DRAFT REPORT OF THE WORKING PARTY

Preliminary Draft Prepared by the Secretariat to Serve as a Basis of Discussion with Members of the Working Party

1. At the twenty-second session the CONTRACTING PARTIES made arrangements for the participation of six governments, which were not contracting parties, in the Kennedy Round of trade negotiations, and for the examination of their applications for full accession on the basis of the results of those negotiations. For the latter purpose a Working Party was to be set up with respect to each application, and its task would be to examine any matters concerning the terms of accession which were not directly related to the trade negotiations and to prepare a draft protocol of accession (cf. C/M/25, W.22/6 and SR.22/7).

2. By a letter dated 18 October 1965, the Government of Yugoslavia requested that steps be taken to proceed with the examination of its application for accession under Article XXXIII. It also referred to its intention of participating in the Kennedy Round in conformity with the procedure for the participation of developing countries and provided copies of the new customs tariff of Yugoslavia, together with an offer of tariff concessions, which was intended to cover both the accession and the negotiations for new concessions in the context of the Kennedy Round. In accordance with the procedures mentioned, above, the Director-General immediately convened the Working Party on the Accession of Yugoslavia, and invited contracting parties wishing to participate as members of the Working Party to indicate to that effect. The Working Party thus constituted comprised the following members:
The Commission of the European Economic Community participated in the Working Party. Mr. J.F. de Liedekerke (Belgium) was nominated Chairman.

3. The Working Party met in November and December 1965 and again in February 1966. It completed the work assigned to it and unanimously agreed to submit the present Report, together with the annexed draft protocol and draft decision, for adoption by the CONTRACTING PARTIES.

4. In support of the request the Yugoslav authorities had supplied the CONTRACTING PARTIES with a number of statements containing detailed and useful material. The Working Party, by its terms of reference, was also required to take full account of the work already accomplished by the previous Working Party which had recommended Yugoslavia's provisional accession. The Working Party thus had before it the following material to serve as the basis of its deliberations:

- The report of the 1962 Working Party recommending the provisional accession of Yugoslavia
- BISD, Eleventh Supplement page 86
- Basic document for the 1962 Working Party for the third review under the 1959 Declaration
- L/1877
- Communication of 18 October 1965 from the Government of Yugoslavia requesting full accession
- L/2484
- Yugoslav memorandum on the principal features of the Yugoslav economy and foreign trade system, including notes on the nature and status of enterprises and the banking and credit system
- L/2488
5. During the meetings in December, the Yugoslav 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. (A note on the contents of these discussions, including the answers given by Yugoslavia to specific questions, was supplied to members of the Working Party.)

6. The Working Party noted that the Yugoslav economy and foreign trade system had undergone various modifications since 1952. It was in that year that a decision was taken by the Government to transform the economy from one based on strict central planning to one relying essentially on market forces for its regulation. By 1958, substantial progress had been made in this transformation and the Yugoslav authorities felt that the time had come for the Government to seek a closer link to the world economy in order to derive greater benefit from the international division of labour. In 1959, the CONTRACTING PARTIES examined the Yugoslav trading system and legal provisions in force at that time in connexion with its request for establishing a relationship of association between Yugoslavia and the CONTRACTING PARTIES. At that time the Yugoslav Government did not consider itself ready to assume all the obligations involved in GATT membership, but hoped eventually to be in a position to do so. The CONTRACTING PARTIES welcomed this approach on the part of Yugoslavia and agreed to enter into an arrangement which would be based on reciprocity and mutual advantage with a view to achieving an equitable balance of rights and obligations as envisaged in the provisions of the General Agreement, and which should be a transitional stage until Yugoslavia was in a position to apply for accession under Article XXXIII. The Declaration of 9 November 1959 thus provided that Yugoslavia and the participating governments would take as a basis for their commercial relations with each other the objectives
of the General Agreement, and Yugoslavia, for its part, would apply the provisions of the General Agreement to the extent compatible with its current economic system. The Yugoslav Government undertook that in the development of its commercial policy arrangements it would endeavour to move progressively towards the situation in which full effect could be given to the provisions of GATT. This Declaration, as may be seen from the reports on the annual reviews held under its provisions, contributed considerably to the improvement of trade relations between Yugoslavia and the participating contracting parties and to a significant expansion of their mutual trade.

7. The status of Yugoslavia's association with GATT was changed in November 1962 following a request by the Government of Yugoslavia for accession. The CONTRACTING PARTIES noted at that time that certain important changes had been introduced since 1959 in the Yugoslav economic and foreign trade system, culminating in the adoption in July 1962 of the Law on the Exchange of Goods and Services with Foreign Countries and the Law regulating Business Relations on the Market. The Yugoslav Government was of the view that the transformation of the system to one essentially of competition between independent enterprises had largely been accomplished. The Government could no longer intervene in the activities of individual enterprises and business decision-making now rested exclusively with the enterprises themselves which were independent entities operating purely on the basis of commercial considerations. The possibility of entry into any line of trade and expanding any trading facilities was fully provided. Consequently, competition existed throughout the economy, including the foreign trade sector. In the view of the Yugoslav Government the economy had been sufficiently modified in the direction envisaged for Yugoslavia to give full effect to the GATT provisions. In the light of these assurances, the CONTRACTING PARTIES agreed to the provisional accession of Yugoslavia. There was no proposal

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1 BISD, Eighth Supplement, pages 17, 18 and 64.

2 BISD, Ninth Supplement, page 56; Tenth Supplement, page 61; Eleventh Supplement, page 79.
for full accession before the CONTRACTING PARTIES because the Yugoslav customs tariff was still in preparation and, in view of the disparities of the Yugoslav and world prices for many commodities as well as certain other disparities requiring adjustment, the Yugoslav authorities did not expect that a definitive tariff could be established until some time later. It was agreed that final accession would be effected subject to the satisfactory conclusion of negotiations on customs tariffs in accordance with the rules and procedures to be adopted by the CONTRACTING PARTIES and, if necessary, for other matters, to the examination of the application of the provisions of the General Agreement.

8. The Working Party recalled that the terms of this provisional accession were essentially similar to those for a full accession, there being only a few minor differences. Notably, Yugoslavia, under that Declaration, would enjoy the tariff concessions of GATT only by way of its right to the most-favoured-nation treatment and acquired no direct rights with respect to those concessions; consequently it could not demand compensation for tariff concessions withdrawn by another contracting party. Secondly, whereas full membership would carry no time-limit, the provisional accession was (unless superseded by full accession) to be valid for a period of three years, subject to renewal. Thirdly, while full members of GATT would enjoy the rights and undertake obligations under the Agreement vis-à-vis all other contracting parties (except those with which there was an invocation of Article XXXV), the provisional accession had validity only between Yugoslavia and those contracting parties which expressly accepted the Declaration. These qualifications obviously did not substantially detract from the value of GATT membership and Yugoslavia had thus, to all intents and purposes, been a contracting party since 1962. Members of the Working Party were of the view that the accession of Yugoslavia could only be a matter of time and procedure, the question of principle having long been settled by the Working Party recommending the provisional accession.

9. In support of its present request for full accession, the Yugoslav Government drew attention to the further modifications in the economic and foreign trade system introduced since 1962, particularly the economic reform measures taken in
July 1965. Since the principal purpose of the Working Party was to examine the economic and foreign trade system of Yugoslavia in the light of the requirements of the provisions of the General Agreement, particular attention was paid to the institutional set-up, the nature of the business enterprises, the relationship between the public authorities and these entities, the process of business decision-making, the method of price formation and, in general, the extent to which foreign products could enter and compete on the Yugoslav market. The Working Party noted from the material supplied by Yugoslavia that the basic system of enterprises remained essentially as it had been described to the CONTRACTING PARTIES in 1962. The enterprises were independent entities, each of which alone determined the output, quality, variety and prices of its products according to the demand and supply situation of the market; it alone decided on how profits and wages were to be distributed and bore sole responsibility for its gains and losses. Each enterprise engaged in free competition on the market. This system, in its application to the foreign trade enterprises, ensured that imports were made to meet the full demand on the domestic market for imports, on the basis of prevailing cost and price conditions, and were made from the most economic sources.

10. According to the Yugoslav delegation the main purpose and effect of the successive economic and financial reforms had been to force the Government increasingly to limit its intervention and further to develop the stimulative factors of the economic system. The enterprises were now in no way subject to the control or direction of either the Central Government or the municipal authorities, even though the latter, together with private citizens, could participate in the setting-up of enterprises. The Social Plan established by the Government set out the target levels of gross national product, and target rates of increase in production, investment, consumption, imports, exports, etc., but these were to be achieved through the inter-play of the market forces. Governmental influence could be exerted only through action in the credit, monetary and budgetary fields.
11. The Yugoslav delegation informed the Working Party that the reform of the pricing system in 1962 had been mainly aimed at enlarging the range of commodities to which free pricing applied and that the price limits previously set for certain basic industries had been removed. Since then price control applied only to a few domestic products of a daily necessity kind, and prices in general were determined freely by the enterprises themselves. A price "recording" system was still in existence for the principal industrial products.

12. In the context of the new economic reform, various measures had been taken in July 1965, the effect of which, in the view of the Yugoslav authorities, was further to increase influence of the market forces on production, investment and prices. In 1963 and 1964 important steps had been taken to decentralize investment resources. Various public investment funds had either been abolished or reduced in scope and there had been a considerable diminution in the rôle of the Government and other public authorities in investment financing and a corresponding increase in the participation of the enterprises and banks. Pursuant to the latest reform the social investment funds would be totally liquidated by the end of 1965. The banking system had been reorganized and all banks transformed to independent enterprises. The previous communal banks had all become commercial banks. The other types of banks now existing are investment and savings banks. The functions of these banks were to attract savings of individuals and enterprises and to channel them into the most productive lines of investment. The authorities had realized that the efficiency of capital in alternative uses must be the predominant criteria in determining its allocation and the decentralization of the banking system, together with a greater reliance on the interest rate, was expected to achieve this objective. As for the production and trading enterprises, their reliance on the public funds for investment resources and working capital had thus been greatly diminished. Under the new system a considerably greater portion of the revenues of the enterprises was to be left at their own disposal, which would enable them to enjoy much greater freedom in matters of operation and development in the light of price and market conditions. Decisions on the use of
funds accumulated by enterprises for investment and other purposes had thus been largely transferred from State organs to the enterprises themselves. The Yugoslav delegation noted in this connexion that the total effect of all these was that the independence of the enterprises had thus been further consolidated.

13. The Yugoslav delegation referred to the change of the par value of the currency in July 1965, from 750 dinars to 1,250 dinars per United States dollar, and stated that this made possible the elimination of all export subsidies as well as certain other measures adopted to meet difficulties created by the disparity between foreign and domestic prices. It also enabled the adoption of a customs tariff on a definitive basis and with tariff rates substantially lower than those of previous provisional tariff. Apart from these measures and other measures in the credit and fiscal fields the Government had proceeded with a further liberalization of imports.

14. In the course of the discussion, the Yugoslav delegation reaffirmed the Government's intention of relying on the customs tariff as the sole means of protection for the domestic industry. The Yugoslav authorities were of the view that the import restrictions which were at present in force were purely for the purpose of safeguarding the balance of payments and the monetary reserves, and that their administration was fully in accordance with the relevant provisions of GATT. There was no State trading in Yugoslavia, and in case there should ever be any element of State monopoly, its operation would be in accordance with the provisions of Article XVII of the Agreement. Bilateral trading arrangements had been found advantageous or even necessary in certain cases, especially in the trade with Eastern European countries, but in so far as they involved any discrimination, this would in no way be beyond the extent permitted by the terms of the General Agreement and by the International Monetary Fund. Termination of the bilateral agreements would be sought wherever possible. The Working Party reviewed with the Yugoslav delegation the requirements of the various Articles of the General Agreement and was assured by the delegation that Yugoslavia applied no measures inconsistent with any of the provisions. In addition to the provisions mentioned above, particular attention was paid in this discussion to the provisions of Articles I, III, V, VI, X and XVI.
15. The Working Party also took the opportunity to discuss with the Yugoslav delegation the question of representation of foreign firms and the possibility of foreign firms setting up branches or their own agencies on Yugoslav territory. The Working Party was informed that representatives of foreign firms were free to enter Yugoslavia and to establish contact with Yugoslav enterprises in connexion with any business proposals or arrangements. Ample facilities, in the view of the Yugoslav Government, already existed for the representation of foreign firms on the Yugoslav market. Furthermore, a proposed law was at present under consideration which, if adopted, would permit foreign companies to set up branches or agencies of their own in Yugoslavia.

16. Members of the Working Party expressed the hope that Yugoslavia would continue to make progress in the improvement, consistent with the objectives and provisions of GATT, of its foreign trade system. In particular they hoped that the present system of registration of enterprises would be liberalized; that sufficient facilities would be introduced to enable foreign firms to establish branches and agencies in Yugoslavia; that the remaining export taxes and controls would be abolished; that bilateral agreements would be terminated wherever and whenever possible; and that the import restrictions would be further relaxed and removed consistently with the relevant provisions of the General Agreement.

17. On the central question of conditions which must be met before accession could be granted the Working Party recalled the general view of the CONTRACTING PARTIES, which was reflected in past reports and records, that whether the provisions of GATT could ensure between Yugoslavia and the contracting parties an equitable balance of rights and obligations depended on the existence of conditions for a meaningful and effective application of those provisions in Yugoslavia. This meant that foreign exporters must be able to compete with domestic suppliers in the Yugoslav market. There should be no restrictions or discrimination which were not justifiable under the terms of the Agreement. The customs tariff and any other barriers to trade, where permitted under the Agreement, should be applied consistently with its provisions. The Working Party noted that the Government of
Yugoslavia had given assurance at the time of its provisional accession that all these requirements would be met. The measures which had since been taken by Yugoslavia had, in the view of that Government, further enhanced that assurance. It was also noted that the General Agreement contained, in Articles XXII and XXIII, adequate procedures for dealing with situations in which the effective application of the provisions of the General Agreement was called into question.

18. With all these considerations in mind and in the light of the assurances given by Yugoslavia, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant trade negotiations on the basis of the new customs tariff, Yugoslavia should be invited to accede to the General Agreement under the provisions of Article XXXIII on terms parallel to those on which the present contracting parties were applying the Agreement.

19. For this purpose the Working Party has drawn up the attached draft Protocol and Decision which it presents to the CONTRACTING PARTIES for approval. It is proposed that these, together with the present report, be acted upon at the twenty-third session, so as to bring the work of this Working Party to a close. The Protocol should be opened for signature as soon as the tariff negotiations held between Yugoslavia and contracting parties in connexion with the accession have been concluded and the appropriate schedules for inclusion in Annexes B and C to the Protocol become available.

Note: The draft Protocol and Decision referred to in paragraph 19 will be circulated at a later stage.