DRAFT PROTOCOL FOR THE ACCESSION OF ROMANIA

Revision

As agreed at the meeting of the Working Party on 20–21 May 1970, the attached draft protocol for the accession of Romania, revised to reflect the discussions at the meeting, is circulated for the information of members.

Square brackets have been retained only in the case of proposals the inclusion of which has not been agreed. Where two or more alternatives exist for a particular proposal, no square brackets are shown.

In the course of the meeting as well as in earlier meetings several suggestions have been made for inclusion in the report. These are not reflected in this document.

*This document is a revision of Spec(69)127/Rev.1.*
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 11, 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) **Alt. I**

Contracting parties still maintaining quantitative restrictions not consistent with Article XIII of the General Agreement may, notwithstanding the provisions of that Article, continue to apply such restrictions to their imports from Romania provided that they shall not increase the discriminatory element in these restrictions and shall have as their objective the elimination (as rapidly as circumstances permit) of substantially all such restrictions within a period of five years. Exceptionally, if at the end of such period, certain quantitative restrictions were still to be maintained for justifiable reasons their elimination would be a matter for the Working Party provided for in Annex A.

(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.) (the GATT provisions which justify their retention) as well as the value of trade affected 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.

(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, action may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

5. (Alt. A) (Alt. B)

Alt. I (a) Early in the second year after the entry into force of this Protocol and in alternate years thereafter, Romania shall consult with the CONTRACTING PARTIES to review the development of reciprocal trade. Before these consultations, Romania shall provide notification of Romanian imports and exports and of Romania's balance of trade and balance of payments.

(b) If in the consultations, it is established that imports or exports by Romania from or to the contracting parties are not following a normal course, appropriate recommendations shall be made.
Alt. II (a) Nine months after the date of the entry into force of this Protocol and annually or, if so decided at a later stage biennially, thereafter, Romania shall consult with the CONTRACTING PARTIES with a view to reaching agreement on Romanian targets for imports from the territories of the contracting parties as a whole in the following year or two years, as the case may be. These consultations on Romania's trade shall follow the lines laid down in Annex A to this Protocol.

(b) During the course of each consultation provided for in subparagraph (a) of this paragraph there shall be a review of trade in the preceding twelve-month or twenty-four month period, as the case may be, between Romania and contracting parties. If it is established in such a review that Romania's imports from the territories of contracting parties in this period have for reasons other than an unexpected decline in Romania's exports to the territories of contracting parties, fallen short of the quantities or values provided for in the relevant consultation, the CONTRACTING PARTIES shall consider the situation, and make such recommendations as they consider appropriate.

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 ................. 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

The consultations shall cover the following points, among others:

(i) Romanian exports to the contracting parties.

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

(b) Development of Romanian exports of various categories of goods, e.g. agricultural products, machinery and consumer goods.

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

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

(ii) Romanian imports from the contracting parties.

(a) The general trend and geographical distribution of Romanian imports from the contracting parties. Have Romanian imports from the contracting parties increased proportionately to Romania's earnings from exports to the contracting parties? If not, what was the reason?

(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 imports from other countries.

(c) Development of Romania's imports from the contracting parties in relation to development of the Romanian market (including to the extent practicable, Romanian forecasts as to the future development of imports from contracting parties in terms of main commodity groups).

(d) Provision made by Romania pursuant to the Schedule of Concessions of Romania to ensure the fulfilment of its import commitment.

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

(iii) Romania's trade balance with the contracting parties and other elements of the balance of payments (tourism, capital movements, etc.).
Alternative I

1. Romania undertakes to pursue, on the basis of mutual advantages, a policy for the expansion and diversification of trade with the contracting parties and to use all of the earnings from its exports to the contracting parties as a whole to effect imports on a multilateral basis from the contracting parties as a whole taking into consideration the particular nature of the structure of their economies and the entire range of their production (including consumer goods).

2(a). (Alt. A) In the case of negotiations in which Romania shall participate, within the framework of the General Agreement, which normally involve tariff concessions, Romania shall undertake, in exchange for advantages obtained from all contracting parties participating in such negotiations to grant advantages taking into account its own economic development requirements.

2(b). (Alt. A) Should Romania adopt a customs tariff, negotiations shall be opened for the purpose of reaching mutually acceptable solutions.

2(a). (Alt. B) In the case of negotiations in which Romania shall participate within the framework of the General Agreement, which involve tariff concessions, Romania shall undertake to increase its imports from the contracting parties as a whole in proportion to the advantages obtained from the contracting parties participating in such negotiations, taking into account its own economic development requirements.

2(b). (Alt. B) Should Romania adopt a customs tariff, the necessary measures shall be taken to maintain the advantages deriving from the Protocol.

2(b). (Alt. C) Should Romania decide to adopt a customs tariff, consultations will be held in advance with the CONTRACTING PARTIES. Any system of customs duties and charges of any kind imposed on or in connexion with importation or exportation or imposed on the international transfer of payments for imports or exports shall be applied in accordance with the provisions of the General Agreement. A Romanian schedule of tariff concessions for contracting parties shall provide trade benefits not inferior to those which they were entitled to prior to the institution of the customs tariff.
Alternative II

1. Subject to paragraph 2 below, Romania shall, with effect from the date of this Protocol, undertake to increase the total value of its imports from the territories of contracting parties as a whole by not less than .... per cent per annum for the following .... years based on the imports in the year .... based on a moving average of imports in the preceding .... years [subject to Romanian earnings from exports to contracting parties].

[3.7[2.7] On [1 January 1973], and thereafter on the date specified in paragraph 1 of article XXVIII of the General Agreement, Romania may, by 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.]