II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 March 1974

concluding the Arrangement regarding International Trade in Textiles

(74/214/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 113 thereof;

Having regard to the recommendation from the Commission;

Whereas the Commission has participated, on behalf of the Community, in the negotiations within the framework of a Negotiating Group on Textiles established by the GATT Council which have led to the drawing up of the Arrangement regarding International Trade in Textiles;

Whereas it is desirable that the Community conclude the Arrangement,

HAS DECIDED AS FOLLOWS:

Article 1

The Arrangement regarding International Trade in Textiles, the text of which is annexed hereto, is concluded on behalf of the European Economic Community.

Article 2

The President of the Council shall be authorized to designate the person empowered to accept the Arrangement in accordance with Article 13 thereof and to confer upon him the powers he requires to bind the Community.

Done at Brussels, 21 March 1974.

For the Council

The President

J. ERTL

ANNEX

ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

Preamble

Recognizing the great importance of production and trade in textile products of wool, man-made fibres and cotton for the economies of many countries, and their particular importance for the economic and social development of developing countries and for the expansion and diversification of their export earnings, and conscious also of the special importance of trade in textile products of cotton for many developing countries;

Recognizing further the tendency for an unsatisfactory situation to exist in world trade in textile products and that this situation, if not satisfactorily dealt with, could work to the detriment of countries participating in trade in textile products, whether as importers or exporters, or both, adversely affect prospects for international cooperation in the trade field, and have unfortunate repercussions on trade relations generally;

Noting that this unsatisfactory situation is characterized by the proliferation of restrictive measures, including discriminatory measures, that are inconsistent with the principles of the General Agreement on Tariffs and Trade and also that, in some importing countries, situations have arisen which, in the view of these countries, cause or threaten to cause disruption of their domestic markets;

Desiring to take cooperative and constructive action, within a multilateral framework, so as to deal with the situation in such a way as to promote on a sound basis the development of production and expansion of trade in textile products and progressively to achieve the reduction of trade barriers and the liberalization of world trade in these products;

Recognizing that, in pursuit of such action, the volatile and continually evolving nature of production and trade in textile products should be constantly borne in mind and the fullest account taken of such serious economic and social problems as exist in this field in both importing and exporting countries, and particularly in the developing countries;

Recognizing further that such action should be designed to facilitate economic expansion and to promote the development of developing countries possessing the necessary resources, such as materials and technical skills, by providing larger opportunities for such countries, including countries that are, or that may shortly become, new entrants in the field of textile exports to increase their exchange earnings from the sale in world markets of products which they can efficiently produce;

Recognizing that future harmonious development of trade in textiles particularly having regard to the needs of developing countries, also depends importantly upon matters outside the scope of this Arrangement, and that such factors in this respect include progress leading both to the reduction of tariffs and to the maintenance and improvement of schemes of generalized preferences, in accordance with the Tokyo Declaration;

Determined to have full regard to the principles and objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as the GATT) and, in carrying out the aims of this Arrangement, effectively to implement the principles and objectives agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations;

THE PARTIES TO THIS ARRANGEMENT have agreed as follows:

Article 1

1. It may be desirable during the next few years for special practical measures of international cooperation to be applied by the participating countries (1) in the field of textiles with the aim of eliminating the difficulties that exist in this field.

2. The basic objectives shall be to achieve the expansion of trade, the reduction of barriers to such trade and the progressive liberalization of world trade in textile products, while at the same time ensuring the orderly and equitable development of this trade and avoidance of disruptive effects in individual markets and on individual lines of production in both importing and exporting countries. In the case of those countries having small markets, an exceptionally high level of imports and a correspondingly low level of domestic production, account should be taken of the avoidance of damage to those countries' minimum viable production of textiles.

3. A principal aim in the implementation of this Arrangement shall be to further the economic and social development of developing countries and secure a substantial increase in their export earnings from textile products and to provide scope for a greater share for them in world trade in these products.

4. Actions taken under this Arrangement shall not interrupt or discourage the autonomous industrial adjustment processes of participating countries. Furthermore, actions taken under this Arrangement should be accompanied by the pursuit of appropriate

(1) The expressions 'participating country', 'participating exporting country' and 'participating importing country', wherever they appear in this Arrangement, shall be deemed to include the European Economic Community.

economic and social policies, in a manner consistent with national laws and systems, required by changes in the pattern of trade in textiles and in the comparative advantage of participating countries, which policies would encourage businesses which are less competitive internationally to move progressively into more viable lines of production or into other sectors of the economy and provide increased access to their markets for textile products from developing countries.

5. The application of safeguard measures under this Arrangement, subject to recognized conditions and criteria and under the surveillance of an international body set up for that purpose, and in conformity with the principles and objectives of this Arrangement, may in exceptional circumstances become necessary in the field of trade in textile products, and should assist any process of adjustment which would be required by the changes in the pattern of world trade in textile products. The parties to this Arrangement undertake not to apply such measures except in accordance with the provisions of this Arrangement with full regard to the impact of such measures on other parties.

6. The provisions of this Arrangement shall not affect the rights and obligations of the participating countries under the GATT.

7. The participating countries recognize that, since measures taken under this Arrangement are intended to deal with the special problems of textile products, such measures should be considered as exceptional, and not lending themselves to application in other fields.

Article 2

1. All existing unilateral quantitative restrictions, bilateral agreements and any other quantitative measures in force which have a restrictive effect shall be notified in detail by the restraining participating country, upon acceptance of or accession to this Arrangement, to the Textiles Surveillance Body, which shall circulate the notifications to the other participating countries for their information. Measures or agreements which are not notified by a participating country within 60 days of its acceptance of, or accession to, this Arrangement shall be considered to be contrary to this Arrangement and shall be terminated forthwith.

2. Unless they are justified under the provisions of the GATT (including its Annexes and Protocols), all unilateral quantitative restrictions and any other quantitative measures which have a restrictive effect and which are notified in accordance with paragraph 1 above shall be terminated within one year of the entry into force of this Arrangement, unless they are the subject of one of the following procedures to bring them into conformity with the provisions of this Arrangement:

(i) inclusion in a programme, which should be adopted and notified to the Textiles Surveillance Body within one year from the date of coming into force of this Arrangement, designed to eliminate existing restrictions in stages within a maximum period of three years from the entry into force of this Arrangement and taking account of any bilateral agreement either concluded or in course of being negotiated as provided for in (ii) below; it being understood that a major effort will be made in the first year, covering both a substantial elimination of restrictions and a substantial increase in the remaining quotas;

(ii) inclusion, within a period of one year from the entry into force of this Arrangement, in bilateral agreements negotiated, or in course of negotiation, pursuant to the provisions of Article 4; if, for exceptional reasons, any such bilateral agreement is not concluded within the period of one year; this period, following consultations by the participating countries concerned and with the concurrence of the Textiles Surveillance Body, may be extended by not more than one year;

(iii) inclusion in agreements negotiated or measures adopted pursuant to the provisions of Article 3.

3. Unless justified under the provisions of the GATT (including its Annexes and Protocols), all existing bilateral agreements notified in accordance with paragraph 1 of this Article shall, within one year of the entry into force of this Arrangement, either be terminated or justified under the provisions of this Arrangement or modified to conform therewith.

4. For the purposes of paragraphs 2 and 3 above the participating countries shall afford full opportunity for bilateral consultation and negotiation aimed at arriving at mutually acceptable solutions in accordance with Articles 3 and 4 of this Arrangement and permitting from the first year of the acceptance of this Arrangement the elimination as complete as possible of the existing restrictions. They shall report specifically to the Textiles Surveillance Body within one year of the entry into force of this Arrangement on the status of any such actions taken or negotiations undertaken pursuant to this Article.

5. The Textiles Surveillance Body shall complete its review of such reports within 90 days of their receipt. In its review it shall consider whether all the actions taken are in conformity with this Arrangement. It may make appropriate recommendations to the participating countries directly concerned so as to facilitate the implementation of this Article.

Article 3

1. Unless they are justified under the provisions of the GATT (including its Annexes and Protocols) no new

restrictions on trade in textile products shall be introduced by participating countries nor shall existing restrictions be intensified unless such action is justified under the provisions of this Article.

2. The participating countries agree that this Article should only be resorted to sparingly and its application shall be limited to the precise products and to countries whose exports of such products are causing market disruption as defined in Annex A taking full account of the agreed principles and objectives set out in this Arrangement and having full regard to the interests of both importing and exporting countries. Participating countries shall take into account imports from all countries and shall seek to preserve a proper measure of equity. They shall endeavour to avoid discriminatory measures where market disruption is caused by imports from more than one participating country and when resort to the application of this Article is unavoidable, bearing in mind the provisions of Article 6.

3. If, in the opinion of any participating importing country, its market in terms of the definition of market disruption in Annex A is being disrupted by imports of a certain textile product not already subject to restraint, it shall seek consultations with the participating exporting country or countries concerned with a view to removing such disruption. In its request the importing country may indicate the specific level at which it considers that exports of such products should be restrained, a level which shall not be lower than the general level indicated in Annex B. The exporting country or countries concerned shall respond promptly to such request for consultations. The importing country's request for consultations shall be accompanied by a detailed factual statement of the reasons and justification for the request, including the latest data concerning elements of market disruption, this information being communicated at the same time by the requesting country to the Chairman of the Textiles Surveillance Body.

4. If, in the consultation, there is mutual understanding that the situation calls for restrictions on trade in the textile product concerned, the level of restriction shall be fixed at a level not lower than the level indicated in Annex B. Details of the agreement reached shall be communicated to the Textiles Surveillance Body which shall determine whether the agreement is justified in accordance with the provisions of this Arrangement.

5. (i) If, however, after a period of 60 days from the date on which the request has been received by the participating exporting country or countries, there has been no agreement either on the request for export restraint or on any alternative solution, the requesting participating country may decline to accept imports for retention from the participating country or countries referred to in paragraph 3 above of the textiles and textile products causing market disruption (as defined in Annex A) at a level for the 12-month period beginning on the day when the request was received by the participating exporting country or countries not less than the level provided for in Annex B. Such level may be adjusted upwards to avoid undue hardship to the commercial participants in the trade involved to the extent possible consistent with the purposes of this Article. At the same time the matter shall be brought for immediate attention to the Textiles Surveillance Body.

(ii) However, it shall be open for either party to refer the matter to the Textiles Surveillance Body before the expiry of the period of 60 days.

(iii) In either case the Textiles Surveillance Body shall promptly conduct the examination of the matter and make appropriate recommendations to the parties directly concerned within 30 days from the date on which the matter is referred to it. Such recommendations shall also be forwarded to the Textiles Committee and to the GATT Council for their information. Upon receipt of such recommendations the participating countries concerned should review the measures taken or contemplated with regard to their institution, continuation, modification or discontinuation.

6. In highly unusual and critical circumstances, where imports of a textile product or products during the period of 60 days referred to in paragraph 5 above would cause serious market disruption giving rise to damage difficult to repair, the importing country shall request the exporting country concerned to cooperate immediately on a bilateral emergency basis to avoid such damage, and shall, at the same time, immediately communicate to the Textiles Surveillance Body the full details of the situation. The countries concerned may make any mutually acceptable interim arrangement they deem necessary to deal with the situation without prejudice to consultations regarding the matter under paragraph 3 of this Article. In the event that such interim arrangement is not reached, temporary restraint measures may be applied at a level higher than that indicated in Annex B with a view, in particular, to avoiding undue hardship to the commercial participants in the trade involved. The importing country shall give, except where possibility exists of quick delivery which would undermine the purpose of such measure, at least one week's prior notification of such action to the participating exporting country or countries and enter into, or continue, consultations under paragraph 3 of this Article. When a measure is taken under this paragraph either party may refer the matter to the Textiles Surveillance Body. The Textiles Surveillance Body shall conduct its work in the manner provided for in paragraph 5 above. Upon receipt of recommendations from the Textiles Surveillance Body the participating importing country shall review the measures taken, and report thereon to the Textiles Surveillance Body.

7. If recourse is had to measures under this Article, participating countries shall, in introducing such measures, seek to avoid damage to the production and marketing of the exporting countries, and particularly of the developing countries, and shall avoid any such measures taking a form that could result in the establishment of additional non-tariff barriers to trade in textile products. They shall, through prompt consultations, provide for suitable procedures, particularly as regards goods which have been, or which are about to be, shipped. In the absence of agreement, the matter may be referred to the Textiles Surveillance Body, which shall make the appropriate recommendations.

8. Measures taken under this Article may be introduced for limited periods not exceeding one year, subject to renewal or extension for additional periods of one year, provided that agreement is reached between the participating countries directly concerned on such renewal or extension. In such cases the provisions of Annex B shall apply. Proposals for renewal or extension, or modification or elimination or any disagreement thereon shall be submitted to the Textiles Surveillance Body, which shall make the appropriate recommendations. However, bilateral restraint agreements under this Article may be concluded for periods in excess of one year in accordance with the provisions of Annex B.

9. Participating countries shall keep under review any measures they have taken under this Article and shall afford any participating country or countries affected by such measures adequate opportunity for consultation with a view to the elimination of the measures as soon as possible. They shall report from time to time, and in any case once a year, to the Textiles Surveillance Body on the progress made in the elimination of such measures.

Article 4

1. The participating countries shall fully bear in mind, in the conduct of their trade policies in the field of textiles, that they are, through the acceptance of, or accession to, this Arrangement, committed to a multilateral approach in the search for solutions to the difficulties that arise in this field.

2. However, participating countries may, consistently with the basic objectives and principles of this Arrangement, conclude bilateral agreements on mutually acceptable terms in order, on the one hand, to eliminate real risks of market disruption (as defined in Annex A) in importing countries and disruption to the textile trade of exporting countries, and on the other hand to ensure the expansion and orderly development of trade in textiles and the equitable treatment of participating countries.

3. Bilateral agreements maintained under this Article shall, on overall terms, including base levels and growth rates, be more liberal than measures provided for in Article 3 of this Arrangement. Such bilateral agreements shall be designed and administered to facilitate the export in full of the levels provided for under such agreements and shall include provisions assuring substantial flexibility for the conduct of trade thereunder, consistent with the need for orderly expansion of such trade and conditions in the domestic market of the importing country concerned. Such provisions should encompass areas of base levels, growth, recognition of the increasing interchangeability of natural, artificial and synthetic fibres, carryforward, carryover, transfers from one product grouping to another and such other arrangements as may be mutually satisfactory to the parties to such bilateral agreements.

4. The participating countries shall communicate to the Textiles Surveillance Body full details of agreements entered into in terms of this Article within 30 days of their effective date. The Textiles Surveillance Body shall be informed promptly when any such agreements are modified or discontinued. The Textiles Surveillance Body may make such recommendations as it deems appropriate to the parties concerned.

Article 5

Restrictions on imports of textile products under the provisions of Articles 3 and 4 shall be administered in a flexible and equitable manner and over-categorization shall be avoided. Participating countries shall, in consultation, provide for arrangements for the administration of the quotas and restraint levels, including the proper arrangement for allocation of quotas among the exporters, in such a way as to facilitate full utilization of such quotas. The participating importing country should take full account of such factors as established tariff classification and quantitative units based on normal commercial practices in export and import transactions, both as regards fibre composition and in terms of competing for the same segment of its domestic market.

Article 6

1. Recognizing the obligations of the participating countries to pay special attention to the needs of the developing countries, it shall be considered appropriate and consistent with equity obligations for those importing countries which apply restrictions under this Arrangement affecting the trade of developing countries to provide more favourable terms with regard to such restrictions, including elements such as base level and growth rates, than for other countries. In the case of developing countries whose exports are already subject to restrictions and if the restrictions are maintained under this Arrangement, provisions should be made for higher quotas and liberal growth rates. It shall, however, be borne in mind that there should be no undue prejudice to the interests of established suppliers or serious distortion in existing patterns of trade.

2. In recognition of the need for special treatment for exports of textile products from developing countries, the criterion of past performance shall not be applied in the establishment of quotas for their exports of products from those textile sectors in respect of which they are new entrants in the markets concerned and a higher growth

rate shall be accorded to such exports, having in mind that this special treatment should not cause undue prejudice to the interests of established suppliers or create serious distortions in existing patterns of trade.

3. Restraints on exports from participating countries whose total volume of textile exports is small in comparison with the total volume of exports of other countries should normally be avoided if the exports from such countries represent a small percentage of the total imports of textiles covered by this Arrangement of the importing country concerned.

4. Where restrictions are applied to trade in cotton textiles in terms of this Arrangement, special consideration will be given to the importance of this trade to the developing countries concerned in determining the size of quotas and the growth element.

5. Participating countries shall not, as far as possible, maintain restraints on trade in textile products originating in other participating countries which are imported under a system of temporary importation for re-export after processing, subject to a satisfactory system of control and certification.

6. Consideration shall be given to special and differential treatment to re-imports into a participating country of textile products which that country has exported to another participating country for processing and subsequent re-importation, in the light of the special nature of such trade without prejudice to the provisions of Article 3.

Article 7

The participating countries shall take steps to ensure, by the exchange of information, including statistics on imports and exports when requested, and by other practical means, the effective operation of this Arrangement.

Article 8

1. The participating countries agree to avoid circumvention of this Arrangement by trans-shipment, re-routing, or action by non-participants. In particular, they agree on the measures provided for in this Article.

2. The participating countries agree to collaborate with a view to taking appropriate administrative action to avoid such circumvention. Should any participating country believe that the Arrangement is being circumvented and that no appropriate administrative measures are being applied to avoid such circumvention, that country should consult with the exporting country of origin and with other countries involved in the circumvention with a view to seeking promptly a mutually satisfactory solution. If such a solution is not reached the matter shall be referred to the Textiles Surveillance Body.

3. The participating countries agree that if resort is had to the measures envisaged in Articles 3 and 4, the participating importing country or countries concerned shall take steps to ensure that the participating country's exports against which such measures are taken shall not be restrained more severely than the exports of similar goods of any country not party to this Arrangement which are causing, or actually threatening, market disruption. The participating importing country or countries concerned will give sympathetic consideration to any representations from participating exporting countries to the effect that this principle is not being adhered to or that the operation of this Arrangement is frustrated by trade with countries not party to this Arrangement. If such trade is frustrating the operation of this Arrangement, the participating countries shall consider taking such actions as may be consistent with their law to prevent such frustration.

4. The participating countries concerned shall communicate to the Textiles Surveillance Body full details of any measures or arrangements taken under this Article or any disagreement and, when so requested, the Textiles Surveillance Body shall make reports or recommendations as appropriate.

Article 9

1. In view of the safeguards provided for in this Arrangement the participating countries shall, as far as possible, refrain from taking additional trade measures which may have the effect of nullifying the objectives of this Arrangement.

2. If a participating country finds that its interests are being seriously affected by any such measure taken by another participating country, that country may request the country applying such measure to consult with a view to remedying the situation.

3. If the consultation fails to achieve a mutually satisfactory solution within a period of 60 days the requesting participating country may refer the matter to the Textiles Surveillance Body which shall promptly discuss such matter, the participating country concerned being free to refer the matter to that body before the expiry of the period of 60 days if it considers that there are justifiable grounds for so doing. The Textiles Surveillance Body shall make such recommendations to the participating countries as it considers appropriate.

Article 10

1. There is established within the framework of the GATT a Textiles Committee consisting of representatives of the parties to this Arrangement. The Committee shall carry out the responsibilities ascribed to it under this Arrangement.

2. The Committee shall meet from time to time, and at least once a year, to discharge its functions and to deal with those matters specifically referred to it by the Textiles Surveillance Body. It shall prepare such studies as the participating countries may decide. It shall undertake an analysis of the current state of world production and trade in textile products, including any measures to facilitate adjustment and it shall present its views regarding means of furthering the expansion and liberalization of trade in textile products. It will collect the statistical and other information necessary for the discharge of its functions and will be empowered to request the participating countries to furnish such information.

3. Any case of divergence of view between the participating countries as to the interpretation or

application of this Arrangement may be referred to the Committee for its opinion.

4. The Committee shall, once a year, review the operation of this Arrangement and report thereon to the GATT Council. To assist in this review, the Committee shall have before it a report from the Textiles Surveillance Body, a copy of which will also be transmitted to the Council. The review during the third year shall be a major review of this Arrangement in the light of its operation in the preceding years.

5. The Committee shall meet not later than one year before the expiry of this Arrangement in order to consider whether the Arrangement should be extended, modified or discontinued.

Article 11

1. The Textiles Committee shall establish a Textiles Surveillance Body to supervise the implementation of this Arrangement. It shall consist of a chairman and eight members to be appointed by the parties to this Arrangement on a basis to be determined by the Textiles Committee so as to ensure its efficient operation. In order to keep its membership balanced and broadly representative of the parties to the Arrangement provision shall be made for rotation of the members as appropriate.

2. The Textiles Surveillance Body shall be considered as a standing body and shall meet as necessary to carry out the functions required of it under this Arrangement. It shall rely on information to be supplied by the participating countries, supplemented by any necessary details and clarification it may decide to seek from them or from other sources. Further, it may rely for technical assistance on the services of the GATT secretariat and may also hear technical experts proposed by one or more of its members.

3. The Textiles Surveillance Body shall take the action specifically required of it in articles of this Arrangement.

4. In the absence of any mutually agreed solution in bilateral negotiations or consultations between participating countries provided for in this Arrangement, the Textiles Surveillance Body at the request of either party, and following a thorough and prompt consideration of the matter, shall make recommendations to the parties concerned.

5. The Textiles Surveillance Body shall, at the request of any participating country, review promptly any particular measures or arrangements which that country considers to be detrimental to its interests where consultations between it and the participating countries directly concerned have failed to produce a satisfactory solution. It shall make recommendations as appropriate to the participating country or countries concerned.

6. Before formulating its recommendations on any particular matter referred to it, the Textiles Surveillance Body shall invite participation of such participating countries as may be directly affected by the matter in question.

7. When the Textiles Surveillance Body is called upon to make recommendations or findings it shall do so, except when otherwise provided in this Arrangement, within a period of 30 days whenever practicable. All such recommendations or findings shall be communicated to the Textiles Committee for the information of its members.

8. Participating countries shall endeavour to accept in full the recommendations of the Textiles Surveillance Body. Whenever they consider themselves unable to follow any such recommendations, they shall forthwith inform the Textiles Surveillance Body of the reasons therefor and of the extent, if any, to which they are able to follow the recommendations.

9. If, following recommendations by the Textiles Surveillance Body, problems continue to exist between the parties, these may be brought before the Textiles Committee or before the GATT Council through the normal GATT procedures.

10. Any recommendations and observations of the Textiles Surveillance Body would be taken into account should the matters related to such recommendations and observations subsequently be brought before the contracting parties to the GATT, particulary under the procedures of Article XXIII of the GATT.

11. The Textiles Surveillance Body shall, within 15 months of the coming into force of this Arrangement, and at least annually thereafter, review all restrictions on textile products maintained by participating countries at the commencement of this Arrangement and submit its findings to the Textiles Committee.

12. The Textiles Surveillance Body shall annually review all restrictions introduced or bilateral agreements entered into by participating countries concerning trade in textile products since the coming into force of this Arrangement, and required to be reported to it under the provisions of this Arrangement, and report annually its findings to the Textiles Committee.

Article 12

1. For the purposes of this Arrangement, the expression 'textiles' is limited to tops, yarns, piece-goods, made-up articles, garments and other textile manufactured products (being products which derive their chief characteristics from their textile components) of cotton, wool, man-made fibres, or blends thereof, in which any or all of those fibres in combination represent either the chief value of the fibres or 50 per cent or more by weight (or 17 per cent or more by weight of wool) of the product.

2. Artificial and synthetic staple fibre, tow, waste, simple mono- and multifilaments are not covered by paragraph 1 above. However, should conditions of market disruption (as defined in Annex A) be found to exist for

such products, the provisions of Article 3 of this Arrangement (and other provisions of this Arrangement directly relevant thereto) and paragraph 1 of Article 2 shall apply.

3. This Arrangement shall not apply to developing country exports of handloom fabrics of the cottage industry, or hand-made cottage-industry products made of such handloom fabrics, or to traditional folklore handicraft textiles products, provided that such products are properly certified under arrangements established between the importing and exporting participating countries concerned.

4. Problems of interpretation of the provisions of this Article should be resolved by bilateral consultation between the parties concerned and any difficulties may be referred to the Textiles Surveillance Body.

Article 13

1. This Arrangement shall be deposited with the Director-General to the contracting parties to the GATT. It shall be open for acceptance, by signature or otherwise, by governments contracting parties to the GATT or having provisionally acceded to the GATT and by the European Economic Community.

2. Any government which is not a contracting party to the GATT, or has not acceded provisionally to the GATT, may accede to this Arrangement on terms to be agreed between that government and the participating countries. These terms would include a provision that any government which is not a contracting party to the GATT must undertake, on acceding to this Arrangement, not to introduce new import restrictions or intensify existing import restrictions, on textile products, in so far as such action would, if that government had been a contracting party to the GATT, be inconsistent with its obligations thereunder.

Article 14

1. This Arrangement shall enter into force on 1 January 1974.

2. Notwithstanding the provisions of paragraph 1 of this Article, for the application of the provisions of Article 2 (2) (3) and (4) the date of entry into force shall be 1 April 1974.

3. Upon request of one or more parties which have accepted or acceded to this Arrangement a meeting shall be held within one week prior to 1 April 1974. Parties which at the time of the meeting have accepted or acceded to the Arrangement may agree on any modification of the date envisaged in paragraph 2 of this Article which may appear necessary and is consistent with the provisions of Article 16.

Article 15

Any participating country may withdraw from this Arrangement upon the expiration of 60 days from the day on which written notice of such withdrawal is received by the Director-General to the contracting parties to the GATT.

Article 16

This Arrangement shall remain in force for four years.

Article 17

The Annexes to this Arrangement constitute an integral part of this Arrangement.

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

ANNEX A

I. The determination of a situation of 'market disruption', as referred to in this Arrangement, shall be based on the existence of serious damage to domestic producers or actual threat thereof. Such damage must demonstrably be caused by the factors set out in paragraph II below and not by factors such as technological changes or changes in consumer preference which are instrumental in switches to like and/or directly competitive products made by the same industry, or similar factors. The existence of damage shall be determined on the basis of an examination of the appropriate factors having a bearing on the evolution of the state of the industry in question such as: turnover, market share, profits, export performance, employment, volume of disruptive and other imports, production, utilization of capacity, productivity and investments. No one or several of these factors can necessarily give decisive guidance.

II. The factors causing market disruption referred to in paragraph I above and which generally appear in combination are as follows:

(i) a sharp and substantial increase or imminent increase of imports of particular products from particular sources. Such an imminent increase shall be a measurable one and shall not be determined to exist on the basis of allegation, conjecture or mere possibiliy arising, for example, from the existence of production capacity in the exporting countries;

(ii) those products are offered at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country. Such prices shall be compared both with the price for the domestic product at comparable stage of commercial transaction, and with the prices which normally prevail for such products sold in the ordinary course of trade and under open market conditions by other exporting countries in the importing country.

III. In considering questions of 'market disruption' account shall be taken of the interests of the exporting country, especially in regard to its stage of development, the importance of the textile sector to the economy, the employment situation, overall balance of trade in textiles, trade balance with the importing country concerned and overall balance of payments.

ANNEX B

1. (a) The level below which imports or exports of textile products may not be restrained under the provisions of Article 3 shall be the level of actual imports or exports of such products during the 12-month period terminating two months or, where data are not available, three months preceding the month in which the request for consultation is made, or, where applicable, the date of institution of such domestic procedure relating to market disruption in textiles as may be required by national legislation, or two months or, where data are not available, three months prior to the month in which the request for consultation is made as a result of such domestic procedure, whichever period is the later.

(b) Where a restraint on the yearly level of exports or imports exists between participating countries concerned, whether provided for under Article 2, 3 or 4, covering the 12-month period referred to in paragraph (a), the level below which imports of textile products causing market disruption may not be restrained under the provisions of Article 3 shall be the level provided for in the restraint in lieu of the level of actual imports or exports during the 12-month period referred to in paragraph (a).

Where the 12-month period referred to in paragraph (a) overlaps in part with the period covered by the restraint, the level shall be:

(i) the level provided for in the restraint, or the level of actual imports or exports, whichever is higher, except in case of overshipment, for the months where the period covered by the restraint and the 12-month period referred to in paragraph (a) overlap; and

(ii) the level of actual imports or exports for the months where no overlap occurs.

(c) If the period referred to in paragraph (a) is specially adverse for a particular exporting country due to abnormal circumstances, the past performance of imports from that country over a period of years should be taken into account.

(d) Where imports or exports of textile products subject to restraints were nil or negligible during the 12-month period referred to in paragraph (a), a reasonable import level to take account of future possibilities of the exporting country shall be established through consultation between the participating countries concerned.

2. Should the restraint measures remain in force for another 12-month period, the level for that period shall not be lower than the level specified for the preceding 12-month period,

increased by not less than six per cent for products under restraint. In exceptional cases where there are clear grounds for holding that the situation of market disruption will recur if the growth rate is implemented, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned. In exceptional cases where participating importing countries have small markets, an exceptionally high level of imports and a correspondingly low level of domestic production and, where the implementation of the above growth rate would cause damage to those countries' minimum viable production, a lower positive growth rate may be decided upon after consultation with the exporting country or countries concerned.

3. Should the restraint measures remain in force for further periods, the level for each subsequent period shall not be lower than the level specified for the preceding 12-month period, increased by six per cent, unless there is further new evidence which demonstrates, in accordance with Annex A, that implementation of the above growth rate would exacerbate the situation of market disruption. In these circumstances, after consultation with the exporting country concerned, and reference to the Textiles Surveillance Body in accordance with the procedures of Article 3, a lower positive growth rate may be applied.

4. In the event any restriction or limitation is established under Article 3 or 4 on a product or products as to which a restriction or limitation had been suppressed in accordance with the provisions of Article 2, such subsequent restriction or limitation shall not be re-established without full consideration of the limits of trade provided for under such suppressed restriction or limitation.

5. Where restraint is exercised for more than one product the participating countries agree that, provided that the total exports subject to restraint do not exceed the aggregate level for all products so restrained (on the basis of a common unit to be determined by the participating countries concerned), the agreed level for any one product may be exceeded by seven per cent save in exceptionally and sparingly used circumstances where a lower percentage may be justified, in which case that lower percentage shall be not less than five per cent. Where restraints are established for more years than one, the extent to which the total of the restraint level for one product or product group may, after consultation between the parties concerned, be exceeded in either year of any two subsequent years by carryforward and/or carryover is 10 per cent of which carryforward shall not represent more than five per cent.

6. In the application of the restraint levels and growth rates specified in paragraphs 1 to 3 above, full account shall be taken of the provisions of Article 6.