The question of the accession of Spain to the General Agreement has been placed on the agenda of the next meeting of the Council scheduled to begin on 25 April 1963 (GATT/AIR/325). Attached hereto is a preliminary draft prepared by the secretariat of the Protocol for the Accession of Spain to GATT.

This draft is being circulated to governments in order to provide them with the opportunity of formulating and forwarding to the secretariat any comments, which they might wish to make in time to enable the secretariat to incorporate such comments in a final draft protocol for submission to the Council at its meeting beginning on 25 April 1963.
DRAFT PROTOCOL FOR THE ACCESSION OF SPAIN
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), the European Economic Community, the Government of the Swiss Confederation (hereinafter referred to as "Switzerland"), and the Government of Spain (hereinafter referred to as "Spain"),

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

HAVE through their representatives agreed as follows:

Part I - General

1. Spain shall, upon the entry into force of this Protocol pursuant to subparagraph (a) of paragraph 11, 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 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 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 Spain shall, except as is 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 the instruments at least partially in effect on the date of the Protocol listed in Annex A to this Protocol: Provided this does not mean that Spain 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 Spain shall be the date of this Protocol.

3. Spain, in accepting this Protocol, pursuant to sub-paragraph (a) of paragraph 10 and acceding to the General Agreement pursuant to sub-paragraph (b) of paragraph 11 of this Protocol does so in respect of the customs territories listed in Annex B. These territorial units into which the National Territory is divided for customs purposes are considered customs territories for the sole purpose of the General Agreement. The duties which may be imposed upon importation into any other of those customs territories shall not exceed those which are in effect in the customs territory of the Peninsular and Balearic provinces.

4. The provisions of the General Agreement shall not require any of the customs territories listed in Annex B to eliminate or to extend to other contracting parties such more favourable treatment in respect of customs duties or charges or other restrictive regulations of commerce as may at any time be in force exclusively between such customs territories, so long as substantially all the trade between such territories in products originated therein remains free from duties and other restrictive regulations of commerce or dutiable only on the foreign materials contained therein.
Part II - Schedules

5. The schedule in Annex C relating to any contracting party or the European Economic Community shall become a schedule 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 shall have been accepted, by signature or otherwise, by that contracting party or the European Economic Community, or on such earlier date following such acceptance as may be notified to the Executive Secretary in writing at the time of such acceptance; Provided that the date on which such schedule becomes a schedule to the General Agreement shall not be earlier than the date of the entry into force of this Protocol pursuant to sub-paragraph (a) of paragraph 11.

6. The schedule in Annex D shall, upon the entry into force of this Protocol pursuant to sub-paragraph (a) of paragraph 11, become a Schedule to the General Agreement relating to Spain.

7. The Schedule in Annex E relating to Spain shall become a schedule to the Declaration on the Provisional Accession of Switzerland to the General Agreement of 22 November 1958 (hereinafter referred to as "The Swiss Declaration of 22 November 1958") on the first day on which both this Protocol shall have entered into force pursuant to sub-paragraph (a) of paragraph 11 and the Swiss Declaration of 22 November 1958 shall have become effective between Switzerland and Spain pursuant to paragraph 8 of that Declaration, as amended.

8. (a) In each case in which paragraph 1 of Article II of the General Agreement refers to the date of that Agreement:

(i) The applicable date in respect of each product which is the subject of a concession provided for in the schedule annexed to this Protocol, of Spain or of a contracting party, if such product was not the subject of a concession provided for in the same part or section of a Schedule to the General Agreement of such contracting party on 1 September 1960, shall be the date of this Protocol.
(ii) The applicable date in respect of each product which is the subject of a concession provided for in the Schedule of the European Economic Community shall, when imported into the Kingdom of Belgium, the French Republic, the Federal Republic of Germany, the Republic of Italy, the Grand Duchy of Luxemburg, or the Kingdom of the Netherlands, be:

(I) If the product was provided for in Part I of a schedule (or of a relevant section of a schedule) applicable to such contracting party on 1 September 1960: the date of the instrument, by which such product was first provided for therein: Provided, that a concession on such product has been continuously in effect since the entry into force of the concession provided for in such instrument.

(II) If the product was not so provided for on 1 September 1960: 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 schedules annexed to this Protocol shall be the date of this Protocol.

9. Spain shall be free at any time to withhold or to withdraw in whole or in part any concession provided for in the schedule contained in Annex D to this Protocol, which it determines to have been initially negotiated with a contracting party, Switzerland or the European Economic Community, the schedule of which annexed to this Protocol has not yet become a Schedule to the General Agreement: Provided that:

(a) Written notice of any such withholding of a concession shall be given to the CONTRACTING PARTIES within thirty days after the date of such withholding.

(b) 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.
(c) Consultations shall be held, upon request, with any contracting party, Switzerland or the European Economic Community, the relevant schedule relating to which has become a Schedule to the General Agreement, and which has a substantial interest in the product involved.

(d) Any concession so withheld or withdrawn shall be applied on and after the day on which the schedule of the contracting party, or the European Economic Community, with which such concession was initially negotiated becomes a Schedule to the General Agreement, or, if it should be a later date, on and after the thirtieth day following the date on which this Protocol shall have been accepted by such contracting party, or the European Economic Community.

Part III - Final Provisions

10. (a) This Protocol shall be deposited with the Executive Secretary of the CONTRACTING PARTIES. It shall be open to acceptance, by signature or otherwise, by contracting parties, by other governments which have acceded provisionally to the General Agreement, by the European Economic Community and by Spain.

(b) Acceptance of this Protocol by Spain 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;


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

11. (a) This Protocol shall, subject to the provisions of paragraphs 5, 7 and 8, enter into force on the thirtieth day following the first day on which (i) it shall have been accepted by Spain and (ii) a Decision shall have been taken by the CONTRACTING PARTIES for the Accession of Spain under Article XXXIII of the General Agreement.

(b) Spain, which has 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 Executive Secretary. 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. Spain may withdraw its provisional application of the General Agreement, prior to its accession thereto pursuant to sub-paragraph (b) of paragraph 11, and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Executive Secretary.

13. The Executive Secretary shall promptly furnish a certified copy of this Protocol, a notification of each acceptance thereof pursuant to sub-paragraph (a) of paragraph 10, of the entry into force of this Protocol pursuant to sub-paragraph (a) of paragraph 11, of the accession of Spain to the General Agreement pursuant to sub-paragraph (b) of paragraph 11, and of each notice or notification pursuant to sub-paragraph (a) or (b) of paragraph 9, or paragraph 12, to each contracting party, to Spain, to each other government which has negotiated during the 1960-61 Tariff Conference for accession to the General Agreement, to the European Economic Community, to each government which shall have acceded provisionally to the General Agreement, and to each other government with respect to which an instrument establishing special relations with the CONTRACTING PARTIES to the General Agreement shall have entered into force.

DONE at Geneva this day of one thousand nine hundred and sixty-three, in a single copy in the English and French languages, both texts being authentic except as otherwise specified with respect to the schedules annexed hereto.
ANNEX A

INSTRUMENTS RECTIFYING, AMENDING, SUPPLEMENTING, OR OTHERWISE MODIFYING THE GENERAL AGREEMENT AS IT IS TO BE APPLIED BY SPAIN PURSUANT TO PARAGRAPH 2(a)

Protocol of Provisional Application, Geneva, 30 October 1947 (55 UNTS 308 to 316);
Protocol of Rectifications, Havana, 24 March 1948 (62 UNTS 2 to 25);
Protocol Modifying Certain Provisions, Havana, 24 March 1948 (62 UNTS 30 to 39);
Special Protocol Modifying Article XIV, Havana, 24 March 1948 (62 UNTS 40 to 55);
Special Protocol Relating to Article XXIV, Havana, 24 March 1948 (62 UNTS 56 to 66);
Protocol Modifying Part I and Article XXIX, Geneva, 14 September 1948 (138 UNTS 334 to 345);
Protocol Modifying Part II and Article XXVI, Geneva, 14 September 1948 (62 UNTS 80 to 111);
Second Protocol of Rectifications, Geneva, 14 September 1948 (62 UNTS 74 to 79);
Protocol Replacing Schedule I (Australia), Annecy, 13 August 1949 (107 UNTS 84 to 310);
Protocol Replacing Schedule VI (Ceylon), Annecy, 13 August 1949 (138 UNTS 347 to 378);
First Protocol of Modifications, Annecy, 13 August 1949 (138 UNTS 382 to 397);
Third Protocol of Rectifications, Annecy, 13 August 1949 (107 UNTS 312 to 387);
Annecy Protocol of Terms of Accession, Annecy, 10 October 1949 (62 UNTS 122 to 489, 63 UNTS passim, 74 UNTS 3 to 438);
Fourth Protocol of Rectifications, Geneva, 3 April 1950 (138 UNTS 398 to 465);
Fifth Protocol of Rectifications, Torquay, 16 December 1950 (167 UNTS 265 to 294);
Torquay Protocol, Torquay, 21 April 1951 (142 UNTS 34 to 436, 143 to 146 UNTS passim, 147 UNTS 162 to 389);
First Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 27 October 1951 (176 UNTS 2 to 387);
First Protocol of Supplementary Concessions (South Africa and Federal Republic of Germany), Geneva, 27 October 1951 (131 UNTS 316 to 324);
Second Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 8 November 1952 (321 UNTS 245 to 266);
Second Protocol of Supplementary Concessions (Austria and Federal Republic of Germany), Innsbruck, 22 November 1952 (172 UNTS 340 to 346);

Third Protocol of Rectifications and Modifications to the Texts of the Schedules, Geneva, 24 October 1953 (321 UNTS 266 to 282);

Fourth Protocol of Rectifications and Modifications to the Annexes and to the Texts of the Schedules, Geneva, 7 March 1955 (324 UNTS 300 to 333);

Protocol Amending the Preamble and Parts II and III, Geneva, 10 March 1955 (278 UNTS 168 to 245);

Protocol of Terms of Accession of Japan, Geneva, 7 June 1955 (220 UNTS 164 to 379);

Protocol of Rectifications to the French Text, Geneva, 15 June 1955 (253 UNTS 316 to 332);

Third Protocol of Supplementary Concessions (Denmark and Federal Republic of Germany), Geneva, 15 July 1955 (250 UNTS 293 to 296);

Fourth Protocol of Supplementary Concessions (Federal Republic of Germany and Norway), Geneva, 15 July 1955 (250 UNTS 297 to 300);

Fifth Protocol of Supplementary Concessions (Federal Republic of Germany and Sweden), Geneva, 15 July 1955 (250 UNTS 301 to 311);

Procès-Verbal of Rectifications concerning the Protocol Amending Part I and Articles XXIX and XXX, the Protocol Amending the Preamble and Parts II and III and the Protocol of Organizational Amendments, Geneva, 3 December 1955 (278 UNTS 246 to 258);

Sixth Protocol of Supplementary Concessions, Geneva, 23 May 1956 (244 to 246 UNTS passim);

Seventh Protocol of Supplementary Concessions (Austria and Federal Republic of Germany), Bonn, 19 February 1957 (309 UNTS 364 to 370);

Eighth Protocol of Supplementary Concessions (Cuba and United States), Havana, 20 June 1957 (274 UNTS 322 to 331); and

Protocol for the Accession of Israel to the General Agreement on Tariffs and Trade, Geneva, 6 April 1962;

Protocol for the Accession of Portugal to the General Agreement on Tariffs and Trade, Geneva, 6 April 1962;


Tenth Protocol of Supplementary Concessions (Japan and New Zealand), Geneva, 28 January 1963.
ANNEX B

List of Customs Territories Mentioned in
Paragraph 3 of this Protocol

I. Peninsular and Balearic provinces; the Canary Islands, Ceuta and Melilla

II. Ifni and Sahara

III. Fernando Po and Rio Muni