparingly used circumstances, by not less than 5 per cent, provided that the aggregate level for all products is not exceeded. For the cases in question, the TSB noticed that either (i) swing was totally absent, (ii) that swing was lower than the minimum figure provided for in Annex B, paragraph 5, (iii) that the right to swing as between agreements, when several agreements were in existence, had not been granted, (iv) or that swing had occasionally been incorporated in the specific limits of an agreement.

78. The TSB had previously expressed its concern regarding lack of swing in the "major review" of 1976, as well as in its report last year to the Textiles Committee. To meet the aforementioned circumstances, the TSB recalled, in each case, its previous observation (COM.TEX/SB/69, paragraph 4) that swing was one of the essential elements in agreements under Articles 3 and 4. At the same time it also recalled its most recent observation (COM.TEX/SB/365, paragraph 74), concerning cases where an exporting country waives its rights to swing either in return for certain other considerations in the agreement, or as a reflection of a mutual recognition of the minimum viable production principle, and stated that these observations remained applicable for agreements which either lacked swing or allowed for swing at less than 5 per cent.

79. The above observations were referred to by the TSB in its review of the following agreements:

(i) Absence of swing<sup>18</sup>

80. Austria/Brazil (Article 3), and Austria/Korea; Finland/India; and Swedish agreements with Korea, Macao, Pakistan, Singapore and Yugoslavia, respectively.

(ii) Lower than 5 per cent swing<sup>19</sup>

81. EEC/Korea, Canada with Hong Kong, Korea and Poland, respectively; Finland/Hong Kong and Sweden/Hong Kong.

(iii) Swing included in restraint levels<sup>20</sup>

82. In the case of the second Sweden/Hong Kong agreement (1979-1981), the TSB took note of statements to the effect that the nominal rate of growth allowed for in the agreement accommodated some swing with respect to most of the categories under restraint and that, given the nominal rate of growth, the built-in swing could be lower than the 1 per cent swing accorded in the previous agreement. With regard to the United States/Thailand agreement the TSB simply noted that swing had already been included in the specific limits. (See also separate comment on United States/Philippines, paragraph 93.)

(iv) No provision for swing between agreements<sup>21</sup>

83. In the extended agreement between Austria and Korea, the TSB noted that there was no provision for swing between the fabric and the garment category, and that neither was there any swing as between the agreement in question and two other agreements running concurrently between the two parties. In this case the TSB drew to the attention of the parties its earlier observations on swing.

(g) Flexibility provisions

84. The TSB found it necessary, during its review of a number of agreements, to address itself to the question of the conformity of the flexibility provisions contained therein as compared to the requirement to ensure substantial flexibility as provided for in paragraph 3 of Article 4 and in paragraph 5 of Annex B of the Arrangement. As will be seen from its comments, the TSB has noted that the flexibility requirements of the MFA have been treated in a variety of ways. In certain agreements there was a total absence of flexibility, in others, the provisions were less liberal than those provided for in paragraph 5 of Annex B; or they varied according to the import sensitivity of the products or groups under restraint. In still other agreements, flexibility had either been reduced in comparison with the percentages granted in the previous agreement or one essential element, e.g. carry-forward, had been omitted, or, as in one special case, all the flexibility requirements of the Arrangement had been incorporated within the base limit of the agreement.

85. Given the TSB's procedure of reviewing each agreement on a case-by-case basis, its comments with regard to flexibility varied according to the inclusion, or otherwise, of other essential elements in the agreements in question. Generally, the TSB found that the provisions in the agreements under review, in overall terms, were in conformity with the MFA although, in a couple of cases, it found occasion to recall its previous observations that the margins of flexibility laid down in paragraph 5 of Annex B were to be observed, and recommended to the parties to the agreements in question that they adhere to this principle.

86. The TSB noted the flexibility provisions in particular, or made recommendations thereon, for the following agreements:

(i) Absence of flexibility<sup>22</sup>

87. In four Swedish agreements, those with India, Singapore, Sri Lanka and Thailand, the TSB noted the total absence of flexibility provisions as provided for in paragraph 3 of Annex 4. In this connexion, the TSB observed that, in its consideration of these agreements, it had had full regard to the concept of the minimum viable production as set out in Article 1:2 of the Arrangement. Although it paid full heed to Sweden's right to protect its minimum viable production, the TSB held that paragraph 6 of the Understanding reached by the Textiles Committee on 14 December 1977, could not be invoked as a general waiver of particular obligations under the Arrangement, and recommended that, if these agreements were to be extended, modified or renewed, both parties thereto should adhere to this principle.

88. In the case of the Canada/Poland agreement the TSB, while noting the absence of flexibility provisions in respect of a minor proportion of the products covered by the agreement, found that the agreement provided for a significant increase in net access for Polish exports in 1979, as compared to 1978, and that the agreement, in overall terms, was in conformity with the Arrangement.

(ii) Less liberal provisions<sup>23</sup>

89. With respect to the EEC's agreement with Korea, the TSB after having noted that the parties had agreed to a swing of less than 5 per cent for some of the categories under restraint, further noted that other aspects of the flexibility provisions contained therein were less liberal than those provided for in Annex B. On the evidence available, the TSB found that the low swing and those other aspects might have been agreed to in return for certain other considerations in the bilateral agreement.

(iii) Variation in flexibility provisions<sup>24</sup>

90. With respect to the agreements between Canada and each of Hong Kong and Korea, the TSB noted that the flexibility provisions in these two agreements varied according to the import sensitivity of the products and groups covered therein. Nevertheless, on the basis of the available data, the TSB concluded that the agreements provided for a net increase in access for the exporting countries' exports in 1979, in comparison with Canada's imports from these two countries in 1978, when the GATT Article XIX restraint régime was in effect. The TSB thus concluded that both agreements, in overall terms, were in conformity with the Arrangement.

(iv) No carry-forward provided<sup>25</sup>

91. In the Agreement between Sweden and Macao, the TSB noted that while the agreement provided for a carry-over from the first agreement period into the second one, no provisions had been made therein for carry-forward, as provided for by paragraph 3 of Article 4 of the MFA. The TSB expressed the view that this should be included in future agreements. The TSB also noted that the net reduction in access resulting from the reductions in most of the restraint levels in the first period of the new agreement had been compounded by the limited flexibility provisions of the agreement, which were less liberal than those provided for in Annex B of the Arrangement. The TSB, recalling that all the provisions of the Arrangement, as extended by the Protocol, must be observed, recommended that if this agreement were to be extended, modified or renewed, both parties thereto should also take fully into account the observations made by the TSB.

(v) Reduction in percentages for carry-over and carry-forward<sup>26</sup>

92. In reviewing the agreements between Sweden, and Hong Kong and Korea, respectively, the TSB noted that the carry-over and carry-forward provided for were less than those allowed for in the agreements that preceded them. The TSB took note, in each case, of the statement by the Swedish representative that these were the amounts that could be provided for at that particular juncture. Observing that the carry-forward amounted only to 2.5 per cent in each agreement, the TSB recalled its previous observation that the margins of flexibility laid down in paragraph 5, of Annex B, were to be observed. The TSB expressed the view that every effort should be made to ensure that the flexibility provisions of future agreements are in conformity with the provisions of the Arrangement.

(vi) Incorporation of all flexibility provisions<sup>27</sup>

93. In one special case, United States/Philippines, the TSB noted that the agreement included the unusual feature of encompassing all flexibility provisions within the base limits of the agreement. During its examination

the TSB noted that the aggregate group and category base levels in the new agreement involved significant increases over the limits set out in the previous one, and that the parties thereto had mutually agreed that such increases accommodated the growth and flexibility provisions of the Arrangement. In addition, the agreement provided for growth of 4 per cent to be applied in the second and each successive year in the manner set out therein. The TSB concluded, that in overall terms, the agreement could be regarded as being consistent with the basic objectives and principles of Articles 4 and 1:2 relating to the expansion and orderly development of trade in textiles between the two parties. (See also the specific comment on the United States/Philippines agreement in paragraph 104.)

(h) Departures from the provisions of the MFA<sup>28</sup>

94. Apart from its General Observation regarding EEC notification (see paragraph 64) which was applied to all the EEC bilateral agreements notified to it, to the extent that such an observation was relevant thereto, the TSB also concluded that certain agreements involved departures from the provisions of the MFA. The TSB specifically drew attention to the concept of departures in the following agreements:

95. (i) In reviewing the bilateral agreement concluded between the EEC and Korea, the TSB noted that certain restraint levels in the bilateral agreement involved reductions not only on 1977 quota levels, but also on 1976 trade levels. The TSB found, on the evidence available, that in negotiating these reductions the parties had departed from paragraph 3 of Annex B of the Arrangement. The TSB noted that such a departure had been presented by the notifying party as being within the purview of paragraph 5:3 of the Conclusions adopted by the Textiles Committee, on 14 December 1977.

96. (ii) In its review of the Finland/Hong Kong agreement, the TSB noted that certain restraint levels in the new agreement involving reductions on the levels set out in previous agreements, had resulted in a reduction in access and, therefore, constituted a departure. The TSB further noted that the reduction in access, as well as other elements in the agreement, were agreed to by the parties pursuant to the relevant provisions of the Protocol, in particular paragraph 6 thereof, and certain other considerations.

97. (iii) In its review of the first Swedish/Hong Kong agreement (1978-1979), the TSB noted that most restraint levels in the new agreement involved reductions on the levels set out in the previous agreement, and that restraint levels established for new items were lower than those provided for in Annex B of the Arrangement, had the roll-back formula contained therein been applied. This had resulted in a reduction in access (i.e. negative growth) and, therefore, constitutes a departure. The TSB further noted that the reduction in access, as well as other elements of this agreement, were agreed to by the two parties according to the relevant provisions of the Protocol, in particular paragraph 6 thereof.

98. (iv) In its review of the Swedish/Macao agreement the TSB noted that most restraint levels in the first period of the new agreement involved reductions on the levels set out in the previous agreement. This had resulted in a net reduction in access, which constitutes a departure from the provisions of the MFA. (See also paragraph 91.)

99. In this context, the TSB was informed by the Swedish authorities that the reduction in access, as well as other elements of the agreement, were agreed to by the two parties in pursuance of the relevant provisions of the Arrangement, and the Protocol of Extension, in particular those in paragraph 6. The TSB concluded its examination of the agreement by recalling that all the provisions of the Arrangement, as extended by the Protocol, must be observed, and thus recommended that if the agreement were to be extended, modified or renewed, both parties thereto should also take fully into account the observations made about it by the TSB.

100. (v) In its review of the latest Swedish/Korean agreement, the TSB had occasion to comment on aspects relating to the two prior agreements. In the case of the immediately preceding agreement, which the TSB did not review because of its lack of conformity with the textile coverage required by the MFA, the TSB had taken note of statements by the Swedish and Korean representatives that there were reductions in comparison with the agreement that anteceded it. The TSB was subsequently informed that the previous all-fibre agreement had also contained a quota of 900 tons which had been established for a group of products for which the export performance of Korea to Sweden was very small.

101. For these reasons, the comparative exercise was only made between the levels in the latest agreement and the corresponding 1977 levels in the last but one agreement. Such a comparison showed that the overall aggregate limits in both the first and second years of the new agreement involved considerable reductions on the total of the 1977 restraint levels established in the first agreement, plus the roll-back levels with respect to the newly introduced items. The TSB also noted that the annual aggregate limits for the two agreement years were lower than the total of individual limits established in the new agreement, in other words, Korea would not be able to fulfill all of its agreed quotas.

102. During its review, the TSB was informed by the Swedish authorities that the reduction in access, as well as other elements of this agreement, were agreed to by the two parties pursuant to the relevant provisions of the Arrangement, and the Protocol of Extension, in particular paragraph 6 thereof. (In this context, the TSB made its comment on paragraph 6 of the Protocol, see General Observations on Swedish notifications, paragraph 58).

103. The TSB, in making the observations cited above, noted that Sweden had negotiated an agreement with yet another country which represented a reduction in access for the exporting countries concerned. (See Hong Kong and Macao). The TSB also noted, however, that nominal growth had been provided between the first and second years of the new agreement. The TSB recommended that if the most recent agreement with Korea were to be extended, modified or renewed, then both parties concerned should take fully into account all the observations made on it. The TSB especially recommended that some growth be incorporated in any such future agreements.

(i) Subjecting all textile categories to specific limits

104. In the case of an unique Article 4 agreement (United States/Philippines), the TSB noted that the agreement in question differed in concept from Article 4 agreements previously submitted to the TSB in that the agreement included the unusual feature of making all textile categories subject to specific limits. Having due regard to the fact that all textile categories were subject to specific limits in this agreement, the TSB was unable to find that such a limitation was specifically foreseen under the provisions of Article 4:2. As regards the limitation on all textile categories, the TSB was informed that this had been agreed to by the parties and that these specific limits represented levels below which the importing country concerned had undertaken not to impose restrictions. (See also paragraph 93.)

(j) Apparent conflict in an agreement's procedure<sup>30</sup>

105. The TSB also, on only one occasion, made a comment regarding the possibility of an apparent conflict between the specific procedures contained in an agreement for activating its price clause provisions and an analogous safeguard procedure contained in the Protocol of Accession to the GATT of one of the parties to the agreement. The TSB, whilst of the view that the existence of two different procedures could give rise to certain legal problems, did not address itself to the issue, having due regard to its findings on such price clauses (see General Observations). This comment was made with respect to the EEC/Hungary agreement.

D. Other Observations

(k) Right to revert to an agreement<sup>31</sup>

106. In the context of its examination of the EEC/Korea agreement, the TSB, after its review, decided to reserve its right to revert to the agreement, for an overall view, at an appropriate stage.



(1) Status of restrictions (Article 11, paragraphs 11 and 12)<sup>32</sup>

107. During the course of its review of the reports sent in by participating countries on the status of the restrictions they maintained against textile imports, if any, the TSB had a preliminary exchange of views regarding the requirements of Article 11, paragraphs 11 and 12 of the Arrangement. The TSB thereupon agreed that it would revert to this question at a meeting early in 1980.

(m) Trans-shipment and circumvention<sup>33</sup>

108. The TSB, after having been informed by the representative of the EEC of certain problems relating to trans-shipment and circumvention, as foreseen in Article 8 of the Arrangement, agreed to continue its discussion of this issue at a later meeting, should it be considered necessary.

Annex

A. Observations of General Application

1. Delay in notifications: COM.TEX/SB/460(9); 442(8); 380(3); 365(75)
2. Recourse to Article 11:4: COM.TEX/SB/380(4)
3. Handlooms Article 12:3 and 4: COM.TEX/SB/406(3); 477(4)

B. General Observations Relating to Notifications from Particular Participants

I - Sweden

4. Restraint levels set in value terms: COM.TEX/SB/442(4); 380(5);  
365(73); 196(96)
5. Minimum viable production: COM.TEX/SB/380(8); 460(7); 480(9)

II - EEC

6. Consultation provisions: COM.TEX/SB/380(12-13)
7. Consultation provisions - basket exits: COM.TEX/SB/388(4)
8. Regional breakdown: COM.TEX/SB/380(14); 429(4)
9. Restraint levels: COM.TEX/SB/388(5)
10. Transmission to the Textiles Committee: COM.TEX/SB/380(15)
11. COM.TEX/SB/380(17-18); 388(6); 390(4-9); 406(4); 429(16-19);  
431(5); 457(4-7); 460(5); 466(4); 477(4-7)

C. Observations Relating to Specific Aspects of Agreements

12. Price clauses: COM.TEX/SB/457(5-6); 477(4-6)
13. Coverage of non-MFA products: COM.TEX/SB/380(10); 388(3); 442(3);  
477(15); 480(2)
14. Differences in product categorization: COM.TEX/SB/429(11); 446(4);  
446(8); 388(5)
15. Growth rate lower than 6 per cent (MVP): COM.TEX/SB/380(7); 388(9);  
460(7); 477(10 and 18);  
480(5 and 14)
16. Growth rate lower than 6 per cent (non-MVP): COM.TEX/SB/388(8);  
390(6); 403(8); 429(8  
and 13); 446(6 and 10);  
477(19)

17. Swing provisions (general): COM.TEX/SB/365(74); 196(97); 69(4)
18. (i) Absence of swing: COM.TEX/SB/388(8 and 9); 429(8); 431(3);  
442(3); 460(7); 477(9); 480(4)
19. (ii) Lower than 5 per cent swing: COM.TEX/SB/390(7); 403(4);  
429(12 and 25); 446(5 and 9)
20. (iii) Swing included in restraint levels: COM.TEX/SB/429(6); 480(16)
21. (iv) No swing between agreements: COM.TEX/SB/429(8)

#### Flexibility provisions

22. (i) Absence of flexibility: COM.TEX/SB/380(7 and 8); 446(11); 460(7)
23. (ii) Less liberal provisions: COM.TEX/SB/390(8)
24. (iii) Variation in flexibility provisions: COM.TEX/SB/429(12 and 14);  
446(5 and 9)
25. (iv) No carry-forward provided: COM.TEX/SB/477(11)
26. (v) Reduction in percentages for carry-over and carry-forward:  
COM.TEX/SB/480(3 and 13)
27. (vi) Incorporation of all flexibility provisions: COM.TEX/SB/429(20 and 22)
28. Departures from the provisions of the MFA: COM.TEX/SB/388(5); 390(5);  
403(4 and 5); 429(24 and 26); 477(12 and 14); 460(8); 480(15 and 17)
29. Subjecting all textile categories to specific limits: COM.TEX/SB/429  
(20 and 22)
30. Apparent conflict in an agreement's procedures: COM.TEX/SB/477(6)

#### D. Other Observations

31. Right to revert to an agreement: COM.TEX/SB/390(9)
32. Article 11, paragraphs 11 and 12: COM.TEX/SB/518(10)
33. Trans-shipment and circumvention: COM.TEX/SB/477(23)