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RESTRICTED

TARIFFS AND TRADE

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Textiles Surveillance Body

REPORT OF THE TEXTILES SURVEILLANCE BODY
TO THE TEXTILES COMMITTEE

1987

Attached is a report by the Textiles Surveillance Body on its activities during the period 1 August 1986 to 30 September 1987.

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

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Chapter 1: Introductory remarks

1.1 Under Article 10:4 of the Arrangement Regarding International Trade in Textiles the Textiles Surveillance Body is required to submit a report to the Textiles Committee in order to assist it in the annual review of the operation of the Arrangement. This report also fulfils the requirements of Article 11:12 of the Arrangement.

1.2 This is the first report by the Textiles Surveillance Body under the Arrangement as extended by the 1986 Protocol and covers its activities during the period 1 August 1986 to 30 September 1987. The previous report by the TSB to the Textiles Committee, contained in COM.TEX/SB/1181, covered the period 10 October 1985 to 31 July 1986.

1.3 During the period covered by this report the TSB received notifications of measures, either unilaterally decided or bilaterally agreed, concluded under (a) the 1981 Protocol of Extension and (b) those concluded under the 1986 Protocol of Extension.

1.4 At its meeting held on 17-19 November 1986, the TSB considered the situation created by the entry into force, on 1 August 1986, of a new Protocol of Extension. It decided that, as a general rule, notifications of actions taking effect no later than 31 July 1986 should be considered as falling under the terms of the 1981 Protocol of Extension, even if their effect carried over after 31 July 1986. New agreements or measures taking effect from 1 August 1986 or later should be treated as falling under the provisions of the 1986 Protocol, even if they had been negotiated before 1 August 1986. The TSB would continue, however, to consider all notifications on a case-by-case basis. (COM.TEX/SB/1190)

1.5 The TSB considered it would be useful for the Textiles Committee to have notifications falling under the two Protocols summarized in different chapters in this report.

1.6 The TSB received a number of notifications made under Article 4 concerning former participants which had not as yet accepted the MFA as extended by the 1986 Protocol. The TSB took note of these notifications and agreed to transmit them to the Textiles Committee under Articles 7 and 8, for the information of participating countries. (COM.TEX/SB/1241)

1.7 Chapter 2 gives the status of acceptances of the 1986 Protocol of Extension on 30 September 1987. Chapter 3 states the membership of the TSB since 1 August 1986 and the overall nature of its activities during the period covered by this report.

1.8 Chapters 4 and 5 concern notifications reviewed by the TSB; the former deals with notifications falling under the 1981 Protocol of Extension, and the latter with notifications falling under the 1986 Protocol of Extension. Each chapter has been divided into two sections: the first section summarizes (a) unilateral measures taken under Article 3 or matters referred under Article 11, paragraphs 4 and 5; and (b) bilateral agreements or modifications of agreements notified under Article 4:4; the second section contains TSB observations made in the course of its review of the notifications. Chapter 6 summarizes the replies received from participating countries on the status of restrictions maintained by them on textiles and textile products; these replies were received under Article 11, paragraphs 11, 12 and 2, at the request of the TSB; the chapter also includes notifications received or transmitted under Articles 7 and/or 8.

1.9 Chapter 7 contains an interim appreciation of the application of the Arrangement as extended by the 1986 Protocol.

1.10 An addendum to the report gives in tabular form the restrictions notified to the TSB.

Chapter 2: The 1986 Protocol extending the Arrangement and the status of acceptances

2.1 On 31 July 1986 the Textiles Committee adopted the Protocol extending the Arrangement for a further five-year period ending 31 July 1991.

2.2 By 30 September 1987, the Protocol of Extension had been accepted by the following participants: Argentina, Austria, Bangladesh, Brazil, Canada, China, Colombia, Czechoslovakia, EEC, Egypt, Finland, Hong Kong, Hungary, India, Indonesia, Jamaica, Japan, Korea, Macao, Malaysia, Mexico, Norway, Pakistan, Peru, Philippines, Poland, Romania, Singapore, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, United States, Uruguay and Yugoslavia.

Chapter 3: Membership and overall activities of the TSB

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

3.2 In the Conclusions of the Textiles Committee adopted on 31 July 1986,

- The participants re-affirmed the importance of the effective functioning of the Textiles Committee, the Sub-Committee on Adjustment and the Textiles Surveillance Body, in their respective areas of competence. In this context, the participants emphasized the importance of the responsibilities of the Textiles Surveillance Body as set forth in Article 11 of the MFA;
- The participants also re-affirmed that the rôle of the Textiles Surveillance Body is to exercise its functions as set out in Article 11 so as to help ensure the effective and equitable operation of the Arrangement and to further its objectives. In this respect, the Committee recognized the need for close co-operation among participants for the effective discharge of the Textiles Surveillance Body's responsibilities;
- Participants agreed that in considering problems arising from the application of bilateral agreements or measures taken under the Arrangement and with a view to discharging its function with respect to the review of such action, the Textiles Surveillance Body may address problems of interpretation of the relevant provisions of the Arrangement.

A. Membership of the TSB

3.3 At its meeting on 31 July 1986 the Textiles Committee agreed to extend the appointment of Ambassador Marcelo Raffaelli as Chairman of the TSB.

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

3.5 The membership of the TSB for 1987 as well as alternates of members has been the following:

Members

Mr. Jörn Keck (EEC)
 (replaced by
 Mr. Piergiorgio Mazzocchi in May 1987)
 Mr. Pekka Säilä (Finland)
 Mr. James Lau (Hong Kong)

Mr. Parampreet S. Randhawa (India)
 Mr. Darry Salim (Indonesia)
 Mr. Toru Kawaguchi (Japan)
 (replaced by Mr. Tadatsuna Koda
 in May 1987)
 Mr. Robert E. Shepherd (United States)
 Mr. Elbio Rosselli (Uruguay)

Alternates

Mr. Gérard Boisnon (EEC)
 Mr. Robert G. Wright (Canada)
 Mr. Chong Moo Lee (Korea)
 (replaced by Miss Yvonne Choi
 (Hong Kong) from 14 July to
 11 September 1987, then by
 Mr. Hyuck Choi (Korea) from
 14 September 1987)
 Mr. Maamoun Abdel Fattah (Egypt)
 Mrs. Apiradi Tantraporn (Thailand)
 Mr. Kiyotaka Akasaka (Japan)
 -
 Mr. Hugo Portugal (Peru)

B. Activities of the TSB

3.6 During the period covered by this report the TSB held sixteen meetings. In addition to the activities listed below, the TSB had several discussions related to paragraph 24 of the 1986 Protocol of Extension.

(i) Review of notifications

3.7 The major activity of the TSB has been the review of notifications made under Article 4:4 of bilateral agreements or modifications thereof. The TSB has continued to use its procedures contained in COM.TEX/SB/35, Annex B for the review of such notifications. After its review, the TSB has circulated the notifications in the COM.TEX/SB/- series of documents.

(ii) Dispute settlement

3.8 The TSB has also received notifications of unilateral measures taken under Article 3:5, or matters referred under Article 11, paragraph 4 or 5.

3.9 In all cases of dispute, before formulating its recommendations the TSB, as required by Article 11, paragraph 6, has invited the participating countries directly affected by the matter to present their respective cases, and respond to any questions put to them by members of the TSB.

3.10 In cases involving disputes between countries which have members on the TSB and others which have not, the TSB continued to apply its procedures¹ for such cases, to wit: the party not having a member on the TSB would be invited to designate a person who, after the presentation of the case by the two delegations and the questioning phase, could participate in the remaining phase of the discussion, up to, and including, the drafting of the recommendations. It is understood, however, that consensus within the Body on the form and content of such recommendations does not require the assent or concurrence either of the concerned TSB member or of the person designated by the other party.

¹The guidelines for such procedures, first set down in COM.TEX/SB/30, Annex I, were revised in May 1978 and are contained in COM.TEX/SB/319, Annex I.

(iii) Participation of Technical Experts

3.11 The procedure adopted by the TSB with respect to the TSB hearing technical experts as mentioned in Article 11, paragraph 2,¹ was used by the TSB to hear presentations on such matters as the implications on textile categorization resulting from the adoption of the Harmonized System by participating countries.

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

3.12 During its meeting held on 2-3 December 1986 the TSB examined the provisions contained in paragraph 8 of the 1986 Protocol of Extension. The full text of the conclusion then reached follows:

"30. The TSB examined the provisions contained in paragraph 8 of the 1986 Protocol of Extension. It noted that:

- (a) this paragraph may be invoked only by importing countries which administer restraints imposed under Article 3, paragraph 5, on the basis of date of export;
- (b) the restraint level for the extension period must include growth and flexibility in accordance with the provisions of paragraphs 3 and 5 of Annex B;
- (c) such extension may be made only once.

¹The TSB discussed the question of technical experts mentioned in Article 11:2 of the Arrangement, which states that the TSB may hear technical experts proposed by one or more of its members.

The TSB decided that in all cases:

- (a) such experts shall not be present during meetings, except if invited by the Body to clarify specific questions at the proposal of one or more of its members;
- (b) once the question is sufficiently clarified, the expert shall withdraw.

Furthermore, with reference to dispute cases, the TSB decided to adopt the following additional procedures for the participation of experts during the review of such cases, in order to ensure that its reviews are properly carried out:

- (a) the interested parties shall formally notify to the Chairman, in advance of the date of the review, the names of their respective delegation members as well as of experts, if any;
- (b) experts may be invited to answer specific questions at the proposal of a delegation participating in the review, provided the TSB so agrees.

This procedure will apply as of 1 December 1984. (COM.TEX/SB/1006)

"31. In a case where Article 3:8 has been utilized and there is no agreement on the extension or renewal or modification for a further twelve-month period of an Article 3:5 restraint, and the importing country intends to invoke paragraph 8 of the 1986 Protocol, bearing in mind point (a) in the preceding paragraph, the TSB reached the following conclusions regarding the applicable procedures:

- (i) the importing country must notify to the TSB the absence of agreement, giving details of the proposal and reasons for the outcome;
 - (ii) the importing country must at the same time notify to the TSB and the exporting country concerned its intention to invoke paragraph 8 of the 1986 Protocol, together with information on the "imminent and measurable increase in imports" which "may arise" and "would cause recurrence or exacerbation of market disruption or impede the steady and orderly development of trade";
 - (iii) the extension of the restraint may not be put into effect by the importing country before submitting its intention to the TSB;
 - (iv) all steps outlined above should take place before the expiry of the Article 3:5 restraint;
 - (v) the extension of the restraint shall be put into effect on the day after the expiration of the restraint introduced under Article 3:5;
 - (vi) the TSB shall make the appropriate recommendations within a period of thirty days whenever practicable, using the procedures of Article 11, paragraphs 6 and 7; they may be made either before or after the restraint for the extended period comes into effect." (COM.TEX/SB/1201)
- (v) General observation relating to Article 6, paragraph 6, of the Arrangement and paragraph 15 of the 1986 Protocol of Extension

3.13 The TSB examined on several occasions the provisions contained in Article 6:6 of the Arrangement and in paragraph 15 of the 1986 Protocol. In the course of its meeting on 28-29 September 1987 the TSB made the following general observation relating to these provisions:

- "11. The TSB discussed the existence, in several of the agreements notified to and reviewed by it, of quotas or of guaranteed access levels for outward processing traffic (OPT).
- "12. The TSB observed that the "special differential and more favourable treatment" mentioned in paragraph 15 of the 1986 Protocol of Extension could be provided under diverse formulations. It was of the opinion that this meant that in the case of MFA bilateral agreements which include any such formulations, effective increase in access for the product(s) concerned should be provided; in other words, the Body understood that the formulation should not, in principle, have the intent of providing for such access at the expense of quotas for non-OPT trade.

"13. The TSB, however, understanding that the diverse formulations possible and the different solutions found under them required a flexible approach to the problem, decided that it would review the application of those formulations on a case-by-case basis, bearing in mind: (a) paragraph 12 above, and (b) the effect which such a formulation would have on the basic objectives of the Arrangement as extended, particularly that of ensuring the orderly and equitable development of trade." (COM.TEX/SB/1314)

(vi) Reports of the TSB

3.14 The questions discussed in the TSB, together with its conclusions or recommendations, are reported regularly to the Textiles Committee in the COM.TEX/SB/- series of documents.

Chapter 4: Notifications falling under the 1981 Protocol of Extension

Section I: Notifications reviewed by the TSB

4.1 The TSB received a number of notifications which it considered as falling under the 1981 Protocol of Extension, and in accordance with its decision (see paragraph 1.4 above) reviewed them under the terms of that Protocol. These notifications have been summarized below, together with a tabular list at the end of this Section. Observations of the TSB on these notifications are contained in Section II of this chapter.

A. Unilateral measures and other matters referred to the TSB

(i) Unilateral measures taken under Article 3:5

United States/Japan

4.2 The TSB received two notifications from the United States of unilateral measures taken under Article 3:5 with respect to imports of several categories from Japan. These measures concerned restraints on Categories 314 (cotton sheeting), 341/641 (cotton and man-made fibre blouses) and 613 (man-made fibre woven fabric) for the year ending 29 April 1987, and on Categories 310/318 (yarn-dyed cotton fabric), 315/320pt (cotton print cloth), 317-S (cotton sateen) and 347/348 (cotton trousers) for the year ending 29 June 1987.

4.3 Both parties requested that the TSB defer its consideration of these measures, as they expected to hold bilateral consultations in the near future. After considering this request, the TSB agreed to defer its consideration of the notifications, on the understanding that it might revert to these measures at any time, on its own decision or at the request of either party.

4.4 Subsequently both parties reported that following bilateral consultations, agreed solutions had been found in all cases in the context of a bilateral agreement, which would be notified on completion of all formalities between the parties. (COM.TEX/SB/1184 and 1190) (For details on the agreement see paragraph 5.55)

(ii) Report on measures reviewed under Article 3:5

United States/China

4.5 In accordance with its recommendation made in July 1986 with respect to measures taken by the United States under Article 3:5,¹ the TSB was informed by the United States that a bilateral agreement had been negotiated regarding China's exports of man-made fibre luggage to the United States, which would be notified to the Body in due time. (COM.TEX/SB/1190)

¹ See the TSB's previous annual report (COM.TEX/SB/1181, paragraphs 1.4 to 1.6).

(iii) Measure referred under Article 11:4 and 11:5

Brazil/EEC

4.6 In January 1987, Brazil referred, under Article 11, paragraphs 4 and 5, an action taken by the EEC under Article 11 of the EEC/Brazil bilateral agreement which expired on 31 December 1986. It concerned the adjustment of the 1986 quota on Category 1 (cotton yarn) into the Federal Republic of Germany, consequent to alleged circumvention of the agreement.

4.7 The TSB examined this case in January and in March 1987. (For the TSB's observations and recommendations see paragraphs 4.30 to 4.44 below).

(iv) Measure notified but not reviewed by the TSB

United States/Pakistan

4.8 In October 1986 the TSB received a notification from the United States of a unilateral measure taken with respect to imports of lightweight plainweave polyester/cotton fabric (Category 613-C) from Pakistan for the one-year period ending 26 April 1987.

4.9 As Pakistan was not a participating country at the time of notification, the TSB decided to wait for Pakistan's acceptance of the 1986 Protocol. Since by February 1987 Pakistan had not yet accepted the Protocol, the TSB decided to take note of the measure. (COM.TEX/SB/1241)

B. Notifications received under Article 4

4.10 The TSB received thirty-four notifications under Article 4 falling under the 1981 Protocol; they included four new agreements, eleven modifications, six extensions and twelve additional protocols to agreements. These concerned the following participants:

Canada	:	Bangladesh, Brazil, Turkey
EEC	:	Brazil, Hong Kong, Hungary, Indonesia, Korea, Malaysia, Mexico, Peru, Singapore, Sri Lanka, Thailand, Uruguay
Sweden	:	India, Korea, Philippines, Yugoslavia
United States	:	Czechoslovakia, Korea, Malaysia, Mexico, Philippines, Singapore, Sri Lanka, Thailand, Turkey.

4.11 The following paragraphs summarize the notifications on a country-by-country basis. Observations by the TSB are contained in Section II. The addendum to this report gives in tabular form details on products under restraint, growth and flexibility provisions.

Canada

4.12 Canada concluded an agreement with Bangladesh for the period 1 April to 31 December 1986, establishing a restraint set at a level much higher than the rollback level on trousers, shorts, overalls and coveralls, with a sub-limit for trousers, pants, slacks or jeans for men, boys, women and girls. Swing with another product (tailored collar shirts and jackets) restrained under a previous agreement between the two countries was set at 6 per cent.

4.13 The agreement with Brazil was modified twice for the last agreement year ending on 31 December 1986. Under the first modification, the parties agreed to a restraint on exports of sportswear (coordinates, suits, athletic suits or sets and leisure wear) set at a level much higher than either the rollback level or 1985 imports. Swing with other clothing items under restraint was available at 6 per cent. Under a special provision it was agreed that children's and infants' garments would be charged against the restraint level at 0.6 unit. Under the second modification, a restraint was agreed on exports of terry towels, wash cloths and sets at a level much higher than the rollback level, but equal to the export level reached by Brazil for the same reference period. Swing between terry towels and the other non-clothing item (acrylic yarn) was set at 5 per cent for terry towels and 7 per cent for acrylic yarn.

4.14 Canada concluded its first agreement with Turkey for the period 18 February to 31 December 1986, establishing a restraint on pants, slacks, shorts, overalls and coveralls, with a sub-limit on non-woollen pants for men, boys, women and girls. The restraint was set at a level much higher than the rollback level. Flexibility was not applicable, with only one product category under restraint for less than one year.

EEC

4.15 The agreement between the EEC and Brazil scheduled to expire on 31 December 1986 was modified by an agreed restraint on exports of Category 4 (T-shirts) to Italy for the period 12 September 1985 to 31 December 1986. An additional quantity could be exported, after notification, if shipped before 1 October 1985. Carry forward was agreed involving a maximum of 250,000 pieces of the 1986 restraint.

4.16 The EEC concluded additional Protocols to its agreements with Brazil, Hong Kong, Hungary, Indonesia, Korea, Malaysia, Mexico, Peru, Singapore, Sri Lanka, Thailand and Uruguay for the period 1 January to 31 December 1986. Under these additional protocols agreements were modified to take account of the enlargement of the EEC market by (a) modifying the basket exit mechanism and setting the basket exit formula for Spain and Portugal and (b) by increasing the Community restraint levels.

Sweden

4.17 Sweden extended its agreements with India and Yugoslavia for periods of six months, while the agreement with Korea was extended for four months. Growth provisions of the agreements with India and Korea applied for the extended periods, while the extension of the agreement with Yugoslavia contained no growth. According to Sweden, the extensions had been made in order to give more time for the parties concerned to negotiate new agreements which were intended to supersede the provisional extensions and would, when concluded, be notified to the TSB.

4.18 The Sweden/Philippines agreement was modified for the period 1 November 1985 to 31 October 1987. The parties agreed to take Group 11a (track suits) out of the Rest Group and establish a restraint limit on it, with no change in the limit for the Rest Group. In order to maintain unchanged the total access under the agreement, the parties also agreed to an equivalent reduction in the restraint level on Group 10 (blouses). The base level for the new restraint was 13.6 per cent higher than 1985 imports, and the growth rate for the last agreement period was 0.3 per cent,

resulting in a compounded growth of 6.8 per cent in relation to 1985 imports. Flexibility provisions of the agreement, namely swing, carryover and carry forward at 3 per cent each, with the cumulative use of flexibility at 3 per cent, applied to the new restraint.

United States

4.19 The United States concluded a selective bilateral agreement with Czechoslovakia for the period 1 June 1986 to 31 May 1989. This agreement replaced the consultation agreement between the parties on cotton, wool and man-made fibres. Restraints were agreed on Categories 435 (wool coats for women, girls and infants) and 443 (wool suits for men and boys), with base levels in one case higher and in the other substantially higher than 6 per cent over the rollback levels. Growth was set at 1 per cent with compounded growth at 5.2 (Category 435) and 11.6 (Category 443) per cent; swing, carryover/carry forward were available at 5 and 11/6 per cent respectively, with no carryover in the first agreement period and no carry forward in the last agreement period.

4.20 Under a modification of the agreement with Korea a restraint on Category 670B (man-made fibre luggage, wholly or in part braid) was agreed for the period 1 September to 31 December 1985, with provision for special carry forward. With effect from 1 January 1986, Categories 670L (man-made fibre luggage) and 670B were merged with a limit set on this merged Category, and adjusted sub-limits on 670L and 670B. Growth was set in accordance with the provisions of the agreement at 2.5 per cent. Swing was not available to these Categories.

4.21 Under modifications of the United States/Malaysia agreement specific limits were set for Category 337/637 (cotton and man-made fibre playsuits, washsuits, etc.) and for merged Category 310-320 (i.e. 310 to 320, cotton fabrics), with specific sub-limits for sub-Categories 310/318 (cotton gingham and yarn-dyed fabrics) and 317-S (sateens) and a limitation of 40 per cent of the Category 310/320 limit, for use in any of the remaining sub-Categories. Base levels were much higher than the formula or rollback levels; growth was set at 6 per cent. Swing and flexibility provisions of the bilateral agreement applied. Agreement was also reached with respect to new conversion factors for Categories 638/639 (man-made fibre knit shirts) and 337/637.

4.22 The United States and Mexico agreed to a two-year extension of their agreement, for the period 1 January 1986 to 31 December 1987, at the same time agreeing to a number of modifications. Specific limits were introduced in one category and two part-categories. Seven specific limits were replaced by consultation levels, while previous limits on four categories or merged categories were maintained, and a designated consultation level was introduced on Group II. The base levels of the six categories or merged categories subject to specific limit were higher than 6 per cent over previous limits or rollback levels, except in one case where the limit was less than 6 per cent over the previous limit. Annual growth rates, previously 7 per cent, were now set at 6 per cent. Swing, previously available at 7 per cent in all cases, was lowered to 5 per cent for categories falling within Groups I and III. The product coverage of the agreement was modified.

4.23 Under a modification of the United States/Philippines agreement the 1986 designated consultation level was increased on Category 363 (cotton towels). The parties later agreed to a three-month extension of their agreement, pending the negotiation of a new agreement.

4.24 The United States and Singapore agreed to two extensions of their agreement valid until 31 December 1985, for three months and then for a further three months until 30 June 1986; they also agreed to consultation levels for two categories for the extended period. These extensions were agreed to allow the parties more time to negotiate a new agreement.

4.25 A new agreement between the United States and Singapore was agreed for the period 1 January 1986 to 31 December 1990. This agreement superseded and replaced the extensions referred to in the preceding paragraph. The product coverage remained unchanged, and the three Groups in the previous agreement were replaced by Group I which included only categories under specific limit, and Group II which included all other categories; the aggregate and Group limits in the previous agreement were removed and Group II was made subject to a designated consultation level. Twenty-eight categories were placed under restraint, of which eight categories and one part category had previously been under consultation levels; six categories previously under specific limits were made subject to consultation levels. Base levels in all but five cases were higher and in some cases much higher than the previous specific limits or consultation levels. Growth rates ranging between 2 and 5 per cent for non-wool categories, and at 1 per cent for the wool category, were in some cases lower than in the previous agreement; swing was available at 7 per cent; further additional swing of 10 per cent was allowed in the case of four pairs of categories; carryover/carry forward were set at 11/6 per cent, with no carryover in the first agreement year and no carry forward in the last agreement year.

4.26 Under a modification of the United States/Sri Lanka agreement valid until 31 May 1988, specific limits were agreed on Category 351 (cotton nightwear) and 664 (man-made fibre suits, women, girls and infants) as of 2 May 1986 and 29 April 1986, respectively. The limits were much higher than the reference levels of the bilateral agreement. Growth was set at 6 per cent, swing available at 6 per cent, and carryover/carry forward at 11/6 per cent.

4.27 The United States and Thailand extended their agreement by the twelve-month period ending 31 December 1988. Under a modification of this extended agreement overshipments made during agreement years 1984 and 1985 were charged to the three last agreement years (1986 to 1988), taking account of the needs of both parties; the 1985 and 1986 agreement periods for Group II (apparel group) were divided into eleven and thirteen-month periods, respectively, with consequent modifications to the Group and specific limits. With effect from 1 January 1986, all wool categories were placed under a new Group III, subject to a Group limit; one half of this limit was to be deducted from the Group II limit. Five categories called under the consultation provisions of the agreement were placed under restraint in 1985 for periods covering only part of that agreement year and would remain in force for the remainder of the agreement; one category was placed under restraint as of the fourth agreement year. Average annual growth rates for Group II and all non-wool categories, except one, were 6 or 7 per cent; growth for Group III and the wool categories under restraint was 1 per cent. Under a further modification, special carry forward was agreed for the apparel group limit (Group II) for the 1986 agreement year only.

4.28 The agreement between the United States and Turkey was extended by six months to 30 June 1988, extending the restraint period on two categories previously under restraint. The agreement was also modified by the introduction of specific limits on seven categories, one merged category and one sub-category, effective 1 July 1986; a number of these limits either followed or superseded unilateral measures under Article 3:5. Base levels of the new restraints were much higher than the Article 3:5 levels or rollback levels, and levels of existing restraints were increased by 6 per cent. Growth for the new restraints was 6 per cent in seven cases, 4 per cent in one case and 3.9 per cent in one case. Swing, carryover/carry forward were available at 7 and 11/6 per cent.

C. Notification under Article 8:4

4.29 Under the provisions of its bilateral agreement with Brazil, the EEC made an adjustment of the 1986 Brazilian quota on Category 1 (cotton yarn) into the Federal Republic of Germany consequent to alleged circumvention of the agreement. The matter had been referred to the TSB by Brazil under Article 11, paragraphs 4 and 5. (See also paragraphs 4.6 and 4.7 above and paragraphs 4.30-4.44 below.)

Bilateral agreements/modifications/actions
under the 1981 Protocol reviewed by the TSB

<u>Importing Country</u>	<u>Exporting Country</u>		<u>Validity</u>	<u>COM.TEX/SB/-</u>
<u>Notification under Article 3:5</u>				
<u>UNITED STATES</u>	Japan	(i)	30.4.86-29.4.87	1184, 1190
		(ii)	30.6.86-29.6.87	1184, 1190
<u>Measure referred under Article 11:4 and 11:5</u>				
<u>EEC</u>	<u>BRAZIL</u>		1.1.86-31.12.86	1231, 1256, 1276
<u>Unilateral measures notified</u>				
<u>UNITED STATES</u>	Pakistan ¹		27.4.86-26.4.87	1241
<u>Notifications under Article 4</u>				
<u>CANADA</u>	Bangladesh	(N)	1.4.86-31.12.86	1227
	Brazil	(M)	1.1.86-31.12.86	1191, 1192
	Turkey	(N)	18.2.86-31.12.86	1193
<u>EEC</u>	Brazil	(M)	12.9.85-31.12.86	1195
	Brazil	(AP)	1.1.86-31.12.86	1202
	Hong Kong	(AP)	1.1.86-31.12.86	1203
	Hungary	(AP)	1.1.86-31.12.86	1204
	Indonesia	(AP)	1.1.86-31.12.86	1205
	Korea	(AP)	1.1.86-31.12.86	1206
	Malaysia	(AP)	1.1.86-31.12.86	1207
	Mexico	(AP)	1.1.86-31.12.86	1208
	Peru	(AP)	1.1.86-31.12.86	1209
	Singapore	(AP)	1.1.86-31.12.86	1210
	Sri Lanka	(AP)	1.1.86-31.12.86	1211
	Thailand	(AP)	1.1.86-31.12.86	1212
	Uruguay	(AP)	1.1.86-31.12.86	1213
<u>SWEDEN</u>	India	(E)	1.1.87-30.6.87	1257
	Korea	(E)	1.3.87-30.6.87	1266
	Philippines	(M)	1.11.85-31.10.87	1247
	Yugoslavia	(E)	1.1.87-30.6.87	1258

¹ Not a participating country at the time of notification

<u>Importing Country</u>	<u>Exporting Country</u>	<u>Validity</u>	<u>COM.TEX/SB/-</u>
<u>UNITED STATES</u>	Czechoslovakia (N)	1.6.86-31.5.89	1229
	Korea (M)	1.9.85-31.12.87	1185
	Malaysia (M)	1.5.86-31.12.89	1182
	Mexico (E + M)	1.1.86-31.12.87	1183
	Philippines (M + E)	1.1.86-31.3.87	1228, 1249
	Singapore (a) (E + M)	1.1.86-30.6.86	1198, 1199
	(b) (N)	1.1.86-31.12.90	1200
	Sri Lanka (M)	29.4.86-31.5.88	1187
	Thailand (E + M)	1.1.85-31.12.88	1197, 1248
	Turkey (E + M)	1.7.86-30.6.88	1196

Notification under Article 8:4

<u>EEC</u>	Brazil	1.1.86-31.12.86	1255
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N: New agreement
M: Modification of agreement
E: Extension of agreement
AP: Additional Protocol to agreement

Section II: Observations by the TSB

A. Unilateral measures and other matters referred to the TSB

(i) Measure referred under Article 11:4 and 11:5

Brazil/EEC

4.30 In January 1987 the TSB examined the action referred by Brazil under Article 11, paragraphs 4 and 5, concerning the adjustment of the 1986 quota on Category 1 (cotton yarn) into the Federal Republic of Germany, consequent to alleged circumvention of the agreement. (See paragraphs 4.6, 4.7 and 4.29 above.)

4.31 The TSB was requested by Brazil to decide on the question whether the EEC was entitled to apply the provisions of Article 11(4) of the bilateral agreement with Brazil in view of the provisions of Article 8 of the Arrangement and paragraph 22 of the 1986 Protocol of Extension.

4.32 The TSB heard presentations from delegations of both parties.

4.33 The TSB considered all elements presented during its examination of the case, which included:

- (a) the circumstances of circumvention demonstrated that the product had been exported from Brazil for internal consumption in Hungary and subsequently trans-shipped to the EEC under certificates of Hungarian origin;
- (b) the Hungarian authorities acknowledged to both Brazil and the EEC the facts of the trans-shipment, and had undertaken to take the necessary steps to prevent the repetition of such transactions;
- (c) Brazil and the EEC had held consultations, which yielded no agreed solution;
- (d) the EEC had charged a part of the quantity for which the EEC had clear evidence of Brazilian origin to the Brazilian quota on the product.

4.34 The TSB was of the opinion that in order to pursue its review of this case it needed the benefit of information from Hungary. It decided, therefore, to suspend the meeting and invite the Government of Hungary under Article 11, paragraph 2, to send a delegation to a resumed session of this meeting, to take place on 11-12 February 1987.

4.35 Before the resumption of the meeting, however, the TSB received a request from Brazil that further consideration of this matter be postponed to a later date. The EEC being in agreement with this request, the TSB decided to revert to this notification at a later meeting.
(COM.TEX/SB/1231)

4.36 At its meeting on 5-10 March 1987, and in accordance with its invitation extended under Article 11, paragraph 2, the TSB received information from Hungary. The Hungarian Government informed the TSB that the Hungarian company which imported the Brazilian cotton yarn had changed the certificates of origin and subsequently shipped the goods to the EEC.

The Hungarian Government stated that it had acted in good faith in issuing the relevant certificates of origin and was not responsible for their misuse. The Hungarian Government informed the TSB of the steps it had taken to reinforce controls for the issuance of certificates of origin in order to prevent recurrence of such incidents.

4.37 The TSB took note that, following a request by the EEC, Brazil had cooperated by conducting an investigation which, according to the Brazilian Government's finding, showed no involvement on the part of the Brazilian exporting firms. The TSB further noted the Brazilian position that circumvention implied the will, on the exporting side, to commit fraud with respect to quotas established under a bilateral agreement.

4.38 The TSB also took note that the EEC had conducted an investigation, which, according to the Community, showed no involvement on the part of the importers in Germany. The TSB further noted the position of the EEC that Article 8 of the MFA and paragraph 16 of the 1986 Protocol underline administrative cooperation and the principle of adjusting quotas in cases of circumvention, without need of proof of the will to commit fraud by the country of origin.

4.39 During its review of the case, the TSB bore in mind (a) all elements and information provided to it by the two parties; (b) the information provided by Hungary; and (c) observations made by it during the review of the EEC bilateral agreements relating to the provisions contained in Article 11 of the EEC/Brazil agreement.

4.40 The TSB did not reach an agreement regarding the interpretations of circumvention as set out by the two parties in paragraphs 4.37 and 4.38 above. However, it found that:

- (a) there was trans-shipment into the EEC regional market of the Federal Republic of Germany, by a Hungarian company, of Brazilian cotton yarn exported from Brazil for internal consumption in Hungary;
- (b) investigations conducted had not produced any evidence of involvement by Brazilian exporters or German importers;
- (c) the EEC had made an adjustment of the quota in its agreement with Brazil based solely on the evidence that Brazil was the country of true origin of the shipments concerned;
- (d) the orderly trade between Brazil and the EEC, and Brazil's access rights as envisaged under their bilateral agreement, had been affected by actions taken by a Hungarian company.

4.41 The TSB concluded that adjustment of charges to existing quotas is neither mandatory nor the sole solution in terms of paragraph 16 of the 1986 Protocol of Extension. The TSB was of the view that the parties had not exhausted all options available to them under the Arrangement, and therefore recommended that they hold further consultations with a view to reaching an agreed solution, which could include the replacement of the measure taken by the EEC.

4.42 The TSB requested the parties to report to it on the result of these consultations no later than 15 May 1987. (COM.TEX/SB/1256)

4.43 In May 1987, the TSB received reports from Brazil and the EEC that they had held consultations and had reached the following agreement:

"Without prejudice to their respective positions of principle, the two delegations, in a spirit of co-operation, agreed on a solution concerning the problems raised during these consultations, on the following bases:

- (a) The carryover possibilities from 1986 to 1987 are fully maintained as regards the regional quota concerned on Category 1. In fact, the adjustment made by the Community has not reduced the development of Brazilian exports under the agreement which expired on 31 December 1986.
- (b) The two parties agree on the importance of continuing to ensure adequate control of the exports concerned, in order to avoid circumvention by trans-shipment, rerouting or whatever other means.
- (c) The administrative co-operation between the two parties shall be closely pursued to ensure the development of trade in textiles in accordance with the relevant provisions of the bilateral agreement on textiles. Regular contacts on this question shall be maintained between the two parties."¹

4.44 The TSB decided, therefore, it was not necessary to pursue the consideration of this matter. (COM.TEX/SB/1276)

B. Notifications under Article 4

4.45 All notifications under Article 4, concluded under the 1981 Protocol of Extension, were after their review transmitted to the Textiles Committee. The following paragraphs contain observations made by the TSB; in doing so the TSB often took note of statements made by parties relating to the relevant notifications.

(i) Notifications transmitted without specific observations

4.46 In a number of cases the TSB transmitted notifications without making any observations. These concerned the agreements concluded by Canada with Bangladesh and Turkey and one of two amendments of its agreement with Brazil (COM.TEX/SB/1201 and 1231); extensions of Sweden's agreements with India and Korea; and modification of the agreement with the Philippines (COM.TEX/SB/1256, 1265 and 1272); the bilateral agreement concluded by the United States with Czechoslovakia and the modifications and/or extensions of its agreements with Korea, Malaysia, the Philippines, Singapore, Sri Lanka, Thailand and Turkey (COM.TEX/SB/1184, 1190, 1201 and 1231).

(ii) Delay in notification

4.47 The TSB noted the delay in the notification of the modification of the EEC/Brazil agreement. (COM.TEX/SB/1201)

¹Original text in French; translation by the secretariat.

(iii) Base levels

4.48 During its review of the additional Protocols to the agreements concluded by the EEC with participating countries, the TSB understood that the increases in the Community restraint levels had been negotiated taking into account either exports to Spain and Portugal or the basket exit levels for these two countries. (COM.TEX/SB/1226)

(iv) Overall access

4.49 In reviewing the United States/Singapore agreement, the TSB noted that the aggregate and Group limits in the previous agreement had been removed, and that in the present agreement the sum of the specific limits together with the designated consultation level for Group II was lower than the aggregate limit in the previous agreement. The TSB, however, understood that the Group II level and the specific designated consultation levels were not specific limits, but were designed to provide for the orderly development of Singapore's unrestrained exports to the United States and not to impede the expansion of Singapore's exports to the United States' market. (COM.TEX/SB/1201)

(v) Growth provisions

4.50 The extension of the Sweden/Yugoslavia agreement contained no provision for growth. According to Sweden, the extension had been made in order to give more time for the parties to negotiate a new agreement which was intended to supersede the provisional extension and would, when concluded, be notified to the TSB. (COM.TEX/SB/1265)

(vi) Share in the market

4.51 In reviewing the modification of the Canada/Brazil agreement concerning a restraint on sportswear, the TSB noted that overall import levels of the products covered had increased significantly over recent years. The TSB also noted that domestic shipments in Canada for products covered by this restraint had remained relatively stable. The TSB noted further that although there was a sharp increase in imports from Brazil, its share in the Canadian market was small. (COM.TEX/SB/1201)

Chapter 5: Notifications falling under the 1986 Protocol of Extension

Section I: Notifications reviewed by the TSB

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

A. Unilateral measures and other matters referred to the TSB

(1) Unilateral measures taken under Article 3:5

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

United States: Bangladesh, China

United States/Bangladesh

5.3 At its meeting on 24-25 June 1987, the TSB received a notification from the United States of unilateral measures taken under Article 3:5 with respect to imports of Categories 645/646 (man-made fibre sweaters) and 338/339 (cotton knit shirts) from Bangladesh. The TSB decided to invite both parties under Article 11:6 to present their respective cases at its next meeting.

5.4 In response to its invitation, the TSB received a communication from Bangladesh, requesting the postponement of the review of these measures as consultations with the United States had been scheduled for 29-31 July, and stating that if these consultations did not result in agreed solutions, Bangladesh might request that the restrictions be reviewed in August.

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

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

United States/China

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

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

5.9 At its meeting on 15-17 September 1987, the TSB received reports from both parties that at their bilateral consultations agreed solutions had been found with respect to Categories 833 and 847; these will be notified to the TSB in due course. (COM.TEX/SB/1299, 1306 and 1312)

(ii) Extension of restraints under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension

United States/Pakistan

5.10 At its meeting of 10-11 June 1987, the TSB received a notification under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension from the United States concerning the extension of a restraint on imports of lightweight plainweave man-made fibre fabric (Category 613-C) from Pakistan. The restraint was extended for the period 27 April 1987 to 26 April 1988. On being informed that both parties were scheduled to hold consultations in July, the TSB agreed to the request that it defer its review of the notification. (COM.TEX/SB/1285)

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

United States/China

5.12 The TSB received a notification from the United States under Article 3:8 and paragraph 8 of the 1986 Protocol concerning the extension of a restraint on imports of Category 845/846 (silk blend and other vegetable fibre sweaters) from China for the period 29 August 1987 to 28 August 1988.

5.13 The TSB noted that the unilateral measure on this Category had first been taken by the United States when China was not participating in the MFA. It agreed to invite both parties to its meeting scheduled for 13-15 October to present their respective cases. (COM.TEX/SB/1312)

(iii) Matters referred under Article 11:4 and 11:5

5.14 Two matters were referred under Article 11, paragraphs 4 and 5, which concerned the following participants:

Brazil: United States

India: United States

Brazil/United States

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

5.16 In accordance with its recommendations (see paragraphs 5.122 to 5.126 below), the TSB received reports from both parties in December 1986 that the United States was rescinding the restraint on Category 341, and after bilateral consultations no agreed solution had been found with respect to Category 314/320pt. In January 1987 the Chairman informed the Body that he had received reports from Brazil and the United States that, after further consultations, they had reached an agreed solution concerning Category 314/320pt. (COM.TEX/SB/1184, 1226 and 1231) (See paragraph 5.49 below for the agreement between the parties.)

India/United States

5.17 In February 1987, the TSB received a notification under Article 11:4 from India referring to certain measures taken by the United States under the provisions of their bilateral agreement on Categories 369-S (cotton shop towels), 641 (man-made fibre blouses) and 642 (man-made fibre skirts). Being informed by both parties that agreed solutions had been found with respect to the three Categories, the TSB decided not to pursue the matter; it understood that the agreed solutions would be notified in due time. (COM.TEX/SB/1241) (See paragraph 5.53 below)

B. Notifications under Article 4

5.18 The TSB received and reviewed forty-six notifications under Article 4 of thirty-one bilateral agreements and fifteen extensions and/or modifications of agreements. These concerned the following participants:

Austria:	Hong Kong, India, Korea, Macao
Canada:	Pakistan, Uruguay
EEC:	Argentina, Bangladesh, Brazil, Czechoslovakia, Indonesia, Korea, Malaysia, Philippines, Poland, Romania, Singapore, Thailand, Uruguay
Finland:	Hong Kong, India, Korea, Macao, Romania, Thailand, Sri Lanka
United States:	Bangladesh, Brazil, China, Hong Kong, Hungary, India, Indonesia, Japan, Korea, Macao, Mexico, Peru, Philippines, Turkey, Yugoslavia

5.19 The notifications reviewed have been summarized below, under different headings, for greater clarity. Section II of this Chapter contains the observations made by the TSB thereon.

(i) Validity, product coverage, products under restraint

Austria

5.20 The agreement with Hong Kong was concluded for the period 1 February 1987 to 31 January 1990. Product coverage was reduced by eliminating certain items previously subject to the agreed export authorization system. All previous restraints, on four product categories, were maintained.

5.21 An agreement with India was concluded for the period 1 January 1987 to 31 December 1991, with possibility of extension for one year. The coverage was reduced; previous restraints on two clothing categories (woven blouses and shirts of cotton) were maintained, with the extension of fibre coverage in one case (woven blouses of man-made fibres); one product previously under restraint was placed under statistical surveillance.

5.22 An agreement with Korea was concluded for the period 1 January 1987 to 31 December 1991. The coverage was reduced. Five clothing categories under restraint included one previously unrestrained; one category previously restrained was placed under administrative surveillance.

5.23 An agreement with Macao was concluded for the period 1 January 1987 to 31 December 1990. The product coverage was reduced. One product previously under restraint was made subject to consultation, and two products remained under restraint.

Canada

5.24 In the agreement concluded with Pakistan for the period 1 January 1987 to 31 December 1991 the product coverage was expanded. The restraint on one category was removed, while six restraints on clothing and textile items were maintained.

5.25 The agreement with Uruguay was concluded for the period 1 January 1987 to 31 December 1991. The coverage continued to be limited to one product (worsted fabric).

EEC

5.26 All bilateral agreements concluded by the EEC under the 1986 Protocol were in de facto application from 1 January 1987 and valid until 31 December 1991. The product coverage in these agreements remained unchanged (see also paragraph 5.162 below). Products not under restraint were subject to consultation provisions.

5.27 A new agreement was concluded with Argentina. The previous agreement had expired on 31 December 1982. Three categories were placed under restraint.

5.28 In the agreement with Bangladesh, no restraints were introduced and all previous restraints (i.e. two regional restraints) were terminated.

5.29 In the agreement with Brazil, two Community limits and two regional restraints were terminated, and one Community restraint was converted to restraints in two member States, leaving eight limits at the Community level and five limits at the regional level.

5.30 In the agreement with Czechoslovakia, one Community limit and eleven regional restraints were terminated. Thirty-five restraints at the Community level and ten restraints at the regional level were maintained.

5.31 All previous restraints (three Community restraints and four regional restraints) were maintained in the new agreement with Indonesia. Additional quantities for outward processing traffic were agreed for three categories.

5.32 In the agreement with Korea, one Community limit and five regional restraints were terminated, leaving forty-one Community limits and three regional restraints.

5.33 Two Community limits and all regional restraints were terminated in the agreement with Malaysia; nine Community limits were maintained. Additional quantities for outward processing traffic were agreed for four categories.

5.34 In the agreement with the Philippines one Community limit and five regional restraints were terminated. Eleven Community limits and six regional restraints were maintained. Additional quantities for outward processing traffic were agreed for three categories.

5.35 Five restraints at the Community level were terminated in the agreement with Poland. Twenty-nine Community limits were maintained.

5.36 In the agreement with Romania, three Community limits and one regional restraint were terminated. Twenty-six Community limits and eleven regional restraints were maintained.

5.37 Six Community and all regional restraints were terminated in the agreement with Singapore, and seven Community limits were maintained. An additional quantity for outward processing traffic was agreed for one Category.

5.38 Five regional restraints were terminated in the agreement with Thailand. Fourteen Community limits and five regional restraints were maintained. Additional quantities for outward processing traffic were agreed for three categories. Under a subsequent modification, an agreed regional restraint was introduced.

5.39 In the agreement with Uruguay, no restraints were introduced and all previous restraints (i.e. one Community and three regional limits) were terminated.

Finland

5.40 The agreement with Hong Kong was concluded for the period 1 January 1987 to 31 December 1991. The product coverage was reduced. Restraints on three categories were maintained and one category was newly brought under restraint.

5.41 In the agreement with India, valid for the period 1 January 1987 to 31 December 1991, with the possibility of an extension to 31 December 1992, the product coverage and the three categories under restraint were unchanged.

5.42 Product coverage was substantially reduced with the removal of nine categories in the agreement with Korea concluded for the period 1 January 1987 to 31 December 1991. The five categories previously restrained were reduced to three by the merger of two categories and placing a restrained category under surveillance.

5.43 Product coverage in the agreement with Macao, concluded for the period 1 January 1987 to 31 December 1991, remained unchanged. Five clothing categories were placed under restraint, including one category previously under surveillance, and a category previously under restraint was made subject to administrative control.

5.44 The four categories previously under restraint remained unchanged in the agreement concluded with Romania for the period 1 January 1987 to 31 December 1990.

5.45 The agreement with Thailand was concluded for the period 1 January 1987 to 31 December 1990, with the possibility of extension to 31 December 1991. The product coverage was reduced from three to two categories, and one product previously under restraint was made subject to consultation, leaving only one product under restraint.

5.46 The only product previously restrained continued under restraint in the new agreement concluded with Sri Lanka for the period 1 June 1986 to 31 December 1990. This agreement superseded the last seven months of the previous agreement which had been extended to 31 December 1986.

United States

5.47 The TSB received a number of notifications from the United States which included new agreements, but also modifications and/or extensions under the 1986 Protocol of Extension, though the original agreements had been concluded under the 1981 Protocol of Extension.

5.48 The selective agreement with Bangladesh was modified by the introduction of an agreed restraint on one category for the period 1 August 1986 to 31 January 1989. Under a further amendment, the six specific limits due to expire on 31 January 1988 were extended to 31 January 1989, a sub-limit of no more than 35 per cent of the specific limit for Category 341 (cotton blouses) was established for blouses made of yarn-dyed fabrics; the product coverage was extended by the introduction of specific limits agreed on Categories 641 (man-made fibre blouses) and 647/648 (man-made fibre trousers) as of 1 October 1986, and on Category 336 (cotton coats) as of 1 February 1987, with sub-limits on 641pt (blouses of yarn-dyed fabric) and 647/8pt (long trousers and slacks).

5.49 Under an amendment of the bilateral agreement with Brazil, an agreed limit was established on Category 314 (cotton poplin and broadcloth) with effect from 28 August 1986, replacing and superseding the previous restraint established by the United States under paragraph 8 of the United States/Brazil agreement on Category 314/320pt. (See paragraphs 5.15 and 5.16 above)

5.50 Under an amendment of the agreement with China, specific limits were agreed for three categories (319, 637 and 650) and one part-Category (659-S) with effect from the 1987 agreement year. Agreement was also reached with respect to changing overshoots in Category 637 to the 1987 limit and, under the agreement that would replace the current one on 1 January 1988, in each of the following four years.

5.51 The United States and Hong Kong agreed to an extension and modification of their agreement. The agreement, which was scheduled to expire on 31 December 1987, was extended on 4 August 1986 until 31 December 1991, superseding in full the provisions applicable to agreement years 1986 and 1987. In this modified agreement the coverage was expanded to include silk blends and other vegetable fibre textiles and apparel and three Group limits were established. All fifty specific limits were maintained, and nine new restraints were introduced as of 1 August 1986 on categories or sub-categories covering products of silk blends or of vegetable fibres other than cotton.

5.52 The agreement with Hungary was extended for a one-year period ending 31 December 1987. Under an amendment of this agreement, product coverage was extended to include Categories 434 (other wool coats for men and boys) and 645/646 (man-made fibre sweaters), with agreed restraints on the former effective 1 November 1986, and on the latter from 1 January 1987. These restraints would remain in effect until 31 December 1988.

5.53 A bilateral agreement with India was concluded for the period 1 January 1987 to 31 December 1991. Product coverage was expanded to include - besides cotton, wool and man-made fibre products - apparel products of other vegetable fibres and silk blends. Former groups for apparel and non-apparel products were replaced by three groups: Group I (all products subject to specific limits), Group II (all products of cotton and man-made fibre not included in Group I plus apparel of other vegetable fibres and silk blends) and Group III (all products of wool). A limit was established for Group II; all previous restraints were maintained and a new restraint was introduced in Category 636 (man-made fibre dresses). The agreement was amended by the introduction of agreed restraints under Group II on four categories with effect from 1 January 1987. India had referred restraints on three of these categories under Article 11:4 (see paragraph 5.17 above).

5.54 Under an amendment of the agreement with Indonesia, valid until 30 June 1988, specific limits were agreed on five categories, one sub-category and one merged category; solutions were found regarding over-shipments in part-category 369-S (shop towels) during the 1985/86 agreement year. Under a further amendment, the parties agreed to re-define shipments which would not be charged to specific limits.

5.55 A bilateral agreement with Japan, covering cotton, wool and man-made fibre products, was concluded for the period 1 January 1986 to 31 December 1989. All categories were divided into three groups, each with applicable group limits. The number of restraints was greatly increased, with new restraints on twenty-one categories or merged categories, of which seven had previously been the subject of unilateral measures taken under Article 3:5. (See paragraphs 4.2 to 4.4 above)

5.56 The United States and Korea agreed to an extension and modification of their agreement. The agreement, which was scheduled to expire on 31 December 1987, was extended to 31 December 1989. The modified provisions of the agreement applied in full to the 1986 and 1987 agreement years, superseding the previous provisions for these years. The coverage was expanded to include silk blends and/or other vegetable fibres other than cotton. Four group limits were introduced. A restraint on one category was removed while new restraints were established on eight categories, of which six covered products of silk blends and other vegetable fibres.

5.57 The agreement with Macao was extended and modified. The agreement, which was scheduled to expire on 31 December 1988, was extended to 31 December 1991, with the modified provisions superseding in full the 1987 and 1988 agreement years. In this modified agreement, product coverage was extended to include vegetable fibres other than cotton, and silk blends. New restraints were agreed on three categories or merged categories, of which two included products of the new fibres, and in four cases restraints were extended to include the new fibres; new designated consultation levels were agreed for seven products.

5.58 Under a modification of the agreement with Mexico, valid until 31 December 1987, a number of revisions were made to the consultation levels for the 1986 agreement year or for the 1986 and 1987 agreement years. Revision was also made of a specific limit, and Category 666 was excluded from Group II. Under a further amendment for the 1987 agreement year the aggregate designated consultation level for Group II was removed and all categories falling within this Group were subject to designated or minimum consultation levels; for three categories increases in the consultation levels were contingent on the use of US-made fabric for the increased amounts. Consultation levels for several categories falling within Groups I and III were revised; some of these would serve as the basis for a new agreement that might be entered into by the parties. A designated consultation level was converted to a specific limit.

5.59 Under a modification of the agreement with Peru, scheduled to expire on 30 April 1989, a restraint was agreed on Category 338/339 (cotton knit shirts and blouses) with effect from 1 January 1987.

5.60 A bilateral agreement with the Philippines was concluded for the period 1 January 1987 to 31 December 1991, superseding the three-month extension of the previous agreement. In this agreement product coverage was extended to include apparel of other vegetable fibres and silk blends, and the distinction between the traditional (children's apparel) and non-traditional (adult apparel) categories ceased to apply. The aggregate limit in the previous agreement was replaced by two groups: Group I (all categories under specific limit) and Group II (all other categories) which was subject to a limit. Previous restraints on four categories and one part category were liberalized, and new restraints were agreed on one category, two merged categories and two part categories, resulting in thirty-four restraints.

5.61 Under an amendment of the agreement with Turkey (scheduled to expire on 30 June 1988), restraints were agreed on Categories 350 (cotton dressing gowns) and 605pt (man-made fibre hand-knitting yarn) as of 1 November 1986; two designated consultation levels were raised for the 1986/87 agreement year.

5.62 The agreement with Yugoslavia was extended for the period 1 January 1987 to 31 December 1989. The product coverage of the agreement was expanded. Restraints on three categories were introduced on 1 November 1986, and restraints were introduced on two merged categories with effect from 1 January 1987.

(ii) Changes in base levels and growth rates

Austria

5.63 Increases in base levels for the restrained categories in the agreement with Hong Kong were at 1 per cent for two categories, 2 per cent for one category and higher than 6 per cent for one category. Growth rates were raised to 1 per cent for two categories (previously 0.5 per cent) and maintained at 2 per cent for the other two categories.

5.64 In the agreement with India, the base level of the merged item (cotton and man-made fibre blouses) was 12.7 per cent above the sum of the 1986 restraint level for cotton blouses and the rollback level for man-made fibre blouses, and the annual growth rate was 3.5 per cent, resulting in a compounded growth rate of 6 per cent; the base level for cotton shirts was 30.7 per cent higher than the 1986 restraint level, and the annual growth rate 3.5 per cent, resulting in a compounded rate above 6 per cent. Annual growth rates were 0.5 per cent higher than in the old agreement.

5.65 Base levels for the categories already restrained in the agreement with Korea were between 1 and 4 per cent above the previous restraint level; the base level of the newly restrained category was 33 per cent above the rollback level. Annual growth rates, between 1.2 and 4 per cent, were the same as or slightly higher than in the previous agreement.

5.66 The increases in the base levels of the two products remaining under restraint in the agreement with Macao, were 10.2 and 1 per cent; growth rates at 2.5 and 1 per cent respectively were, compared to the previous agreement, higher in one case and lower in the other.

Canada

5.67 Increases in base levels over previous restraints on six clothing and textile items in the agreement with Pakistan were in all cases higher than 6 per cent. Growth rates, set between 6 and 8 per cent, remained unchanged. As in the previous agreement, additional access was available in all clothing categories as five children's and infants' garments would be counted as three quota units.

5.68 The increase in the base level for the one product under restraint in the agreement with Uruguay was higher than 6 per cent over the previous level; the growth rate at 6 per cent was higher than in the previous agreement.

EEC

5.69 In the agreement with Argentina, annual growth rates for the three categories under restraint varied between 1.7 and 6 per cent.

5.70 Increases in base levels in the agreement with Brazil were for Community limits lower than 6 per cent in three cases, 6 per cent in two cases and higher than 6 per cent in three cases; the increases in base levels for the five regional restraints could not be precisely calculated due to either the extended coverage in the context of categorization changes, or due to the conversion of a Community limit to two regional restraints. Annual growth rates, between 1 and 6 per cent, were in all cases higher than in the previous agreement, except in one case where it was unchanged at 6 per cent.

5.71 In the agreement with Czechoslovakia, base levels of Community restraints were increased over 1986 limits by less than 6 per cent in thirteen cases, by 6 per cent in two cases and by more than 6 per cent in five cases; they were lower than the 1986 levels in two cases and in thirteen cases the changes in base levels could not be calculated due to modifications in product coverage resulting from categorization changes. For the ten regional limits, the increases in base levels over 1986 limits were less than 6 per cent in three cases and more or substantially more than 6 per cent in six cases, while in one case the change could not be calculated due to the modification in product coverage of the category in question. Annual growth rates of Community restraints varied between 1 and 6 per cent, being in all but two cases below 6 per cent; they were, however, all higher than in the previous agreement, except in two cases, where the rates remained unchanged. For the regional limits, annual growth rates varied between 1.5 and 5.5 per cent, and were in all cases both below 6 per cent and higher than in the previous agreement.

5.72 In the agreement with Indonesia, increases in base levels for the three Community restraints and the four regional restraints were higher than 6 per cent over previous restraint levels. Annual growth rates at 6 per cent for the Community limits were higher in one case and marginally lower in two cases than in the previous agreement; at 4 or 5 per cent they were higher than in the previous agreement for regional restraints.

5.73 In the agreement with Korea, base levels of Community restraints were lower than the 1986 level in one case, marginally higher in two cases, higher by less than 6 per cent in seventeen cases, at 6 per cent in three cases and higher than 6 per cent in one case; in two cases base levels were adjusted to take account of classification changes in one EEC region; with respect to fifteen Community restraints the changes in base levels could not be calculated due to modifications in product coverage resulting from categorization changes. For the three regional restraints the increases in base levels were lower than 6 per cent in one case, at 6 per cent in one case and higher than 6 per cent in the remaining case. Growth rates for Community restraints on categories falling within Group I ranged between 0.1 and 1.25 per cent and remained unchanged from the rates in the previous agreement; for the other Community restraints the growth rates varied between 1.5 and 6.5 per cent and were in twelve cases higher than, and in the others unchanged from, rates in the previous agreement. Growth rates for regional restraints were at 3 per cent and 6 per cent.

5.74 Increases in base levels in the agreement with Malaysia, were less than 6 per cent in five cases and higher than 6 per cent in two cases. For two other categories there were increases, but these could not be precisely calculated due to the extended coverage in the context of the categorization changes. Annual growth rates between 3 and 6 per cent were in all cases higher than in the previous agreement.

5.75 In the agreement with the Philippines increases in base levels for Community restraints were lower than 6 per cent for five categories and higher than 6 per cent for three categories. For three other categories there were increases, but these could not be precisely calculated due to the extended coverage in the context of the categorization changes. For regional restraints, increases in base levels were higher or substantially higher than 6 per cent. Annual growth rates, between 3.5 and 6 per cent for Community limits, and between 6 and 8 per cent for regional limits, were in all cases higher than in the previous agreement.

5.76 In the agreement with Poland, increases in base levels of categories under restraint were in twenty cases lower than 6 per cent, in five cases higher than 6 per cent and in four cases substantially higher than 6 per cent, but in several instances these rates resulted from changes in the categorization system. Except for one category, annual growth rates varied between 1.5 and 6 per cent, and were in all cases higher than in the previous agreement; for the remaining category the rate at 13 per cent remained unchanged from the previous agreement.

5.77 In the agreement with Romania, base levels of Community restraints were increased over 1986 limits by less than 6 per cent in eleven cases, by 6 per cent in three cases, and by more than 6 per cent in two cases; in ten cases the changes in base levels could not be calculated due to modifications in product coverage resulting from categorization changes. For the eleven regional limits, the increases in base levels were lower than 6 per cent in two cases, higher than 6 per cent in four cases, substantially higher than 6 per cent in two cases and could not be calculated in three cases. Annual growth rates for Community restraints falling within Groups I and II were lower than 6 per cent in all but two cases, and were at 6 per cent for the six categories falling in Group III; for the regional restraints, growth rates were 5 per cent in five cases and 6 per cent in six cases. All these rates were higher than in the previous agreement, except in one case, where it was unchanged.

5.78 In the agreement with Singapore, increases in base levels of the seven categories under restraint were in some cases higher than 6 per cent. Annual growth rates, between 3 and 5 per cent, were in all cases higher than in the previous agreement.

5.79 In the agreement with Thailand, increases in base levels for Community restraints were lower than 6 per cent for two categories, 6 per cent for two categories, higher than 6 per cent for five categories and substantially higher than 6 per cent for one category. For four other categories there were increases, but these could not be precisely calculated due to the extended coverage in the context of the categorization changes. For regional limits, increases in base levels were higher than 6 per cent. Annual growth rates, between 3 and 7 per cent for Community limits, and at 6 or 7 per cent for regional restraints, were in all cases higher than in the previous agreement.

5.80 Additional access was available by counting five children's garments as three quota units up to 5 per cent of the relevant quantitative limit. This applied in the following agreements: Brazil for one category; Czechoslovakia for three categories; Indonesia for one category; Korea for one category (and up to 3 per cent of the limit for two categories); Malaysia for two categories; Philippines for three categories; Poland for four categories; Romania for two categories; Singapore for two categories.

Finland

5.81 In the agreement with Hong Kong base levels for the previously restrained categories were increased by 3.5 per cent, and annual growth rates at 2 per cent were the same as in the previous agreement; base levels and growth rates for two sub-limits were increased slightly. The base level of the category newly brought under restraint was higher than 6 per cent over previous trade, with annual growth at 2 per cent.

5.82 In the agreement with India, base levels were between 5 and 9 per cent above the restraint levels of the last year of the previous agreement; the annual growth rates, at 2.5 per cent in two cases and 3 per cent in the other, were between 0.5 and 1 per cent higher than previous growth rates.

5.83 Base levels in the agreement with Korea were 4 per cent over the last year of the previous agreement. Annual growth rates were 2.5 per cent, or 0.5 per cent above previous rates.

5.84 In the agreement with Macao, base levels for the previously restrained categories were increased by between 2 and 7.6 per cent over previous restraint levels; the base level for the newly restrained category was 2.2 per cent above the rollback level. Annual growth rates were 2 per cent in one case and 2.5 per cent in the others; for three categories previously restrained, the new growth rates were somewhat higher (between 0.5 and 1.5 per cent) than before. For the remaining category, the growth rate was unchanged.

5.85 Base level increases in the agreement with Romania were less than 6 per cent in two cases and 6 per cent in the other two; the growth rate, set at 2 per cent, remained unchanged for three categories and was slightly higher for the remaining category.

5.86 The base level of the product under restraint in the agreement with Thailand represented an increase of 9.6 per cent over the last year of the previous agreement. The annual growth rate was increased from 2 to 3 per cent.

5.87 The base level of the product under restraint in the agreement with Sri Lanka was increased by 5.6 per cent over the previous restraint level. Growth within the agreement was 4.9 per cent for the second agreement period and 2 per cent for the third and fourth agreement periods with a compounded growth of 4.8 per cent.

United States

5.88 The new restraints agreed under the two amendments of the agreement with Bangladesh, were set in all cases at levels substantially higher than the relevant rollback levels, with growth at 6 per cent.

5.89 Under an amendment of the agreement with Brazil, the level agreed for Category 314 was substantially higher than that previously established by the United States on Category 314/320pt, with growth for the last agreement period ending 31 March 1988, at 4.5 per cent.

5.90 The specific limits (three categories and one part-category) agreed in the amendment to the agreement with China, with effect from 1987, were much higher than the applicable formula levels. Growth rates for these limits were agreed for the future agreement between the parties.

5.91 In the agreement with Hong Kong, restraint levels for products of cotton, wool and man-made fibre in the superseded years were in nineteen cases higher than the superseded levels, and in three cases lower, reflecting the new growth rates agreed for those categories; restraint levels on products of silk blends and other vegetable fibres were set at agreed reference levels. Growth rates of products previously under restraint varied between 0.5 and 2.5 per cent. They were increased in nineteen cases and decreased in three cases. Those for the nine new restraints were between 0.1 and 2 per cent. Growth for the Group limits progressively increased from 0.5 per cent in the first agreement year to 2.5 per cent in the last agreement year giving a compounded growth rate of 1.6 per cent.

5.92 The one-year extension of the agreement with Hungary, which until then covered only certain wool products, was agreed with growth at 1 per cent. Under the amendment, the base levels for the newly restrained categories were more than 6 per cent above the reference levels, with growth for Category 645/646 for 1988 at 6 per cent, and no growth for the wool category.

5.93 In the agreement with India, increases in base levels were lower than 6 per cent in three cases and higher in all others, of which some were substantially higher than 6 per cent. Growth rates ranging between 4 and 7 per cent were higher than in the previous agreement in two cases, lower in one case and the same in the others; additional 5 per cent of the relevant limit was available in each agreement year for 100 per cent cotton garments made of handloom fabrics falling under four apparel categories or merged categories (335, 336/636, 342 and 347/348). Under the amendment of this agreement, the new restraints were set at levels higher than 6 per cent over their respective reference levels, with growth at 6 per cent.

5.94 Base levels for the specific limits agreed under the amendment of the agreement with Indonesia were set at levels higher and in some cases much higher than the reference levels, with growth at 6 per cent.

5.95 In the agreement with Japan, the base levels of the Group limits were 1 per cent higher than 1985 trade in one case, 7.3 per cent lower than 1985 trade in the second case and substantially higher than 1985 trade in the third case. Due to the shift from multi-year limits to annual limits in the new agreement, increases in base levels were not in all cases comparable; however, the increases in base levels from the reference levels were between lower than 6 per cent in eight cases, in other cases higher, and in some cases substantially higher than 6 per cent, except that there was no increase in one case and reductions in three cases. For two merged categories (Categories 300/301, 342/642) the 1986 levels included extra quantities to take account of Japan's export needs, thus resulting in lower specific limits for 1987 and in the growth rates for these categories to apply from the 1988 agreement year. Growth rates were set at 1 per cent for two Group limits and no growth for the third Group limit; for specific limits, growth rates were nil for one category, 1 per cent for the wool categories and for two man-made fibre categories, 1.5 per cent for two categories and 2 or 3 per cent in the other cases.

5.96 In the agreement with Korea, the 1986 levels for previously restrained categories were generally at the superseded levels; however, in two cases the levels were modified to take account of shifts in product coverage between these two categories, in three cases the levels were higher and in one case lower than the superseded levels. New restraints on a cotton category and a mmf category were more than 6 per cent over the rollback level. The base levels on products of silk blends and other vegetable fibres were based on agreed negotiated trade reference levels. Base levels for the group limits were set taking into account the trade levels for 1985. Growth rates for the group limits increased progressively over the agreement period but were in all cases much lower than 6 per cent; growth rates of the previously restrained categories remained unchanged except in two cases where the growth rates were higher and two in which they were lower. Growth rates of the new categories brought under restraint were set at less than 6 per cent.

5.97 Under the extension and modification of the agreement with Macao, the 1987 levels for the aggregate and Group I (covering all categories except wool) limits were 4.9 and 4.1 per cent higher than the sum of the previous 1987 levels and 1986 imports of products of other vegetable fibres and silk blends. Base levels of the three new restraints were higher than the reference levels by more than 6 per cent in one case and by substantially more than 6 per cent in two cases; in the other cases increases in base levels could not be calculated. Growth rates in all cases, including those categories already under restraint, continued to apply at 6.25 per cent for non-wool categories and 1 per cent for wool categories, except in one case (Category 845/846) where the growth rate was 0.5 per cent.

5.98 The base level for the new specific limit introduced for 1987 in the agreement with Mexico was set at a higher level than the previous designated consultation level for the category.

5.99 The base level of the new restraint agreed under the agreement with Peru was substantially higher than the rollback level, with growth at 7 per cent.

5.100 The structure of the agreement with the Philippines was modified. The aggregate limit in the previous agreement was replaced by Group I containing all categories under specific limit and Group II (all other categories) with a limit, resulting in total access for the first agreement year to be more than 6 per cent above the aggregate limit of the last agreement year of the previous agreement plus 1986 trade on apparel of vegetable fibres other than cotton and silk blends. Base levels for restrained categories were in six cases reduced, with substantial reductions in four cases; unchanged in five cases; increased by more than 6 per cent in twenty cases, with substantial increases in a number of cases; in three cases it was not possible to calculate the changes in base levels. Annual growth rates were set at 9 per cent for Group II, 1 per cent for the wool categories, and between 4 and 6 per cent for the other categories (except in one case where it was 2 per cent). These growth rates were lower than in the previous agreement in four cases; in the other cases they were the same or higher.

5.101 Base levels of the two specific limits agreed under an amendment of the agreement with Turkey were substantially higher than 6 per cent over the rollback levels with annual growth at 6 per cent.

5.102 Under the extension and modification of the agreement with Yugoslavia, increases in base levels for the five new restraints were lower than 6 per cent in one case, higher than 6 per cent in one case and substantially higher than 6 per cent in three cases. For the previously restrained categories, annual growth rates were unchanged from the previous agreement period, except that for one category it was lowered from 6.25 to 6 per cent; growth rates for the newly restrained categories were 1 per cent (wool) and 6 per cent (cotton or man-made fibre), resulting in compounded growth below 6 per cent in two cases and above 6 per cent in the others.

(iii) Flexibility provisions

Austria

5.103 In all four agreements concluded by Austria, swing was available at 5 per cent. Carryover/carry forward was available at 10/5 per cent for Korea, 10/6 per cent for India and 11/6 per cent for Hong Kong and Macao. The provisions remained unchanged from those available in the previous agreements except that (a) in the case of Korea the swing provision was higher and the carryover/carry forward provision lower than before; and (b) in the cases of Hong Kong and Macao the carryover/carry forward provision was more favourable than before.

Canada

5.104 Swing at 7 per cent was available in the agreement with Pakistan, with no swing between clothing and textile categories. Carryover/carry forward remained unchanged at 11/6 (Pakistan) and 10/5 (Uruguay). The cumulative use of flexibility at 16 per cent was lower than in the previous agreement with Pakistan.

EEC

5.105 Swing into Category 1 was generally not available in the agreements concluded by the EEC. Exceptions to this were the following: swing from Categories 2 and 3 into Category 1 was possible up to 4 per cent for Argentina and up to 2 per cent for Brazil and Czechoslovakia. For all other categories, swing, while subject to limitations, was set at (a) 7 per cent in the agreements with Argentina, Brazil, Indonesia, Malaysia, the Philippines, Singapore and Thailand; (b) at 4 or 5 per cent in the agreements with Czechoslovakia, Korea, Poland and Romania. Except for Korea, carryover was available at 7 per cent and carry forward at 5 per cent. For Korea, carryover was available between 2 and 7 per cent and carry forward between 1 and 5 per cent. Cumulative use of flexibility was set at 17 per cent for all countries listed in (a) above; for Czechoslovakia, Poland and Romania at 13 per cent for Group I categories and 13.5 per cent for other categories; for Korea it was set at 12 per cent. The swing and carryover provisions, as well as the cumulative use of flexibility, were in all cases more favourable than in the previous agreements. In addition to the above provisions, possibilities were available for transfer of up to 10 per cent of regional shares of Community limits among ASEAN countries. For other transfer provisions see paragraph 5.148 below.

5.106 In the agreements with Bangladesh and Uruguay, which at present have no restraints, provision was made for flexibility possibilities in the event restraints were introduced, at levels higher than in the previous agreements.

Finland

5.107 In all agreements concluded by Finland, swing, where relevant, was available at 5 per cent. For Hong Kong and Macao, it was more favourable than previously, while for India, Korea and Romania it remained unchanged. The carryover/carry forward provisions, at 10/5 per cent for Korea, Macao, Thailand and Sri Lanka, and at 11/6 per cent for Hong Kong, India and Romania, were in all cases the same as before.

United States

5.108 In the modifications and extensions of agreements concluded by the United States, swing was built-in the limit for one merged category (Hungary), available for new restraints at 5 per cent (China, Hungary, Mexico, Yugoslavia), at 6 per cent (Bangladesh, Brazil and Yugoslavia) and at 7 per cent (Indonesia, Macao, Peru and Turkey).

5.109 In the case of new agreements, or modified provisions which superseded in whole previous agreements, swing for Group limits was set at 1 per cent with additional swing at 1 per cent for the 1986 agreement year (between two Groups for Hong Kong and between four Groups for Korea), 2 per cent for the 1986 agreement and subsequently 1 per cent, with no swing for one Group limit in the case of Japan. No swing for new specific limits was available for two categories in the case of Hong Kong, for four limits in the case of Japan and for two limits in the case of Korea; for the other limits it was available at 5 per cent for Japan, at 5 or 7 per cent for Hong Kong and 7 per cent for Korea. Swing for the previously restrained categories remaining unchanged in the agreements with Hong Kong and Korea. For the other agreements, swing was available at 7 per cent (India and Philippines), except that in the case of India it was 5 per cent for one limit and 6 per cent for two limits.

5.110 In addition to the swing provisions listed above, special swing at 10 or 20 per cent was available in certain cases. These concerned certain limits in the modifications of the agreements with Bangladesh, Brazil, China and Mexico, and the agreements with India, Korea and the Philippines.

5.111 Carryover/carry forward provisions of agreements applied in the case of all modifications. These were at 11/6 per cent (Bangladesh, Brazil, Hungary, Indonesia, Macao, Turkey and Yugoslavia) and 11/7 per cent (Peru).

5.112 In the new agreements with Hong Kong, Japan and Korea, carryover/carry forward were available at 3 per cent for the Group limits and 2 per cent for the specific limits of which carryover may not exceed 1 per cent, except for one limit (Hong Kong) carry forward was maintained at 7.15 per cent and for two limits (Korea) carry forward was limited to 1 per cent. In the agreements with India and the Philippines, carryover/carry forward were set at 11/6 per cent, except that in the agreement with India carryover/carry forward for the Group II limit were available at 5 plus 5 per cent and carryover for one specific limit was set at 5 per cent. The carryover/carry forward provisions were more favourable to the Philippines than before.

(iv) Notifications received but not as yet reviewed by the TSB

5.113 The TSB has received but not as yet reviewed some notifications made under Article 4. These concern the following participants:

Canada: Indonesia, Korea

United States: Brazil, China, Jamaica, Malaysia, Romania, Sri Lanka

Section II: Observations by the TSB

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

A. Unilateral measures and other matters referred to the TSB

(i) Unilateral measures taken under Article 3:5

United States/Bangladesh

5.115 As requested by Bangladesh, the TSB had agreed in July 1987 to defer its review of the measures taken by the United States on certain imports from Bangladesh in view of oncoming bilateral consultations. (See paragraphs 5.4 and 5.5 above)

5.116 The TSB was informed that an agreed solution had been found with respect to Category 645/646; at the same time, Bangladesh requested a new deferral of the review of the measure on Category 338/339, and the TSB agreed to this request. Later it was informed that an agreed solution had also been found with respect to this merged Category. The agreed solutions will be notified to the TSB in due course. (COM.TEX/SB/1294, 1299, 1312 and 1314)

United States/China

5.117 The TSB had decided at its meeting of 8-10 July 1987 to review under Article 3:5 measures notified by the United States with respect to certain imports from China. In view of bilateral consultations scheduled later in the month, China had requested the TSB to defer its examination of these measures to September. The TSB had asked both parties to report on the results of their consultations and had decided that, if necessary, it would review the case in September. (See paragraphs 5.7 and 5.8 above).

5.118 In September 1987 the TSB was informed that agreed solutions had been found with respect to these measures and that these will be notified to the TSB in due course. (COM.TEX/SB/1299, 1306 and 1312)

(ii) Extension of restraint under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension

United States/Pakistan

5.119 With respect to the notification under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension from the United States concerning certain imports from Pakistan, the TSB had agreed to defer its examination due to bilateral consultations scheduled in July. (See paragraph 5.10 above)

5.120 In September 1987 the TSB was informed that an agreed solution had been found by the parties and would be notified in due course.
(COM.TEX/SB/1285 and 1312)

United States/China

5.121 With respect to the notification under Article 3:8 and paragraph 8 of the 1986 Protocol of Extension from the United States concerning certain imports from China (see paragraph 5.12), the TSB noted that the unilateral measure had first been taken by the United States when China was not participating in the MFA. It agreed to invite both parties to its meeting scheduled for 13-15 October to present their respective cases.
(COM.TEX/SB/1312)

(iii) Matters referred under Article 11:4 and 11:5

Brazil/United States

5.122 Brazil had referred certain measures taken by the United States under paragraph 8 of the United States/Brazil agreement (see paragraph 5.15 above).

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

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

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

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

5.127 For reports from parties following the TSB's recommendations. see paragraphs 5.16 and 5.49.

B. Notifications under Article 4

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

(i) Notifications transmitted without any specific observations

5.129 Certain notifications were transmitted without any specific observation. These concerned the following bilateral agreements Canada/Pakistan (COM.TEX/SB/1312), Finland/Romania (COM.TEX/SB/1312) and United States/Hong Kong (COM.TEX/SB/1190), extensions of the United States/Hungary and United States/Philippines agreements (COM.TEX/SB/1201 and 1256); and modifications of the United States agreements with Bangladesh, China, Indonesia, Mexico, Peru and Turkey (COM.TEX/SB/1231, 1241, 1285, 1294 and 1299).

(ii) Overall access

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

(iii) Base levels

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

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

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

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

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

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

(iv) Growth and flexibility provisions

(a) Paragraphs 2 and 5 of Annex B

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

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

5.139 In this context, the TSB heard a statement from the EEC that, while growth rates in the agreements concluded under the 1986 Protocol were in almost all cases higher than in the agreements concluded under the 1981 Protocol, there were cases in which the parties agreed to rates lower than 6 per cent pursuant to paragraph 2 of Annex B. In a number of cases, such lower rates had been compensated by increases in the base levels and other features of the agreements.

5.140 The TSB took note of this statement and reiterated that it would review each agreement on a case-by-case basis. (COM.TEX/SB/1272)

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

5.142 The above observations relating to growth rates, and carryover/carry forward provisions between the old and new agreements applied to all EEC agreements containing restraints and reviewed by the Body during the period covered by this report, except that the carryover/carry forward provision did not apply to the agreement with Argentina, as there was no agreement between the parties under the 1981 Protocol.

5.143 With respect to the two EEC agreements containing no restraints (with Bangladesh and Uruguay), the TSB noted that in the event restraints were introduced, the applicable flexibility provisions would be higher than in the previous agreement. (COM.TEX/SB/1294)

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

(b) Paragraph 10 of the 1986 Protocol of Extension

5.145 With respect to the EEC/Korea agreement, the TSB heard a statement from the EEC that the low, and in some cases very low, growth rates applied to a number of restraints, and the low carryover and carry forward provisions had been agreed pursuant to paragraph 10 of the 1986 Protocol of Extension (COM.TEX/SB/1294). With respect to the growth and flexibility in the United States/Japan agreement, the TSB took note of a statement by the United States that these had been agreed taking into account paragraph 10 of the 1986 Protocol of Extension (COM.TEX/SB/1276). The United States made a similar statement on its agreement with Korea. (COM.TEX/SB/1272)

(c) Paragraph 12 of the 1986 Protocol of Extension

5.146 In reviewing the agreements concluded by Finland with Hong Kong, India, Korea, Macao, Sri Lanka and Thailand, the TSB gave particular attention to paragraph 12 of the 1986 Protocol of Extension, and noted a statement by Finland in which it reiterated the commitments made in the Textiles Committee on 31 July 1986.

5.147 In this context, the TSB decided that it would give the same particular attention to that paragraph in reviewing all notifications made by participating countries availing themselves of its provisions. (COM.TEX/SB/1256)

(d) Other

5.148 The TSB noted that the agreements notified by the EEC provided under certain conditions for the automatic transfer of unused regional quota-shares of Community limits to other regions, up to annually increasing percentages of the quota-shares to which the transfer is made. This provided for better flexibility than in previous agreements. (COM.TEX/SB/1272)

(v) Paragraph 24 of the 1986 Protocol of Extension and product coverage

5.149 During its review of the United States/Korea agreement, the TSB heard statements from the United States and Korea that the restrictions on Categories in Groups III, IV and VI were negotiated due to substantially increased imports of such products which were directly competitive with products made of fibres specified in Article 12 of the Arrangement. The TSB noted that paragraph 24 of the Protocol of Extension had been taken into consideration by the parties, and reviewed those restrictions under the terms of that paragraph. It also heard statements from both parties that though the levels set in the agreement for the products of silk blends and other vegetable fibres were agreed for the 1986 agreement year they were applied at pro rata levels from 1 September 1986 (COM.TEX/SB/1272). During its review of the United States/Macao agreement, the TSB noted that in all cases where restraints included new fibres, there had been previous imports from Macao of products of these fibres. (COM.TEX/SB/1306)

(vi) Consultation provisions

(a) Introduction of restraints

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

5.151 The TSB would continue to review any new restraints introduced under these provisions as modifications of the bilateral agreements on a case-by-case basis. (COM.TEX/SB/1272)

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

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

(b) Circumvention

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

5.155 The TSB emphasized the importance to be attached to cooperation between all parties concerned to establish the relevant facts.

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

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

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

(c) Price clause

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

(vii) Paragraph 13 of the 1986 Protocol of Extension

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

(viii) Paragraph 14 of the 1986 Protocol of Extension

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

(ix) The Harmonized System and textile categorization

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

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

5.164 In reviewing the extension of the United States/Yugoslavia agreement, the TSB noted that it contained provisions concerning possible changes in the United States textile category system resulting from the adoption of the Harmonized Community Code by the United States. Under these provisions, adjustments could be made to the Annexes of the agreement (dealing with product coverage and restraint levels). In this context, the TSB noted that "the intent of this conversion on the part of the United States Government will not be to diminish or alter overall trade in textiles with Yugoslavia". (COM.TEX/SB/1265)

(x) Outward Processing Traffic (OPT)¹

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

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

5.167 During its review of an amendment of the United States/Mexico agreement, the TSB noted that the parties had agreed that should a new agreement be entered into, it should take into consideration Article 6:6 of the Arrangement and paragraph 15 of the 1986 Protocol of Extension. (COM.TEX/SB/1314)

(xi) Wool sector

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

(xii) Other

Ambiguities in provisions

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

¹ See paragraph 3.13 above for TSB's general observation relating to Article 6:6 and paragraph 15 of the 1986 Protocol.

Bilateral agreements/modifications/actions
under the 1986 Protocol reviewed by the TSB

<u>Importing Country</u>	<u>Exporting Country</u>	<u>Validity</u>	<u>COM.TEX/SB/-</u>
<u>Notification under Article 3:5</u>			
<u>UNITED STATES</u>	Bangladesh	30.10.86-29.10.87 ¹ 28.2.87-27.2.88 ¹	1294, 1299, 1312, 1314
<u>Notification of unilateral measures</u>			
<u>UNITED STATES</u>	China ²	30.9.86-29.9.87 ¹ 31.12.86-30.12.87 ¹	1299, 1306, 1312
<u>Notification under Article 3:8 and paragraph 8 of the 1986 Protocol</u>			
<u>UNITED STATES</u>	Pakistan	27.4.87-26.4.88	1285, 1312
<u>Measures referred under Article 11:4, 11:5</u>			
<u>UNITED STATES</u>	Brazil	28.8.86-31.3.87	1184, 1226 1231
	India	27.3.86-31.12.86 31.7.86-31.12.86	1241
<u>Notifications under Article 4</u>			
<u>AUSTRIA</u>	Hong Kong	(N) 1.2.87-31.1.90	1274
	India	(N) 1.1.87-31.12.91	1262
	Korea	(N) 1.1.87-31.12.91	1261
	Macao	(N) 1.1.87-31.12.90	1260
<u>CANADA</u>	Pakistan	(N) 1.1.87-31.12.91	1307
	Uruguay	(N) 1.1.87-31.12.91	1308
<u>EEC</u>	Argentina	(N) 1.1.87-31.12.91	1268
	Bangladesh	(N) 1.1.87-31.12.91	1291
	Brazil	(N) 1.1.87-31.12.91	1287
	Czechoslovakia	(N) 1.1.87-31.12.91	1303
	Indonesia	(N) 1.1.87-31.12.91	1290
	Korea	(N) 1.1.87-31.12.91	1286
	Malaysia	(N) 1.1.87-31.12.91	1289
	Philippines	(N) 1.1.87-31.12.91	1279
	Poland	(N) 1.1.87-31.12.91	1269
	Romania	(N) 1.1.87-31.12.91	1302
	Singapore	(N) 1.1.87-31.12.91	1270
	Thailand	(N + M) 1.1.87-31.12.91	1277, 1278
	Uruguay	(N) 1.1.87-31.12.91	1288

¹Agreed solutions found after bilateral consultations.

²Decision by the TSB to review the measures under Article 3:5.

<u>Importing Country</u>	<u>Exporting Country</u>		<u>Validity</u>	<u>COM.TEX/SB/-</u>
<u>FINLAND</u>	Hong Kong	(N)	1.1.87-31.12.91	1246
	India	(N)	1.1.87-31.12.91	1245
	Korea	(N)	1.1.87-31.12.91	1243
	Macao	(N)	1.1.87-31.12.91	1242
	Romania	(N)	1.1.87-31.12.90	1309
	Thailand	(N)	1.1.87-31.12.90	1244
	Sri Lanka	(N)	1.6.86-31.12.90	1233
<u>UNITED STATES</u>	Bangladesh	(M)	1.8.86-31.1.89	1232, 1280
	Brazil	(M)	28.8.86-31.3.88	1281
	China	(M)	1.1.87-31.12.88	1295
	Hong Kong	(E + M)	1.1.86-31.12.91	1186
	Hungary	(E + M)	1.1.87-31.12.87	1194, 1301
	India	(N + M)	1.1.87-31.12.91	1275, 1283
	Indonesia	(M)	1.1.87-30.6.88	1296
	Japan	(N)	1.1.86-31.12.89	1273
	Korea	(E + M)	1.1.86-31.12.89	1267
	Macao	(E + M)	1.1.87-31.12.91	1300
	Mexico	(E + M)	31.12.85-31.12.87	1230, 1313
	Peru	(M)	1.1.87-30.4.89	1292
	Philippines	(N)	1.1.87-31.12.91	1304
	Turkey	(M)	1.11.86-30.6.88	1282
Yugoslavia	(M + E)	1.11.86-31.12.89	1259	

N : New agreement
M : Modification of agreement
E : Extension of agreement

Chapter 6: Status of restrictions

6.1 In order to fulfil its obligations under Article 11, the TSB at its meeting on 18-19 March 1987, decided to invite all participating countries to provide information under Article 11, paragraphs 11, 12 and 2, on the status of restrictions maintained by them on textile products covered by the Arrangement (COM.TEX/SB/1265). In the invitation for information sent to all participants, the TSB thought it useful to recall paragraph 24 of the 1986 Protocol of Extension.

6.2 Information required from participants includes unilateral restrictions, bilateral agreements and other measures which have a restrictive effect, be they effected under the MFA or outside its provisions. Restrictions justified under the provisions of the GATT (including its Annexes and Protocols) should also be included.

6.3 Reports from participants, non-contracting parties, also fulfil their obligations under Article 2:4. Under the procedures outlined by the TSB (COM.TEX/SB/27), participants which are not contracting parties are required to submit information along the lines required by GATT from contracting parties for justification of their restrictions, if such restrictions are not effected under the MFA; they are required to report annually on the evolution of restrictions maintained by them.

6.4 The information received has been divided into three sections: Section A contains information from participants which are contracting parties; Section B concerns the TSB's review of a report received pursuant to Article 11 and Article 2:4; Section C contains information received from participating countries, and transmitted to the Textiles Committee under Articles 7 and 8.

A. Notifications under Article 11

6.5 By 30 September 1987, the TSB had received replies from twenty participants: Austria, Brazil, Canada, Czechoslovakia, the EEC, Finland, Hong Kong, Hungary, India, Japan, Norway, Peru, Singapore, Sweden, Switzerland, Thailand, Turkey, the United States, Uruguay and Yugoslavia.

6.6 No replies were received from Argentina, Bangladesh, Colombia, Egypt, Indonesia, Jamaica, Korea, Macao, Malaysia, Mexico, Pakistan, the Philippines, Poland, Romania, and Sri Lanka. During the period covered by this report, the TSB did review a report from Mexico received in reply to the request for information made in 1985. (See paragraph 6.14 below)

6.7 Three participants notified they continued to maintain no restrictions on imports of textile products: Hong Kong, Singapore and Uruguay. One participant (Hungary) reported no change from its previous notifications of the elimination of all bilateral quotas on textile products in its long-term trade agreements with Norway and Sweden; this means that Hungary does not now maintain any quantitative restrictions on imports of MFA textiles.

6.8 Two participants (Japan and Switzerland) notified they had not introduced or applied any quantitative measures having a restrictive effect on textile products covered by the Arrangement. Switzerland, however, notified that automatic licences were required for certain textile products.

6.9 The TSB requested further clarification on Switzerland's régime for textile imports, in particular with respect to imports of some textile items from certain participants for which licences were granted only subject to certain minimum price requirements.

6.10 The TSB was of the opinion that in the event of application of the above-mentioned provision, due consideration should be given to the fact that it may have the effect of nullifying the objectives of the Arrangement in terms of Article 9:1, and every effort should be made to ensure that such application would be in conformity with the MFA.

6.11 Czechoslovakia notified it does not maintain any unilateral restrictions on imports of textile products covered by the MFA. The TSB requested clarifications from Czechoslovakia which had not been received by the closing date of this report.

6.12 Five participants notified restrictions maintained for balance-of-payments reasons: Brazil, India, Peru, Turkey and Yugoslavia. Brazil has notified to the Balance-of-Payments Committee of GATT (L/6126) the suspension of import licences for all textile products covered by the MFA, except certain man-made fibre yarns, certain industrial textiles and sails. Imports into India of certain textile products (mostly man-made fibres and yarns) are possible through designated agencies or by actual manufacturers for their own production needs under the General Open Licence system; cotton and wool yarns, fabrics, carpets, tapestries, terry towelling, knitted and crocheted goods, articles of apparel and clothing accessories, rugs, household linen and furnishings are subject to licensing and may be imported for export production. Peru has notified all restrictions since August 1985; imports of all products are either subject to prior licensing or are prohibited; with respect to certain fabrics, prior licensing has replaced prohibition of imports. In the case of Turkey, imports of certain silk and man-made fibre fabrics, woollen and worsted yarns, carpets, tapestries, used clothing and furnishing articles are subject to prior authorization. Yugoslavia has notified restrictions which have been effective since 1 January 1986. The system of quantitative restriction by volume or value continues to apply to most products covered by the MFA. Previous restrictions on certain man-made fibres and yarns have been removed, and certain wool yarns, net fabrics and a clothing item previously subject to quotas may now be imported subject to the availability of foreign exchange ("conditional liberalized imports"). A number of products (including certain yarns, fabrics and clothing items) which were not subject to any restrictions may now be imported subject to the availability of foreign exchange. The reports of the Balance-of-Payments Committee on the last consultations with Brazil, India, Peru, Turkey and Yugoslavia are contained in BOP/R/157, BOP/R/163, BOP/R/161, BOP/R/166 and BOP/R/163, respectively. Brazil, India and Peru are scheduled to hold full consultations in the last quarter of 1987, and Turkey and Yugoslavia in 1988.

6.13 Natural fibre bags and piece goods containing 50 per cent or more of silk are subject to import licensing in Thailand. These measures apply since March 1962 in order to protect local production.

6.14 In its previous report to the Textiles Committee, the TSB had reported that it did not complete its review of the report by Mexico, awaiting the completion of Mexico's negotiations leading to its accession to GATT (COM.TEX/SB/1181, paragraph 1.62). The notification by Mexico had listed the products subject to the prior permit system. Following its accession to the GATT, Mexico sent a further communication to the TSB, in which it made particular reference to its engagement as a Contracting Party that "in conformity with its policy of gradual substitution of tariff protection for prior permits, Mexico will continue to eliminate prior import permits to the fullest extent possible. Residual quantitative restrictions and import permit requirements will be notified and justified in accordance with relevant provisions of the General Agreement ..." (L/6010). The TSB understood that the notification and justification referred in the section on Mexico's policy on import licences in the Report of the Working Party on the Accession of Mexico to the GATT (L/6010) would be reviewed in the competent GATT bodies. (COM.TEX/SB/1190)

6.15 With respect to importing countries which maintain restraints, Austria and Finland have notified all bilateral agreements concluded by them under MFA IV. (For details see Chapter 5 of this report) They do not maintain any restrictions outside the MFA. Canada and Norway have notified the countries (participants and non-participants), with which they have concluded bilateral agreements. Apart from the agreements already reviewed by the TSB (see Chapter 5 for details), Canada has concluded agreements with the following participants: Bangladesh, Brazil, China, Czechoslovakia, Hong Kong, India, Indonesia, Korea, Macao, Malaysia, the Philippines, Poland, Romania, Singapore, Sri Lanka, Thailand and Turkey. Besides those cases mentioned in Section C below, Canada has concluded an agreement with a further non-participant, namely Bulgaria. Norway has concluded new agreements with Czechoslovakia, Hong Kong, Hungary, India, the Philippines and Thailand, which will be notified to the TSB. Its agreement with China was notified when China was not a participating country (see Section C below); agreements were also concluded with two non-participants (German Democratic Republic and Malta). In addition to the bilateral agreements which had been concluded under MFA III, Sweden has notified restrictions maintained on imports from four non-participants (Albania, North Korea, Vietnam and the Soviet Union), and bilaterally agreed quotas with two non-participants (Bulgaria and German Democratic Republic) and four participating countries (China, Czechoslovakia, Hungary and Poland). The TSB has requested further clarifications regarding the quotas agreed with these four participating countries.

6.16 The EEC in its notification has listed the bilateral agreements concluded by it. In addition to those already reviewed by the TSB (see Chapter 5), the EEC has concluded agreements in de facto application and pending notification with Hong Kong, Hungary, India, Macao, Pakistan, Peru, Sri Lanka and Yugoslavia, and consultation agreements with Colombia, Guatemala, Haiti and Mexico, as well as an agreement with Bulgaria, a non-participant. The EEC has also stated that restrictions are maintained by some member States in respect of imports from other countries, among which are Albania, German Democratic Republic, USSR, North Korea and Vietnam. These shall be notified in due course. The United States has listed the restrictions maintained by it on 31 July 1987. In addition to the agreements already reviewed by the TSB, and unilateral measures notified (see Chapters 4 and 5), the following agreements are pending notification: with Colombia, Egypt, Indonesia, Pakistan, Uruguay and Yugoslavia, as well as agreements with two non-participants (Burma and Panama).

B. Notification under Article 2:4

6.17 The TSB received a notification from China on the status of restrictions maintained by it, and on the evolution of its textile industry. This report was made by China, as a non-contracting party, under Article 2:4. The previous report by China had been made in June 1985.

6.18 The TSB started the review of this report in its meeting of 28-29 September 1987, but did not conclude it.

C. Notifications under Articles 7 and 8

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

(i) Notifications concerning participants

6.20 Under Article 4 of the MFA, several notifications concerning participants in MFA III were made after the entry into force of the 1986 Protocol, at a time when those participants had not accepted it. The TSB, therefore, decided to take note of these notifications and agreed to transmit them to the Textiles Committee under Articles 7 and 8, for the information of participating countries (all exporting countries mentioned have since signed the 1986 Protocol, except Guatemala, Haiti and Maldives). These notifications are listed below:

Austria

- (a) A bilateral agreement was concluded with Egypt for the period 1 January 1987 to 31 December 1988. It succeeded the previous agreement concluded under Article 3:4, and covered one product (cotton yarn).

Canada

- (b) A bilateral agreement was concluded with Maldives for the period 1 January 1986 to 31 December 1990, covering several clothing product groups. Until the last day of this report, Maldives had not accepted the 1986 Protocol. The agreement with Pakistan was amended by the establishment of an agreed restraint on exports of underwear from Pakistan for the period 1 December 1985 to 31 December 1986.

EEC

- (c) The EEC concluded Additional Protocols to its bilateral agreements with China, Czechoslovakia, Egypt, Guatemala, Haiti, Macao, Pakistan, the Philippines, Poland, Romania, and Yugoslavia, consequent to the accession of Spain and Portugal to the EEC as of 1 January 1986. These Additional Protocols were concluded for the 1986 agreement year, except in the case of China where the validity ends on 31 December 1988.

Finland

- (d) Finland concluded an agreement with Pakistan covering undershirts and bedlinen for the period 1 July 1986 to 30 June 1991.

Norway

- (e) Norway concluded a bilateral agreement with China for the period 1 January 1986 to 31 December 1988, which replaced the previous restrictions notified by Norway under Article 2:1.

United States

- (f) The United States concluded a bilateral agreement with Jamaica for the period 1 September 1986 to 31 December 1989. This agreement, which superseded the previous consultation agreement between the parties, contained guaranteed access levels and designated consultation levels for certain products. The bilateral agreement with Maldives covering merged Category 445/446 was extended by a three-year period, until 28 September 1988.

6.21 In addition to the agreements and measures listed above, the TSB also received a notification from Austria under Articles 7 and 8 that its agreement with Singapore, which lapsed on 31 December 1986, had been replaced by an export authorization system effective 1 January 1987, for woven blouses of cotton or of man-made fibres.

(ii) Notifications concerning non-participants

6.22 Several agreements and actions were notified under Articles 7 and/or 8 which concerned non-participants in MFA IV; China, however, later accepted the 1986 Protocol. The notifications were the following:

Canada

- (a) Canada notified new agreements concluded with Mauritius, for the period 1 January 1986 to 31 December 1990, and Vietnam, for the period 22 July 1986 to 31 December 1991. It also notified the unilateral application of import controls on clothing items from North Korea for the twelve-month period beginning 23 August 1986; under an amendment the restraint period was extended to 31 December 1991.

EEC

- (b) The EEC notified the conclusion of an additional Protocol to its agreement with Bulgaria, consequent to the accession of Spain and Portugal to the EEC as of 1 January 1986.

Finland

- (c) Finland notified a bilateral agreement concluded with China for the period 1 January 1987 to 31 December 1990.

Norway

- (d) Norway notified a memorandum concerning imports from the German Democratic Republic for the period 1 January 1987 to 31 December 1987, and a bilateral agreement with Malta for the period 1 January 1986 to 31 December 1988.

United States

- (e) The United States notified agreements concluded with: Bulgaria, for the period 1 May 1986 to 30 April 1989; the Dominican Republic, granting special access to two categories from 1 December 1986 until 31 May 1988; the two countries also amended their restraint agreement valid for the period 1 June 1983 to 31 May 1988, removing restraints on the same two categories; El Salvador, for the period 1 January 1987 to 31 December 1989; the German Democratic Republic, for the period 1 January 1987 to 31 December 1989; Haiti, for the period 1 January 1987 to 31 December 1989; and Trinidad and Tobago from 1 October 1986 until 31 December 1989. The United States also notified modifications in its agreements with China and Mauritius.

Notifications received or transmitted
under Articles 7 and 8

<u>Importing Country</u>	<u>Exporting Country</u>		<u>Validity</u>	<u>COM.TEX/SB/-</u>
<u>AUSTRIA</u>	Egypt ¹	(N)	1.1.87-31.12.88	1263
	Singapore	(N)	1.1.87- (export auth.)	1264
<u>CANADA</u>	Maldives	(N)	1.1.86-31.12.90	1234
	Mauritius	(N)	1.1.86-31.12.90	1188
	North Korea	(N)	23.8.86-31.12.91	1189, 1271
	Pakistan ¹	(M)	1.12.85-31.12.86	1235
	Vietnam	(N)	22.7.86-31.12.91	1240
<u>EEC</u>	Bulgaria	(AP)	1.1.86-31.12.86	1224
	China ¹	(AP)	1.1.86-31.12.88	1214
	Czechoslovakia ¹	(AP)	1.1.86-31.12.86	1215
	Egypt ¹	(AP)	1.1.86-31.12.86	1216
	Guatemala	(AP)	1.1.86-31.12.86	1217
	Haiti ¹	(AP)	1.1.86-31.12.86	1218
	Macao ¹	(AP)	1.1.86-31.12.86	1219
	Pakistan ¹	(AP)	1.1.86-31.12.86	1220
	Philippines ¹	(AP)	1.1.86-31.12.86	1221
	Poland ¹	(AP)	1.1.86-31.12.86	1222
	Romania ¹	(AP)	1.1.86-31.12.86	1223
Yugoslavia ¹	(AP)	1.1.86-31.12.86	1225	
<u>FINLAND</u>	China ¹	(N)	1.1.87-31.12.90	1251
	Pakistan ¹	(N)	1.7.86-30.6.91	1238
<u>NORWAY</u>	China ¹	(N)	1.1.86-31.12.88	1250
	German Dem. Rep.	(N)	1.1.87-31.12.87	1310
	Malta	(N)	1.1.86-31.12.88	1311
<u>UNITED STATES</u>	Bulgaria	(N)	1.5.86-30.4.89	1284
	China ¹	(M)	1.1.86-31.12.87	1252
	Dominican Republic	(N)	1.12.86-31.5.88	1297
		(M)	1.12.86-31.5.88	1298
	El Salvador	(N)	1.1.87-31.12.89	1293
	German Dem. Rep.	(N)	1.1.87-31.12.89	1305
	Haiti	(N)	1.1.87-31.12.89	1254
	Jamaica ¹	(N)	1.9.86-31.12.89	1236
	Maldives	(E)	29.9.85-28.9.88	1237
	Mauritius	(M)	1.4.86-30.9.90	1239
	Trinidad and Tobago	(N)	1.10.86-31.12.89	1253

N: New agreement
E: Extension of agreement
M: Modification of agreement
AP: Additional Protocol to agreement

¹Not a participating country at the time of notification.

Chapter 7: Interim appreciation of the application of the MFA as extended by the 1986 Protocol

7.1 This interim appreciation of the application of the MFA as extended by the 1986 Protocol is based on the notifications received and reviewed by the TSB under Articles 3 and 4 of the Arrangement.

7.2 In doing so, the TSB is aware that not all agreements concluded by participants under MFA IV have been notified, indeed, that no notification at all has been received regarding agreements concluded by some importing countries (further notifications are expected from Canada, the EEC and the United States, as well as all agreements concluded by Norway and Sweden); therefore, the following paragraphs offer a rather partial overview of the application of MFA IV.

7.3 Since 1 August 1986, four unilateral measures have been taken by the United States with respect to imports from Bangladesh and China. Solutions with respect to all these measures were found after bilateral consultations. Consultations on renewal of a unilateral measure for a further twelve-month period (United States/Pakistan) resulted in a bilateral solution. The renewal of a measure for a twelve-month period (United States/China) is awaiting review by the TSB.

7.4 All agreements notified were concluded under Article 4 for multi-year periods.

7.5 Comprehensive agreements were concluded by the EEC, while the United States concluded both comprehensive and selective agreements. The agreements concluded by Canada cover certain clothing items and/or certain fabrics, yarns and made-up items. Austria and Finland continued to conclude very selective agreements.

7.6 Product coverage (i.e. products under restraint plus those not under restraint but subject to consultation) was reduced only in some agreements (Austria, Finland), remained unchanged in other agreements (all EEC agreements, Canada/Pakistan, Canada/Uruguay, United States/Japan), and was extended to include new fibres in certain others (United States/Hong Kong, United States/India, United States/Korea, United States/Macao, United States/Philippines).

7.7 The number of restraints were reduced in certain agreements (Austria, Canada, all EEC, Finland), remained unchanged in others (Austria, Canada, Finland, United States) or were increased in others (United States). Three agreements with no products under restraint (Austria/Singapore, EEC/Bangladesh, EEC/Uruguay) replaced agreements which had restraints; in one case (EEC/Bangladesh) this was agreed pursuant to paragraph 13 of the 1986 Protocol.

7.8 Total access under certain United States agreements continued to be limited (India, Macao, Philippines) while Group limits were introduced in three agreements (Hong Kong, Korea and Japan).

7.9 Most agreements contained consultation provisions making it possible to place under restraint products covered but not yet under restraint.

7.10 Base level increases over previous restraints or, in the case of new restraints, over reference (rollback or trade) levels, were in a large number of cases more or substantially more than 6 per cent; this occurred mainly in agreements concluded by Austria, Canada and the United States. In the cases of agreements concluded by the EEC and Finland, base level increases were mostly lower than 6 per cent. In certain cases concerning EEC and United States agreements it was not possible to calculate the increases, due to modifications in categorization or in restraint periods.

7.11 While annual growth rates were often lower than 6 per cent these were usually set at levels higher than in the previous agreements. This applied to most cases in the agreements concluded by Austria, Finland and almost all agreements concluded by the EEC. Annual growth rates (mostly at 6 per cent) remained unchanged in other agreements (Canada, United States). In most cases growth rates at less than 6 per cent were agreed pursuant to paragraph 2 of Annex B. In certain agreements the low growth rates were agreed pursuant to paragraph 10 of the 1986 Protocol (EEC/Korea, United States/Hong Kong, United States/Korea, United States/Japan). In one case (Canada/Uruguay), the increase in the growth rate was agreed pursuant to paragraph 14 of the 1986 Protocol.

7.12 While flexibility provisions improved in most agreements (Austria, all EEC, Finland, United States), they remained unchanged in some (Austria, Canada, Finland, United States), or were reduced in some (United States). In some EEC agreements, a limit was placed on the cumulative use of flexibility which fell below the Annex B level. In some agreements where swing was less than 7 per cent, reference was made to paragraph 5 of Annex B (Austria). For certain agreements where the flexibility provisions were less than Annex B levels, reference was made to paragraph 10 of the 1986 Protocol (EEC/Korea, United States/Hong Kong, United States/Japan, United States/Korea). In most cases, however, the flexibility provisions met Annex B levels.

7.13 Certain agreements contained special provisions for access of products imported after outward processing.