

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

COM.TEX/SB/1181

17 November 1986

Special Distribution

Textiles Surveillance Body

REPORT OF THE TEXTILES SURVEILLANCE BODY
TO THE TEXTILES COMMITTEE

Attached is a report by the Textiles Surveillance Body on its activities during the period 10 October 1985-31 July 1986.

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

Table of Contents

	<u>Page</u>
Introductory Remarks	4
<u>Chapter 1</u> Notifications reviewed or examined by the TSB	6
A. Unilateral measures and other matters referred to the TSB	6
(i) Unilateral measures notified under Article 3	6
(ii) Matters referred under Article 11:4	7
B. Notifications received under Article 4	8
C. Notifications under Articles 7 and/or 8	16
(i) Notifications concerning non-participants	17
(ii) Notifications concerning participants	17
D. Notifications under Article 11	17
<u>Chapter 2</u> Observations by the TSB	18
A. Observations and recommendations by the TSB on unilateral measures and other matters referred under Article 11	18
(i) Observations on unilateral measures	18
(ii) Report on matter reviewed under Article 11:4	20
B. Observations on notifications reviewed under Article 4	20
(i) Late notification	20
(ii) Notifications transmitted without specific observations	21
(iii) Base levels and overall access	21
(iv) Growth and flexibility provisions	22
(v) Incorporation of swing	22
(vi) Share in the market	23

	<u>Page</u>
(vii) Consultation provisions	24
(a) For introduction of new restraints	24
(b) Special transfer provision	24
(c) Adjustment of category system	24
(viii) Conformity with Article 12:3 of the MFA	24
(ix) Interpretation of provisions of the MFA	25
(x) Rescission of restraints or calls	25
(xi) Other	26
C. Observation on notification under Article 7	26

Introductory Remarks

1. The report covers the period 10 October 1985-31 July 1986. It includes the activities of the Textiles Surveillance Body since its last report to the Textiles Committee (COM.TEX/SB/1116) until the end of the period covered by the 1981 Protocol extending the Arrangement, and is submitted pursuant to the requirements of Article 10, paragraph 4, of the Arrangement.
2. Under the Chairmanship of Ambassador Marcelo Raffaelli the membership of the TSB for the period covered by this report was as follows:

October-December 1985

<u>Members</u>	<u>Alternates</u>
Mr. J. Keck (EEC)	Mr. G. Boisson (EEC)
Mr. M.A.-B. Hamza (Egypt)	Mr. M.A. Bajwa (Pakistan)
Mr. M.D. Cartland (Hong Kong)	Mr. J.Y. Sun (Korea)
Mr. D. Salim (Indonesia)	Mr. D.Q. Bondad (Philippines)
Mr. T. Kawaguchi (Japan)	Mr. K. Akasaka (Japan)
Mr. J. Iversen (Norway)	Mr. R. Wright (Canada)
Mr. R.E. Shepherd (United States)	-
Mr. E. Rosselli (Uruguay)	Mr. P. Paredes (Peru)

January-July 1986

Mr. R. Wright (Canada)	Mr. A. Satuli (Finland)
Mr. J. Keck (EEC)	Mr. G. Boisson (EEC)
Mr. D. Salim (Indonesia)	-
Mr. T. Kawaguchi (Japan)	Mr. K. Akasaka (Japan)
Mr. J.Y. Sun (Korea)	Mr. M.D. Cartland (Hong Kong)
Mr. V. Alfaro (Mexico)	Mr. E. Rosselli (Uruguay)
Mr. S. Kunalp (Turkey)	Mr. P.S. Randhawa (India)
(replaced on 23 June by Mr. E. Hürbas (Turkey))	
Mr. R.E. Shepherd (United States)	-

3. During the period covered by this report the TSB held eight meetings.
4. The basic activity of the TSB continued to be the review of all measures notified by participants, be they unilateral actions or bilateral agreements, in the light of the provisions of the Arrangement as extended by the 1981 Protocol. The procedures laid down in COM.TEX/SB/35 for the review of bilateral agreements concluded under Articles 3 and 4, and in COM.TEX/SB/319 for the review of unilateral measures or matters referred under Article 11 were followed by the TSB. Each notification continued to be considered on a case-by-case basis and on its own merits.
5. All notifications reviewed and reports on the meetings have been circulated in the COM.TEX/SB/- series of documents. The reports of the TSB have included summaries of the major points discussed, along with such comments or observations deemed appropriate by the TSB, as well as full statements of any recommendations, findings or decisions arrived at by the Body.

6. Since this report covers the period only up to 31 July 1986, the TSB did not invite participants in 1986 to make reports under Article 11 on restrictions maintained by them with respect to trade in textiles and clothing. The TSB however did receive some reports in response to its request made in April 1985 during the period covered by this report; these have been listed.

7. This report is divided into two chapters. The first summarizes notifications received under the relevant Articles of the Arrangement, and the second contains TSB observations made during the review of the notifications.

Chapter 1: Notifications reviewed or examined by the TSB

A. Unilateral measures and other matters referred to the TSB

(i) Unilateral measures notified under Article 3

1.1 The TSB received notification of five measures taken under Article 3, paragraph 5 or 6. These measures concerned the following participants:

Norway: Pakistan

United States: China, Pakistan, Turkey

1.2 The TSB observations and recommendations are contained in Chapter 2.

Norway

1.3 In April 1986 the TSB received a notification from Norway of a unilateral measure taken under Article 3:5 with respect to imports of bed linen from Pakistan for the period 1 March-31 December 1986.¹ The TSB had recommended that the parties resume consultations and report back by 10 June 1986. After having received reports on these consultations, the TSB noted that the parties had not exhausted the possibilities of reaching a mutually agreed solution, and recommended they hold further consultations.

United States

1.4 In February 1986 the TSB received a notification from the United States of a unilateral measure taken under Article 3:5 with respect to imports from China of man-made fibre luggage (US Category 670L). In this connection, the TSB received communications from China and the United States concerning their respective points of view on the validity of the MFA framework with regard to this product.

1.5 The TSB decided to invite both parties to its next meeting in March to present their respective cases. Due to the inability of China to send a delegation to this meeting, the TSB review was made in April. Since the parties had problems relating to Article 12:1, the TSB, in terms of paragraph 4 of Article 12, recommended the parties consult on this matter and report back by 10 June 1986. Having received reports from both parties, the TSB reverted to this question in July 1986. It noted that the parties, despite its recommendation, had not addressed the question of classification. It also heard a statement by the United States that the level of the restraint had been raised.

1.6 The TSB was of the opinion that the United States had not correctly followed the procedural requirements of Article 3:3; it concluded in the light of the evidence submitted, that the United States had given an extreme interpretation to the concept of "chief characteristics from their textile components" with respect to items which constituted an expressive percentage of China's exports and which might be regarded as not falling within the ambit of the MFA. The TSB also noted that goods classified under Category 670L were under embargo. In the light of the above, the TSB recommended that the United States take positive steps to redress the situation.

¹The TSB noted that in accordance with Article 3:5(i), the restraint may not extend beyond 2 December 1986.

1.7 In February 1986, the TSB received a notification from the United States of unilateral measures taken under Article 3:5 with respect to imports from Turkey of cotton trousers for women, girls and infants (Category 348) and cotton sheets (Category 361). The TSB was informed that consultations between the parties were scheduled for the first week of March. Turkey, with the agreement of the United States, therefore requested the TSB to defer its consideration of the measures, and stated that it would report on the results of these consultations in time for the next meeting of the Body.

1.8 In the absence of agreement between the parties, the measures were reviewed by the TSB in March 1986. During its examination, noting the willingness of both parties, the TSB recommended that they resume consultations, and report back by 16 June 1986.

1.9 In June 1986, both parties reported that they had reached agreement with respect to these categories.

1.10 In June 1986, the TSB received a communication made by the United States pursuant to the first part of Article 3:6, informing the Body of a request to Pakistan for cooperation on an emergency basis with respect to imports of lightweight plainweave polyester/cotton fabric (Category 613-C) from Pakistan.¹

1.11 The TSB also received information concerning certain measures it had examined during the period prior to this report. The parties concerned were the United States and Turkey.

1.12 Turkey and the United States reported on the bilateral consultations they held in accordance with the TSB's recommendations. In November 1985 they reported they had reached agreement on Categories 313 and 604, and would hold further consultations on the other categories. In June 1986, they reported they had reached agreement on all outstanding categories.² (See also paragraph 1.55)

(ii) Matters referred under Article 11:4

1.13 The TSB received reports made by participants concerned on matters referred under Article 11:4 prior to the period covered by this report.

1.14 In February 1986, the TSB heard reports from India and the United States on the results of their consultations on Categories 334 and 313 held in accordance with recommendations made in October 1985.

1.15 The parties said they had not reported by the end of 1985 as they had been unable to hold consultations before February 1986. The TSB was informed that the United States would rescind the restriction on Category 334 (cotton coats for men and boys), and that consultations were ongoing with respect to Category 313 (cotton sheeting). The TSB requested both parties to keep it informed of developments in these consultations.³

1.16 In February 1986, the TSB heard a report from the United States that, following consultations with Pakistan, agreed solutions had been found with respect to Categories 334 and 350, and would be notified to the TSB shortly.³ The TSB had reviewed the matter under Article 11:4 at the request of Pakistan.³ In an amendment of the bilateral agreement between the parties the restraints on these categories were rescinded. (See paragraph 1.50)

¹COM.TEX/SB/1176

²COM.TEX/SB/1113, 1129 and 1176

³COM.TEX/SB/1138

B. Notifications received under Article 4

1.17 During the period covered by this report the TSB received forty-nine notifications under Article 4 of the Arrangement as extended by the 1981 Protocol, which included fifteen new agreements, thirty-one modifications of agreements and three extensions. These are listed in the table below:

Notifications of agreements or modifications thereof
concluded under the 1981 Protocol received and reviewed
under Article 4 since 10 October 1985 to 31 July 1986

<u>Importing Country</u>	<u>Exporting Country</u>		<u>Agreement Period</u>	<u>COM.TEX/SB</u>
Austria	China	(N)	1.1.86-31.12.88	1139
Canada	Bangladesh	(N)	1.10.85-31.12.86	1156
	Brazil	(M)	1.7.85-31.12.86	1136
	Indonesia	(M)	1.10.85-1.1.86	1165
	Malaysia	(M)	1.6.85-31.12.86	1155
Norway	Czechoslovakia	(M)	1.7.84-30.6.87	1137
	Hong Kong	(M)	1.7.84-30.6.87	1125
	India	(N)	1.7.85-31.12.86	1134
	Korea	(N)	1.1.85-31.12.89	1124
	Macao	(N)	1.7.84-31.12.87	1123
	Sri Lanka	(N)	1.7.84-31.12.87	1122
Sweden	Hong Kong	(M)	1.9.84-31.8.87	1161,1177
	Korea	(N)	1.3.83-28.2.87	1152
	Yugoslavia	(N)	1.1.83-31.12.86	1119
United States	Bangladesh	(N)	1.2.86-31.1.88	1158
	Brazil	(N)	1.4.85-31.3.88	1133
	China	(M)	1.1.84-31.12.87	1130,1140,1167
	Colombia	(M)	1.7.85-30.6.86	1144,1160,1170
	Egypt	(E)	1.1.86-31.12.86	1169
	Guatemala	(N)	1.1.85-31.12.88	1159
	Haiti	(N + M)	1.1.84-31.12.86	1173,1174
	Hong Kong	(M)	1.1.86-31.12.87	1145,1168
	India	(M)	1.1.85-31.12.86	1146
	Indonesia	(N)	1.7.85-30.6.88	1143
	Korea	(M)	1.1.85-31.12.87	1147
	Malaysia	(E)	1.7.85-31.8.85	1117
		(N + M) ¹	1.1.85-31.12.89	1118 ¹ , 1166
	Pakistan	(M)	1.1.83-31.12.86	1162,1163,1171
	Peru	(M)	1.5.85-30.4.89	1148
	Philippines	(M)	1.1.85-31.12.86	1172
	Singapore	(M)	1.1.85-31.12.85	1120,1141
	Sri Lanka	(M)	1.5.83-31.5.88	1132
	Turkey	(N)	1.1.85-31.12.87	1131
	Uruguay	(M)	1.12.84-30.6.89	1121,1142,1157
Yugoslavia	(M + E)	1.1.84-31.12.86	1153,1154	

N : new agreement
M : modification of agreement
E : extension of agreement

¹The new agreement superseded the two extensions of the previous agreement.
(See paragraph 1.48.)

1.18 The following paragraphs contain a summary of the notifications. TSB's observations are contained in Chapter 2. Details concerning product coverage, restraint levels, growth rates and flexibility provisions contained in these notifications are found in the addendum to this report.

Austria

1.19 A new agreement was concluded between Austria and China with agreed restraints on woven shirts of man-made fibres or of cotton and down-quilted outerwear for the period 1 January 1986-31 December 1988. Base levels were substantially higher than 6 per cent over the rollback levels; growth rates were set at 1.5 per cent (shirts) and 3 per cent (outerwear), providing for compounded growth at 10.3 and 10 per cent respectively; and swing, carryover and carry forward were each available at 5 per cent.

Canada

1.20 Canada concluded a new agreement with Bangladesh for the period 1 October 1985-31 December 1986, with respect to tailored collar shirts and jackets. The restraint levels were set much higher than previous trade levels, taking into account anticipated exports from Bangladesh. Swing was set at 6 per cent, and carryover/carry forward were available at 100 per cent between the three-month restraint period (1 October-31 December 1985) and the 1986 agreement year.

1.21 Under a modification of the bilateral agreement between Canada and Brazil, the parties agreed to a restraint on T-shirts and sweatshirts for the period 1 July 1985-31 December 1986. The increase in the base level over previous trade was higher than 6 per cent. Growth for the last agreement period was 1.1 per cent, with cumulative growth at 8.6 per cent. Carryover/carry forward was set at 10/5 per cent. Children's and infants' garments would be charged as 0.6 unit per garment.

1.22 Certain modifications were made to the bilateral agreement between Canada and Indonesia. Firstly, agreed restraints were introduced on Items 1 (winter outerwear), 2C (shorts), 5 (sweaters, pullovers, cardigans), 6 (sleepwear, bathrobes), 9 (underwear) and 12 (coats, jackets, rainwear) for the period 1 January-31 December 1986, and on Items 4 (shirts, blouses, T-shirts, sweatshirts) and 7 and 8 (dresses, skirts, suits, coordinates, outerwear sets) for the period 1 October 1985-31 December 1986. The restraint levels were in all cases higher, and in three cases much higher than the relevant formula level as contained in the consultation provisions of the agreement. Secondly, the parties agreed to a change in the provisions of the agreement relating to consultations on products not subject to specific restraints. Finally, the parties also agreed to a modification to replace paragraph 26 of the agreement concerning bona fide handicraft products by a new paragraph.

1.23 A further modification of the bilateral agreement between Canada and Malaysia was notified. A limit was agreed on Items 11 and 12 (dresses, skirts, suits, coordinates, outerwear sets, athletic sets or suits, etc., but excluding miscellaneous garments for children and infants) for the period 1 June 1985-31 December 1986. The base level was 29.6 per cent higher than the rollback level, growth for the 1986 agreement year was 10.8 per cent. Swing was set at 7 per cent, carry forward at 6 per cent and carryover into 1986 was available at 50 per cent of the previous seven-month level.

Norway

1.24 In a modification of the agreement between Norway and Czechoslovakia, the parties agreed to a modification of the products covered by the agreement. The modification concerned products not subject to specific limits.

1.25 The agreement between Norway and Hong Kong was modified to include a restraint on bed linen (Category 7) from 1 July 1984. The base level was much higher than previous trade. Growth, swing and carryover/carry forward at 0.5, 1.5 and 2/1 per cent respectively, were set in accordance with the consultation provisions of the agreement.

1.26 An agreement was concluded between Norway and India for the period 1 July 1985-31 December 1986. In this agreement ten categories were under specific limits and eleven categories subject to an administrative system of surveillance. Nine of the ten categories under limit had been restrained under a bilateral agreement until 1981. Until 30 June 1984 eight of the restricted categories were subject to measures notified by Norway under Article XIX of GATT, and subsequently maintained until 30 June 1985 under the phase-out programme notified by Norway under Article 2:1. Hand-made apparel and made-up products falling within six categories, not covered by agreed exempt certification, were for the duration of the agreement included in the quantitative limits established thereunder. In all cases base levels were higher than the quotas set for 1981; in seven cases they were much higher than Annex B levels, and in two cases lower; for one of the latter cases, however, an additional quota arrangement was agreed. Growth rates varied between 0.3 and 2.5 per cent; swing was available at 2 per cent; carryover and carry forward at 4 and 2 per cent; and cumulative use of flexibility was limited to 4 per cent.

1.27 A bilateral agreement was concluded between Norway and Korea for the period 1 January 1985-31 December 1989. This agreement covered twenty-three categories, of which eleven were under an administrative system of surveillance and twelve under specific limits. Seven of the categories under quota had been covered by the measures notified by Norway to the GATT as taken under Article XIX. In all cases base levels were more, or substantially more, than 6 per cent above trade in the reference period; growth rates were between 0.3 and 3 per cent; no swing was available; and carryover/carry forward were set at 8/4 per cent.

1.28 An agreement between Norway and Macao was concluded for the period 1 July 1984-31 December 1987. The product coverage included twenty-one categories, of which twelve were subject to consultation under an administrative system. Seven of the nine categories under restraint were, until 30 June 1984, imported under measures notified by Norway under GATT Article XIX. In all but one case base levels were substantially above the reference levels, and in one case less than 6 per cent; growth rates were set at 2.5 per cent for two categories and at 0.5 per cent for others; no swing was available and provision for carryover/carry forward was made at 7.5/4 per cent.

1.29 Norway concluded a bilateral agreement with Sri Lanka for the period 1 July 1984-31 December 1987. Of the twenty-one categories covered, nine were under an administrative system of surveillance. The twelve categories under specific limit had been restrained under a bilateral agreement which expired on 31 December 1982; eight of them had subsequently been covered from

1 January 1983-30 June 1984 by the measures notified by Norway to the GATT as taken under Article XIX. Base levels were between 0.5 and 5 per cent above the restraint levels set out in the previous agreement between the parties; growth rates were between 0.3 and 2.5 per cent; no swing was available and carryover/carry forward were set at 6/3 per cent.

Sweden

1.30 Sweden notified two amendments of its agreement with Hong Kong. Under the first, a restraint was agreed on Group 13 (bed linen) together with an increase in the aggregate limit for the period 1 September 1984-31 August 1987. The base level for Group 13 was more than 6 per cent over the reference level, and annual growth was set at 0.2 per cent; increase in the aggregate level was 1.12 per cent lower than the limit for Group 13. Under the second amendment, the parties agreed to the deletion of the aggregate limit, and hence also of the downward adjustments to the aggregate by the application of the special transfer provision contained in Article 4 of the agreement. The parties also agreed to the inclusion of swing between 0.5 and 4 per cent after consultations as to the exact percentage for the last two agreement years (i.e. 1 September 1985-31 August 1987). Sweden reaffirmed its undertaking to consider any request by Hong Kong to reverse the quantities applicable under the special transfer provision.

1.31 Sweden concluded a bilateral agreement with Korea for the period 1 March 1983-28 February 1987, as amended in 1985 with retroactive application from 1 March 1983. In this agreement restraints in the previous agreement were maintained, and a new restraint was introduced on Group 17 (brassières); an aggregate limit was maintained with respect to those group limits previously subject to an aggregate; limits on bed linen (Group 13), towels (Group 14) and brassières (Group 17) were not subject to the aggregate limit.

1.32 The base level for the aggregate limit was increased by 0.2 per cent, while base levels of all limits subject to the aggregate limit were reduced from previous limits by between 0.7 and 8.4 per cent; the aggregate limit was 2 per cent lower than the sum of the Group limits. Base levels of Groups not subject to the aggregate limit were reduced by 10.2 per cent (Group 13) and increased by 10 per cent (Group 14) from previous limits; the increase in the base level over previous trade for Group 17 was 4.1 per cent. Growth was set at 0.3 per cent for the aggregate and Group limits. Swing was said to be incorporated in the Group limits falling within the aggregate as the result of the difference between their sum and the aggregate limit; swing was not available for the three Groups falling outside the aggregate; and carryover and carry forward were available between 0.5 and 4 per cent, after consultations, with carryover and carry forward not exceeding 4 per cent.

1.33 A bilateral agreement between Sweden and Yugoslavia was concluded for the period 1 January 1983-31 December 1986 and amended in 1985. Product groups under restraint remained the same as in the previous agreement with Group 1 (stockings) previously under a specific limit included in the Rest Group. The restraints continued to be subject to an aggregate limit. Increases in the base levels were 0.5 per cent for the aggregate limit, and between 0.1 and 0.8 per cent for group limits; growth rates were set at 0.5 per cent for the aggregate limit, and between 0.1 and 0.5 for group limits. Swing was incorporated in the group limits; and carryover and carry forward set at 0.5 per cent, could be available up to 4 per cent, after consultations.

United States

1.34 The United States concluded a new agreement with Bangladesh which superseded the previous agreement between the parties, scheduled to expire on 28 February 1987. The validity of the new agreement covered the period 1 February 1986-31 January 1988. All previous restraints were maintained and new restraints introduced on six categories; base levels were between 7.1 and 141.8 per cent above either previous restraints or rollback levels. Growth and swing were available at 6 per cent; carry forward at 6 per cent was available during the first twelve-month period, and carryover at 11 per cent in the subsequent twelve-month period.

1.35 A new agreement between the United States and Brazil was concluded for the period 1 April 1985-31 March 1988. Coverage in this agreement was expanded to include wool products. An aggregate limit was maintained but former group limits were dropped. Twenty-four categories (including nine merged categories and two part categories) were placed under specific restraint, of which four had previously been under specific restraint and thirteen under designated consultation levels. Increases in base levels or over trade were, in all cases but one, above or substantially above 6 per cent; and the increase in base level for the aggregate was substantial. Growth rates were set at 6 per cent for cotton and man-made fibre categories, 1 per cent for wool categories, and more than 6 per cent for the aggregate. Swing was available at 6 per cent; carryover and carry forward were available at 11/6 per cent; carryover and carry forward for the aggregate were subject to consultations. The agreement also contained consultation procedures and criteria pursuant to which restraints on additional products could be established. These procedures replaced the former minimum and designated consultation levels.

1.36 Several modifications were made to the agreement between the United States and China. Under the first modification, agreed restraints with effect from 1 January 1984 on Categories 313, 317, 320pt (print cloth), 336, 352, 359pt (coveralls), 444, 613pt (poly-cotton and poly-rayon fabrics), 639, 649 and 669pt (polypropylene bags) superseded restraints introduced by the United States in accordance with the consultation provisions of the agreement. The TSB had reviewed the restraints on Categories 313, 317, 444 and 649 referred by China under Article 11:4 (see COM.TEX/SB/1006, 1044 and 1116 paragraph 3.25). The restraint levels were, in all cases, higher or substantially higher than the reference levels; with growth rates ranging between 2.5 and 6 per cent for the non-wool categories and 1 per cent for Category 444, compounded growth rates were, in all cases, above 6 per cent.

1.37 The agreement was again amended by the introduction of agreed specific limits on Categories 438, 369pt (cotton luggage), 410, 359pt (cotton vests), 436 and 361, at levels above or considerably above previous twelve-month restraint levels set or agreed according to paragraph 8 of the bilateral agreement. Growth was available at 1 per cent for wool Categories, 3.5 per cent for Categories 359pt and 361, and 5 per cent for Category 369pt. Swing was available at 5 per cent, and carryover/carry forward at 10/5 per cent, after consultations.

1.38 Under a further amendment, specific limits were agreed on Categories 434, 605-T (sewing thread), 651 with a sub-limit on 651pt (blanket sleepers) and 652. Base levels were substantially higher than rollback levels. Growth was set at 1 per cent for Category 434, 4 per cent for Categories 605-T and 652 and 4.5 per cent for Category 651. Swing was available at 5 per cent, (with special swing from Category 352 into Category 652 at 5 per cent), and carryover/carry forward were available at 10/5 per cent after consultations.

1.39 Under several modifications to the agreement between the United States and Colombia, the consultation levels for a number of categories (632, 666, 347/8, 335, 340, 352, 640, 317, 459, 651, 659) were raised for the last agreement year ending 30 June 1986. The designated consultation level on Category 315 was converted to a specific limit for the last agreement year, at a level considerably higher than the consultation level, with swing at 10 per cent.

1.40 The agreement with Egypt was extended for a one-year period ending 31 December 1986, with no change in the categories under restraint, and the 1986 levels being 6.25 or 6.5 per cent higher than the 1985 levels. The flexibility provisions were maintained, with swing at 6 per cent (but no swing between Categories 300/301, 300 and 301) and carryover at 11 per cent.

1.41 A selective bilateral agreement was concluded between the United States and Guatemala for the period 1 January 1985-31 December 1988. The parties agreed to a restraint on cotton gingham and yarn-dyed fabrics. The base level for the combined category was 2.3 per cent over the rollback level. Growth was set at 6 per cent; carryover and carry forward were available at 11/6 per cent.

1.42 A new agreement with Haiti for the period 1 January 1984-31 December 1986 superseded the last two months of the previous agreement, valid until 29 February 1984. The categories under restraint were unchanged; increases in base levels over previous restraint levels were 20.3 per cent in one case and 7 per cent in all other cases. Also unchanged were annual growth rates, at 7 per cent, swing at 7 per cent and carryover/carry forward at 11/6 per cent. In an amendment the parties agreed in 1984 to a restraint on Category 350 (cotton dressing gowns) for the life of the agreement. The restraint level was 71.4 per cent higher than the rollback level with no annual growth, as the parties agreed that the restraint levels included growth. Flexibility provisions of the agreement applied.

1.43 Further modifications were made to the agreement between the United States and Hong Kong. Limits were introduced for the 1985 agreement year at the formula levels set in accordance with paragraph 7E(I) of the agreement on Categories 360 (cotton pillow cases) and 637 (man-made fibre playsuits). The limit on Category 637 was converted into a specific limit, with growth set at 2 per cent in accordance with the provisions of the agreement. Consequent to a reclassification in the United States category system, a further amendment was agreed which provided for the reclassification of pullover jackets from Category 359 to Categories 334 and 335, and from Category 659 to Categories 634 and 635. The specific limits for the Categories 334, 335, 634 and 635 were adjusted accordingly. Categories 359 and 659 were not under restraint.

1.44 In a modification to the agreement between the United States and India, the parties agreed to restraints on Categories 310 (ginghams), 318 (yarn dyed fabrics) and 337 (cotton playsuits) for 1985 and 1986 agreement years, with growth at 7 per cent. The TSB also took note that as a result of consultations between the parties, the United States had rescinded restraints on Categories 350, 359-coveralls and 359-vests.

1.45 A new bilateral agreement was concluded between the United States and Indonesia for the period 1 July 1985-30 June 1988. The parties also had an administrative arrangement with respect to certain folklore-type products. In the new agreement all existing restraints were maintained. Two group limits as well as nine specific limits were introduced. Three specific limits previously on only part-categories were expanded to cover the whole categories. Increases in base levels over previous restraint levels were in twenty-one cases above or considerably above six per cent, and in one case at 0.7 per cent. The base level increase for an existing sub-limit was 5 per cent. Base levels of the new specific limits were in eight cases considerably more than six per cent over the rollback level, and in one case less than 6 per cent over the rollback level.

1.46 All categories under specific limits were included in Group I, and the limit for this group was the exact sum of the specific limits; Group II covered all categories subject to the agreement but not subject to specific limits. The two group limits as well as a sub-limit introduced for wool categories falling within Group II were higher than previous trade. An additional 5 per cent of the quotas for Categories 336, 341, 641 and 648 was available for folklore-type products. Growth was available at 6 per cent for all specific limits, except for the limit on a non-wool category where it was available at 5.5 per cent, and one wool category at 1 per cent. Growth was available at 6 per cent for Group I, 10 per cent for Group II, and 1 per cent for the sub-limit on wool products contained in Group II. Swing between groups was available at 7 per cent. Swing was equally available within each group at 7 per cent for specific limits on cotton and man-made fibre categories and at 5 per cent for limits on wool categories. Carryover/carry forward was available at 11/6 per cent.

1.47 Under a modification of the agreement with Korea, limits for 1985 were introduced on Categories 310/318 (cotton dyed fabrics), 342 (cotton skirts), 350 (cotton dressing gowns), 352 (cotton underwear), 359-H (cotton headwear) and 632 (man-made fibre hosiery). These limits, as well as limits on Categories 605-0 (other man-made fibre yarns) and 611 (woven fabrics of spun cellulosic yarns), were converted to specific limits for the 1986 and 1987 agreement years, with growth at 2.5 per cent.

1.48 A second extension of the agreement with Malaysia was made for a two-month period ending 31 August 1985, with pro-rated restraint levels. A new agreement for the period 1 January 1985-31 December 1989 superseded and replaced the two extensions of the previous agreement. In this agreement all previous restraints were maintained and new restraints were introduced on three categories and one part category. The former group categorization was dropped. Increases in base levels for previously restrained categories and increases above roll-back levels for newly restrained categories were, in all but three cases, above or substantially above 6 per cent. Growth rates were set at 6 per cent for cotton and man-made fibre categories, compared to 6.5 per cent in the previous agreement, and 1 per cent for wool categories. Swing was available at 5 per cent and carryover/carry forward at 11/6 per cent, respectively.

1.49 Under an amendment of this agreement restraints were agreed on five categories and two combined categories, namely: 647/648 (man-made fibre trousers), as of 1 June 1985; 369-S (shop towels), 634 (man-made fibre other coats, for men and boys), 635 (man-made fibre coats, for women, girls and infants) and 645/646 (man-made fibre sweaters), as of 1 September 1985; 641 (woven man-made fibre blouses), as of 1 November 1985; 636 (man-made fibre

dresses), as of 1 January 1986. In all cases the initial restraint levels were higher, and in four cases much higher, than either the formula level of the bilateral agreement or the rollback level. Annual growth was agreed at 6 per cent. Flexibility provisions of the bilateral agreement applied.

1.50 Four amendments were made to the agreement with Pakistan. Under the first amendment, restrictions on Categories 334 (men's and boys' other cotton coats) and 350 (cotton dressing gowns) were rescinded by the United States, and the parties agreed to a restraint level on Category 335 (women's, girls' and infants' cotton coats), for the last agreement year (1986) at a level higher than 6 per cent over the 1985 level. The second amendment concerned agreed adjustments to the 1985 and 1986 aggregate limits. Under the third amendment, the parties agreed in 1983 that the designated consultation level previously existing on Category 369 (other cotton manufactures, excluding bar mops), be superseded by a higher designated consultation level, applicable to only part of Category 369 (i.e. excluding towels and bar mops) and by a specific limit on Category 369pt (towels), with growth set at 7 per cent. Finally, a specific limit was agreed on Category 631 (man-made fibre work gloves) for 1985,¹ superseding a unilateral action taken by the United States under Article 3:6;¹ the agreed level was substantially higher than the rollback level and growth was set at 6 per cent. The parties also agreed to increase the designated consultation level for Category 369pt (other).

1.51 Under an amendment of the agreement with Peru, the consultation level for Category 300 (cotton yarn) was increased for the 1985/86 agreement year, and the consultation level for Category 313 (cotton sheeting) was converted into a specific limit for the agreement period beginning 1 May 1985. The base level for this limit was higher than 6 per cent over the consultation level, and growth was set at 7 per cent.

1.52 Four modifications to the bilateral agreement with the Philippines were made. Under the first modification, the parties² agreed to (a) additional special swing of 10 per cent between the traditional² Categories 341 and 641 and between the traditional Categories 348 and 648; (b) 15 per cent additional swing for 1985 between the traditional and non-traditional³ Category 335; (c) possibility in 1985 to swing the total limit on non-traditional Category 635 into traditional Category 635; (d) increase in the 1985 specific limit on non-traditional Category 645/6 and adjustments to the 1985 and 1986 specific limits on Categories 431 and 604. The second and third modifications concerned two increases in the 1985 designated consultation level (DCL) on Category 669 (other man-made fibre manufactures). The fourth modification concerned (a) an increase in the 1986 designated consultation level on Category 669 and the introduction of a sub-DCL on Category 605pt (sewing thread) and (b) quota-free treatment in 1986 on all certified traditional and non-traditional hand-crocheted apparel.

1.53 Under modifications to the United States/Singapore agreement, the parties agreed to increases in the 1985 consultation levels on Categories 442 and 640.

1.54 The agreement with Sri Lanka was modified by the introduction of agreed restraints on six categories (337, 338, 339, 363, 369 ST (shop towels) and 647). The base levels, in all cases, were higher than 6 per cent over the reference levels, and growth was set at 6 per cent.

¹ COM.TEX/SB/1044

² Infant garments

³ Adultwear

1.55 A bilateral agreement on two categories was concluded between the United States and Turkey for the period 1 January 1985-31 December 1987. The agreed restraints on cotton sheeting and plied acrylic yarn superseded those imposed earlier by the United States under Article 3:5. In both cases, these restraints represented substantial increases over the Article 3:5 restraint. Annual growth was set at 6 per cent, swing was available at 7 per cent and carryover/carry forward at 11/6 per cent.

1.56 A number of modifications were made to the agreement with Uruguay. Under the first modification, the parties agreed to restraints on Category 433 (wool suit-type coats for men and boys) for the period 1 January 1985-30 June 1987, and on Category 434 (wool other coats for men and boys) for the period 1 December 1984-30 June 1987. The base levels were considerably higher than 6 per cent above the reference levels. Growth, swing and carryover/carry forward were set at 1, 5 and 11/6 per cent, respectively. Under the second amendment, a specific limit on Category 335 (cotton coats for women, girls and infants) was agreed. The base level was substantially above the reference level. Growth was set at 6 per cent; swing was available at 5 per cent, carryover/carry forward at 11/7 per cent. The third amendment concerned (a) the extension to 31 January 1989 of the restraint on Category 410 (woollen and worsted fabric) scheduled to expire on 31 January 1987, with an increase in the 1986/87 level of 22.3 per cent over the 1985/86 level, and (b) the introduction of a new limit on Category 442 (wool skirts) for the period 1 January 1986-30 June 1989, the base level being 61 per cent higher than the rollback level. The annual growth rate for these products was set at 1 per cent, and swing, carryover/carry forward were available at 5 and 11/7 per cent, respectively.

1.57 The agreement between the United States and Yugoslavia scheduled to expire on 31 December 1985 was amended by the introduction of agreed restraints on Categories 444 (wool suits, women, girls and infants) as of 1 January 1984, and 433 (wool suit-type coats, men and boys) as of 1 July 1984. The agreement was extended for a one-year period ending 31 December 1986. New specific limits were introduced on Categories 434 (other wool coats, for men and boys) and 435 (wool coats for women, girls and infants) and joint Categories 340/640 (cotton and man-made fibre shirts, not knitted) and 447/448 (wool trousers, slacks, shorts, outer) for the period 1 August 1985-31 December 1986. In the extended agreement base levels for previous limits were 1 per cent above 1985 levels in the case of wool Categories (433 and 444) and 6 per cent above the 1985 level for the combined wool/man-made fibre Category (433/643, wool and man-made fibre suits, men and boys), with 4.26 per cent increase for the wool sub-limit; base levels for new limits were between 13.3 and 59.9 per cent above rollback or trade levels. Growth between 1985 and 1986 was available at 6.25 per cent for the combined cotton/man-made fibre Category and at 1 per cent for the wool Categories. Swing was set at 6 per cent for non-wool Categories, and 5 per cent for wool Categories and carryover/carry forward were available at 11/6 per cent.

C. Notifications under Articles 7 and/or 8

1.58 Pursuant to Articles 7 and/or 8, and the request made by the Textiles Committee that participants notify actions taken vis-à-vis non-participants, the TSB received notifications as listed overleaf:

<u>Notifying Country</u>	<u>Exporting Country</u>	<u>Article</u>	<u>COM.TEX/SB/-</u>
Canada	Bulgaria	7 & 8	1149
EEC	Turkey	7	1126, 1127, 1128
Sweden	Malta	7 & 8	1178
United States	Nepal	7 & 8	1179

(i) Notifications concerning non-participants

1.59 Under a modification of the bilateral agreement between Canada and Bulgaria the consultation level for winter outerwear was converted into a specific limit for the period 1 October 1985-31 December 1986. Sweden concluded a bilateral agreement with Malta for the period 1 July 1983-30 June 1988. This information had been included in an earlier notification made by Sweden under Article 11. The United States concluded a bilateral agreement with Nepal for the period 1 October 1985-31 December 1990.

(ii) Notifications concerning participants

1.60 Under Article 7 the EEC notified several safeguard measures taken on imports of textile products from Turkey. These measures, taken under the provisions of Article 60 of the Additional Protocol to the EEC/Turkey Association Agreement, were restraints on imports of (a) Categories 2 and 8 into France, Category 20 into Germany, Categories 2 and 20 into Italy, and Categories 2, 9 and 20 into the United Kingdom for the period 16 July-31 December 1984; (b) Categories 4, 6 and 83 into the Community for the period 1 January-30 June 1985; and Categories 4, 5, 6, 8, 20 and 83 into the Community, Category 26 into France, Categories 12 and 13 into Germany and Categories 13 and 26 into the United Kingdom for the period 21 September 1985-31 July 1986.

1.61 A statement was made to the TSB that Switzerland and Hong Kong had agreed not to renew their administrative arrangement on textiles, which had been previously extended to 31 March 1986.¹

D. Notifications under Article 11

1.62 In response to its request made in April 1985, the TSB received reports under Article 11 from Bangladesh, Malaysia and Mexico. The TSB did not complete its review of the last report awaiting Mexico's negotiations leading to its accession to GATT.

1.63 Poland notified that it no longer maintained the import quotas under bilateral agreements referred to in COM.TEX/SB/1116/Add.1.

¹COM.TEX/SB/1151

Chapter 2: Observations by the TSB

A. Observations and recommendations of the TSB on unilateral measures and other matters referred under Article 11

(i) Observations on unilateral measures

Norway

2.1 During its review of the unilateral measure taken by Norway with respect to imports of bed linen from Pakistan (see paragraph 1.3) the TSB heard presentations from both parties.

2.2 The TSB noted that the information required under Article 3:3 was provided by Norway only on 3 December 1985, i.e. subsequent to its initial request for consultation in September 1985. In this respect, the TSB took note of the statement by Norway that it considered the reference period as applying from that date, and that the restraint was administered in a way to permit imports at a level considerably higher than the rollback level.

2.3 After weighing all the information available, the TSB was not fully satisfied that imports of bed linen from Pakistan up to December 1985 had caused disruption to Norway's market.

2.4 The TSB therefore recommended that:

- (a) the two parties resume consultations before 1 June 1986, taking into account the importance for Norway to protect its minimum viable production (Article 1:2) and the importance for Pakistan to secure a substantial increase in its export earnings from textile products (Article 1:3), and to avail itself of the provisions of Article 6 of the Arrangement and paragraph 12 of the 1981 Protocol; the parties should report on the results of their consultations by 10 June 1986;
- (b) in the meantime, Norway should ensure that the normal flow of trade from Pakistan not be disrupted, and both parties should co-operate with a view to achieving an orderly development of trade in bed linen.

2.5 In June 1986 the TSB received reports from Norway and Pakistan on the results of their consultations. The TSB also heard presentations relating to the developments on this matter since the TSB had first examined the measure.

2.6 The TSB was still not fully satisfied that imports of bed linen from Pakistan up to December 1985 had caused disruption to Norway's market. The TSB also noted that in their consultations the parties had not exhausted the possibilities of reaching a mutually agreed solution.

2.7 The TSB therefore recommended that the two parties resume consultations at the earliest practicable date with a view to reaching a mutually agreed solution, taking full account of developments since 1 January 1986 reported to the TSB at that meeting, including Norwegian imports from Pakistan. The TSB asked the parties to report back to it as soon as possible on the results of these consultations.

¹COM.TEX/SB/1151 and 1176

United States

2.8 With respect to the Article 3:5 measure taken by the United States on imports of man-made fibre luggage (Category 670L) from China, after having deferred its consideration of the matter in March 1986, the TSB heard presentations in April 1986 from both parties on their divergence of views as to the validity of the MFA framework with regard to this product (see paragraphs 1.4 to 1.6).

2.9 Following these presentations and the ensuing discussion, it nevertheless remained unclear whether or not the products exported to the United States from China could be said to derive their chief characteristics from their MFA textile components. The TSB did not address the existence of market disruption in the United States market of man-made fibre luggage. It was of the opinion that any restraint on luggage under the Arrangement should be carefully considered, so that it would apply only to products which clearly derived their chief characteristics from their textile components.

2.10 In terms of paragraph 4 of Article 12, the TSB recommended that the parties consult on this matter again and report back to it no later than 10 June 1986. These consultations should aim at determining, on the basis of Article 12:1, what types of luggage were being exported by China to the United States, bearing in mind paragraph 2.9 above. In the meantime, the United States should take positive steps to avoid any dislocation of trade and undue hardship to China's exports of the product.

2.11 In July 1986, the TSB reverted to its consideration of the question of classification of products covered under Category 670L and placed under restraint by the United States under Article 3:5 when imported from China. It noted that, despite its recommendation,¹ in their most recent consultations the two parties had not addressed the question of classification. It heard a statement by the United States that the level of the restraint had been raised by two million pounds.

2.12 After having heard presentations from both parties, the TSB addressed the problem on the understanding that its findings would be specific to this case only and without prejudice to the general question of classification of textile products in the MFA.

2.13 The TSB was of the opinion that the United States had not correctly followed the procedural requirements of Article 3:3, in that its request for consultations contained erroneous information which had not been rectified in its market statement to China until the first bilateral consultations, which took place two months after the initial request.

2.14 The TSB noted that there were goods classified under Category 670L under embargo in United States ports of entry.

2.15 The TSB concluded, in the light of the evidence submitted, that the United States had given an extreme interpretation to the concept of "chief characteristics from their textile components" with respect to items which constituted an expressive percentage of China's exports and which might be regarded as not falling within the ambit of the MFA.

¹COM.TEX/SB/1151

2.16 In the light of paragraphs 2.13 to 2.15 above, the TSB¹ recommended that the United States take positive steps to redress the situation.

2.17 The TSB had agreed in February 1986 to defer its consideration of the unilateral measure taken by the United States with respect to imports of Categories 348 and 361 from Turkey in view of the consultations scheduled in early March between the parties (see paragraphs 1.7 to 1.9).

2.18 In March 1986, delegations from both parties reported on the results of their most recent consultations. The TSB noted that (a) discussions on the two categories had centred on appropriate restraint levels; (b) the consultations had involved, besides these categories, other issues relating to trade in textiles between the two countries; and (c) both governments were ready to resume consultations.

2.19 The TSB heard a statement from the United States that agreement on these two categories was not contingent on solutions relating to other problems on trade in textiles and clothing, now under discussion between the United States and Turkey. The TSB therefore recommended that both parties resume their consultations, bearing in mind the provisions of the MFA, in particular Article 6 and paragraph 12 of the 1981 Protocol of Extension, and report to it on the results of such consultations before 16 June 1986. In June, both parties reported that they had found agreed solutions.²

(ii) Report on matter reviewed under Article 11:4

2.20 During its review of a modification of the bilateral agreement between the United States and Pakistan, which included the rescission of restraints on Categories 334 and 350 (paragraph 1.50; see also 1.16), the TSB recalled that it had reviewed the restraints under Article 11:4 in July 1984. It noted that in accordance with its recommendation the parties had held several consultations between July 1984 and December 1985 in order to reach mutually agreed solutions. It recalled that it had asked the United States to take the necessary steps to avoid dislocation of the normal flow of trade, and was informed by the United States that the restraints on Categories 334 and 350 had not hampered the trade of the products concerned. The TSB further noted that at the consultations held in December 1985, the United States had agreed to rescind the restraints.³

B. Observations on notifications reviewed under Article 4

2.21 This section includes the observations made by the TSB as well as statements made by parties relating to the relevant notifications.

(i) Late notification

2.22 The TSB noted the delay in notification of a number of agreements and modifications. In this context it recalled its earlier observations on the need for timely notification and drew attention to the requirements of Article 4:4. Specific note of late notification was made with reference to the agreements concluded by Sweden with Korea and Yugoslavia; the agreement between the United States and Haiti; and modifications of the United States/Pakistan and United States/Philippines agreements.⁴

¹COM.TEX/SB/1151 and 1180. See also COM.TEX/SB/1138 and 1150.

²COM.TEX/SB/1138, 1150 and 1176

³COM.TEX/SB/1164

⁴COM.TEX/SB/1129, 1164 and 1176

(ii) Notifications transmitted without specific observations

2.23 In several cases the TSB transmitted notifications without making any observations. These concerned agreements concluded by Canada with Bangladesh (see paragraph 1.20) and by the United States with Bangladesh, Brazil, Guatemala, Haiti, Malaysia and Turkey (see paragraphs 1.34, 1.35, 1.41, 1.42, 1.48 and 1.55). No observations were made on modifications or extensions of agreements notified by Canada with Brazil and Malaysia (see paragraphs 1.21 and 1.23), by Norway with Czechoslovakia and Hong Kong (see paragraphs 1.24 and 1.25) and by the United States with China, Colombia, Egypt, Haiti, Hong Kong, Korea, Malaysia, Pakistan, Peru, the Philippines, Singapore, Sri Lanka, Uruguay and Yugoslavia (paragraphs 1.36 to 1.40, 1.42, 1.43, 1.47, 1.49 to 1.54, 1.56 and 1.57).

(iii) Base levels and overall access

2.24 The TSB heard several statements concerning base levels in agreements. With respect to its agreements with India and Sri Lanka (see paragraphs 1.26, 1.29) Norway stated that concerning base levels for the restrained items, account had been taken of the restraint levels in the former bilateral agreement between the parties. In setting base levels in its agreement with Korea (see paragraph 1.27), Norway stated that account had been taken of the level of imports in the twelve-month period preceding the request for consultations, as well as the levels of former bilateral quotas agreed between the parties under their long-term arrangement of 1968; in its agreement with Macao (see paragraph 1.28) in setting base levels, account had been taken of the relatively small share of imports from Macao in total imports of certain categories.

2.25 In reviewing the agreement between Norway and Sri Lanka (see paragraph 1.29), the TSB bore in mind that the restraint levels had been agreed by taking restraints in the previous agreement as the reference levels and not Sri Lanka's trade performance during the rollback period, as such performance was, in all cases, lower than the restraint levels of the previous agreement.

2.26 In reviewing the agreement between Sweden and Korea (see paragraphs 1.31 and 1.32), the TSB bore in mind the principle that a restraint level should be higher than the level specified for the preceding twelve-month period, and noted that (a) there were reductions in levels for all Groups subject to the aggregate limit; (b) there was a reduction in the level for Group 13; (c) there was an increase in the level for Group 14 where imports from Korea were negligible; and (d) there was a marginal increase in the aggregate limit as well as in the overall access.

2.27 During its review of the agreement between Sweden and Yugoslavia (see paragraph 1.33), the TSB noted that the parties had originally agreed on consecutive reductions in the levels on Groups 5 and 9 (sweaters, and costumes and dresses, etc.) for the duration of the agreement, but in the subsequent modification these reductions were superseded and replaced retroactively by increases in base levels and growth rates at 0.1 per cent.

¹ COM.TEX/SB/1129, 1135, 1138, 1150, 1164, 1176

² COM.TEX/SB/1129 and 1135

³ COM.TEX/SB/1129

⁴ COM.TEX/SB/1164

2.28 With respect to the first amendment to the Sweden/Hong Kong agreement in which the increase in the aggregate limit was lower than the level set for Group 13 newly put under restraint (see paragraph 1.30), the TSB was informed that the modification had been concluded in accordance with the structure of the original agreement, and was of the opinion that the observations made with respect to the agreement¹ were also applicable to the agreement as modified by this notification. With respect to the second amendment to this agreement, the TSB noted that the bilateral consultations leading to this amendment had been held in response to its observations and recommendations (COM.TEX/SB/1093) and that the parties had taken positive account of them.²

2.29 In reviewing the agreement between Sweden and Korea (paragraph 1.32), the TSB noted that the sum of the Group limits subject to the aggregate exceeded the aggregate limit.¹

(iv) Growth and flexibility provisions

2.30 During its reviews of certain notifications, the TSB took note of statements made by the participants concerned regarding the growth and flexibility provisions contained in their agreements.

2.31 During its review of the agreement between Austria and China (see paragraph 1.19), the TSB took note of a statement made by Austria that the parties had agreed to the growth rates in view of the existence of exceptional circumstances in terms of Annex B of the Arrangement, and that in determining growth and flexibility provisions special account had been taken of the large increases in base levels.³

2.32 Norway stated that as to the growth and flexibility provisions in its agreement with India (see paragraph 1.26), account had been taken of Annex B and paragraph 11 of the 1981 Protocol. Similar statements were made by Norway with respect to its agreements with Korea, Macao, and Sri Lanka (see paragraphs 1.27, 1.28, 1.29).⁴

2.33 The TSB took note of a statement by Sweden in which it referred to Annex B of the MFA and paragraph 11 of the 1981 Protocol with respect to the growth and flexibility provisions, in its agreement with Korea (see paragraph 1.32). A similar statement was made by Sweden with respect to its agreement with Yugoslavia (see paragraph 1.33).⁵

(v) Incorporation of swing

2.34 During its review of the agreement between Sweden and Korea (see paragraph 1.32), the TSB considered the incorporation of swing in the Group limits. The TSB recalled that in its review of the previous agreement between the parties, Sweden had stated that swing was absent as a reflection of a mutual recognition of the minimum viable production principle (COM.TEX/SB/734); the TSB also noted that in both the previous and the present agreement the sum of the Group limits subject to the aggregate exceeded the aggregate limit,¹ and that swing was not available for the three Groups outside the aggregate.

¹ COM.TEX/SB/1164

² COM.TEX/SB/1164 and 1180

³ COM.TEX/SB/1150

⁴ COM.TEX/SB/1129 and 1135

⁵ COM.TEX/SB/1129 and 1164

2.35 With respect to the agreement between Sweden and Yugoslavia (see paragraph 1.33), the TSB, in considering the incorporation of swing in the group limits, noted that during its review of the two previous agreements between the parties, which had aggregate limits, Sweden had stated that the absence of swing was a reflection of a mutual recognition of the minimum viable production principle (COM.TEX/SB/602 and 731); however, the TSB recalled that the aggregate limit first introduced in 1980, while higher than the sum of the group limits in 1979, was lower than the sum of the limits in 1980.¹

(vi) Share in the market

2.36 In reviewing certain agreements, the TSB expressed its opinion regarding restraints on products where the share of the exporting country was small in the market of the importing country.

2.37 With respect to the Norway/Korea agreement (paragraph 1.27), the TSB noted that the compounded growth rates were, in five cases, substantially higher than 6 per cent, but was of the opinion that the maintenance of Norway's minimum viable production did not require the absence of swing in the agreement, nor restraints with respect to some categories where Korea's share in the Norwegian market was very small.¹

2.38 In reviewing the Norway/Macao agreement (paragraph 1.28), the TSB, while noting that the compounded growth rates, in all but one case, were much higher than 6 per cent, was of the opinion that the maintenance of Norway's minimum viable production did not require either the absence of swing in the agreement, or restraints with respect to some categories where Macao's share in the Norwegian market was very small.¹

2.39 With respect to the agreement between Norway and Sri Lanka (see paragraph 1.29), the TSB expressed the opinion that the maintenance of Norway's minimum viable production did not require either the restraints on several categories where Sri Lanka's share in the Norwegian market was very small or nil or the lack of swing in the agreement.¹

2.40 In reviewing the agreement between Sweden and Korea (paragraphs 1.31 and 1.32), the TSB, while noting that the agreement had been concluded having regard to the need for Sweden to maintain its minimum viable production with respect to the Groups under restraint, considered that Korea's small share in the Swedish market with respect to certain products did not warrant the low growth and reduced flexibility provisions applicable to those products.²

2.41 During its review of an amendment of the agreement between the United States and Uruguay (paragraph 1.56), which included an increase in the restraint level for Category 410, the TSB noted that its earlier observation regarding the restraint on this Category (i.e. the level set was small in relation² to the United States market), had been taken into account by the parties.

¹COM.TEX/SB/1129

²COM.TEX/SB/1164

(vii) Consultation provisions

(a) For introduction of new restraints

2.42 With respect to the consultation provisions contained in paragraph 8 of the agreement between Norway and Macao relating to the introduction of new restraints (see paragraph 1.28), the TSB understood that consultations would only be requested when, in the view of Norway, actual or imminent imports into Norway from Macao were posing a real risk of market disruption. A similar observation was made with respect to the consultation provisions contained in the Norway/Sri Lanka agreement (see paragraph 1.29).¹

(b) Special transfer provision

2.43 In an amendment of the agreement between Sweden and Hong Kong relating to the deletion of the aggregate limit and the application of the special transfer provision (see paragraph 1.30), Sweden reaffirmed its undertaking to consider any request by Hong₂ Kong to reverse the quantities applicable under the special transfer provision.

(c) Adjustment of category system

2.44 The TSB noted that the agreement between the United States and Indonesia (see paragraphs 1.45 and 1.46), also contained provisions concerning possible adjustment of the United States' category system as a result of the adoption by the United States of the Harmonized Commodity Code. Under these provisions, prior consultations between the parties are mandatory, if adjustments to the category system were to be made during the validity of the agreement; the United States reserved its right to make the necessary adjustments in the absence of mutual agreement. In this context, the TSB noted that the agreement stated that "the intent of this conversion on the part of the₃ United States Government will not be to diminish overall trade with Indonesia".

(viii) Conformity with Article 12:3 of the MFA

2.45 During its review of an amendment of the agreement between the United States and Indonesia (see paragraphs 1.45 and 1.46), the TSB was of the opinion that the language of paragraph 4(b) of the agreement appeared not to be in conformity with Article 12:3 of the Arrangement; however, after having heard statements from Indonesia and the United States that the products falling under this provision were not traditional folklore garments, the TSB understood that the intention of the paragraph was in conformity with the Arrangement, and recommended that the parties clarify this matter at the first opportunity and report back to it in due course. The parties subsequently reported that the intent of the paragraph was reflected in the following statement:

¹COM.TEX/SB/1129

²COM.TEX/SB/1180

³COM.TEX/SB/1150

"Indonesia may export to the United States an additional 5 per cent of the unadjusted specific limits on Categories 336, 341, 641 and 648, provided that such additional amounts refer to products which, while not traditional folklore garments in the sense of Article 12:3, are made of traditional folklore fabrics, such as Batik, Ikat and Kerawang."¹

2.46 With reference to an amendment of the agreement between Canada and Indonesia (see paragraph 1.22), in which the parties had also agreed to a modification to replace paragraph 26 by a new paragraph, the TSB received the following clarification from both parties on the revised paragraph:

"Indonesia may export to Canada an additional 5 per cent of each unadjusted restraint level in Categories 2A, 4, 7 and 8 provided that such additional amounts refer to products which, while made of traditional folklore fabrics, such as Batik, Ikat and Kerawang, are not traditional folklore handicraft products in the sense of Article 12:3. With the deletion of previous paragraph 26, there no longer exists an agreed export certification process between Canada and Indonesia in the sense of Article 12:3. The export certificates referred to in the new paragraph 26 relate to the administration of the additional amounts."²

(ix) Interpretation of provisions of the MFA

2.47 After its review of the agreement between Sweden and Korea (see paragraphs 1.31 and 1.32), the TSB concluded that the terms of this agreement implied an extreme interpretation of the relevant Articles of the Arrangement.

2.48 In agreeing to transmit the agreement to the Textiles Committee, the TSB recommended that if the two parties were to extend it for a further period, they should ensure that its terms are fully in line with the Arrangement.

(x) Rescission of restraints or calls

2.49 During its review of an amendment of the agreement between the United States and China (see paragraph 1.36), the TSB noted that reference had been made to the understanding that the United States had rescinded its requests for consultations made pursuant to paragraph 8(d) of the bilateral agreement with respect to Categories 369-S (shop towels), 638 and 644.²

2.50 During its review of an amendment of the agreement between the United States and India (see paragraph 1.44), the TSB took note that as a result of consultations between the parties, the United States had rescinded restraints on Categories 350, 359-coveralls and 359-vests.⁴

2.51 Under an amendment of the bilateral agreement between the United States and Pakistan (see paragraph 1.50) the restraints on Categories 334 and 350 were rescinded.

¹ COM.TEX/SB/1150 and 1151

² COM.TEX/SB/1176

³ COM.TEX/SB/1164

⁴ COM.TEX/SB/1150

(xi) Other

2.52 The TSB had a discussion on information concerning recent requests in Japan for restraints, or extension thereof, regarding exports of MFA products to Japan and the position of the Japanese Government regarding these requests. The TSB decided to keep this matter under review.¹

2.53 The TSB had a discussion on the definition of flat goods, handbags¹ and luggage of man-made fibres and agreed to return to this matter as warranted.

C. Observation on notification under Article 7

2.54 In discussing the safeguard measures taken by the EEC on imports of certain products from Turkey (paragraph 1.60), under the provisions of Article 60 of the Additional Protocol of the EEC/Turkey Association Agreement, the TSB recalled similar notifications made by the EEC of previous measures taken with respect to imports from Turkey. The TSB once again noting that both parties concerned were MFA participants, felt that it could not address itself to the conformity with the provisions of the Arrangement as extended by the 1981 Protocol of measures taken outside the framework of the MFA. The TSB, however, called the attention of both parties to the provisions of paragraph 23 of the 1981 Protocol of Extension.¹

¹COM.TEX/SB/1129