

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Textiles Committee

Draft

REPORT ON THE MEETINGS OF THE COMMITTEE HELD ON
16-17 MARCH; ON 5-7 AND ON 24 JULY AND ON
5, 14 AND 22 DECEMBER 1977

Chairman: Mr. O. Long

Subjects discussed: I. The future of the Arrangement
II. The composition of the Textiles Surveillance Body

I. The future of the Arrangement

1. The Textiles Committee, acting pursuant to Article 10:5 of the Arrangement Regarding International Trade in Textiles, initiated discussion on the question of extension, modification or discontinuance of the Arrangement at its meeting in December 1976. The Committee's discussion, which is recorded in its report contained in document COM.TEX/8, then revealed a broad support for the objectives of the Arrangement and a general desire to maintain a multilateral framework for textile trade after 1977. A fairly large number of delegations favoured an extension of the Arrangement as it stands with improvements in its operation. Others expressed a desire for certain modifications. There were also some members who were not in a position to pronounce themselves one way or the other and thus reserved their positions.

2. Discussion of this issue was resumed by the Committee at its meeting held on 16 to 17 March 1977. Many delegations had reiterated their support for a simple extension of the Arrangement since, in their view, any change would upset the balance of interests which the Arrangement represented. For several of these delegations the problem had not been with the text of the Arrangement, but rather with the way it was implemented. On the other hand, those delegations which felt that the Arrangement in its present form had proved inadequate to meet the problems faced by them, had referred to certain problem areas or preoccupations which, in their view, had to be dealt with if the Arrangement were to be extended. Since those delegations had not then been in a position to make concrete proposals or to put forward their final views, it was felt that the Committee would need to meet at a later date.

3. At its meeting on 5-7 July, the Committee continued its discussion of this issue. When the Committee resumed its July session on the 24th it had before it two papers, one circulated at the request of Brazil and India (COM.TEX/W/43), and the other circulated at the request of the United States (COM.TEX/W/44). Many delegates expressed the wish to proceed as provided in document COM.TEX/W/43, and came out in favour of the MFA being extended in its present form. On the other hand, many delegates expressed the wish to proceed as provided in document COM.TEX/W/44 in that the MFA should be extended in its present form for a period of four years subject to confirmation by signature as from 15 December 1977, of a Protocol for this purpose on the basis of the elements mentioned in paragraphs 1-3 of document COM.TEX/W/44. Some delegates requested more time in order to consider the problem.

4. It was clear from the discussion that major differences were still outstanding between the positions of delegations on a number of key issues. In the circumstances, the Committee was not in a position to pronounce itself on the future of the Arrangement, and it was felt that it should be prepared to reconvene as soon as it may usefully do so.

5. A combined summary of the statements made during the March (15-17) and the July (5-7) meetings is given in Part I of this report, paragraphs 12 to 89. A summary of the discussion which took place in the Committee on 24 July on the basis of documents COM.TEX/W/43 and 44 is to be found in Part II, paragraphs 91 to 107. The summing-up by the Chairman of the discussion at the July meeting (COM.TEX/W/45) is reproduced at the end of Part II in paragraph 108.

6. The Committee reconvened on 5 December 1977 in order to proceed with its determination of the future of the Arrangement. At this meeting the Committee was informed that the negotiations between the EEC and several exporting countries had just been completed. A report on the results thereof would be submitted by the Commission of the EEC to the Council of Ministers scheduled to meet on 20 December 1977. Only after that meeting would the EEC's position with regard to the Protocol be known. Certain specific points¹ were also raised in the course of the discussion, after which the Committee adjourned.

¹These points were further reiterated in the statements made by the delegations concerned at the end of the meeting on 14 December, after the adoption of the conclusions and the establishment of the Protocol extending the Arrangement. A summary of these statements is to be found in Part III.

7. Following consultations and discussions between the participating countries, a consensus emerged on certain understandings to be adopted by the Committee as conclusions, to which a Protocol extending the Arrangement for a period of four years until 31 December 1981 was attached. This was set out in draft form in document COM.TEX/W/47, which was before the Committee when it resumed its meeting on 14 December. The Committee adopted the conclusions as set out in document COM.TEX/W/47, and the Protocol attached thereto was opened for acceptance. The Committee decided to derestrict document COM.TEX/W/47, the final version of which has been circulated to the CONTRACTING PARTIES in document L/4616 and is reproduced as an Annex to this report.

8. Following the Committee's decision to extend the Arrangement, several delegations made statements. A brief summary of these is given in Part III of this report, paragraphs 110 to 128.

II. Composition of the Textiles Surveillance Body

9. The Chairman drew the attention of the Committee, at the end of its meeting on 14 December, to the fact that it had to address itself to the question of the composition of the Textiles Surveillance Body. It was agreed that the Committee should adjourn so as to allow more time for delegations to reflect on this matter and discuss it among themselves.

10. Following the discussions which had been held regarding this question, the Committee reconvened on 22 December. At this meeting the Committee decided on the following:

- (a) The term of office of the Chairman of the Textiles Surveillance Body, Mr. Paul Wurth, should be extended for the duration of the extended Arrangement, i.e. until 31 December 1981.

- (b) The term of office of present members of the Textiles Surveillance Body should be extended until such time as the new members would be designated. To this end the Textiles Committee should meet before the end of this winter.

PART I

11. A combined summary of the statements made at the meetings of the Committee held on 16-17 March, and on 5-7 July, is given below.¹
12. The Chairman, in his opening remarks, reiterated the need for the Committee to proceed as expeditiously as possible with its work so as to avoid any harmful effects prolonged uncertainty regarding the future of the Arrangement might have on international trade in textiles. In this connexion, he recalled the expressions of concern by many delegations over the delay in coming to a decision on the future of the Arrangement when the Committee's report on its December meeting was adopted by the GATT Council on 23 May 1977 (C/M/120). He expressed the hope that the time that had been available to delegations for preparing their positions and addressing themselves to the issues involved would help the Committee in making substantive progress, thus permitting a firm decision on this important and crucial matter.
13. The spokesman for the EEC outlined a number of factual elements which had conditioned, and would continue to condition the position of the Community. First, the EEC had undergone a profound change since the conclusion of the MFA in 1973, as evidenced by an increase in textile consumption of only 1 per cent in the first three years of the MFA and, in fact, a drop in textile purchases in certain member States. Secondly, there was a quantitative increase in imports of textiles into the EEC by 80 per cent between 1973 and 1976. Finally, between 1973 and 1975, the
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- ¹The summary relates to the latest statements made by delegations, incorporating any additional points made in previous statements.

EEC accounted for 72 per cent of the growth in world imports. There had thus been a steadily declining trend in the EEC's external trade balance from a surplus of \$956 million in 1973 to a deficit of \$1,283 million in 1976.

14. The Community continued to attach great importance to the MFA, in particular to the objectives set out in Article 1 thereof. With regard to the first objective of expansion and progressive liberalization of trade, the application of the MFA had shown that the developing countries had greatly increased their exports and that the Community had absorbed the bulk of the increase, thus advancing in the direction of liberalization of trade in textiles. This objective could therefore be considered to have been substantially achieved. With regard to the second objective, on the other hand, the Community's standpoint was that the development of trade in textile products had not been orderly and equitable but had entailed serious disruption of its markets.

15. In order to remedy this state of affairs in the context of the renewal of the MFA, the Community's requests were as follows: Firstly, it should normally be possible for the growth rate of imports to vary in inverse proportion to the rate of penetration of imports from all sources. For products with a very high rate of market penetration, it was essential that such a rate be stabilized by comparison with 1976 levels. Such stabilization implied that for a limited number of these products the growth rate of all imports, giving rise to disruption of the Community market, would in no case exceed the growth rate of consumption for each of the products concerned. For other products, a higher growth rate than for the products referred to in the preceding sentence would be permissible during the period of application of the renewed MFA. For yet other products, the growth rate might reach or even exceed the level of 6 per cent, depending on the sensitivity of the product. Such stabilization measures were an absolute prerequisite to the Community's continuing participation in a special international Arrangement for Textiles.

16. Secondly, the question of more favourable treatment for small suppliers and/or newcomers could be resolved if suppliers having a dominant position on the Community market accepted, within limits which would be defined, a more equitable redistribution of import opportunities. This policy could be implemented within the framework of the present MFA, but if this view was contested by other participating countries, however, the Community would have no alternative but to seek formal changes in the actual terms of the Arrangement. These stabilization objectives should be equitably attained by means of bilateral agreements to be concluded by the end of 1977. Failing this, the Community would be obliged to take appropriate measures to ensure the attainment of its stabilization objectives.

17. In addition, with regard to certain provisions of the Arrangement, the Community held that, first, regarding reference periods, an obvious element of imbalance appeared in Annex B 1(c) which lays down exceptions solely for exporting countries. Importing countries should also have the right to cite abnormal circumstances justifying an exception to the rule laid down in Annex B 1(a) concerning the determination of levels of restraint. Secondly, in order to achieve in practice a better balance between the different suppliers, the large exporters in particular should not invoke against the Community the present provisions of Annex B 1(b) on restraint level by reference to previous situations. Thirdly, the following elements should be taken into account amongst those causing a situation of market disruption: (i) the rate of penetration of the market of an importing country; (ii) the evolution of domestic consumption; (iii) the cumulative effect of imports; (iv) and the "price" factor taken in isolation. Fourthly,

concerning handloom or handmade products, in the absence of specific certifying arrangements between the countries concerned, or in the case of the unsatisfactory operation of such arrangements, these products were automatically to be covered by the MFA. It should also be specified that cottage industry fabrics must be woven on hand or foot-operated looms, handmade cottage-industry products made of these fabrics must be hand sewn without the aid of any machine, and traditional folklore handicraft textile products must also be handmade.

18. Referring to the problem of forestalling, he said that the obligation for participating countries to afford full and rapid opportunity for bilateral consultations and negotiations under the MFA should be unequivocally reaffirmed; in each case, the date of the request for consultations should determine the period of reference as calculated in accordance with the relevant provisions of Annex B. As regards members of the MFA which were not contracting parties to the GATT, additional requirements would continue to be required from them in conformity with Article 13:2, so that they would not obtain treatment more favourable than that accorded to contracting parties with a comparable level of development and a similar economic structure, having regard to the provisions of the GATT, including its annexes and protocols. As regards the rights and obligations of possible new parties to the MFA, a realistic and equitable treatment should be ensured, by analogy, with the treatment accorded in the past to the original members of the MFA.

19. As regards the TSB, he pointed out that the principal function should be to facilitate the settlement of disputes by means of conciliation respecting the provisions of the MFA. In future a reasonable balance in the composition of the TSB had to be maintained between parties viewing trade problems as importers and

those viewing them as exporters. The Community would be willing to see some increase in the membership of the TSB to ensure that it be "broadly representative" of the parties to the Arrangement, as laid down in Article 11. In conclusion, the spokesman for the EEC said that if the end result was satisfactory, the duration of the renewed MFA could be for a period of five years, thus permitting sufficient time for industrial restructuring.

20. Replies by the spokesman for the EEC to certain of the comments made on his statement at a later stage in the discussion are contained in paragraphs 87-89.

21. The representative of the United Kingdom on behalf of Hong Kong regretted that several participants saw problems only on the import side. The Committee should be concerned with the avoidance of disruption of trade both on the import and export side, and this called for protracted negotiation by both sides to reach a consensus. In his opinion, the present MFA was unbalanced, in favour of developed importing countries, but Hong Kong could live with it. The existing Arrangement should thus be renewed in its present form without any further delay. Proposals for redressing the imbalance in the Arrangement could nevertheless be considered.

22. Commenting on certain points raised by the spokesman for the EEC, he referred to the objectives of the Arrangement which were expected to be met, and said that these certainly could not be met if imports were to be stabilized at the levels of 1976. Such a "roll-back" would also defeat the objective of Article 1:2. He further expressed concern about the implication that newcomers, a concept which was not defined, caused market disruption, and about the reference to an unspecified action the EEC might take to attain stabilization in the event that

bilateral agreements were not successfully concluded. He asked for clarification on these points and wondered if the Community could adopt any measures of their liking regardless of international rules. If this was the view of the EEC, then what confidence could developing exporting countries have in their bilateral and multilateral relations with the Community. With regard to the protection accorded exporting countries in paragraph 1(c) of Annex B, this was necessary because exporting countries were at the mercy of importing countries, the latter being in a position to decide on their own when to make requests for consultations. Thus, the question of whether or not the reference period referred to in paragraph 1(a) was favourable did not arise.

23. On the issue of market disruption, he felt that most of the elements referred to by the Community's spokesman were inscribed in the present instrument, and while low price was one of these elements it could not, by itself, be taken as a basis for a claim that the market was being disrupted. Likewise, import penetration by itself was meaningless in determining a situation of market disruption since such a situation could only occur if there was domestic production. Furthermore, he quoted inter alia COM.TEX/SB/196 to show that per capita imports into certain developed countries were accounted for mostly by imports from other developed countries. This had a bearing on the equitable distribution of import opportunities which the EEC had referred to as necessary. He observed that the so-called equitable distribution of export opportunities was to be achieved at the expense of the developing countries. Reverting to the theory of cumulative market disruption, he pointed out that Article 3 of the MFA referred to particular products from particular sources, which might be taken as meaning a collection of

sources. The Article also allowed exporting countries, when asked to restrain, to exercise their right in requiring evidence that they were contributing to that particular disruption and were therefore one of the particular sources. Article 3 did not sanction action against suppliers selected at the whim of importing countries.

24. Referring to the EEC request that the provisions of Annex B, paragraph 1(b) should not be invoked against the Community, especially by the large exporting countries, he noted that what the Community was asking for was that a specific provision in the MFA should be ignored in bilateral negotiations. However, in bilateral negotiations under Article 4 the two partners were expected to seek a mutually acceptable solution and, in so doing, one could of course not exclude the possibility of a reasonable departure from particular elements, provided that the outcome was one which met the criteria set out in Article 4 in that the agreement on overall terms was more liberal than the measures provided for in Article 3.

25. On the question of handloom textiles, he said that the Community's spokesman had, in his view, gone quite a way beyond the provisions of Article 12:3. With regard to the question of the composition of the TSB, he pointed out that the answer probably did not lie in enlarging it but perhaps in a reorganization, in particular with regard to the three permanent seats none of which were assigned to important textile exporters from developing countries. Finally, as regards the reference to MFA members which were not contracting parties, he noted that while the Community as such was a member of the MFA, it was not as such a contracting party to the GATT.

26. The representative of Japan observed that the Arrangement was basically sound and had provided a framework for international co-operation between the textile exporting and importing countries. He said that if the Committee failed in the

task of extending it, then the trading community might find itself in a chaotic situation without any framework at all for international co-operation in textile trade. In this respect, he reiterated the point that an early conclusion was essential for the stabilization and orderly development of textile trade after 1977. He urged participants to follow a constructive and co-operative approach in order to narrow the divergent views and thus arrive at a solution with regard to the implementation of the MFA, acceptable to both the exporting and importing countries. Proposals for amendments, whether by the exporting side or the importing side, could lead to a far-reaching debate which might not result in any tangible conclusions by the expiry date of the existing MFA. He therefore appealed to all participants that they should be realistic and avoid confrontation by renewing the Arrangement without any textual changes.

27. Commenting on certain points raised by the spokesman for the EEC, he said that in essence these centred upon how to cope with market disruption caused by imports from the developing countries. While recognizing the major concerns of the EEC, he recalled the basic objectives of the MFA as set out in paragraphs 2 and 3 of Article 1. With regard to the idea of cumulative market disruption, his delegation was seriously concerned that restrictive measures could be introduced in an abusive manner in relation to this concept, which did not appear to be compatible with the existing provisions, especially paragraph 2 of Article 3, and paragraph 3 of Article 6. The main EEC suggestions concerning stabilization of rates of market penetration for certain products were not, in the view of his delegation, justified in the light of the basic principles of the MFA, among them the principle of limiting only imports of the countries causing market disruption.

28. He believed that an improvement of the situation for newcomers could be achieved in a manner different from the EEC roll-back proposal, which was also not justified under the MFA. He further believed that an exclusive reliance on the price factor in determining market disruption could lead to an unacceptable application of restrictive measures unintended by the MFA. In the Japanese view, the present provisions of the MFA were not only basically sound but eminently sensible. He saw no need for increasing the membership of the TSB. With regard to the period of extension, he thought that a three-year extension could be acceptable to all parties concerned.

29. The representative of Brazil observed that the MFA, like its predecessor the LTA, was a derogation from the General Agreement. It had been accepted in view of the unsatisfactory situation of world textile trade and on the clear understanding, as spelled out in Article 1:2, that there would be an expansion of world trade and that the barriers thereto would be progressively removed while, at the same time, ensuring the orderly and equitable development of such trade. Although the situation, and thus the justification for such a derogation had changed, his country was still not opposed to an immediate prolongation of the Arrangement in its present form. If the prolongation, however, involved the introduction of new restrictions which were a further derogation from GATT, then his country would prefer to scrap the MFA and be content with the GATT itself. He associated himself with the statement by the representative of the United Kingdom on behalf of Hong Kong, and went on to state that, in his view, the EEC had failed to establish any meaningful correlation between the difficult economic and social problems referred to, and the increase in imports, for the purpose of Articles 2, 3 and 4. If the EEC had approached countries bilaterally, it would have been required of it to use

the criteria of Annex A of the MFA to prove, in a legal sense and not only through statistical data, that market disruption existed. An increase in imports alone could not be held as a determining factor in itself, according to Annex A, but damage must demonstrably be caused by the factors set out in paragraph II of Annex A, and not by factors such as technological change or change in consumer preferences.

30. He observed that it was widely known that the major difficulties in the cotton industry in developed countries stemmed from the increasing competition from man-made fibres; this constituted probably the greatest single factor affecting the Community's cotton industry. He recalled that the concept of market share was to be found in the MFA, but not the concept of market penetration. Furthermore, a valid comparison in order to establish market penetration should not be imports of, say, cotton textiles as compared to cotton textiles production/consumption in the importing country, but rather imports of such cotton textiles in relation to overall textile production/consumption in the importing country. This would take account of the important fact of increasing interchangeability of natural and man-made fibre textiles.

31. The representative of Switzerland stated that his country's position was to renew the MFA because in their experience the Arrangement, as it stood, corresponded to the needs of international trade in textiles despite serious economic difficulties. Moreover, it was essential that the international trading community was informed, without delay, about the fate of international co-operation in this field. He believed that since the EEC had suggested a renewal for five years, it would be worthwhile working from the starting point that there would be such an Arrangement and that, therefore, one should make a distinction between problems of

an accidental and of a more permanent nature. In so doing, this would foster a sense of co-responsibility on both sides as opposed to unilateral actions. Also, conscious of the fact that certain improvements could be made in certain provisions, such as those relating to base period and growth rate as specified in Annex B, his delegation would fully co-operate in any discussion to this end.

32. He pointed out that renegotiations of these provisions should not in any way jeopardize the delicate balance of rights and obligations of exporting and importing countries, and that the application of any new provisions should be restricted to very exceptional and well-defined circumstances. In order to ensure the smooth flow of international trade, it seemed fundamental to clarify, in a definite way, the relationship between the MFA and Article XIX of the General Agreement. In his opinion, as soon as provisions aimed at governing a sector of trade were agreed upon, these should be the only ones applicable to this sector. With regard to the TSB, he stated that a limited membership would foster team spirit and facilitate the tasks this body should carry out in implementing the Arrangement.

33. The representative of Austria reiterated a number of problems connected with the implementation of the Arrangement. The roll-back period specified in Annex B was particularly adverse for countries with a sharp and substantial increase in imports, in many cases over a very short period of time, and with a high degree of import penetration. As a rule, market disruption could not be eliminated as such a situation had been perpetuated because it was mandatory to apply levels set out in Annex B without taking into account the cumulative effect of imports and the degree of import penetration. This problem might be solved either by extending the roll-back period from twelve months to twenty-four or thirty-six months, or by applying paragraph 1(c) of Annex B to importing countries also. Furthermore, because

of the problem of additional shipments, paragraph 1(a) of Annex B should be interpreted to the effect that the level of actual exports might be taken as a basis for the calculation of the roll-back period's level only after relevant import statistics were not available.

34. He also suggested that in order to avoid the extinction of domestic production, a lower growth rate than 6 per cent should be allowed if the level to be increased was a comparatively high one or, if there were clear grounds for holding that the situation of market disruption or actual threat or risk thereof would recur if the uniform growth rate was implemented. Another difficulty arose when favourable treatment, by way of growth rates and base levels, was requested by small suppliers and new entrants into a market already dominated by large suppliers, and with a high cumulative import penetration. While maintaining that the objectives of Article 6:2 should remain valid, he suggested that certain flexibility be applied, for instance an inverse relationship between the degree of market penetration, already reached by imports from dominant suppliers, and the size of export levels and growth rates for small suppliers and new entrants.

35. Referring to circumvention of the Arrangement by trans-shipment, ongoing shipments and false certificates of origin, he felt that the respective procedural provisions of Article 8 should be interpreted in a way which would not allow losses of time. Accordingly, the importing country should be authorized to take interim measures of the kind provided for in Article 3:6, while at the same time bringing the matter to the attention of the TSB. He pointed out that in the absence of any definite period of time for the opening or the termination of consultations under Article 4 there were long delays in the conclusion of bilateral agreements. He suggested, therefore, that the time-limit set out in Article 3 should equally apply in relation to negotiations under Article 4.

36. In conclusion, he said that his delegation believed that these suggestions did not necessarily require a change of the present Arrangement, but could be met by firm understandings or interpretations among participating countries. His delegation fully supported a prolongation of the Arrangement for at least another five years.

37. The representative of Mexico urged participating countries to make serious efforts with a view to reaching a mutually acceptable solution to the current problems which, in fact, were interrelated. His delegation favoured, in this spirit, the MFA being extended without modification, notwithstanding the fact that the developing exporting countries were also dissatisfied with certain provisions of the Arrangement, as evidenced by the points raised by them which highlighted very serious and pressing problems. Referring inter alia to the handicrafts problem, he said that if such products were presumed to be a fraction of exports of man-made textiles, this would further limit the few opportunities of work for people who suffered doubly from not being qualified to work in more technical occupations, and who were the poorest element of the population.

38. Commenting on the proposals put forward by the EEC, he made the following points in addition to those made by Brazil, Hong Kong and Japan, which he supported. He recalled that when the Arrangement was negotiated, the concept of market disruption had perhaps been the one most widely debated, and at no time had the drafters of the MFA overlooked the fact that two factors, namely price, and the substantial increase in imports, were involved, these factors could not be separated. Cumulative market disruption was not mentioned in the MFA, neither was the idea that growth of imports should be in line with the growth in consumption. Inclusion of such concepts was in collision with the widely recognized concepts as to orderly development textile trade, and would reaper the entire concept of the Multifibre Arrangement.

39. He also noted that not all the increase in imports came from developing countries and yet measures were systematically taken against them. He thought a three-year extension might be the most reasonable one, in view of the development of trade in this sector. In respect to the composition of the TSB, he said that present distribution of membership, though not ideal, should be kept. Participants should commit themselves in such a way as to strengthen the TSB and stimulate it to take even more specific decisions which should be implemented in full by all parties.

40. The representative of the United States welcomed the fact that the EEC was prepared to move ahead with all deliberate speed on the renewal of the MFA. In view of the Arrangement's contribution to international trade in textiles and the fact that such trade needed the certainty which would be provided by a prompt resolution of the issue, all participants should make a concerted effort to conclude the renewal question as soon as possible. He recalled that, for its part, the United States was prepared to accept a five-year renewal of the MFA in its present form. Some purely technical changes such as in Article 16 would have to be made, but there was no need, in his view, for any substantive changes. After having consulted actively with other participants, his delegation felt that MFA extension without change was not only desirable but entirely possible. The MFA had worked better than most might have had anticipated.

41. He welcomed the statement of the EEC that it was not seeking formal amendments to the MFA, and in this regard he associated himself with the remarks made by other delegations that the MFA was a compromise, and that it should be extended as presently written with the expectation that rational application of all its provisions would solve the problems of both importing and exporting countries.

With regard to forestalling, he believed both exporting and importing countries should make every possible effort to respond promptly, as the present MFA required, to requests for consultations. He reiterated the point that the proper and, indeed, only framework in which problems could be ironed out in a pragmatic way was in bilateral discussions held under the provisions of, and encouraged by, the MFA. Finally, referring to the composition of the TSB, he expressed the view that the present manning of the Body constituted an efficient workable number.

42. The representative of India welcomed the fact that the Community at last had obtained its mandate but noted that this was based entirely on happenings in the Community markets arising out of the recession. In this connexion, he wondered whether it was proper to put the entire blame on imports and recalled that recession had hit hard exporting countries' textiles industries too. Besides 105 mills which had been closed in India and had had to be taken under State management, as many as forty mills were still in serious difficulties. In addition, there were vast areas of unemployment arising out of large numbers of handloom and power looms being put out of operation. The cumulative effects of the EEC's proposals would be one of making the MFA an unduly protectionist Arrangement. He felt confident that social distress in all countries could be avoided even within the present framework of the MFA because, if the will to appreciate mutual problems was there, expedient solutions could always be found for temporary problems without breaking the structure of the MFA.

43. While the broad aim behind a separate arrangement for textiles was to ensure that a better redistribution of world textile resources might be achieved over time, the reality had been unfortunately different. This very same instrument had become a charter for denying access to the markets of the developed countries of an almost

comprehensive range of textile products. Restraints were invariably unilateral, abrupt, and untimely from exporters' points of view but well timed for the importers. There had been violations of some principles of the MFA. A large-scale dislocation and consequent distress to a large multitude of workers had resulted. The Committee should not forget that while the Sixties gave some streaks of hope to the developing world, the consistent happenings during the Seventies had increased its frustration and disillusionment.

44. He observed that in the present attempt to restructure the MFA, there seemed to be a distinct trend of discrimination against developing countries as contrasted with developed countries. Statistics indicated that restraints had become a vehicle of improving market access to products from developed countries rather than promoting industry or employment in the developing countries. In almost every single case it could be established that the displacement of India's trade was designed to only benefit certain other third countries, usually developed. While applying restraints, care should therefore be taken to ensure that products from developed countries, especially when they had a higher market share, should be restrained first before the products of developing countries were restrained. This should be regardless of any considerations of regional economic groupings or price differentials. If there was no assurance that market share be taken into account, he would suggest textual amendments. Too much importance should not be given to the low price criterion. If this was not possible, he would suggest amendment for deleting the price factor totally. By virtue of the higher cost of production in the developed countries there was an urge on the part of manufacturers to move towards products of higher added value leaving the lower end of the trade more and more to be taken by imports.

45. Restraints should not be induced by market penetration; the market share should be the basic criterion and restraints should be envisaged strictly in terms of market disruption by the particular product from the particular country in the market of the importing country. Circumstances permitting imposition of unilateral restraints which was spelt out in the MFA should be an exception rather than the rule. In the imposition of unilateral restraints, exporting countries should be allowed to regulate the flow of products covered by the restraint rather than leave it to the importing country. If such assurances were not forthcoming, he would suggest textual amendments. With regard to the request for broader base periods, he recalled that the pattern had been for importing countries to keep statistical surveillance, under which a smaller base affected exporters most. Base periods should also be representative of the exporting country's capacity and requests for consultations should not be made when, due to cyclical fluctuations, the export levels had flattened out and were abnormal.

46. Stabilization at 1976 levels indeed suggested sizeable cut-backs and substantial drops in export levels. The rates of growth indicated in the MFA, which were themselves too low, should not be diluted further. However, if in the existing circumstances, the absorption of a specified product at normal rates of growth was likely to cause problems of social and economic distress to the importing countries, suitable marginal adjustments could always be discussed bilaterally, which could be made up at a later time so as to ensure that the overall growth, over a time span, was not allowed to deteriorate; these suggestions should not affect the structure of the Arrangement. The desire for a lower growth rate was also inconsistent with Article 1:3 and 4, which called for industrial adjustment in such a way that the countries in question should move

progressively into more viable sectors of the economy thus providing increased access to developing countries. He was inclined, therefore, to suggest that restraints should be at levels of "best performance" rather than "recent performance". He would also be prepared to examine closer the concept of differential growth rates.

47. On the question of handlooms and the interpretation of Article 12:3, he warned that a "needle and thread approach" would radiate back on the production of handloom fabrics itself which, in turn, would mean a grave setback in the destinies of the ten million handloom weaving population whose actual wage levels were far below poverty levels. When the EEC mentioned that the fabrics must be woven on hand- or foot-operated looms, he found this surprising in light of the definition which had been specifically included in the bilateral agreement between the EEC and India. This bilateral agreement stipulated that "the motive power is provided entirely by the operators, i.e. the three primary movements of weaving, viz. shedding, picking and beating, are induced by hand or foot and no other source of power is used". The suggestion that in the absence of certifying arrangements handloom products should be deemed to be covered by the MFA, would itself provide a safety valve for inducing importing countries to avoid the conclusion of certification arrangements. These propositions were totally unacceptable and he noted in this connexion that Article 12:3 was perhaps the only Article in the MFA which lifted the Arrangement to an approximation of the conditions for a new international order. If a willingness to give faithful observance to this Article was not forthcoming, he would be inclined to suggest textual amendments for deleting restrictionist appellations like the words "hand-made".

48. Referring to recent emergency actions, he went on to say that if countries resorted more and more to action outside the MFA, there would be no need for continuing the Arrangement. If derogations from the GATT were going to further increase, his delegation would prefer protection under the GATT rather than the MFA. Only when solutions through the MFA were tried and found ineffective should solutions outside it be sought, and then they should be subject to scrutiny by the TSB and the Textiles Committee. If such an assurance was not forthcoming, India would suggest an amendment of Article 1:6 to rule out resort to Article XIX actions. In conclusion, he stressed the need for all participating countries to strengthen the multilateral surveillance machinery. The TSD had fulfilled a very desirable rôle in the implementation of the Arrangement. It should not, however, merely look into complaints but also provide a self-supervisory mechanism by which all bilateral arrangements, formal or informal, should be subject to scrutiny as to their conformity to the principles of the MFA. The structure should be suitably strengthened for this purpose.

49. The representative of Pakistan pointed out that the effect of the suggestions proposed by the MFC would not be in the direction of liberalization, notwithstanding its declared adherence to this objective. With regard to the MFA objectives, his delegation saw a basic conflict, in particular, between the objective of 'expansion of trade' and the concept of 'market disruption'. This conflict would be aggravated if the new interpretation of the latter concept given by the Community, and the proposals to freeze imports at 1976 levels, were accepted. Unless this basic conflict was resolved, the provisions of the MFA would remain uncertain and ambiguous. Consequently the rights and bargaining

position of exporting countries under the MFA would remain uncertain, weak, and at the complete mercy of the importing countries. He pointed out that the effect of the inherent imbalances and inequities in the MFA, as between the importing and exporting countries, was that the exporting countries had no real negotiating position in bilateral negotiations, either under Article 3 or under Article 4. In fact, all restrictions imposed on the exports of the participating developing countries, whether under Articles 2, 3 or 4 of the MFA, were, in the final analysis, of a unilateral nature.

50. While appreciating the TSB institution, he remarked that even verdicts from this Body in favour of exporting countries did not solve their problems, because decisions of the TSB were acceptable to the importing countries only if they were in their favour. In view of these shortcomings, his delegation adhered to the conclusion that the MFA had failed to provide adequate protection for the rights and interests of the participating exporting countries. In fact, certain late developments with regard to the phasing out of residual restrictions in the EEC followed by the illegal reimposition, within three months, by one member State and other measures adopted by another, had given added reasons to this belief.

51. In conclusion he stated that, in view of the fact that textile exports constituted one third of its total export earnings, Pakistan could not agree to any further narrowing down in its access to developed markets. His delegation was firmly of the view that if the MFA was to serve any useful purpose in the future, in so far as the interests of the participating exporting countries were concerned, some of its provisions would have to be modified or amended in order to make the Arrangement more balanced and equitable. If it was made more restrictive, Pakistan would much rather go back to the GATT framework than be restricted under the MFA.

52. The representative of Sweden, speaking on behalf of the Nordic countries, was of the view that the MFA had created a useful basis for international co-operation between exporting and importing countries. The Arrangement expressed the principle of liberalization of trade and its corollary, the international division of labour which, in their countries over the last decades had, as a matter of policy, led to an acceptance of a shrinking textile sector and a shifting of resources to other more competitive industries. To let this process take place at an acceptable pace without causing havoc in importing and exporting countries was still an essential rôle for an MFA. At the same time, however, it must be able to fulfil this rôle adequately in rapidly changing circumstances. While a substantial increase in the exportation from developing countries had taken place during the existence of the MFA, the distribution of the increase between exporting countries had been uneven because the MFA, in practice, favoured the dominant established suppliers.

53. He went on to stress that the most significant trend in textile imports was the steep rise in low price imports which had tripled between 1970 and 1975, while imports from developed countries had doubled in the same period. Such figures hid an even greater growth in those very few sensitive items on which the import growth was concentrated, and made it evident that the concept of cumulative market disruption was a real one. The domestic industries of the Nordic countries which supplied some 80 per cent of these markets twenty-five years ago had since then gone through a process of considerable structural adjustment and were now at a level where it was found necessary, for political, social and economic reasons, to put a halt to its continuing dismantling. This was being achieved by way of a great variety of internal measures, with import restraint only as a supplement, if found absolutely necessary.

54. The Nordic countries appreciated that the MFA, in its Article 1:2, acknowledged that special regard should be given to the avoidance of damage to their minimum viable production of textiles. The operational parts of the Arrangement echoed this principle specifically in Annex B, in regard to growth rates, but it was as important that it must apply also to other operational parts of the Arrangement, wherever this was logical as, for instance, Annex A which was designed to give guidance in determining market disruption or actual threat thereof. While its paragraphs I and II enumerated a series of factors which should be considered, Annex A also acknowledged the difficulty of determining exactly, in all situations, the factors causing market disruption. For countries with a very high import penetration it might be impossible to sustain a sharp and substantial increase in imports of a particular product from a particular source. Annex A did not, however, address itself to this kind of situation, but to market disruption situations of a different and, in fact, far less serious character. This was only natural since these had been the normal market disruption situations in most importing countries. In the Nordic countries, however, a type of more advanced disruptive situation was the rule rather than the exception.

55. He pointed out that in the case of Sweden it was vital to maintain a minimum viable production capacity for defence and emergency reasons. Therefore, in the case of countries having small markets and a low level of domestic production, an exceptionally high level of imports should be regarded as a factor in the determination of market disruption or real risk thereof. However, they found it increasingly difficult, particularly in the TST, to find recognition in practice for what they considered to be conceded to them in the delicate set of balances and counterbalances which the MFA represented.

56. Referring to other shortcomings, he said that the twelve-month period for determining base levels was too short and suggested that it should be set at thirty-six or possibly twenty-four months. Importing countries should also have the right to refer to abnormal circumstances in determining the reference periods. Import figures should be relevant and decisive in determining the base levels. Time-limits for consultations laid down in Article 3 should also be applied in the case of requests under Article 4. With regard to the TSB, he said that it would perhaps be easier to keep this Body "balanced and broadly representative" if the membership was slightly increased. Referring to some recent experience by Sweden, he cautioned that efforts at conciliation by the TSB which would result in such disruptive effects on trade, should be avoided.

57. On the question of the need for an agreed definition of "handloom" products, the Nordic countries took exactly the same position as the EEC, both as regards the scope and definition of Article 12:3. Reverting to the MFA provisions stressing the importance of equity among exporters, he said that this concept was one of the main principles underlying the GATT system, to which the MFA belonged and, therefore, it was with special interest that he noted the suggestion by the EEC that Annex B might be modified to allow redistributions in quotas from principal suppliers so as to give more room for newcomers. This suggestion put the spotlight on a very difficult set of problems such as how room could be made for newcomers when, because of the need to protect minimum viable production, an overall increase of low price imports was hardly possible.

58. In conclusion, he stated that although the MFA was a delicately balanced instrument, it might need some adjustment, at least in its application, corresponding to changed circumstances. Experience had shown that however balanced and delicate, the MFA had not functioned well enough, at least not to their expectation. They were willing to see the Arrangement continue provided there was a satisfactory assurance as to the necessary adjustments in application which would be to the benefit of all present and future members.

59. The representative of Canada stated that while the Arrangement was a useful instrument for dealing with textile trade problems, in its present form it had proved to be inadequate to meet the problems of his country. Not only had it failed, generally, to provide a better balance of advantages between importing and exporting countries, but serious difficulties had also been experienced with the implementation of specific provisions of the Arrangement. He recalled that Canada was the world's third largest importer of textiles, with 1975 imports per capita from all countries more than twice those of the EEC, approximately three-and-a-half times those of the United States, and more than five times those of Japan. In 1975, Canada's deficit in textiles trade exceeded \$1 billion. His Government attached considerable importance to the maintenance of a viable industry which, at present, provided more than 12 per cent of the employment opportunities in Canada's manufacturing sector.

60. Real difficulties now faced Canada's clothing industry due to disruptive factors. Among the options open to it was the conclusion of bilateral agreements with those partners determined to be causing serious injury. The current provisions of the MFA made it difficult to do so, and this emphasized the need for an amended and more flexible Arrangement. Noting that Canada and the Community had a number

of problems in common. His delegation's view was that solutions that were available to deal with such problems must be available to all. If this situation did not prevail, it would be difficult to forecast where developments might lead. As regards the changes that should be made to the Arrangement, he mentioned that the base period provisions of Annex B were not responsive to the problems of Canada with high levels of import penetration and frequent sharp increases in imports in spite of a fall in domestic demand. He drew attention to the statutory procedure in Canada whereby application of restrictions was preceded by a public enquiry to determine injury; this had led to sharp increases in imports. His delegation therefore saw the need for more flexible and representative baseperiod provisions. Greater balance and flexibility in the provisions of Annex B:1(a) or (c) could also reduce the practice of introducing restraints prematurely in an effort to head off potentially disruptive increases in import levels.

61. There was also a need for greater flexibility in the application of the rules relating to growth rates. The interpretation that a minimum of 6 per cent growth was required in bilateral agreements, regardless of the level of import penetration or the capacity of the market to absorb further imports, had frequently caused unnecessary conflicts. Moreover, there was a need to improve growth opportunities for smaller exporters and new entrants with only nominal shares of the import market. In the Canadian view, changes in the provisions of Annex B which would encourage the application of differential growth rates deserved close attention. He suggested a sliding scale formula or a differential growth rate based on inverse relationship to levels of import penetration, which would also entail larger growth rates to smaller exporters and lower rates to large ones. Similarly, it appeared incongruous to be required to grant generous swing and carry-over/carry-forward in those circumstances where substantial growth rates could not reasonably be envisaged.

62. Referring to the question of cumulative market disruption, he suggested that the problem could be solved by rewording Article 3:2 so as to clearly spell out the injurious effects of cumulative disruption, or by clearly recognizing this in Article 1:2, or in Annex A. He also suggested that difficulties arising from the first and last sentences of Article 3:3, which contradicted each other, might be avoided by inserting the word "unilateral" at the beginning of the first sentence. He further recalled that Canada's experience with the TSB had reinforced its view that in a renewed MFA there must be some basic changes in the way in which it functioned and was composed. Departures should not be made from the normal GATT rules of consensus and the MFA should continue to respect GATT rights and obligations of all contracting parties which were also members of the MFA. Canada saw the MFA as a derogation from the GATT to be used only sparingly, while GATT, embodying Articles XIX and XIII which provided safeguard measures on a non-discriminatory basis, remained the basic instrument for dealing with all problems of trade. As the MFA was evolved to deal with market disruption originating from selective sources, Canada made use of it only selectively, where market disruption and injury to domestic industry had been determined. In this sense, additional trade measures referred to in Article 9:1 of the Arrangement did not include measures taken under the GATT and could not therefore appropriately be discussed by the TSB. Article 11:1 required balanced and broadly representative membership, but due to lack of rotation and allocation of permanent seats to larger countries, there was no such balance. In concluding his remarks, he joined the view that the Arrangement should be as equitable as possible. He therefore hoped that the deliberations would result in an Arrangement sufficiently flexible to allow Canada to deal with the problems encountered by its textile and clothing industry.

63. The representative of Egypt saw the Arrangement as a framework for the liberalization of international trade in textiles. This was all the more so because of its close link with the on-going multilateral trade negotiations, under which elements like tariffs and GSP were also to be considered for the future harmonious development of textile trade of the developing countries. His delegation favoured an extension of the Arrangement without any modifications; this did not mean, however, that Egypt as an exporting developing country was satisfied with the Arrangement. He recalled that during the negotiations, developing countries had asked for a growth rate of 10 per cent, but finally 6 per cent had been accepted as a minimum. Records would also show that developing exporting countries had repeatedly expressed their dissatisfaction at the way the Arrangement was originally drafted and later implemented. Thus, all parties to the Arrangement had problems, but if every participant introduced amendments, interpretations, or understandings to meet its own problems then no framework would be workable internationally. In this connexion, he pointed out that the problems of industrialized countries were of a short-term nature whereas those of developing countries were of a permanent and structural kind, in addition to the fact that the recession had hit them in a far more acute and adverse manner. It was regrettable that no serious efforts had been made in importing countries to restructure their economies so as to provide increased access to developing countries.

64. He also recalled that, in spite of the fact that the GATT would not allow the maintenance, on a more or less permanent basis, of discriminatory quantitative restrictions of the kind permitted under the MFA, developing countries had adhered to the Arrangement because, in return, they had secured advantages such as growth

rates, an effective multilateral surveillance machinery and objective criteria to determine the existence of market disruption. Ironically, these were the main targets for attack by the Community. With regard to the functions of the TSB, he said that it was clearly stated in Article 11 of the Arrangement, that it was a standing surveillance Body which was called upon to make recommendations that participants should endeavour to accept in full. Conciliation was not its principal function, but when the TSB could take on a task of conciliation, which had been done in many cases, this was and could only be a product of surveillance. The functions of this independent and impartial Body ought to be strengthened, for instance by replacing the best endeavour requirement of Article 11:3 by a commitment to accept recommendations from the TSB as binding with immediate effect. The main reason for the imbalance in the TSB, he said, derived from the undue weight given to permanent members for whom it was easier than for others to maintain continuity in representation through the use of full-time experts. The interests of developing countries had suffered due to insufficient representation, and the lack of continuity because of the rotation of members.

65. The representative of Korea recalled that many delegations from developing exporting countries had expressed a growing dissatisfaction over the fact that the MFA had not brought about a reduction of barriers and the progressive liberalization of textile trade. Even when the inflow of textiles from developed countries had played a decisive rôle in causing disruptive effects, it was only products from developing countries which had been subjected to import restrictions. However, as the Arrangement had provided certain standards and procedures for orderly growth, his country favoured its extension. He reiterated the objective of the Tokyo Declaration reflected in the preamble of the MFA to secure additional benefits for

the international trade of developing countries and stressed that the social, economic and political impact of trade restrictions caused, by far, the most serious problems to developing countries.

66. Referring to the points made by the spokesman for the Community, he pointed out that the EEC's external trade deficit in textiles was not solely the result of imports from developing countries, but rather from developed countries. As to the objectives of the Arrangement, he observed that while those relating to the avoidance of disruptive effects had been somewhat achieved with the frequent recourse to Article 3 measures, other objectives such as progressive liberalization had not been attained as yet. The EEC's request for stabilization of imports at 1976 levels for products with a so-called very high market penetration was not acceptable to his delegation as, in its view, this was designed to divide developing exporting countries, to bring them under importers' rule, and to widen the gap between developed and developing countries. The provision of Annex B:1(c) was quite balanced in view of the fact that the measures set forth in Article 3 were sufficient to safeguard the interests of importing countries. Any attempt not to recognize the provisions of Annex B, paragraph 1, should be regarded as a scheme to diminish or negate the growth rate. He also stressed that factors including a sharp and substantial increase of imports of particular products from particular sources, would have to be taken into account when determining market disruption, and that all the relevant facts should be provided by the importing countries in the bilateral negotiations or consultations with their exporting partners. The date for the period of reference provided in Annex B should be determined from the date when a sufficiently detailed factual statement was furnished.

67. With regard to the notion of the cumulative effects of imports, he said that this, in the view of his delegation, had the effect of freezing the present market shares of developing exporting countries while the already larger shares of the developed exporting countries could expand without any obstacles. The cumulative concept would, moreover, change the very basis of the MFA with regard to market disruption, the consequence of which would be fierce competition among developing exporters, leaving the profit to developed importers. Turning to handloom products, he considered that the points made by the EEC went far beyond the provision of Article 12:3. As regards the composition of the ISB, he believed that if there were to be changes, then the permanent seats occupied by certain importers should be subjected to rotation as had been the practice with respect to the exporters. Drawing attention to recent measures taken in Europe outside the framework of the MFA, he stated that the effect of such measures was to deny the viability of the MFA as an effective instrument governing international trade in textiles. In conclusion, he stated that if the ideas of the EEC were to be realized, the objectives of the MFA would become meaningless, and the world trading community would be governed by national interests.

68. The representative of Portugal speaking on behalf of Macao, pointed out that the very high percentage increase quoted by the spokesman for Macao's exports to the EEC could be misleading because in absolute terms such exports were very low. In fact, a few years ago Macao hardly exported to the EEC, and the 1976 performance was the best ever. His delegation fully supported the continuation of the MFA, with changes and corrections in the light of the experience acquired. In this context, he expressed concern about the protectionist trend seen in major

importing countries, which was in contrast to the spirit and letter of the MFA. He observed that the TSB, as it functioned now, merely assessed the results of negotiations ex post. He suggested that the TSB should be given a more active rôle by channelling through it all requests for consultations so as to examine the facts establishing whether or not market disruption really existed prior to any discussions between the parties concerned.

69. The representative of Thailand stated that the proposals of some importing countries had made it clear that there was an intention to alter the pattern of international trade in textiles so as to suit their needs and serve their interests. He reminded those who had quoted large percentage increases of imports from developing countries that, when translated into absolute figures, these increases could mean, in many instances, an increase of only a few hundred pieces of garments. Whereas the MFA provided clear guidelines for assessments, interpretations, and for ways and means to reach mutual solutions, the EEC proposal introduced elements of one-sidedness into the MFA. Therefore, he reiterated his delegation's view that the MFA be renewed without modifications.

70. The representative of Yugoslavia noted with great interest, from the statements made by developed countries, that serious disruption of their markets was caused by developing countries, and that the first objective of the MFA to liberalize trade had already been attained. He noted, however, that according to available documentation, developing countries' share of developed countries' imports was only 22 per cent, and wondered whether it was possible for this small share to disrupt the market whereas the share of 78 per cent did not. Statistics presented could

not, in his view, explain this particular and alleged situation. Developing countries also experienced difficulties of a general, as well as of a specific nature and, in addition, their textile sector played a much more important rôle in the overall economy and was much more sensitive than in developed countries. In the prevailing situation, a loyal co-operation would be of reciprocal interest and in line with the spirit of the already accepted objectives. Developing countries could easily explain, in more concrete terms, the deficiencies of the non-application of the present Arrangement, the proliferation of restrictive bilateralism and manoeuvres to avoid a balanced application of accepted provisions.

71. The representative of Malaysia pointed out that the problems encountered by the importing countries were, in his view, not so much due to imports from developing countries as it was due to competition from man-made fibres and the effects of recession. An indication of the real problems could also be obtained by looking at profits made by some of the EEC's textile firms. He agreed that the MFA had not been entirely satisfactory because of the frequent recourse to non-MFA actions that seemed to be directed entirely towards developing countries. His delegation would therefore favour an understanding that the members would refrain from non-MFA actions, and that importing countries exercising restraints against developing exporting countries should apply similar restraints on developed countries which exported equivalent or greater amounts of the same products in question. The percentage increases in textile imports quoted by developed countries were not as convincing as absolute amounts would have been.

72. He further stated that protectionism in textiles fostered unemployment, increased inflation, and undermined the welfare of the peoples of developing countries. For a country like Malaysia, with a limited range of exports, the textiles industry provided the basic infrastructure to develop other industries. The non-achievement of this would be of great socio-economic and political consequence, as would be the situation if people were to lose their jobs in the textile industry. His Government could not accept this industry being stifled. Defence and security considerations were also certainly valid for a small exporting country like Malaysia and for other ASEAN countries. The 6 per cent growth, provided for in paragraph 2 of Annex B, was a figure agreed upon after long negotiations, and even if lower growth rates had been provided for in some bilateral agreements, the 6 per cent figure should not be changed. He also drew attention to the fact that textile industries of the developing countries had often been developed as a result of encouragement by developed countries in order to sell to them their machines, technology, chemicals, management services, etc. With regard to the TSB, his delegation would favour a composition providing for a genuine rotation of seats; if this was not possible it would support the TSB's enlargement.

73. The representative of Australia recalled that, at the meeting of the Committee in December 1976, references had been made to the difficulties experienced by his country in the implementation of the MFA. Different interpretations of its provisions had become apparent since the Arrangement came into force. While this vagueness might have been necessary to achieve a consensus at the time of drafting, the expectation had been that eventually a greater precision would emerge; this expectation had not been realized. Australia had acceded to the MFA on the

understanding that membership thereof did not prevent signatories from recourse to their full GATT rights and obligations. Secondly, that the reference in paragraph 1 of Article 9 to "additional trade measures" did not refer to tariff actions taken consistently with the GATT. Thirdly, that the exports of small emerging suppliers could be restrained on the basis of Annex A's definition of market disruption. It had unfortunately soon become clear that substantial differences of opinion existed in regard to these key principles and, indeed, in regard to other areas of the Arrangement.

74. Reverting to the need for clarification of certain provisions of Annex A and Annex B, he said that his country's experience had shown some imbalance and ambiguities in the Annex A provisions relating to market disruption and to damage to domestic producers. Likewise, in the requirement of Article 6 for an importer to take account of the interests of the exporting country when questions of market disruption were considered. Furthermore, Article 6, in fact, allowed discrimination in favour of developing countries against other countries, but failed to deal with the possible question of discrimination in favour of one developing country against another. While the TSB had several times ruled against restraint on suppliers which had only a small market share, it had said nothing about Article 4 agreements secured by major countries restraining imports from developing countries which supplied only a small percentage of total imports. The lack of balance in the composition of the TSB and its legalistic approach to the Arrangement, had tended to aggravate problems between participating countries. Rather than point the way to conciliation, the TSB had seemed to prefer a judicial rôle.

75. He further pointed out that automatic growth rates had also given rise to problems in a situation of static or declining demand. Likewise, the base-date provisions of Annex B had posed substantial problems for the smaller importing countries, where a high degree of unrestrained market penetration already existed. On certain occasions, the rapid and disruptive build-up of imports which had created the need for restraints continued unabated, or even accelerated, during the period before the negotiations were completed. As suggested by the representative of the European Community, it might be that a new understanding of paragraph 1(c) of Annex B could redress the apparent imbalance in favour of exporting countries by enabling importing countries to invoke abnormal circumstances to justify using a different base-period from that prescribed in paragraph 1(a). Finally, he recalled that there were substantial variations in the degree of liberalization existing in participating countries at the commencement of the Arrangement. This problem had been aggravated by the vagueness of the words used in key areas of the Arrangement and an inability to develop appropriate interpretation procedures.

76. The representative of Colombia shared the concern expressed that the Arrangement was unbalanced in that the non-GATT members did not have the same rights and obligations as GATT members. He further noted that the difficulties experienced by exporting countries were not fully appreciated. Paragraph III of Annex A had been left, inter alia, inappropriately aside although it was recognized that market disruption not only affected importing countries but exporting countries as well. The economies of developing countries were very weak and highly sensitive and did not have the defence mechanisms of the economies of developed countries. The textiles industry was, moreover, often of vital

importance to developing countries, particularly as far as employment was concerned. Therefore, in the opinion of his delegation, if serious problems did exist in the markets of the importing countries, then these patterns were even more accentuated in developing countries. This fact should not be lost sight of in discussing the future of the MFA. His country had adhered to the MFA, and was in favour of its extension because it was convinced that the objectives indicated in Article 1 would be achieved. He suggested that proposals for amendments might be considered during the period of extension.

77. The representative of Spain stated that, as his country had a deficit in total trade with the EEC, and as an important amount of textile trade took place in both directions, his delegation was fully aware of the problems facing the EEC. However, his country's textile industry also suffered, as did that of a number of countries, from the recession. In addition, the solution proposed by the EEC was not specific and this made it impossible to assess exactly how each country would be affected by the measures to be adopted by the EEC under such a special authorization. For instance, when growth inversely to import penetration rate from all sources was suggested, nothing was said as to what would happen with respect to each country. Also, it was not clear which countries would be considered as small suppliers and new entrants that should receive more favourable treatment at the cost of dominant suppliers; how could one guarantee that the quotas reserved for these countries would, in fact, be implemented and for what reason should the pattern of international trade flows be so modified.

78. Recalling that Spain had no bilateral textile agreement with the EEC, he asked whether agreements of the sort that the EEC would like to see negotiated in 1977, would also apply to Spain and, if so, on the basis of which Article of the

MFA would it be negotiated, or would it be taken outside the Arrangement? In conclusion, he urged participants to look beyond the particular problems faced at present, and expressed his delegation's preference for a three-year extension of the MFA in its present form. He hoped that the TSB would continue to carry out its task with objectivity and independence and not through conciliation as proposed by the EEC, which would make the MFA inoperative. He agreed with those who had suggested that in extending the Arrangement, a clear decision should be taken with regard to the relationship between the MFA and Article XIX.

79. The representative of Romania expressed himself in favour of an extension of the MFA in its present form, provided that it would be respected and applied correctly and equitably. To this end, his delegation could not accept any interpretation which would run counter to the letter and spirit of the MFA; if this was the case, it would be better, in his view, to renegotiate clear modifications. Any interpretation he said, should ensure additional benefits for developing countries because the application of the Arrangement could not be conceived except along these lines. The structural changes should not be used as an excuse for the non-application of the provisions of the Arrangement. The MFA should be given priority over other agreements of a more general nature, including the General Agreement itself. Furthermore, he attached particular importance to the provisions governing small and new suppliers whose interests had not been taken into consideration. Restraints on exports from such countries which represented a small percentage of the total imports would mean denying them the right to normal development. For this reason, he called for even more favourable treatment for newcomers and echoed suggestions of others that the position of newcomers should be

assessed as a percentage of imports coming from all countries, including the developed ones. He also recalled that the developed countries were obligated under the Arrangement, as set out in Article 1:4, to pursue structural adjustment, and cautioned that the idea of fixing a threshold for imports, expressed as a percentage of total consumption, would seriously prejudice this fundamental concept of the Arrangement.

80. The representative of Israel recalled that his country, despite all the problems it had faced, was in favour of an extension of the Arrangement. An interpretation of Annex A which embodied the notion of cumulative effects, would hardly be in conformity with the normal play of market forces. In his view, nobody would dispute that GATT rights were to be recognized and could not be superseded. However, there were certain clear indications in Article 9 of the MFA concerning the imposition of additional restrictions, and the obligations of parties in case restrictions were imposed. He stressed that these obligations were binding to all parties and should be fully taken into account in any future application of the Arrangement. Lastly, he believed that an increased membership of the TSB would lead to a dilution of its effectiveness and might well make it into a new Textiles Committee rather than the quasi-legal body that his delegation had expected it to be. To make it only an arena for arriving at mutually agreeable conclusions was not the way his delegation saw the rôle of the TSB. He emphasized that any change in the TSB should be within the guidelines now being elaborated in the MTN for dispute settlement, pending the results of which the TSB might preferably continue to function as at present.

81. The representative of Argentina believed that, had there been continuous efforts by the importing countries since the time of the Long-Term Arrangement, to transfer resources to other sectors of the economies - an objective now embodied in paragraph 4 of Article 1 of the MFA - the problems now under discussion would either not have existed or might have been of little importance. The MFA was not ideal, seen from his delegation's viewpoint, but still Argentina could accept its renewal if it was not modified in a negative way.

82. The representative of Poland recalled that his country's situation within the MFA was somewhat particular in that either the MFA, or the GATT, or the Protocol of Accession, was applied to Poland by importing countries according to their arbitrary choice. This was so because there was no full clarity as to the interpretation of these provisions and above all on the priorities in their application. The MFA was negotiated to deal with a specific sector, and thus the solutions accepted were also specific and separate from the provisions of the General Agreement. Under these conditions, the MFA was a lex specialis in relation to the GATT and other provisions and, therefore, the provisions of the MFA must apply before the others. The MFA was a derogation from the General Agreement but, at a time when the principles of the latter were threatened by protectionist tendencies, it had the great merit of subordinating these tendencies to certain limits and conditions within the framework of international co-operation oriented, as always, towards progressive liberalization. He, therefore, expressed serious concern about attempts to introduce into the MFA amendments, be it in the text or through interpretations which would convert an instrument of controlled liberalization into an instrument of controlled restrictions, thus destroying the delicate balance between the interests of the exporting and importing countries.

For this reason, his delegation was in favour of an extension of the MFA as it stood. Should, however, there be a tendency to add interpretative notes, then it would be necessary to take up a series of problems faced by exporting countries as well as those of the importing countries.

83. The representative of Sri Lanka indicated that the MFA, in his delegation's view, should be prolonged for a further period without textual amendments. He emphasized that the objectives of the MFA should be borne in mind, especially the expansion and progressive liberalization of textile trade, as well as the special emphasis placed in the Arrangement on the need for developing countries to increase their exports of textile products and their share in the world market. He pointed out that the developing exporting countries, for their part, were confronted with unemployment, inflation, social and human problems. He felt it essential that small suppliers and newcomers should have an assurance of minimum viable exports to markets in order to promote economic development and in order to give meaning to the provisions of the MFA. Thus, the concept of cumulative market disruption was not acceptable, because exports from suppliers which were small in comparison with the total volume of exports of other countries and which represented a small and often infinitesimal percentage of total imports of textiles of the importing country concerned could not, and should not, be held responsible for a situation of market disruption. In any event, cumulative market disruption was alien to the MFA which had been designed to deal with market disruption caused by particular products from particular sources. Finally, he supported the view that action on textiles should be sought under the provisions of the MFA and not through recourse to measures under Article XIX of the GATT, or elsewhere.

84. The representative of the Philippines requested the EEC, in exercising its great negotiating power, to show understanding and sympathy for the problems of the textile industry in a small developing country like the Philippines, which would be faced with great social difficulties if restrictions were imposed in an important market like the EEC. He further asked the Community to bear in mind the Philippines' deficit balance in their mutual trade. His delegation was strongly against the adoption of the concept of cumulative market disruption because it violated the very basic purpose of the MFA to liberalize world trade in textile products. He submitted that the capacity and size of the Community as a market was not static, but made up of various kinds of textiles and garments with the products constantly changing and shifting. These factors constituted the rationale behind the universally accepted practices such as annual growth rates, swing provisions, carry-forward, carry-over and short-falls. In conclusion, he reiterated that his delegation favoured the extension of the MFA without modifications for a limited period of one year.

85. The representative of Hungary said that as far as his country's textile exports were concerned, the Community had achieved the second objective of the Arrangement, i.e. avoidance of market disruption, through autonomous measures which, under the MFA, were rather unilateral in nature. Therefore, his delegation expected that the first objective with regard to expansion of trade be respected towards Hungary. In order to reach this aim it was necessary that the MFA, as the sole basis of negotiations, be maintained and, secondly, that the Community fully and rapidly undertake bilateral negotiations with his country on this basis. The package deal of the EEC contained a threat of sanctions which was completely unacceptable in talks between equal and sovereign partners. Finally, his delegation was ready to co-operate with all participants in order to extend the MFA as it now existed.

86. The representative of Jamaica pledged his full support for a liberalization of textiles trade based on comparative advantages. Therefore, it was regrettable that the obligations under Article 6 of the Arrangement had not been fulfilled. Moreover, in complete disregard of the agreed elements of market disruption, the imports from developing countries had always been blamed for the disruption in the importing country markets. This disruption could very well have been due to greater organization and diversification into more profitable lines of production in the importing countries. While his delegation would be ready to participate in any dialogue concerning specific matters such as growth rate, roll-back period, carry-over and carry-forward, it was his firm belief that the impending difficulties could be resolved in a spirit of co-operation rather than confrontation. The Committee could, at this stage, agree to extend the life of the present Arrangement and, until before the end of 1977, consult on ways and means to improve its operation.

87. The spokesman for the EEC, in response to questions put or points raised at an earlier stage in the discussion, recalled the general framework within which the Community found itself, and stated that it had subscribed to the present Arrangement in good faith. In accepting the 6 per cent growth, this represented 26.25 per cent growth over the period 1974-1977, while the GNP in cumulative terms increased during the same period by 12.55 per cent. To keep this rate over another five-year period, for example, would mean a composite growth in volume of textile trade for the EEC of 33.82 per cent, as compared to a forecasted GNP growth of 18.77 per cent. In 1975-76, the volume of imports into the Community from developing MFA participants had grown by 29 per cent and had brought about an intolerable situation, not only as measured by economic parameters, but also in terms of developments in public opinion in different regions of the Community. While

the EEC therefore, could not enter into commitments which it could not live up to, it would seriously apply a renewed MFA if this were not of a sort that could lead to an uncontrollable situation.

38. He emphasized that this position of the EEC did not necessarily lead to modifications or amendments of the Arrangement to the extent that the EEC's problems and concerns had been fully taken account of. Referring to the objectives of the MFA, he pointed out that liberalization could not be conceived as long as its precondition, i.e. absence of market disruption, was not fulfilled. He also rejected the idea that synthetics had generated the problems in the Community as, for instance, the five largest chemical fibre producers had incurred very heavy losses over the past two years, mainly because intra-European trade had been substituted for imports of similar products. Furthermore, statistics of imports from developed countries, in value terms, concealed the fact that these products were sophisticated and expensive products. He also remarked that only figures in quantity terms were relevant for comparative purposes, and the assessment of the evolution of trade. He felt that while the Community market made a significant contribution to the trade in textiles, it was indeed not the only market as there were those of other developed market economies, Eastern European countries and even the markets of developing countries. To exemplify the concept of market penetration (imports from all origins compared to inter-Community consumption i.e. production plus imports minus exports), he mentioned that the penetration rate for shirts went up from 47 per cent to 60 per cent between 1974 and 1976. However, stabilization of the penetration rate did not mean freezing the level of imports, but that the growth of the volume of imports would be related to the development of consumption which would not be hampered. In addition to shirts,

stabilization of the market penetration rate was also considered for products such as cotton yarn, cotton textiles, synthetic textiles, T-shirts and the like, pullovers and women's blouses and shirts. For products in the category where an increase in the penetration rate could be accepted, this fact together with present GNP and consumption forecasts, meant important annual growth opportunities over the years to come. He mentioned imports of trousers in this context.

89. In regard to the concept of newcomers, he made it clear that it was not the EEC's intention to cover automatically a not yet signatory or a supplier who had recently been small, but only those who were still small suppliers in the product concerned on the EEC markets. The Community would do everything it could, within the concept of equity, to take due consideration of the level of development and of the difficulties faced by the developing countries who were their partners but who were main suppliers of the product in question. Finally, the EEC, for its part, would be prepared to participate constructively if the wish was to renegotiate the whole MFA. However, recalling the need for political responsibility in the field of textile trade, he urged all parties to address themselves to this question in a spirit of moderation and realism.

PART II

Summary of discussions held on 24 July 1977

90. The Committee resumed its discussion on 24 July 1977, on the basis of a paper circulated at the request of Brazil and India (COM.TEX/W/43), and a paper circulated at the request of the United States (COM.TEX/W/44). A brief summary of the discussion which took place in the Committee is given below.

91. The representative of Brazil recalled that the original position of exporting developing countries had been that the MFA should be extended on the basis of certain amendments, that would make such an Arrangement more liberal and more suitable to achieve the main objective of trade liberalization in the field of textiles. In the spirit of compromise and understanding, however, they had decided that the best guarantee for the attainment of the objectives of the MFA might be the strict implementation of its present text. No textual changes might then be necessary as the Committee might extend the Agreement taking note of statements explaining the difficulties experienced both by exporting and importing countries with regard to the implementation of the MFA.

92. He held the view that COM.TEX/W/43 was designed to attain this aim since, inter alia, paragraphs 5 and 7 of that document clearly reflected a motivation on the part of exporting developing countries to depart from their original positions in the spirit of co-operation and in order to reach agreement in a mutually satisfactory manner. On the other hand, his delegation could not associate itself with document COM.TEX/W/44, and in particular with paragraph 5 thereof permitting importing countries to violate the very concept of the Arrangement. In fact, he said, exporting countries were being requested to extend the Arrangement while simultaneously granting a waiver for the Arrangement to be transgressed. He went on to outline the reasons for objecting to the solution set out in COM.TEX/W/44. He mentioned, in the first place, economic grounds: the import problems referred to were not a consequence of imports, but rather of the process of industrial concentration, technological modernization and recession. Moreover, the economic and social difficulties of exporting countries were equally serious and would become even more so under restrictions imposed in order to save jobs in the developed countries. Secondly, legal grounds: the Committee could not

extend an agreement and, at the same time, allow signatories to violate it. Thirdly, political grounds: the balance of negotiating power, which in itself was already favouring the most powerful partners, would become irrevocably tilted against developing exporting countries which would have to conduct Article 3 or 4 negotiations on the basis of a "fait accompli". While normally it would be up to the importing country to demonstrate the necessity of a restraint measure accompanied with detailed proofs, it was now proposed that the burden of proof be reversed in that it would be up to the exporting countries to prove their innocence. Not only did the text attempt to exonerate the importing countries from the burden of proof, but it actually suggested that, in solving undefined problems, exporting countries might have to agree to departures from the MFA under an element of pressure. They would be deprived of their only protection - the multilateral framework of the present MFA - and thus find themselves alone, confronting importing countries, immeasurably more powerful.

93. The representative of India, referring to Article 10, paragraph 5, pointed out that it was not within the powers of the Committee in extending the Arrangement to modify its spirit and content. The text which had been circulated at the request of his delegation and that of Brazil was, in his view, only the better of the two evils, and if he had had the choice he would have rejected them both. COM.TEX/W/43 was the maximum extent to which his delegation could proceed in the direction of sacrifice and co-operation. On the other hand, the paper circulated at the request of the United States would have the effect of introducing a serious and abrupt setback in the slow path of progress which developing countries had been able to make; it evolved a formula by which protectionist modification and unfair trade would have its way.

94. He observed that paragraph 5 of COM.TEX/W/44, made the Textiles Committee approve departures from the spirit and content of the MFA. Even if such departures were bilaterally acceptable, the question was whether they were multilaterally acceptable. While not favouring the placing of over-emphasis on bilateral arrangements, he was aware of the fact that bilateral settling of issues was an accepted method even within the MFA. However, bilateral agreements were concluded between unequal partners and the Textiles Committee, which was meant for upholding the principles of fair trade, should not tacitly approve of actions which, although bilaterally accepted, might not stand up to a multilateral test of fair trade. . . Moreover, the same paragraph was based upon what the Committee noted as the basis of approach of one major importing participant. The basis, as outlined by that participant, was that import penetration in its market should be stabilized at the historical level of 1976, and that the prescribed rates of growth, which were grossly inadequate for the growth needs of the developing countries, should be reduced.

95. He further pointed out that paragraph 5 was worded in such a manner as to set the seal of approval of the Committee not only to such objectives, but to the methods of fulfilling them. This had grave implications; first, that the Textiles Committee - which was meant for monitoring the observance in letter and spirit of the MFA - was itself weakening the structure of the MFA through the explicit approval of departures. Secondly, that the TSB - the desirable experiment of multilateral surveillance - which should conduct its business within the directives of the Committee, was stopped from examining the conformity of these departures.

Thirdly, the implied waiver in paragraph 5 was not confined only to some importing participants or even to some exporting participants, but indeed to all importing and exporting countries. Any uncertainty one might have about this implication was set at rest by paragraph 6 of the same text. Fourthly, this waiver was a solution which was permanent in nature although the alleged problems for which they were supposed to be solutions were purely temporary in character.

96. He went on to state that paragraph 5 of COM.TEX/W/44 would in fact set at rest Article 1, paragraph 4, of the MFA and would deprive the legitimate earnings of the multitude of the poor in the developing countries from the one occupation in which they had comparative advantage. He, therefore, suggested that the Textiles Committee should invite developed countries to adopt a time-bound programme for industrial adjustment, which should be considered as a prerequisite for expecting temporary concessions from the developing countries. As regards the immediate implication of the waiver, he said that it would be to set out the atmosphere in which bilateral negotiations would be conducted; it would strengthen the bargaining position of the importing countries and ipso facto weaken the bargaining strength of the exporting countries. In any case, the prospect was that if the bilateral agreements were not concluded to the EEC's satisfaction, its member States would still have their options open for acceding to the framework of the MFA or to walk out of it. If this was going to be the ultimate process what would be gained by keeping the text of the MFA alive. The least that should be expected at the present moment was that the delicate balance between exporting and importing nations was not tilted in favour of one or the other. He reiterated that the choice was not between one draft or the other, nor even between the choice of extending the MFA in whatever form, or terminating it. The Committee had still

time available before it could make the choice. If the atmosphere at present was not conducive to reaching a decision, it would be prudent in the interest of all to postpone such a decision. However, if a decision had to be taken now, COM.TEX/W/43 should be the basis on which the MFA might be extended in its present form.

97. A number of delegations shared the views expressed by the representatives of Brazil and India with respect to document COM.TEX/W/43 and their concern about COM.TEX/W/44. A crucial element in the concern felt by many, related, in particular to paragraph 5 of COM.TEX/W/44, which, inter alia, set out the intention of one major importing participant to achieve its stated objectives by bilateral consultations and negotiations; it included the possibility of jointly agreed reasonable departures from particular elements in particular cases and urged that all participants concerned should move promptly to negotiations. The prior resolution of problems called for in paragraph 9 to be based on elements such as those listed in paragraph 5, was also found unacceptable and inequitable for developing exporting countries in their future negotiations with that importing participant. They recalled and reiterated their original positions and preferences as presented earlier to the Committee. Though the proposed texts were a result of intensive consultations, they did not correspond to their individual delegations' positions and expectations. However, if they had to make a choice at this juncture, the representatives of Colombia, Egypt, Guatemala, Hungary, Romania, Spain, Sri Lanka, Uruguay and Yugoslavia, stated that their preference would clearly be for COM.TEX/W/43. They saw this document as an acceptable compromise solution giving equal rights to all participants, on the basis of which they wished to proceed with an extension of the MFA in its present form. However, most of them suggested that more time was needed for reflection before they could pronounce themselves firmly on this question.

98. Among the additional comments made, the representative of Romania referred to the provisions in both the proposed texts dealing with the recognition of the interests of developing countries, new entrants and small suppliers. His delegation interpreted these to mean a guarantee of access to markets, taking into account the shares of these countries' exports in the total of imports in the importing country and not the rate of growth of these imports. The representative of Colombia noted that the EEC, in its stated objectives, had raised the question of cumulative effect of imports which his country, as a small exporting country, would not be in a position to accept as a criterion for restraints. The representative of Spain, seeing certain merits also in document COM.TEX/W/44, made the remark that it did not express in full clarity the purport of the practical implementation that might be made of its provisions, but that they seemed to favour protectionist action on the basis of a common invitation. The representative of Egypt emphasized, in addition, that the departure asked for in paragraph 5 of COM.TEX/W/44 in fact amounted to a further departure from the basic principle of the most-favoured-nation treatment. The representative of Uruguay added that his authorities supported an extension of the MFA in its present form for a period of four years.

99. The representative of the United States stated that the motive force behind the extensive efforts, which had been deployed to find common ground for agreement on the MFA extension, had been the conviction that a failure in this regard would lead to a lapse of the MFA at the end of the year. Failure would result in a calamitous situation, both for exporting and for importing participants. Furthermore, the framework for textile trade and the standards which had been applied to

regulate that trade, and to promote its orderly expansion while simultaneously avoiding disruption in markets and production, would disappear. The threatening forces of extreme protectionism would be enormously strengthened by the demise of the Arrangement. Its continued existence, imperfect as it was, was the best and perhaps only guarantee of fair and equitable textile trade. If it should not be extended, the impact would almost certainly be felt in other areas of international trade.

100. He, however, pointed out that an MFA which did not cover a significant portion of world trade in textiles was not worthwhile, nor would an MFA which did not include among its participants the most significant exporters and importers be helpful. Concerning the questioning by certain delegations of certain elements of COM.TEX/W/44, particularly paragraph 5, he stated that as the United States delegation understood it, that paragraph simply reaffirmed the possibilities already existing within the MFA. In conclusion, he requested that a Protocol for the extension of the MFA in its present form for a period of four years, subject to the understandings regarding the implementation of the Arrangement set forth in COM.TEX/W/44, should be opened as from 15 December 1977.

101. A number of delegations shared the views expressed by the representative of the United States in presenting document COM.TEX/W/44. They recalled and reiterated their original positions and preferences as presented earlier to the Committee. While the proposed text was a result of intensive consultations and, of course, did not correspond to their individual delegations' positions and expectations, the representatives of Austria, the European Communities, Japan, Korea, Philippines (on behalf of the ASEAN countries), Sweden (on behalf of the Nordics), Switzerland,

United Kingdom on behalf of Hong Kong and Turkey stated their readiness to second it in order to contribute to the widest possible common ground for an agreement on the extension of the MFA in its present form.

102. Among the additional comments made, the representatives of the United Kingdom on behalf of Hong Kong, Korea, Mexico and the Philippines emphasized, inter alia, that as they saw the situation the choice was not between COM.TEX/W/43 and W/44, but between the latter and no MFA. The latter alternative would lead to a chaotic situation in world textile trade and to the resurgence of the worst form of protectionism to the detriment of the interests of the weaker exporting developing countries. The representatives of the United Kingdom on behalf of Hong Kong and Korea, in particular, shared the view that paragraph 5 of the text was intended to reaffirm past and present practices regarding the MFA and its implementation. The representative of Turkey expressed the hope that goodwill and understanding would prevail, and that due consideration would be given to the pressing problems of developing countries during the implementation of the extended MFA and in the course of the future bilateral negotiations and consultations which were to be held

103. The representatives of Japan and Switzerland emphasized the need to put an end to the prolonged uncertainty and the delay in coming to a decision on the future of the MFA which would be damaging to all. The representative of Switzerland added that while the proposed text might represent common directives as to the implementation of the MFA under particular and temporary circumstances, the adoption of the text would not necessarily mean that all participants would have to make use of it. The representative of Sweden added that the package, as presented, contained checks and balances and the Nordic countries hoped that it

would eventually prove acceptable to all. The Nordic countries hoped to be able to continue, in the framework of an extended MFA, to utilize to the fullest extent the remedies provided by it in endeavouring to alleviate the very severe problems they were having in their textile sectors. The representative of Austria stated that he was in a position to support the text because its key paragraph 5 was of general application destined to serve all countries, importers and exporters, to find a solution to different problems in a constructive and equitable manner.

104. The spokesman for the EEC noted, inter alia, that delegations which had expressed their readiness to accept COM.TEX/W/44 represented around 85 per cent of international trade in textiles. While understanding the background of the statements made by Brazil and India, he reiterated the dangers inherent in a situation which was on the brink of going out of control. The Community's intention was not to modify the MFA if its stabilization objectives were reached through bilateral agreements in an equitable way by the end of 1977. Uncontrolled situations in the field of textiles might have a serious impact on international trade in general.

105. The spokesman for one delegation confirmed that his country remained in favour of an extension of the Arrangement and fully associated itself with the statement made before the Committee on 5 July on behalf of the European Communities. He had to record reservations, however, on certain parts of the proposal now set out in COM.TEX/W/44, in particular paragraphs 5 and 9.

106. The representatives of Australia and Canada recalled, and reiterated, their positions and preferences as presented earlier to the Committee, to the effect that changes either in the text or in the function of the Arrangement were required

to make it more responsive to their particular difficulties. In their opinion insufficient attempts had been made to bring about a better balance between the different interests involved, but had instead essentially accommodated the interests of one participant. They continued to believe that solutions available to one participant should be available to all and, secondly, that recourse to GATT provisions should not be impaired. They therefore reserved their positions with regard to both texts before the Committee.

107. The representative of Pakistan recalling his position and preferences which remained unchanged, also reserved his position for the time being.

Summing up by the Chairman on 24 July 1977

108. The summing up by the Chairman of the discussion which took place in the Committee at its meeting in July 1977 (COM.TEX/W/45) is reproduced below:

- "1. Nearly all delegates expressed their desire and even their will that the MFA be extended, one way or another; but major differences are still outstanding between the positions of delegations on a number of key issues.
- "2. (a) Some delegates requested more time in order to consider the problem, receive instructions and pursue the concertation.
(b) Many delegates said that they wished to proceed as provided in document COM.TEX/W/43 and came out 'in favour of the MFA being extended in its present form for a period of ___ years'.
(c) Many delegates said that they wished to proceed as provided in document COM.TEX/W/44 and 'that the MFA in its present form should be extended for a period of four years subject to confirmation by signature,

as from 15 December 1977, of a Protocol for this purpose', 'on the basis of the elements mentioned in paragraphs 1 through 8' of the above-mentioned document. From what I understood, these delegations firmly intend to go ahead on this basis.

"3. In the light of all the statements that we have heard, I do not believe that these gaps can be bridged in the Textiles Committee now or within the next few days.

The Textiles Committee is therefore not in a position to decide now on the future of the MFA.

"4. On the other hand, I hope that the delegations and the governments which they represent will wish to pursue their contacts in order to seek the means to satisfy all those concerned who have stated that they wish to continue in the future to benefit from the framework provided by the MFA for the conduct of their trade in textiles.

I, this hope, I propose that the Committee be prepared to reconvene as soon as it may usefully do so.

"5. Everything is still possible since the MFA is in force until the end of 1977.

"6. Personally and in the more general context of trade relations as a whole, I would wish to add that it seems to me that it is extremely important to make every effort in order that the MFA be extended, failing which, we might very well witness the beginning of the disintegration of international trade."

PART III

109. At the Committee's meeting on 14 December several delegations made statements after the adoption by the Committee of document COM.TEX/W/47. A summary of these statements is given below.

110. The representative of the United States said that the continued existence of the MFA would provide major protection from the chaos which would, in its absence, reign in the textile trade. Having at great length negotiated the modalities by which the instrument might be renewed, it was incumbent upon each participant to implement it with wisdom and justice.

111. The representative of Japan said that throughout the negotiations for the extension of the MFA, his country had sought a simple extension without any textual change. The Japanese views which had been expressed with regard to the clarification of rights and obligations that could be accepted under the Arrangement, and to the flexibility that could be secured in the field of its practical application had not been fully reflected in document COM.TEX/W/47, thus making it a difficult decision for Japan to agree to the extension of the MFA in the manner just adopted by the Committee. Nevertheless, Japan agreed to do so in view of the fact that its basic concerns were secured within the framework of the MFA, and in view of the situation in the countries concerned. He also pointed out that attaching the conclusions of the Committee to the Protocol gave rise to a major difficulty with regard to domestic approval procedures, and stressed that his country would not be able to accommodate any further concessions that might be sought in the future. In conclusion, he confirmed that the Textiles Committee had agreed to the extension of the Arrangement without any textual change, and agreed to certain adjustments in its actual application within the framework of the MFA and nothing outside such a framework.

112. The spokesman for the EEC said that the Commission would submit the text of the Protocol to the Council of Ministers, together with the results of the Community's bilateral negotiations for the Council's decision. In the event of the Council's approbation the Community's adherence to the renewed MFA would be communicated to the Chairman. He said that the Commission as negotiator was confident that the text of the document COM.TEX/W/47 would provide a secure international legal basis upon which the bilateral agreements negotiated by the Community could be founded. The Council's approbation of the agreements would be accorded on the clear understanding that they respected in spirit and letter the MFA as renewed. He said that the Community's acceptance of the Arrangement's extension would necessarily have to take into account the status of the agreements it had negotiated, and would fully reserve the Community's rights vis-a-vis exporting countries for whom such agreements, which would form the basis of the Community's acceptance of the MFA, did not enter into and remain in force. Referring to the function of the TSB, he said that for the Community it was an organ of conciliation, as distinguished from arbitral or judicial bodies. Whilst fully accepting the provisions of Article 11:3, the Community would not accept that such actions included putting into question the bilateral agreements concluded by any importing participants with any exporting participants.

113. The representative of Sweden said that the Nordic countries, on behalf of which he was speaking, had actively participated in the efforts to achieve continued agreed rules for textile trade after 1977. The Nordic countries therefore welcomed the opening of the Protocol for the extension of the Arrangement. However, their position with regard to their participation in the extended

MFA would be known only after the conclusion of the bilateral negotiations with their trading partners, based on provisions of the MFA and the understandings set forth in the conclusions adopted by the Textiles Committee.

114. The representative of Canada said that in its proposals introduced last March, his Government had expressed its concerns with regard to the renewal of the Arrangement. Since he had not been able to obtain his Government's views, he could not state the extent to which the Protocol met such concerns, though he presumed it was safe to assume that they were implicitly covered. He was not in a position to state whether Canada could consider itself to be part of the consensus which had favoured the opening of the Protocol; its views would be made known to the Textiles Committee as soon as possible.

115. The representative of Korea said that the discussion of "reasonable departures" started at the July meeting on the assumption that the major participant in question would make every effort in finding a reasonable and mutually agreed basis with its negotiating partners. However, in the negotiations many exporting countries could not but accept extravagant departures. Despite these circumstances, his delegation had agreed to document COM.TEX/W/47, because it considered an extension of the Arrangement was imperative so as to prevent further disruption of international trade in textiles. The fragile structure of the renewed Arrangement should not therefore be abused, and departures from particular elements of the MFA as utilized by one major participant should be strictly temporary, and corrected as soon as possible as clearly stated in paragraph 5.4 of COM.TEX/W/47.

116. The representative of Turkey appreciated the spirit of co-operation which had enabled the participants to arrive at a consensus on the extension of the MFA. He said that his delegation would submit the Protocol for approval by the Government as soon as possible so as to be able to resume its responsibilities in the relevant institutions of the MFA.

117. The representative of Spain noted with satisfaction the decision of the Committee to extend the MFA, and joined in the consensus arrived at on the opening of the Protocol giving effect to such extension. He said that the decision by his Government on adherence to the extended Arrangement would be made after the conclusion of the current bilateral negotiations with the EEC.

118. The representative of Switzerland, in paying tribute to the efforts which had resulted in the consensus, said that the present difficulties faced by the textile industry in many countries made international co-operation more necessary than ever. Despite the difficulties faced by it, Switzerland had so far refrained from taking safeguard measures in the belief that whenever these were deemed necessary it could invoke its rights within the MFA. Such an assurance would still be needed in the future. His country must be able to assume that all signatories would be determined to apply the MFA in a reasonable and responsible manner, taking into account not only their own interests, but those of their trading partners as well. It was in this spirit that Switzerland joined in the consensus, and would, in due course, sign and then ratify the Protocol.

119. The representative of the United Kingdom on behalf of Hong Kong recalled that at the July meeting, when one importing participant exposed the problems faced by it, the concept of reasonable departures from particular elements in particular cases to be jointly agreed within the framework of the MFA, was suggested as a

remedy in a spirit of mutual co-operation. The concept of reasonable departures was not used as conceived by Hong Kong, and in fact under pressure Hong Kong had to accept departures which, in its view, were not within the scope of the concept expounded in July. The alternative would have been even more severe restrictions on Hong Kong's trade in textiles. In conclusion, he said that Hong Kong could not accept the interpretation by the EEC that any mutually agreed departures between two partners would ipso facto become reasonable and thus acceptable to all members.

120. The representative of Austria said that the conclusions of the Textiles Committee attached to the Protocol met the criteria set by his country for the extension of the MFA. His delegation was thus in a position to join in the consensus. While awaiting parliamentary approval of the extension, the relevant provisions of the Arrangement could be applied de facto by his Government.

Parliamentary approval would be greatly facilitated if, in the meantime, some bilateral agreements could be concluded.

121. The representative of India welcomed the continuation of the Arrangement and noted with satisfaction that its provisions remained unchanged. After referring to the importance of the textile industry and its trade to developing countries, he expressed the hope that the basic objectives of the Arrangement would continue to guide its operation. He pointed out that the developing exporting countries had acquiesced in special Arrangements, in the belief that these were temporary expedients required by developed importing countries in effecting the necessary structural adjustments from the long-term point of view. In this context, he drew the Committee's attention to the reference made, in the conclusions adopted, to paragraph 4 of Article 1 of the MFA. He was glad to see that the Committee had

agreed that the departures would only be temporary, and that participants should return to the fundamental framework in as short a time as possible. He made it clear that the bilateral agreements that might be concluded with a major importing participant, in terms of the understandings arrived at, would not be considered as a precedent available to other importing countries. He reiterated that such concepts as market penetration, automatic trigger mechanism and multifibre restraints on imports from single fibre exporters, could not be considered as reasonable departures. He cautioned that such concepts, and particularly that of market penetration which was alien to the MFA and to GATT, were risky and could spill over to other sectors of world trade. He, therefore, appealed to the proponents of such concepts to reconsider the matter, since these involved serious implications for international trade policy. In conclusion, he said that their views on the competence and rôle of the Textiles Committee and of the TSB in the areas of disputes settlement, surveillance and review of the MFA remain unchanged. He, therefore, welcomed the reaffirmation of the terms and competence of these bodies.

122. The representative of Romania reaffirmed that even in the present circumstances there was a need for ensuring equitable and continually increased access for export opportunities from developing countries, especially small exporters. There was also a need to keep the measures which had been adopted to meet temporary situations, temporary in character. The exporting countries, in a spirit of co-operation, had made great efforts in accommodating the importing countries, which in turn should adopt appropriate economic measures for their own industry, including measures to facilitate structural adjustments. It was with this in mind that his delegation joined in the consensus concerning the extension of the MFA without modifications.

123. The representative of Colombia referring to the objectives of the Arrangement set out in Article 1 thereof, pointed out that the hopes of the developing countries to have a greater share in world trade had considerably dwindled, especially with the erection of protective barriers. He said that in some markets restrictions had been applied on products classified according to their sensitivity, but no account had been taken of the fact that the textile industry in developing countries was politically, economically and socially extremely sensitive. Developing countries with limited resources had been required to make adjustments in order to pay for inefficient and internationally uncompetitive sectors in developed countries. He expressed concern over the introduction of such concepts as cumulative market disruption, or the isolated consideration of selling price as the casual factor thereof. In conclusion, he said the MFA provided the multi-lateral framework within which a satisfactory solution for the present restrictive situation could be found. Joint action to combat whatever jeopardized the basic principles of free trade in this sector was needed more than ever.

124. The representative of Brazil said that his Government welcomed the renewal of the MFA. However, such concepts as market penetration, low-cost production pricing were dangerous to the framework of world trade and to the very foundations of GATT. Such concepts, therefore, should not be taken as precedents for future actions in trade policy. Recent actions that constituted effective departures from the MFA must be considered temporary, and return to the normalcy of MFA rules and principles should take place within the shortest possible time. Referring to the TSB as a fundamental instrument to the effective functioning of the MFA, he said that it was assumed that its mandate should be fully maintained, particularly in relation to settlement of disputes and to surveillance designed to ensure the proper implementation of agreements under the MFA.

125. The representative of Egypt said that despite the optimistic climate in 1973, the MFA had not come up to the expectations of the developing countries. Given the unsatisfactory economic climate prevailing at present, the developing countries had been under great pressure while negotiating the future of the Arrangement. In these circumstances, he did not object to the consensus on the extension of the MFA, an extension without any textual modifications, allowing for adjustments only in its application. Referring to paragraph 5:6 of COM.TEX/W/47, he stressed that the Committee had agreed that the provisions of Article 1:4 of the MFA would be fully kept in view. In this respect, he recalled that the secretariat report contained in document COM.TEX/W/36, indicated that developed partners in textile trade had not taken measures in the spirit of Article 1:4. He hoped that a different attitude would be taken during the next few years. With regard to the TSB, he suggested that technical assistance should be provided to the developing countries by the GATT secretariat. This should not present any difficulties since such assistance had been rendered within the framework of the MTN negotiations.

126. The representative of Mexico expressed satisfaction that the efforts of the past year had led to the continuity of the framework providing for the orderly development of trade in textiles. He associated himself with other countries in emphasizing the temporary and exceptional nature of what was contained in paragraph 5 of document COM.TEX/W/47, and in expressing firmness with regard to any possible future departures. In joining in the consensus reached by the Committee, Mexico accepted the conclusions in their entirety which, on the one hand, referred to certain difficulties encountered and, on the other, had reaffirmed the competence of the two organs of the MFA and dealt with the problems of the developing countries.

127. The representative of Yugoslavia said that after strenuous efforts a formula for the extension of the MFA had been found. Acceptance of the Protocol extending the Arrangement by Yugoslavia would depend on the acceptance by other developed countries which, in turn, had said they would sign the Protocol after the conclusion of their bilateral agreements. After the traumatic experiences since July, it was difficult to realize the implications of this new approach for international trade. If exporting countries did not accept bilateral arrangements, they would be subjected to the threats that the importing countries would take more drastic action in derogation of any accepted international obligations. Derogation from GATT rules had been steadily increasing in the field of textiles, first to cotton textiles and then to all fibres. Moreover, the present formula of reasonable departures from particular elements would certainly affect the structure of the MFA, an existing derogation from GATT. GATT, which had faced several important policy issues, was now faced with difficult issues having unpredictable implications for international trade and for the current trade negotiations. Flexibility and pragmatism had been followed in the implementation or interpretation of GATT norms, and some tolerance had been shown toward 'departures' or 'failure to comply' with certain norms in particular cases. In document COM.TEX/W/47, however, non-compliance with internationally agreed basic rules was accepted without any defined limits in time and scope. Thus, despite the assurance given about the exceptional nature of the case, the value of the international rule of enhanced stability and predictability, the only safeguard for weaker partners, had been eroded. In textile trade, developing exporting countries were given less favourable treatment than the developed countries whose exports were far greater than the exports of the developing countries. In conclusion, he said that his Government was deeply

concerned about the departures from internationally accepted rules, under the pressure of so-called exceptional circumstances, and about the implications of such departures. It was hoped that this would not affect other sectors and other importing countries, and that with co-operation and mutual understanding a return to internationally accepted rules would soon be possible.

128. The representative of Pakistan said that his Government's views on a just and equitable framework for international trade in textiles, had not been affected by the temporary and transient vicissitudes of the international economic situation, and the pattern of trade relations resulting therefrom. Pakistan considered the results of the efforts deployed to preserve an agreed multilateral framework for trade in textiles to be, at best, the best of a bad bargain. The conclusions and decision of the meeting would be transmitted to the Government of Pakistan which would decide upon the question of its adherence to the extended MFA in due course.

ANNEX

PROTOCOL EXTENDING THE ARRANGEMENT REGARDING
INTERNATIONAL TRADE IN TEXTILES

THE PARTIES to the Arrangement Regarding International Trade in Textiles (hereinafter referred to as "the Arrangement"),

ACTING pursuant to paragraph 5 of Article 10 of the Arrangement, and

REAFFIRMING that the terms of the Arrangement regarding the competence of the Textiles Committee and the Textiles Surveillance Body are maintained, and

CONFIRMING the understandings set forth in the Conclusions to the Textiles Committee adopted on 14 December 1977, copy of which is attached herewith,

HEREBY AGREE as follows:

1. The period of validity of the Arrangement, set out in Article 16, shall be extended for a period of four years until 31 December 1981.
2. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT. It shall be open for acceptance, by signature or otherwise, by the parties to the Arrangement, by other governments accepting or acceding to the Arrangement pursuant to the provisions of Article 13 thereof and by the European Economic Community.
3. This Protocol shall enter into force on 1 January 1978 for the countries which have accepted it by that date. It shall enter into force for a country which accepts it on a later date as of the date of such acceptance.

Done at Geneva this fourteenth day of December one thousand nine hundred and seventy-seven in a single copy in the English, French and Spanish languages, each text being authentic.

Conclusions of the Textiles Committee adopted on 14 December 1977

1. The participants in the Arrangement exchanged views regarding the future of the Multifibre Arrangement (MFA).
2. It is clear from the annual and major reviews of the MFA undertaken by the Textiles Committee that certain importing and several exporting countries have encountered practical difficulties in the implementation of the provisions of the MFA. Discussions in this respect covered a wide range of areas of satisfaction as well as dissatisfaction. These difficulties, some of which are of a long-standing nature, affect seriously the trade and economic development of developing countries.
3. Members of the Textiles Committee recognized that there continued to be a tendency for an unsatisfactory situation to exist in world trade in textile products, and that such a situation, if not satisfactorily dealt with, could work to the detriment of countries participating in international trade in textile products, whether as importers or exporters or both. It could adversely affect prospects for international co-operation in the trade field and could have unfortunate repercussions on trade relations in general, and the trade of developing countries in particular.
4. Some participating countries, importing as well as exporting, felt that there was a need for modifications to be made to the text of the MFA. Others were of the opinion that any difficulties that may have arisen were due to problems of implementation, and that the provisions of the MFA are adequate to deal with such difficulties. It was agreed that any serious problems of textile trade should be resolved through consultations and negotiations.
 - 5.1 As regards what was described by one major importing participant in its statement to this Committee as its pressing import problems, the Textiles Committee recognized that such problems should be resolved bilaterally under the provisions of Article 4 or Article 3, paragraphs 3 and 4.
 - 5.2 The Committee noted one major importing participant's statement concerning the basis upon which it intended to achieve its stated objectives by bilateral consultations and negotiations and noted the expression of goodwill and flexibility made by certain exporting participants now predominant in the exporting of textile products of all the three fibres covered by the Arrangement.
 - 5.3 The Committee agreed that, within the framework of the MFA, any such consultations and negotiations should be conducted in a spirit of equity and flexibility with a view to reaching a mutually acceptable solution under Article 4, paragraph 3, or Article 3, paragraphs 3 and 4, which does include the possibility of jointly agreed reasonable departures from particular elements in particular cases.

- 5.4 It was agreed that any such departures as mentioned in sub-paragraph 3 above would be temporary and that participants concerned shall return in the shortest possible time to the framework of the Arrangement.
- 5.5 The Committee also urged all participants concerned to move promptly to negotiate mutually acceptable solutions in the spirit of the MFA.
- 5.6 The Committee affirmed that, in seeking such solutions, the interests of the developing countries, new entrants, and small suppliers shall be recognized, and the provisions of Article 1, paragraph 4, would be fully kept in view.
6. The Committee recognized that countries having small markets, an exceptionally high level of imports and a correspondingly low level of domestic production are particularly exposed to the trade problems mentioned in the preceding paragraphs, and that their problems should be resolved in a spirit of equity and flexibility. In the case of those countries, the provisions of Article 1, paragraph 2, should be fully implemented.
7. The Committee reaffirmed that the two organs of the Arrangement, the Textiles Committee and the Textiles Surveillance Body, should continue to function effectively in their respective areas of competence.
8. It was reiterated that in the future implementation of the MFA, the special problems of developing countries shall be fully taken into account in a manner consistent with the provisions of the MFA, in particular Articles 1, paragraph 3, and 6 thereof.
9. All participants saw mutual co-operation as the foundation of the Arrangement and as the basis for dealing with problems in a way which would promote the objectives and aims of the MFA. Participants emphasized that the primary aims of the MFA are to ensure the expansion of trade in textile products particularly for the developing countries, and progressively to achieve the reduction of trade barriers and the liberalization of world trade in textile products while, at the same time, avoiding disruptive effects on individual markets and on individual lines of production in both importing and exporting countries. In this context, it was felt that in order to ensure the proper functioning of the MFA, all participants would refrain from taking measures on textiles covered by the MFA outside the provisions therein before exhausting all the relief measures provided in the MFA.
10. Taking into account the evolutionary and cyclical nature of trade in textiles and the importance to both importing and exporting countries of prior resolution of problems in a constructive and equitable manner for the interest of all concerned, and on the basis of the elements mentioned in paragraphs 1 through 9 above, the Textiles Committee considered that the MFA in its present form should be extended for a period of four years subject to confirmation by signature as from 15 December 1977 of a Protocol for this purpose.