ACCESSION OF KOREA

Report of the Working Party

1. At its meeting on 10 June 1966 the Council of Representatives decided to establish a Working Party to examine the application of the Government of the Republic of Korea to accede to the General Agreement under Article XXXIII and to submit recommendations which may include a draft protocol of accession.


3. The Working Party had before it the following documents to serve as a basis for its discussion:

(a) A memorandum on the foreign trade régime of Korea (L/2657).

(b) A number of questions put by contracting parties in connexion with the memorandum on Korea's foreign trade régime and the replies of the Government of Korea thereto (L/2704 and Addenda 1 and 2).

4. During the meetings the Korean delegation replied to, or commented on, various questions put to it by members of the Working Party and, at their request, supplied various supplementary information.

5. With reference to the Korean system of import restrictions, a member of the Working Party welcomed the statement that the Government of Korea intended to reconcile its import régime with the provisions of GATT. He assumed that, the restrictions being applied for balance-of-payments reasons, Korea would consult with the CONTRACTING PARTIES on these matters under the relevant provisions of the General Agreement, presumably no later than the fall of 1968. The representative of Korea confirmed that his Government would consult under Article XVIII.

6. In reply to a question regarding the implementation of a stipulation in the Korean trade plan permitting the Government of Korea to restrict importation from a country with which Korea's trade showed an unreasonably high deficit, the representative of Korea confirmed that this provision had so far never been implemented and would not be invoked unless there were a serious deterioration in the overall balance-of-payments situation. It would be abolished as soon as the balance of payments improved. Members of the Working Party welcomed the statement and expressed the hope that the provision would remain inoperative.
7. Questions were asked with regard to the timing of the elimination of import restrictions. The representative of Korea explained that he was not in a position to make any definite forecasts, but he pointed to the recent record of his Government's liberalization measures: from a position where all imports were under a quota system in 1964, Korea had liberalized 79 per cent of its imports at the end of 1965 and would at the end of 1966 have liberalized 85 per cent of total commercial imports. It was hoped that all imports would be liberalized by the end of the Second Five-Year Development Plan in 1971. The representative of Korea confirmed that at present further import liberalization of wheat and other grains was not being considered. In 1971 it was also hoped that the foreign aid programme could be terminated. Imports under the United States AID programme which came exclusively from the United States at present amounted to 15 per cent of total imports.

8. With regard to "automatic approval" items the representative of Korea explained that the licensing requirement was retained only for technical bank operation reasons; it did not have any restrictive effects. Raw materials for export products and machinery etc. falling in the "non-specified" item category were treated like "automatic approval" items. For "semi-restricted" items licences were granted freely if certain criteria were fulfilled. These criteria varied from item to item but never involved discrimination with regard to country of supply.

9. The representative of Korea said that the standard, maximum and minimum prices for certain export and import commodities - altogether about 150 items - were based on international market prices. A committee was constantly following the international price developments. The import items subject to that system which were selected mainly on the basis of their importance for the domestic price stabilization, frequently changed.

10. In reply to questions from members of the Working Party concerning the authorized foreign trade enterprises, the representative of Korea explained that representatives of foreign companies were allowed to import, if they were properly registered. A registered enterprise could import for its own account as well as for third parties. The right to store imported goods was not limited to registered enterprises.

11. The representative of Korea confirmed that the reduction of income and corporation tax granted to export enterprises only related to the share of the tax proportionate to their export activities. A member of the Working Party welcomed the statement by the Government of Korea that its export promotion measures would be made to conform to the requirements of Article XVI of GATT.
12. The representative of Korea said that the temporary special customs duties were imposed for two purposes: to stabilize the balance of payments and to prevent domestic prices from rising. The importers, knowing that excess profits would go to the Government in the form of temporary special duty, had been found to be likely to reduce prices in such cases. The temporary special duties were also levied on AID imports. The "normal arrival price" of the products was the c.i.f. price. It was the intention of the Government of Korea to abolish the temporary special duties when the balance-of-payments situation improved.

13. A member of the Working Party noted that whilst most of the provisions relating to the temporary special customs duties appeared to be mandatory within the terms of Article II:1(b) of GATT, one element in it, the classification of goods in categories I or II, did not appear to have a mandatory character. Members of the Working Party noted, however, from the Korean replies to the questionnaire that the current criteria were that items paying a normal customs duty of 40 per cent and over fell into category I and items paying less than 40 per cent fell into category II. It was their understanding that these criteria would be maintained on the bound items after Korea's accession to GATT. The representative of Korea confirmed that any future change would relax rather than intensify the effects of the law, in other words the 40 per cent demarcation line might be pushed upwards so that the number of items falling into category II would be increased.

14. In reply to a question, the representative of Korea confirmed that the working of the formula for the calculation of the temporary special duty would result in the collection of a higher temporary special duty whenever the ordinary customs duty was reduced, e.g., as a result of the accession negotiations. However, it was the intention of his delegation to propose to its Government that for the purposes of collection of the temporary special duty on items bound in the Schedule of Korea, the ordinary duty in effect prior to the reduction - and not the reduced rate - be taken into account.

15. The representative of Korea, in reply to a question, said that it was true that the floating exchange rate of the won had been stabilized at around W 270 per United States dollar since March 1965. The stabilization was, however, due to Government interventions through open market operations. It was hoped that it would soon be possible to stabilize it without the help of such operations. It would then be time to adopt a fixed exchange rate.

16. The lists of commodities annexed to bilateral trade agreements of Korea were, the representative of Korea explained, only indicative lists and did not fix any ceilings or commitments for imports from the countries concerned.

17. Having carried out the examination of the foreign trade régime of Korea and in the light of the assurances given by Korea, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant
tariff negotiations, Korea should be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose, the Working Party has prepared a draft Decision and a draft Protocol, annexed to this report. It is proposed that these texts be approved by the Council when it adopts this report. When the tariff negotiations between Korea and contracting parties, in connexion with the accession, have been concluded, the resulting Schedule would be annexed to the Protocol and the Decision would then be submitted to a vote by contracting parties in accordance with Article XXXIII. When the Decision is adopted, the Protocol would be opened for acceptance, and Korea would become a contracting party thirty days after it accepts the Protocol.
ANNEX I

Draft Decision on the Accession of Korea

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed toward the accession of the Republic of Korea to the General Agreement on Tariffs and Trade, and having prepared a Protocol for the accession of the Republic of Korea,

Decide, in accordance with Article XXXIII of the General Agreement, that the Republic of Korea may accede to the General Agreement on the terms set out in the said Protocol.
ANNEX II

Draft Protocol for the Accession of Korea to the General Agreement on Tariffs and Trade

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) and the European Economic Community, having received from the Government of the Republic of Korea a request for accession to the General Agreement, and the Government of the Republic of Korea (hereinafter referred to as "Korea").

HAVING regard to the results of the negotiations directed towards the accession of Korea to the General Agreement,

HAVE through their representatives agreed as follows:

Part I - General

1. Korea shall, upon entry into force of this Protocol pursuant to paragraph 6, 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, III and IV of the General Agreement, and

   (b) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

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 Korea 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, supplemented, or otherwise modified by such instruments as may have become at least partially effective on the day on which Korea becomes a contracting party; provided that this does not mean that Korea undertakes to apply a provision of any such instrument prior to the effectiveness of such provision pursuant to the terms of the instrument.
(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 Korea shall be the date of this Protocol.

Part II - Schedule

3. The schedule in the Annex shall, upon the entry into force of this Protocol, become a Schedule to the General Agreement relating to Korea.

4. (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 the schedule annexed to this Protocol shall be the date of this Protocol.

(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 the schedule annexed to this Protocol shall be the date of this Protocol.

Part III - Final Provisions

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Korea until 31 December 1967. It shall also be open for signature by contracting parties and by the European Economic Community.

6. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been signed by Korea.

7. Signature of this Protocol by Korea shall constitute final action to become a party to each of the following instruments:

(i) Protocol Amending Part I and Articles XXIX and XXX, Geneva, 10 March 1955;

(ii) Fifth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 3 December 1955;

(iii) Sixth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 11 April 1957;

(iv) Seventh Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 30 November 1957;

Eighth Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 18 February 1959; and


8. Korea, 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.

9. Korea may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 8 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

10. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 5, to each contracting party, to the European Economic Community, to Korea, 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 Geneva this ............. day of ............ one thousand nine hundred and sixty ........ in a single copy in the English and French languages, both texts being authentic except as otherwise specified with respect to the schedule annexed hereto.