Mr. Chairman,

1. The draft Protocol of Accession, which has been submitted to us today (Annex to Document GATT/CP.3/WP.1/12) has raised doubts and misgivings in the mind of the Italian delegation, which it wishes to express quite frankly.

The Italian delegation recognizes that the inclusion of the results of the Annecy negotiations in those of the previous Geneva negotiations gives rise to complicated and difficult juridical problems.

However, it is obvious that this inclusion should be made in such a way as to ensure the most complete equality of treatment as between the present Contracting Parties and the Acceding Parties who are to become Contracting Parties - not only in order to safeguard their legitimate interests, but also so as to ensure the close economic collaboration which constitutes the final aim of the General Agreement and the Havana Charter.

2. The proposed procedure whereby an Acceding Party would become a Contracting Party appears to be the following.

If, between now and 30 November 1949, two-thirds of the present Contracting Parties have signed the special document to be annexed to the Protocol, relating to an Acceding Party, and if the Protocol is signed before that date, both by the Contracting Parties and the Acceding Party, it will come into force for the Acceding Party as from 1 January 1950.
As soon as it comes into force, it will have the following effects:

(a) The Acceding Party will become a Contracting Party under the conditions laid down in Article XXXII of the General Agreement. It will thus be bound to fulfill all the obligations and will acquire all the rights resulting from the provisional application of the aforesaid General Agreement. Among those rights, that arising from Article II of the General Agreement is particularly important; it is through it that the new Contracting Party becomes entitled to all the concessions which the present Contracting Parties exchanged in Geneva (Article 2 of the Protocol).

(b) The schedule of concessions made at Annecy by the new Contracting Party will come into force with respect to all the former Contracting Parties (Article 1(c) of the Protocol); which means, as will be shown later, that the new Contracting Party will be obliged to grant all the concessions made at Annecy to all the former Contracting Parties, even if some of them do not accord the agreed compensation.

The former Contracting Parties may, at that time, be placed in one or other of the following situations:

1st situation: They have signed the Protocol and have put into force the concessions negotiated with the new Contracting Party, as soon as the Protocol has come into force with respect to the latter. In that case, the situation is perfectly balanced, and there is nothing to be said.

2nd situation: They have signed the Protocol, but one of them has not yet put into force the concessions made at Annecy because it has abstained, availing itself of the right
granted it under Article 3 of the Protocol to withhold the said concessions until 30 April 1950. In that case, and assuming that the Protocol has entered into force on 1 January 1950, with respect to one or other of the Acceding Parties, there will be a lapse of time, from 1 January to 30 April 1950, during which the situation will be completely out of balance, for the new Contracting Party will have to grant to certain of the former Contracting Parties reductions of Customs duties without receiving any compensation - at any rate as far as the concessions negotiated at Annecy are concerned.

3rd Situation: One or other of the present Contracting Parties has not signed the Protocol. In that case, as Article 1(c) of the Protocol provides that "for the purposes of the General Agreement", the Schedules contained in Annex B, i.e. the Schedules of the new Contracting Parties, shall be regarded as Schedules annexed to the General Agreement, and as the latter (Article II 1(a) imposes on each Contracting Party the obligation to grant to the other Contracting Parties treatment as favourable as that resulting from the appropriate Schedule attached to the General Agreement, one is apparently led to the absurd and unjust conclusion that the new Contracting Party has to grant, for the whole duration of the Agreement, a reduction of duties without any compensation, thus making unilateral a pact which originally, and according to the common intention of the parties, should have had a bilateral character.

4th Situation: One or other of the present Contracting Parties has availed itself of the right granted it under Article XXXV of the General Agreement to refuse the application to one
or other of the new Contracting Parties of Articles I and II of the Agreement. In that case the new Contracting Party will nevertheless be obliged to apply its concessions to all the present Contracting Parties, including those which have availed themselves of Article XXXV, but it will not benefit either by the concession negotiated at Annecy, or those negotiated at Geneva.

All these possibilities may give rise to very serious difficulties.

The Acceding Parties, at the beginning of the Annecy negotiations, were on a footing of equality with the present Contracting Parties, in as much as they enjoyed de facto or in virtue of the most-favoured-nation clause, all the Customs concessions which the present Contracting Parties had exchanged at Geneva, while they themselves granted to the said Contracting Parties the benefit of the Customs concessions applied by them to any other country.

The purpose of the Annecy negotiations was to see how far that position could be regarded as balanced, and to improve it as far as possible by exchanging a more favourable treatment for goods of which the Acceding Parties were the main exporters, against compensation in respect of goods of which the present Contracting Parties were, in turn, the main suppliers.

In contrast to which, it is now possible that the result of the negotiations may be that the new Contracting Parties will be obliged, temporarily at any rate, to grant the former Contracting Parties concessions without any compensation.

The Protocol attempts to ward off these consequences as far as possible by providing (Article 4) that any country which signs the said Protocol may provisionally, or finally, withhold any concession whatsoever contained in any of the Schedules annexed to the
Protocol if that concession was negotiated with a Contracting Party which has not given notice that the concessions made at Annecy have been put into force. But, if it decides to avail itself of this right, the Acceding Party is obliged to give notice to all the Contracting Parties, and to consult with any one of them which may regard itself as having an interest in the concession, and finally, it may be obliged to give compensation or to undergo the loss of equivalent concessions.

There is, however, another aspect of the question, to which the Italian delegation wishes to draw special attention.

The Protocol, in order to leave the present Contracting Parties perfectly free to consider whether new Contracting Parties should be admitted or not, has replaced the procedure of vote by the Assembly to which Article XXXIII of the General Agreement appears clearly to refer, by an individual vote, to be given by means of a signature on the document relating to each of the Acceding Parties; and the report of the ad hoc Working Party (document GATT/CP.3/37 of 2 June) explicitly states that the present Contracting Parties, before giving their signature, must carefully consider whether the concessions made by the Acceding Party are such as to compensate for the advantages resulting for the latter especially from the Geneva schedules.

The tendency to overestimate the Geneva concessions is obvious: they have their counterpart in the whole of the concessions made by each Acceding Party in favour of all the present Contracting Parties; and, if they are regarded as satisfactory since they have led to the favourable outcome of the bilateral negotiations, this incitement to severity is to say the least inopportune, unless it is desired that each of the present Contracting Parties should consider not as regards itself, but as regards the other Parties, whether the concessions granted by the Acceding Party are sufficient to counterbalance the
whole of the concessions it receives; in which case there would be a kind of supervision on the part of each of the present Contracting Parties, which there is nothing to justify.

The Draft Protocol which has been submitted for our consideration thus places the Acceding Parties under the obligation, either not to sign the Protocol, thereby exposing themselves to the danger of being excluded from all the reductions of duties agreed at Geneva and at Annecy (unless protected by stipulations of a bilateral nature), or of having to run the risk of finding themselves exposed to a discriminatory situation.

There are further provisions in the Protocol which are not equitable for the Acceding Parties, as for instance the provision in Article 6, to the effect that on signing the Protocol, the Acceding Party must undertake to accept any amendment or any modification of the General Agreement, which has already been approved, but has not yet become effective at the date of signature, thus depriving the Acceding Party of the power of examination and the freedom of decision which remain unimpaired for the present Contracting Parties.

But, what particularly requires reconsideration are the disadvantages to which the procedure governing accessions may give rise; this does not appear to be quite fair to the new Contracting Parties, and appears to be contrary to the purpose of the General Agreement.
The latter has two main aims; on the one hand the lowering of customs barriers and the gradual abolition of import and export prohibitions, and on the other, the elimination of discriminatory measures. The Draft Protocol may, on the contrary, lead to a situation in which equality of treatment in customs matters is jeopardised so far as the new Contracting Parties are concerned, and the latter are deprived of the advantages assured to them by bilateral customs conventions based on the most favoured nation clause.

That was certainly not the intention of the Contracting Parties when they drew up the General Agreement. They wished to create among the Contracting Parties, without distinction of old or new, closer bonds designed to lead to a more intense economic co-operation; but they did not wish to interfere with equality of treatment, which under conditions of reciprocity, constitutes the most reliable basis for the intensification of international trade.

The Italian Delegation, in expressing with complete frankness its views on the Draft Protocol, has no intention of under-estimating the efforts made to place the new Contracting Parties in a position more or less similar to that enjoyed by the present Contracting Parties.

However, it considers that this aim has been only partly attained, and that further efforts should be made to remove at least some of the defects which have been brought to light.

The Italian Delegation, without making explicit proposals on the subject, considers that the Contracting Parties should in some way reassure the Accessing Parties with regard to the use which may be made of Article XXXV, which confers on the present Contracting Parties discretionary powers so far-reaching and so important that it does not appear that they could be exercised with regard to the Accessing Parties with which the present Contracting Parties have conducted negotiations.
The Italian Delegation also considers that a broad interpretation of Article 4 of the Protocol might meet the justifiable anxiety of the new Contracting Parties as regards their obligation to extend to the present Contracting Parties the concessions made at Annecy without even receiving the agreed compensation. That article gives in effect to Acceding Governments, signatories of the Protocol, the right to withhold or withdraw, in whole or in part, any concession provided for in Schedule A, which was originally negotiated with a Contracting Party which has not yet given the notification. If that provision could be interpreted to mean that this right might be exercised from the time the Protocol comes into force for the new Contracting Party, and not only after the expiry of the time limit for notification, the new Contracting Party would have the possibility of restoring the balance as soon as it regarded as incompatible with its own interests the maintenance in force of a concession made with a view to compensation which had not yet been provided.

This interpretation, or an explicit amendment of Article 4 in this sense, would be equitable, and might expedite the signature of the Protocol by Acceding Governments, which would otherwise tend to delay signing until 30 April 1950, as they would be entitled to do under Article 10.

The Italian Delegation apologises for having dealt with this argument at such length, and hopes that its comments will receive favourable consideration.