ACCESSION OF SWITZERLAND

Note by the Director-General

At its meeting from 14-16 March 1966 the Council recommended that an item concerning the accession of Switzerland be added to the agenda for the twenty-third session of the CONTRACTING PARTIES. It was agreed that I should submit for the CONTRACTING PARTIES' consideration a draft decision and protocol for the accession of Switzerland. Drafts of these two documents are attached.
DRAFT DECISION AND PROTOCOL FOR THE ACCESSION OF SWITZERLAND

Draft Decision

Having regard to the results of the negotiations directed toward the accession of Switzerland to the General Agreement on Tariffs and Trade,

Considering that an arrangement for the provisional accession of Switzerland was agreed to under the Declaration of 22 November 1958 and that subsequently the provisions of the General Agreement have been applicable between Switzerland and the great majority of the contracting parties in accordance with the terms of the said Declaration,

Desiring that Switzerland should become a contracting party to the General Agreement without further delay, and

Having prepared a Protocol for the accession of Switzerland which provides inter alia for the schedules annexed to the Declaration of 22 November 1958 to become Schedules to the General Agreement,

The CONTRACTING PARTIES, acting pursuant to Article XXXIII of the General Agreement,

Decide that Switzerland may accede to the General Agreement on the terms set out in the said Protocol.
Draft Protocol

The governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "contracting parties" and "the General Agreement", respectively), the European Economic Community and the Government of the Swiss Confederation (hereinafter referred to as "Switzerland"),

HAVING regard to the results of the negotiations directed towards the accession of Switzerland to the General Agreement which are embodied in the Declaration of 22 November 1958 providing for Switzerland's provisional accession to the General Agreement,

CONSIDERING that Switzerland has played and is playing an active and positive rôle in trade negotiations under the aegis of the CONTRACTING PARTIES,

CONSIDERING that Switzerland has accepted the principle agreed to in the Resolution adopted at the GATT ministerial meeting on 21 May 1963 to the effect that the current trade negotiations shall provide for acceptable conditions of access to world markets for agricultural products in furtherance of a significant development and expansion of world trade in such products and that Switzerland is prepared to co-operate in the creation of such conditions,

CONSIDERING that Switzerland is prepared, in case the current trade negotiations do not lead to agreements of the kind envisaged by Ministers in their Resolution of 21 May 1963, to consider the then existing situation with the CONTRACTING PARTIES, with a view to ascertaining that, notwithstanding the reservations mentioned in paragraphs 4 and 5 below, Switzerland provides for "acceptable conditions of access ..... for agricultural products", as stated in the Ministerial Resolution of 21 May 1963,

CONSIDERING that since its provisional accession Switzerland has provided a steadily expanding market for exports of agricultural products from contracting parties, as is evidenced by the steady growth of imports of such products,

CONSIDERING that since its provisional accession Switzerland has played an active and positive part in the work of the CONTRACTING PARTIES,

HAVE through their representatives agreed as follows:
Part I - General

1. Switzerland shall, upon entry into force of this Protocol pursuant to paragraph 12, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply provisionally and subject to this Protocol:

(a) Parts I and III of the General Agreement, and

(b) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on 22 November 1958.

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the General Agreement shall be considered as falling within Part II for the purpose of this paragraph.

2. (a) The provisions of the General Agreement to be applied by Switzerland shall, except as otherwise provided in this Protocol, be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment as rectified, amended, or otherwise modified

(i) by such instruments as may have become at least partially effective on the day on which Switzerland becomes a contracting party; provided this does not mean that Switzerland undertakes to apply a provision of any such instrument prior to the effectiveness of such provision pursuant to the terms of the instrument; and

(ii) by the provisions of any protocol rectifying or modifying existing Schedules to the General Agreement or by any other action affecting such Schedules, taken pursuant to a specific provision of the General Agreement or to procedures established by the CONTRACTING PARTIES, which may be effective on the day on which Switzerland becomes a contracting party.

(b) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement refer to the date of that Agreement, the applicable date in respect of Switzerland shall be 22 November 1958.

3. For the purposes of the territorial application of this Protocol the customs territory of Switzerland shall be deemed to include the territory of the Principality of Liechtenstein as long as the treaty for the Customs Union with Switzerland is in force.
4. Switzerland reserves its position with regard to the application of the provisions of Article XI of the General Agreement to the extent necessary to permit it to apply import restrictions pursuant to Title II of the Federal Law of 3 October 1951 as well as pursuant to Article XI of the Federal Decree of 28 September 1956/28 September 1962 and to the Swiss legislation concerning alcohol and wheat based in Articles 32 bis and 23 bis of the Federal Constitution. In applying, under these laws, measures which are not covered by paragraph 1(b) above, Switzerland shall, so far as is consistent with the implementation of these laws, observe to the fullest possible extent the appropriate provisions of the General Agreement, and in particular shall endeavour to ensure that they are applied in such a manner as to cause minimum harm to the interests of contracting parties, and, consistently with Article XIII of the General Agreement, shall apply all restrictions imposed under these laws in accordance with the principle of non-discrimination. Switzerland shall furnish annually to the CONTRACTING PARTIES a report on the measures maintained consistently with this reservation, and upon request of the CONTRACTING PARTIES enter into consultation with them regarding such measures. Furthermore, the CONTRACTING PARTIES shall conduct a thorough review of the application of the provisions of this paragraph every three years.

5. Switzerland also reserves its position with respect to the provisions of paragraph 6 of Article XV of the General Agreement, but undertakes that so long as Switzerland is not a member of the International Monetary Fund that it will act in exchange matters in accordance with the intent of the General Agreement and in a manner fully consistent with the principles of the special exchange agreement as adopted by the CONTRACTING PARTIES in their Resolution of 20 June 1949, and confirms the explicit undertakings set out in its declaration at the meeting of the eleventh session of the CONTRACTING PARTIES on 17 November 1956 (cf. document L/593) Switzerland shall report to the CONTRACTING PARTIES promptly on any action taken by it which would have been required to be reported to the CONTRACTING PARTIES had Switzerland signed the special exchange agreement as adopted by the CONTRACTING PARTIES in their Resolution of 20 June 1949. Switzerland shall consult with the CONTRACTING PARTIES at any time, subject to thirty days' notice, upon the request of any contracting party which considers that Switzerland has taken exchange action which may have a significant effect on the application of the provisions of the General Agreement or is inconsistent with the principles and objectives of the special exchange agreement. If, as a result of the consultation referred to in paragraph 3, the CONTRACTING PARTIES find that Switzerland has taken exchange action contrary to the intent of the General Agreement, they may determine that the present reservation shall cease to apply and Switzerland shall thereafter be bound by the provisions of paragraph 6 of Article XV of the General Agreement.
6. Switzerland shall enter into consultations pursuant to Articles XXII and XXIII of the General Agreement upon request of any contracting party regarding the reservations mentioned in paragraphs 4 and 5 above with a view to arriving at a mutually satisfactory settlement of any problems arising therefrom.

Part II - Schedules

7. The schedules referred to in Annex A shall, upon entry into force of this Protocol, become Schedules to the General Agreement relating to Switzerland.

8. The schedules referred to in Annex B relating to any contracting party or the European Economic Community shall become Schedules to the General Agreement relating to that contracting party or the European Economic Community on the thirtieth day following the day upon which this Protocol is signed by that contracting party or the European Economic Community; provided that the date on which such schedules become Schedules to the General Agreement shall not be earlier than the date of entry into force of this Protocol.

9. (a) In each case in which paragraph 1 of Article II of the General Agreement refers to the date of that Agreement the applicable date in respect of each product which is the subject of a concession provided for in a schedule referred to in Annex A or B shall be the date of the instrument containing such schedule.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the General Agreement to the date of that Agreement, the applicable date in respect of a schedule referred to in Annex A or B shall be the date of the instrument containing such schedule.

10. Switzerland shall be free at any time to withdraw in whole or in part any concession provided for in a schedule referred to in Annex A to this Protocol, which it determines to have been initially negotiated with a contracting party or the European Economic Community, the schedules of which, referred to in Annex B to this Protocol, have not become Schedules to the General Agreement: provided that:

(a) written notice of intention to make any such withdrawal of a concession shall be given to the CONTRACTING PARTIES at least thirty days before the date of such intended withdrawal;

(b) consultations shall be held, upon request, with any contracting party or the European Economic Community, the relevant schedules relating to which have become Schedules to the General Agreement and which has a substantial interest in the product involved; and
(c) any concession so withdrawn shall be applied on and after the day on which the schedules of the contracting party or the European Economic Community, with which such concession was initially negotiated, become Schedules to the General Agreement.

Part III - Final Provisions

11. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Switzerland until .................. 1966, by contracting parties and by the European Economic Community.

12. This Protocol shall enter into force on the thirtieth day following the day upon which it is signed by Switzerland.

13. Signature of this Protocol by Switzerland shall constitute re-affirmation of its acceptance of the Protocol Amending the General Agreement to Introduce a Part IV on Trade and Development and final action to become a party to any instrument providing for the rectification, amendment or other modification of the General Agreement which has been drawn up by the CONTRACTING PARTIES and opened for acceptance but which has not become effective at the time this Protocol is signed by Switzerland.

14. Switzerland, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit of the instrument of accession, whichever is the later. Accession to the General Agreement pursuant to this paragraph shall, for the purposes of paragraph 2 of Article XXXII of that Agreement be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI thereof.

15. Switzerland may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 14 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

16. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto pursuant to paragraph 11 to each contracting party, to the European Economic Community, to Switzerland, to each government which shall have acceded provisionally to the General Agreement,
and to each government with respect to which an instrument establishing special relations with the CONTRACTING PARTIES to the General Agreement shall have entered into force.

This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Genoa this .............. day of .......... one thousand nine hundred and sixty-six in a single copy in the English and French languages, both texts being authentic except as otherwise specified with respect to schedules contained in the instruments referred to in Annexes A and B.
ANNEX A

Instruments Containing Schedules Relating to Switzerland

Declaration on the Provisional Accession of the Swiss Confederation (22 November 1958)

Procès-Verbal Containing Schedules to be annexed to the Declaration on the Provisional Accession of the Swiss Confederation (13 November 1959)


Protocol for the Accession of Spain (1 July 1963)

ANNEX B

Instruments Containing Schedules Relating to Contracting Parties and the European Economic Community

Declaration on the Provisional Accession of the Swiss Confederation (22 November 1958) (Schedules relating to Austria, Benelux, Canada, Denmark, Finland, France, Federal Republic of Germany, Italy, Norway, Sweden, United Kingdom)

Procès-Verbal Containing Schedules to be annexed to the Declaration on the Provisional Accession of the Swiss Confederation (13 November 1959) (Schedule relating to Japan)

Protocol Embodying Results of the 1960/61 Tariff Conference (16 July 1962) (Schedules relating to United States and the European Economic Community)

Protocol Supplementary to the Protocol Embodying Results of the 1960/61 Tariff Conference (6 May 1963) (Schedule relating to the European Economic Community)

Protocol for the accession of Spain (1 July 1963) (Schedule relating to Spain)

Certification of the CONTRACTING PARTIES relating to Rectification and Modification of Schedules to the General Agreement (15 January 1963) (Schedule relating to Japan)

Second Certification of the CONTRACTING PARTIES relating to Rectification and Modification of Schedules to the General Agreement (29 April 1964) (Schedule relating to Finland)