1. In September 1971, the Council of the European Communities and the Government of Turkey notified to the CONTRACTING PARTIES that an Additional Protocol and an Interim Agreement had been concluded between the European Economic Community and Turkey on 23 November 1970 and 27 July 1971 respectively, and that the Interim Agreement had entered into force on 1 September 1971. The matter was discussed at a meeting of the Council on 6 October 1971 (see C/M/73). After having heard declarations from the representatives of the European Economic Community and Turkey to the effect that, in the view of the parties, the Additional Protocol defined the rhythm and modalities of the realization of a customs union, it was decided to set up a Working Party with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the Additional Protocol between the European Economic Community and Turkey of 23 November 1970 and the annexed documents, as well as the Interim Agreement of 27 July 1971, and to report to the Council."

2. The Working Party met on 11 September 1972 under the chairmanship of Mr. A. Dunkel (Switzerland). The following was the composition of the Working Party:

- Argentina
- Australia
- Canada
- Chile
- European Communities and member States
- Greece
- India
- Israel
- Japan
- Nigeria
- Nordic countries
- Portugal
- Spain
- Turkey
- United Kingdom
- United States
- Yugoslavia

The text of the Additional Protocol is contained in document L/3554. The text of the Interim Agreement and its Final Act are contained in document L/3554/Add.1 and L/3554/Add.2. The questions addressed to the parties, as well as the replies thereto, are contained in documents L/3713 and L/3713/Add.1.
Discussion in the Working Party

3. In his opening statement the representative of Turkey said that during its transitional stage, as represented by the Additional Protocol, the Ankara Agreement envisaged the creation of a customs union between Turkey and the EEC and that the achievement of the customs union would constitute the turning point for the full accession of Turkey to the EEC. Such accession would be the consequence of a long standing political will that had merged the economic and social contents of Turkey's association with the EEC, with its geographical and strategic position and its democratic ideals. The Additional Protocol before the Working Party confirmed Turkey's choice to join with the Europe being created by the EEC. Article XXIV of the General Agreement permitted the creation of a customs union between developed and developing countries. In such case the plan and schedule elaborated had to take into consideration the special situation of the developing country concerned as recognized in Part IV of the General Agreement and, as acknowledged by prior working parties, these association agreements had to be considered on a case-by-case basis. The terms for the establishment of the customs union between Turkey and the EEC were in accordance with the situation of the Turkish economy vis-à-vis the EEC and took into account the needs to increase the level of employment and to improve the standard of living of the Turkish people. The strengthening of the Turkish economy would allow the growth of its trade with those contracting parties not members of the EEC. He reiterated that, in the views of the parties to the Agreement, the Additional Protocol was in full conformity with Article XXIV of the General Agreement.

4. The representative of the EEC said that the long-term objective of the Ankara Agreement was Turkey's accession to the EEC. In his view the mechanics described some years ago, when the agreement had been examined in GATT, had been confirmed. After a period of time the transitional stage had followed the preparatory stage and provided a definite plan and schedule for the achievement of a customs union.

5. Some members of the Working Party stated that they shared the view that the Additional Protocol was in accordance with the provisions of paragraphs 5 to 8 of Article XXIV of the General Agreement. In their opinion the special circumstances
of the developing country concerned should be taken into account when examining the content of agreements such as the one dealt with in the Additional Protocol under consideration. Its provisions appeared to be reasonable and justified when considering the different levels of development of the EEC and Turkey.

6. Other members of the Working Party expressed understanding and sympathy for the objectives underlying the Additional Protocol and for the desire of Turkey to participate in the process of European integration. However, these members considered that the agreement, as it stood, did not meet the criteria set up in Article XXIV of the General Agreement in certain respects. Concern was voiced with respect to the interests of third countries. These members did not consider that the extended time period for completing the customs union envisaged by the parties could be considered "reasonable" in the sense of Article XXIV:5(c). One member noted that Article 19 of the Additional Protocol seemed to permit Turkey to maintain duties at rates above EEC tariff even after the twenty-two year period. The lack of an explicit commitment to incorporate Turkey's agricultural exports into the liberalization process was also noted. Objections were raised to the discriminatory establishment or removal of quantitative restrictions. Such discrimination in the field of restrictions applied for balance-of-payments reasons could only be justified if the members of a customs union held their foreign exchange reserves in common which was not the case here. These members also objected to the discriminatory liberalization of other restrictions to trade, such as the stamp duty and import deposits, and requested that if resort was made to Articles 5 or 19 of the Additional Protocol or to other clauses providing for changes, such changes were notified to GATT in accordance with paragraph 7(c) of Article XXIV of the General Agreement. If other contracting parties to GATT believed their trade interests to be affected, such changes should be reviewed in GATT. These members of the Working Party asked for the assurance that the parties to the agreement would receive favourably, and give full and fair consideration, to any representations made by third countries regarding their legitimate commercial interests. The inclusion of the agreement between the EEC and Turkey in the regular biennial schedule for reporting of agreements submitted under Article XXIV, and the supply of information to enable third countries to determine its trade effects, was also requested.
7. The representative of Turkey referred to the answers given to questions Nos. 3 and 4 in document L/3713 and said that no determination of what constituted a reasonable length of time had been made by the CONTRACTING PARTIES. The parties to the Agreement had made a realistic assessment of their different levels of development when setting up the plan and schedule contained in the Additional Protocol. In article 13:2 of the Protocol they declared their readiness to lower their customs duties towards each other at a faster rate than that laid down in articles 9 to 11. Article 19:4 of the Protocol contemplated the possibility of an accelerated alignment of the Turkish Tariff with the common customs tariff of the EEC. In addition, article 28 permitted a faster rate for the removal of Turkish quantitative restrictions in respect of the EEC. As indicated in the answer to question 18 in document L/3713, Article XXIV imposes the obligation to eliminate, to the extent possible, quantitative restrictions among the members of a customs union, but does not require that such action be extended to third countries. Turkey would apply the common customs tariff in its entirety as indicated in articles 17 and 18 of the Additional Protocol notwithstanding the exception contained in article 19:2. This exception was in accordance with Article XXIV:8(a)(ii) of the General Agreement which requires that members of a customs union apply substantially the same duties and other regulations of commerce.

8. Concerning the stamp duty referred to in questions 8 and 26 of document L/3713 and in document L/3735, the representative of Turkey indicated that the reduction, as of 1 September 1971, from 10 to 9 and 9.5 per cent on imports from the EEC had been done pursuant to article 7 of the Interim Agreement and was in accordance with Article XXIV:8(a)(i) of the General Agreement. His Government was studying the application of the same reduction to other contracting parties to the extent permitted by the conditions of the Turkish economy. The Government of Turkey would accord sympathetic consideration to the representations made by other contracting parties with respect to the operation of the association, under Article XXII:1 of the General Agreement. He did not believe that actions taken under articles 5, 19 and others of the Additional Protocol might constitute a substantial change in the plan and schedule as contemplated in Article XXIV:7(c) of the General Agreement. However, under the framework of GATT proceedings, Turkey would inform the CONTRACTING PARTIES of measures adopted. Referring to the
regular biennial examination Turkey would honour its commitments under the General Agreement, but he noted that the CONTRACTING PARTIES had not reached conclusions as to the manner for determining the effect of association agreements on the trade of third countries.

9. In the view of the representative of the EEC article 5 of the Additional Protocol referred to trade between the EEC and Turkey, not to trade with third countries and would be applicable only as long as full harmonization of customs duties and other trade regulations of the EEC and Turkey had not taken place in order to avoid the diversion of trade. Article 19 of the Protocol did refer to the trade of third countries, was in accordance with Article 115 of the Treaty of Rome, and would apply as long as the members of the customs union had not harmonized the provisions concerning quantitative restrictions. Agricultural imports by the EEC would be under the customs union régime at the end of the transitional period. Articles 32 to 35 and Annex VI of the Additional Protocol, and in particular Articles 33:1 and 34:1, provided for the free movement of agricultural products between the Community and Turkey. The régime to be applied to these products during the transitional stage varied, for some agricultural products tariffs had been eliminated, for others liberation would come after three years, for others the rate of protection had been fixed.

10. Some members of the Working Party reiterated their understanding that Article 5:2 of the Protocol provided for unilateral change which could theoretically, if carried very far, eliminate the plan and schedule aspects of the whole agreement. Its terminology was wide open. Changes under articles 5 and 19 of the Protocol might or might not be substantial depending upon the facts of the changes. They asked that the parties to the agreement abide by their obligations under Article XXIV of the General Agreement without interpreting it too narrowly. The undertaking stated by the Turkish representative that the parties to the Agreement would inform contracting parties of any changes within the framework of GATT procedures should not conflict with the lack of agreement as to the exact way in which articles 5 and 19 of the Protocol related to the undertaking nor could the disagreement alter reporting responsibilities. These members still had doubts on the consistency of the agricultural provisions of the Additional Protocol with Article XXIV of the General Agreement, and insisted they
were not satisfied with the length of time established by the parties to the Agreement for achieving the customs union.

11. In replying to the statement that the liberalization of restrictions imposed by balance-of-payments reasons, as well as the elimination of import deposits, should be done on a non-discriminatory basis, the representative of Turkey said import deposits were covered by the expression "other regulations of commerce" of paragraph 8(a)(ii) of Article XXIV of the General Agreement and would be eliminated only in respect of the import of goods from the Community.

Conclusions

12. The members of the Working Party expressed sympathy for the desire to establish closer economic ties between Turkey and the European Economic Community and recognized the importance of their objective of forming a full customs union.

13. Concerning the consistency of some provisions of the Additional Protocol with Article XXIV of the General Agreement there were differences of views. Some members of the Working Party questioned whether the period for the formation of the customs union could be considered a "reasonable length of time", expressed doubts on the appropriateness of the requirements applicable to agricultural products, criticized the discriminatory removal of quantitative restrictions and import deposits, asked that changes under articles 5, 19 and other provisions of the Additional Protocol be communicated to the CONTRACTING PARTIES, and urged that representations by third countries regarding their commercial interests be favourably received and given full and fair consideration.

14. The parties to the Agreement, supported by other members of the Working Party, were of the view that the difference in the stage of development between Turkey and the EEC should be given adequate consideration and asserted that the Additional Protocol fully met the requirements of Article XXIV of the General Agreement. They recognized that there were differences of opinion in the interpretation of Article XXIV but believed that they had acted realistically and that the customs union would be achieved as envisaged in the plan and schedule contained in the Additional Protocol. The decision to honour the commitments undertaken by the parties to the Agreement under the General Agreement and thus to communicate to the CONTRACTING PARTIES any substantial changes that might be introduced to the provisions of the Protocol was noted. In accordance with Article XXII:1 of the General Agreement the parties would give sympathetic consideration to representations made by other contracting parties.