1. At its meeting on 11 November 1968 the Council of Representatives decided to establish a Working Party to examine the application of the Government of Romania to accede to the General Agreement under Article XXXIII and to submit recommendations which might include a draft protocol of accession.

2. The Working Party met on 25-26 June, 15-17 October and 24-26 November 1969 under the chairmanship of Mr. T. Swaminathan (India) and on 20-21 May 1970, 14-15 June and 23 July 1971 under the chairmanship of Mr. C.H. Archibald (Trinidad and Tobago).

3. The Working Party had before it, to serve as a basis for its discussions, a memorandum on the foreign trade regime of Romania (L/3101 and Rev.1) and the replies by the Government of Romania to questions on its trade régime put by contracting parties (L/3211 and addendum).

4. The Working Party noted that the foreign trade of Romania was conducted by different State and co-operative enterprises, that Romania had no customs tariff and that Romania's foreign trade policy, based on directives of the Foreign Trade Plans, was aimed at increasing the participation of the country in international trade. It further noted a statement by the representative of Romania that in acceding to the General Agreement his Government undertook, in conformity with the most-favoured-nation clause, to pursue a non-discriminatory policy with respect to all its trading partners which were contracting parties and that it understood, for its part, that it would receive like treatment.

5. In regard to the statement by the representative of Romania that his country expected to receive non-discriminatory treatment from all its trading partners which were contracting parties, the Working Party discussed at length the elimination by contracting parties concerned of quantitative restrictions not consistent with Article XIII of the General Agreement against imports from Romania. Taking into account all the views expressed, the Working Party agreed on the text contained in paragraph 3 of the draft protocol. In the view of the Working Party not only the abolition of such quantitative restrictions but also increases in the amounts of individual quotas should be taken into account when considering progress towards the elimination of the restrictions.

6. The representative of Romania stressed that the Romanian producing units and foreign trade enterprises operated on international markets like similar enterprises in market-economy countries, in accordance with criteria of an exclusively commercial character.
7. It was agreed that because of the absence of a customs tariff in Romania the main concession to be incorporated in its Schedule would be a firm intention of increasing imports from contracting parties at a rate not smaller than the growth of total Romanian imports provided for in its Five-Year Plans.

8. The representative of Romania pointed out that the implementation of Romania's Schedule - which meant that there would not be adopted discriminatory measures against imports from GATT countries - depended on the evolution of Romania's exports to those countries, in view of the fact that the main source of financing its imports was its export and that in recent years Romania's imports from GATT countries had been substantially larger than its exports to those countries. His Government expected that an increase in Romanian exports to contracting parties would result from the application by contracting parties to Romania of the provisions of the General Agreement and from tariff reductions and other concessions made by contracting parties. Romania was prepared to examine the evolution of trade on a multilateral basis within the context of periodic consultations.

9. One member of the Working Party recalled that his delegation had at various occasions in the past had reason to underline that consumer goods played a particularly important part in the production and consequently also in the exports of his country. His delegation interpreted the words "will develop and diversify its trade with the contracting parties as a whole" in paragraph 1 of Annex B to the Accession Protocol as establishing the firm intention of Romania to facilitate equally the access to its market for consumer goods. The representative of Romania took due note of this interpretation.

10. It was noted that, as a result of possible changes in the foreign trade regulations of Romania, a different situation might arise enabling Romania to renegotiate its commitment on the basis of tariff concessions. It was agreed that provision should be made in Romania's Schedule for such a development; a modification of the original commitment would, however, only be implemented after negotiations had been carried out with the CONTRACTING PARTIES in accordance with the principles of Article XXVIII.

11. The representative of Romania said that there was no Romanian legislation in force which was contrary to the rules of the General Agreement and for which Romania would have to make a reservation under the provisions relating to existing legislation in paragraph 1(b) of the Protocol of Provisional Application.

12. In reply to questions put by members of the Working Party, the representative of Romania said that his country had not undertaken firm import commitments in bilateral agreements in force. The agreements and protocols with some GATT and non-GATT countries were negotiated by Romania with the participation of its foreign trade enterprises and therefore they had the character of a framework within which the foreign trade enterprises concluded their commercial contracts.
13. With regard to the implementation, where appropriate, of Article VI of the General Agreement with respect to imports from Romania, it was the understanding of the Working Party that the second Supplementary Provision in Annex I to paragraph I of Article VI of the General Agreement, relating to imports from a country in which foreign trade operations were carried out by State and co-operative trading enterprises and where some domestic prices were fixed by the law, would apply. In this connexion it was recognized that a contracting party may use as the normal value for a product imported from Romania the prices which prevail generally in its markets for the same or like products or a value for that product constructed on the basis of the price for a like product originating in another country, so long as the method used for determining normal value in any particular case is appropriate and not unreasonable.

14. The representative of Romania declared that his country, which in the opinion of his Government belonged to those countries the development of which was to be supported according to Part IV of the General Agreement, considered that it should be able to take advantage of all facilities offered to countries with a similar level of economic development.

15. In reply to a question the representative of Romania confirmed that his Government would abide by the provisions in Article X of the General Agreement relating to the publication and administration of trade regulations.

16. The representative of the United States said that under the legislation in force in his country, his Government would have to invoke Article XXXV of the General Agreement with regard to Romania. The United States could therefore not take part in negotiation on the Romanian import commitment; if the legislative situation changed, his Government might, however, at a later stage, after the accession of Romania to GATT, enter into negotiations with that country.

17. Having carried out the examination of the foreign trade régime of Romania and in the light of the assurances given by the representative of Romania, the Working Party recommends that Romania be invited to accede to the General Agreement under Article XXXIII and that the contracting parties apply the General Agreement to their relations with Romania in accordance with the terms and conditions of the draft Protocol for the Accession of Romania drawn up by the Working Party and annexed to this report (Annex I), on the understanding that a reciprocal and mutually advantageous basis would thereby be afforded for the continuing evolution of trading relations between Romania and the contracting parties. The Working Party has prepared a draft Decision, attached to this report (Annex II), on the accession of Romania and the draft Protocol referred to above. It is proposed that these texts be approved by the Council when it adopts the report. 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 Romania would become a contracting party thirty days after it accepts the Protocol.
Annex I

DRAFT PROTOCOL FOR THE ACCESSION OF ROMANIA

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 Socialist Republic of Romania (hereinafter referred to as "Romania"),

TAKING NOTE of the request of Romania dated 22 July 1968 for accession to the General Agreement,

HAVING REGARD to the result of the negotiations directed towards this end,

HAVE through their representatives agreed as follows:

Part I - General

1. Romania shall, upon entry into force of this Protocol pursuant to paragraph 10, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties 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 to contracting parties by Romania 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 by such instruments as may have become effective on the day on which Romania 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 Romania shall be the date of this Protocol.

3. (a) Contracting parties still maintaining prohibitions or quantitative restrictions not consistent with Article XIII of the General Agreement shall not increase the discriminatory element in these restrictions, undertake to remove them progressively and shall have as their objective to eliminate them before the end of 1974. Should this agreed objective not be achieved and, for exceptional reasons, should a limited number of restrictions still be in force as of 1 January 1975, the Working Party provided for in paragraph 5 would examine them with a view to their elimination.

   (b) Contracting parties shall notify, on entry into force of this Protocol, and before the consultations provided for in paragraph 5 below, discriminatory prohibitions and quantitative restrictions still applied at that time to imports from Romania. Such notifications shall include a list of the products subject to these prohibitions and restrictions, specifying the type of restrictions applied (import
quotas, licensing systems, embargoes, etc.) as well as the value of trade effected in the products concerned and the measures adopted with a view to eliminating these prohibitions and restrictions under the terms of the preceding sub-paragraph.

(c) The CONTRACTING PARTIES shall, in the course of the consultations provided for in paragraph 5 below, review the measures taken or envisaged by contracting parties pursuant to the provisions of this paragraph, and make such recommendations as they consider appropriate.

4. (a) If any product is being imported, in the trade between Romania and contracting parties, in such increased quantities or under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products, the provisions of (b) to (e) of this paragraph shall apply.

(b) Romania or the contracting party concerned may request consultations. Any such request shall be notified to the CONTRACTING PARTIES. If, as a result of such consultations, it is agreed that the situation referred to in (a) above exists, exports shall be limited or such other action taken, which may include action, if possible, with respect to the price at which the exports are sold, as will prevent or remedy the injury.

(c) Should it not be possible to reach agreement between the parties concerned as a result of consultation under (b), the matter may be referred to the CONTRACTING PARTIES who shall promptly investigate the matter and who may make appropriate recommendations to Romania or to the contracting party concerned.

(d) If following action under (b) and (c) above, agreement is still not reached between the parties concerned, the contracting party concerned shall be free to restrict the imports of the product concerned to the extent and for such time as is necessary to prevent or remedy the injury. The other party shall then be free to deviate from its obligations to the contracting party concerned in respect of substantially equivalent trade.

(e) In critical circumstances, where delay would cause damage difficult to repair, such preventive or remedial action may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

5. Early in the second year after the entry into force of this Protocol and in alternate years thereafter, or in any other year at the specific request of a contracting party or Romania, consultations shall be held between Romania and the CONTRACTING PARTIES in a working party to be established for this purpose to review the development of reciprocal trade and measures taken under the terms of this Protocol. These consultations shall follow the lines laid down in Annex A to this Protocol. Appropriate recommendations may be made to Romania or to contracting parties concerned.

6. Pursuant to the procedures outlined in paragraph 5, or not less than three months before a consultation under that paragraph, a contracting party may request Romania or Romania may request a contracting party to enter into consultation with it. Any such requests shall be notified to the CONTRACTING PARTIES. Should such consultation not lead to a result satisfactory to the contracting party or to Romania, that contracting party may suspend, to the extent it considers necessary, the application to Romania, or Romania may suspend, to the extent it considers necessary, the application to that contracting party, of concessions or other obligations under the General Agreement, and shall immediately inform the CONTRACTING PARTIES of any such action. At the request of the contracting party
concerned, or any other contracting party having a substantial interest in the subject of the consultation, or Romania, the CONTRACTING PARTIES shall consult with the contracting party concerned and Romania. Should such consultation not lead to an agreement between the contracting party and Romania, and should the contracting party or Romania continue to take action under this paragraph, Romania or the contracting party shall be free, while such action is taken, to suspend to an equivalent extent the application to that contracting party or to Romania of such concessions or other obligations under this Protocol as it may consider necessary.

7. Romania reserves its position with respect to the provisions of paragraph 6 of Article XV of the General Agreement, but undertakes that, so long as Romania is not a member of the International Monetary Fund, it will act in exchange matters in accordance with the intent of the General Agreement and in a manner fully consistent with the principles laid down in the text of the special exchange agreement as adopted by the CONTRACTING PARTIES in their Resolution of 20 June 1949. Romania 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 Romania signed the special exchange agreement. Romania shall consult with the CONTRACTING PARTIES at any time, subject to thirty days' notice, upon request of any contracting party which considers that Romania 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 such consultation, the CONTRACTING PARTIES find that Romania has taken exchange action contrary to the intent of the General Agreement, they may determine that the present reservation shall cease to apply and Romania shall thereafter be bound by the provisions of paragraph 6 of Article XV of the General Agreement.

Part II - Schedule

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

Part III - Final Provisions

9. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Romania until 31 December 1971. It shall also be open for signature by contracting parties and by the European Economic Community.

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

11. Romania, 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.

12. Romania may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 11 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

13. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 9, to each contracting party, to the European Economic Community, to Romania and to each government which shall have acceded provisionally to the General Agreement.

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

PLAN FOR PERIODIC CONSULTATIONS BETWEEN ROMANIA
AND THE CONTRACTING PARTIES UNDER PARAGRAPHS 3 AND 5 OF THE PROTOCOL

The consultations shall be held on the basis of information concerning the following points:

(i) Romanian exports

(a) The general trend and geographical distribution of Romanian exports to the contracting parties and of Romanian global exports.

(b) Development of Romanian exports of various categories of goods (e.g. agricultural products, raw materials, semi-manufactured goods, machinery and consumer goods) to the contracting parties in relation to development of Romanian global exports of the same categories of goods.

(c) Measures adopted under the terms of paragraph 3 of the Protocol by contracting parties maintaining quantitative restrictions inconsistent with Article XIII of the General Agreement with a view to eliminating these restrictions.

(d) Other questions relating to the exports of Romania to the contracting parties.

(ii) Romanian imports

(a) The general trend and geographical distribution of Romanian imports from the contracting parties and the development of Romania's imports from the contracting parties in relation to development of Romanian global imports.

(b) Development of Romanian imports of various categories of goods (e.g. agricultural products, raw materials, semi-manufactured goods, machinery and consumer goods) from the contracting parties in relation to the development of Romanian global imports of the same categories of goods.

(c) Measures taken by Romania pursuant to the provisions of the Schedule of Concessions of Romania.

(d) Other questions relating to imports by Romania from the contracting parties.

(iii) Romania's trade balance with the contracting parties and with all countries and the balance of payments (trade, tourism, capital movements, etc.) with the contracting parties.
Annex B

SCHEDULE OF ROMANIA

1. Subject to paragraph 2 below, Romania, on the basis of mutual advantage which is inherent in the General Agreement, will develop and diversify its trade with the contracting parties as a whole, and firmly intends to increase its imports from the contracting parties as a whole at a rate not smaller than the growth of total Romanian imports provided for in its Five-Year Plans.

2. On 1 January 1973 and thereafter on the date specified in paragraph 1 of Article XXVIII of the General Agreement, or at any time in the event that Romania decides to introduce a customs tariff, Romania may, following negotiation and agreement with the CONTRACTING PARTIES, modify its commitment under paragraph 1 above. Should this negotiation not lead to agreement between Romania and the CONTRACTING PARTIES, Romania shall, nevertheless, be free to modify this commitment. Contracting parties shall then be free to modify equivalent commitments.
Annex II

DRAFT DECISION FOR THE ACCESSION OF ROMANIA

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed towards the accession of the Government of the Socialist Republic of Romania to the General Agreement on Tariffs and Trade and having prepared a Protocol for the accession of Romania,

Decide, in accordance with Article XXXIII of the General Agreement, that the Government of Romania may accede to the General Agreement on the terms set out in the said Protocol.