

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF HUNGARY

Report of the Working Party on the
Accession of Hungary

1. At its meeting on 23 July 1969 the Council appointed a Working Party to examine the application of the Hungarian Government to accede to the General Agreement under Article XXXIII and to submit to the Council recommendations which might include a draft protocol of accession.
2. The Working Party met on 2-4 December 1970, on 23-25 February, 9-11 June and 11-12 November 1971, and on 8-9 March, 26-28 June, 19-20 July 1972 and on 17 July 1973 under the Chairmanship of Ambassador K.L. Sahlgren (Finland).
3. The Working Party had before it, to serve as a basis for its discussions, a memorandum on the foreign trade régime of Hungary (L/3301), the replies by the Government of Hungary to questions on this régime put by contracting parties (L/3426), as well as considerable supplementary documentation supplied by the Hungarian delegation. In the course of the meetings, the Hungarian delegation replied to or commented upon various questions put to it by members of the Working Party and, at their request, provided additional information.
4. The Working Party considered that the Hungarian trading system had to be examined in the light of the existing system of economic management in Hungary, of which the adoption on 1 January 1968 of a customs tariff was an integral part.

5. The representative of Hungary stated that since the time Hungary had assumed the status of observer to the GATT it had provided a steadily expanding market for exports from contracting parties, as evidenced by the steady growth of its imports from the contracting parties, and he confirmed his Government's intention to increase its imports from contracting parties. The Working Party took note of this statement.
6. One delegation underlined that consumer goods played a particularly important part in the production and, consequently, also in the exports of his country. Referring to the declaration of the representative of Hungary set out in the previous paragraph, this delegation asked that the part reserved for consumer goods in Hungarian imports should benefit, to a corresponding extent, from the increase of imports from the contracting parties. The representative of Hungary took note of this statement.
7. In examining the Hungarian foreign trade régime, the Working Party gave special attention to the consequences, from the point of view of the rights and obligations to be assumed by Hungary on acceding to the General Agreement, of Hungary's relations with certain countries listed in Annex A to the draft Protocol. It was noted that Hungary does not at present apply its customs tariff to imports from these sources, but applies a special import turnover tax. The representative of Hungary explained the modalities of trade with these other countries, according to which trade was based inter alia on fixed prices and quotas. The Working Party considered that special account ought to be taken of the existence of such trading regulations between Hungary and these countries, and it has accordingly drafted paragraph 3 of the draft Protocol in such a way as to cover every aspect of this question.

8. The Working Party has prepared paragraph 4 of the draft Protocol in the light of all the views expressed on the subject of quantitative restrictions maintained against imports from Hungary inconsistently with Article XIII. In examining such restrictions with a view to their elimination pursuant to the provisions of paragraph 4(b) of the Protocol, the Working Party referred to in paragraph 6 of the Protocol will take into account all relevant elements in order to be able to evaluate the situation and will report its findings to the Council, the mere existence of the price system in Hungary - as distinct from its effects - not to be considered as the only relevant element.

9. Members of the Working Party considered it important to have in a protocol of accession a specific safeguard clause. Representatives of countries maintaining quantitative restrictions against Hungary's exports indicated in this connexion that the inclusion of such a safeguard clause would facilitate the removal of the restrictions referred to in paragraph 8 above. The representative of Hungary could agree to the inclusion of a safeguard clause, provided it operated on a reciprocal basis. He also stated that his acceptance of such a safeguard clause was in anticipation of early elimination of quantitative restrictions maintained against imports from Hungary, inconsistently with Article XIII. Paragraph 5 of the draft Protocol has been prepared, taking into account these views.

10. The Working Party considered it useful to provide for a system of consultations between Hungary and the CONTRACTING PARTIES, and has prepared paragraph 6 of the draft Protocol for this purpose. The plan for the consultations is contained in Annex B to the draft Protocol. In connexion with the consultations, Hungary will provide detailed statistical information on its trade, while contracting parties

will, pursuant to paragraph 4(c) of the draft Protocol, submit notifications relating to discriminatory prohibitions or restrictions on imports from Hungary. In the light of views expressed on the subject, some delegations felt it was advisable to attach particular importance to section (ii) paragraph (a), of Annex B in these consultations.

11. The representative of Hungary recalled the introduction in 1968 of a customs tariff in his country, and explained the purpose and effects of this tariff. Several delegations accepted in principle Hungary's offer of tariff negotiations on condition that the negotiations on the contents of the Protocol were completed. According to these delegations, the Hungarian offer would be examined in the light of its content and of the rôle of the customs tariff in Hungary's external trade. In this spirit, they reserved their final position on the contents of the future Hungarian Schedule until such time as that Schedule was definitively established.

12. Members of the Working Party took note of the regulations submitted by the Hungarian delegation with respect to co-operation contracts, with particular reference to the question of tariff exemptions and reductions granted in this framework. Several delegations said that the implementation of such provisions would be inconsistent with Article I of the General Agreement. In response to a request for a legal opinion, the GATT secretariat, while emphasizing that questions of interpretation of the General Agreement were matters for the CONTRACTING PARTIES and not for the secretariat, inter alia that the prerequisite of having a co-operation contract in order to benefit from certain tariff treatment appeared to imply conditional most-favoured-nation

treatment and would, therefore, not appear to be compatible with the General Agreement. The Hungarian representative took note of these comments.

13. As regards subsidies, the representative of Hungary stated that Hungary undertook in accordance with Article XVI:1, and in accordance with the practice of the CONTRACTING PARTIES, to notify regularly its measures falling under Article XVI, and upon request would be ready to enter into consultations with any contracting party or parties on this subject.

14. The Working Party recognized that deliveries of goods, in the trade between contracting parties and Hungary, should be effected at actual world prices. Where there were no actual world prices for such goods, the prices to be taken into consideration would be those in force in the respective markets. The Working Party recognized that the foregoing did not affect the provisions of Article VII of the General Agreement.

15. It was noted that imports of all products into Hungary were subject to licensing. The representative of Hungary assured the Working Party that his country's licensing system was not operated in a discriminatory manner. He stated that possession of a licence automatically entitled an importer to the necessary foreign exchange, and that an enterprise having been granted a licence has the right in its framework to use it for import. He declared that it was the intention of the Hungarian authorities to carry on a liberal practice provided that balance-of-payments considerations would not hinder this practice and provided that no discriminatory quantitative restrictions would be applied by contracting parties against Hungary.

16. As regards quantitative restrictions, the representative of Hungary pointed out that the need for maintenance of such restrictions in Hungary arose from balance-of-payments considerations, and stated the view that they were consistent with Articles XII-XIV. The Working Party noted the statement of the representative of Hungary that, after accession, his country would consult regarding its quantitative restrictions, under the relevant Articles of the General Agreement, it being understood, however, that since Hungary was not a member of the International Monetary Fund it undertook to act in these matters in accordance with the intent of the General Agreement and in a manner fully consistent with the principles laid down in Articles XII, XIII and XIV.

17. The Working Party noted that Hungary had found it possible to suspend the application of its import deposit system as of 1 January 1971.

18. For the purpose of implementing Article VI of the General Agreement, a contracting party may use as the normal value for a product imported from Hungary the prices which prevail generally in its market for the same or like product, 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.

19. Several members of the Working Party referred to the desirability of improved opportunities for direct commercial contacts between enterprises of contracting parties and Hungarian end-users. The Hungarian delegation referred to existing Hungarian regulations which offered appropriate opportunities for enterprises of contracting parties to conduct business in Hungary.

20. The representative of the United States said that under the legislation at present in force in his country, his Government would have to invoke Article XXXV of the General Agreement with regard to Hungary. The United States could not, accordingly, participate in the discussion of Hungary's Schedule. He stated that if the United States should decide to disinvoke Article XXXV it might wish, in due course, to enter into negotiations with Hungary.

21. Having carried out the examination of the application by the Hungarian Government for accession to the General Agreement under Article XXXIII, and having regard to the assurances given by the representative of Hungary, the Working Party recommends that Hungary be invited to accede to the General Agreement under Article XXXIII, and that contracting parties apply the General Agreement to their relations with Hungary, in accordance with the terms and conditions of the draft Protocol for the Accession of Hungary, 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 trade relations between Hungary and the contracting parties.

22. The Working Party has prepared a draft Decision on the Accession of Hungary, attached to this report (Annex II). It is proposed that the texts of the draft Protocol, to which the Schedule of Tariff Concessions is annexed¹, and of the draft Decision be approved by the Council when it adopts the report. The Decision would then be submitted to a vote by the CONTRACTING PARTIES, in accordance with Article XXXIII. Upon adoption of the Decision, the Protocol would be opened for acceptance and Hungary would become a contracting party thirty days after it accepts the Protocol.

¹The Schedule is not annexed to the draft Protocol attached to the Report as reproduced in this document; two copies of the Schedule are being sent separately to each contracting party.

Annex I

DRAFT PROTOCOL FOR THE ACCESSION OF HUNGARY 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, and the Government of the Hungarian People's Republic (hereinafter referred to as "Hungary"),

TAKING NOTE of the request of Hungary dated 9 July 1969 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. Hungary 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 Hungary 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 Hungary 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 Hungary shall be the date of this Protocol.

3. (a) Paragraph 1 shall not prevent the maintenance by Hungary of its existing trading regulations with respect to products originating in or destined for the countries enumerated in Annex A hereto.

(b) Hungary undertakes that her trading regulations or any change in them, or any extension of the list of countries referred to in the previous subparagraph shall not impair her commitments, discriminate against or otherwise operate to the detriment of contracting parties.

4. (a) Contracting parties still maintaining prohibitions or quantitative restrictions not consistent with Article XIII of the General Agreement on imports from Hungary shall not increase the discriminatory element in these restrictions and undertake to remove them progressively.

(b) If, for exceptional reasons, any such prohibitions or restrictions are still in force as of 1 January 1975, the Working Party provided for in paragraph 6 will examine them with a view to their elimination.

(c) To this end, contracting parties shall notify, on entry into force of this Protocol, on 1 January 1975, and thereafter before the consultations provided for in paragraph 6 below, discriminatory prohibitions and quantitative restrictions still applied to imports from Hungary. Such notification 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-paragraphs.

5. (a) If any product is being imported, in the trade between Hungary 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) Hungary 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 Hungary 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.

6. (a) Consultations shall be held between Hungary and the CONTRACTING PARTIES biennially, or in any other year at the specific request of a contracting party or Hungary, in a working party to be established for this purpose, in order to carry out a review of the operation of this Protocol and the evolution of reciprocal trade between Hungary and the contracting parties.

(b) Particular attention shall be paid, in the course of these consultations, to the operation of paragraph 3(b) of this Protocol. The parties shall consult on the evolution of imports by Hungary from contracting parties as well as regulations affecting Hungarian foreign trade. To this effect the Working Party will examine all aspects of the development of Hungarian imports on the basis of inter alia relevant information to be provided by Hungary.

(c) The Working Party may make appropriate recommendations in regard to any problem raised.

(d) The consultations shall follow the lines set out in Annex B to this Protocol.

7. Pursuant to the procedures outlined in paragraph 6, or not less than three months before a consultation under that paragraph, a contracting party may request Hungary or Hungary 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 Hungary, that contracting party may suspend, to the extent it considers necessary, the application to Hungary, or Hungary 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 Hungary, the CONTRACTING PARTIES shall consult with the contracting party concerned and Hungary. Should such consultation not lead to an agreement between the contracting party and Hungary, and should the contracting party or Hungary continue to take action under this paragraph, Hungary 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 Hungary of such concessions or other obligations under this Protocol as it may consider necessary.

8. Hungary reserves its position with respect to the provisions of paragraph 6 of Article XV of the General Agreement, but undertakes that, so long as Hungary 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. Hungary 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 Hungary signed the special exchange agreement. Hungary shall consult with the CONTRACTING PARTIES at any time, subject to thirty days' notice, upon request of any contracting party which considers that Hungary 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 Hungary has taken exchange action contrary to the intent of the General Agreement, they may determine that the present reservation shall cease to apply and Hungary shall thereafter be bound by the provisions of paragraph 6 of Article XV of the General Agreement.

Part II - Schedule

9. The schedule in Annex C shall, upon the entry into force of this Protocol, become a Schedule to the General Agreement relating to Hungary.

Part III - Final Provisions

10. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Hungary until 31 December 1973. It shall also be open for signature by contracting parties and by the European Economic Community.

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

12. Hungary, 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.

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

14. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 10, to each contracting party, to the European Economic Community, to Hungary and to each government which shall have acceded provisionally to the General Agreement.

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

DONE at Geneva this day of
one thousand nine hundred and seventy, in a single copy, in the English and French languages, both texts being authentic.

Annex A

LIST OF COUNTRIES¹ REFERRED TO IN PARAGRAPH 3(a)
OF THE PROTOCOL

Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, the Democratic People's Republic of Korea, Mongolia, the People's Republic of China, Poland, Romania, the Union of Soviet Socialist Republics, the Democratic Republic of Viet-Nam.

¹The designations employed in this list do not imply the expression of any opinion whatsoever concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers.

Annex B

PLAN FOR PERIODIC CONSULTATIONS BETWEEN HUNGARY
AND THE CONTRACTING PARTIES PURSUANT TO PARAGRAPH 6
OF THE PROTOCOL

The consultations shall be on the following lines:

(i) Hungarian exports

(a) General trend and geographical distribution of Hungarian exports to the contracting parties and of total Hungarian exports.

(b) Development of Hungarian exports of various categories of goods, e.g. agricultural products, raw materials, semi-manufactured goods, machinery and consumer goods.

(c) Measures adopted under paragraph 4 of the Protocol by contracting parties maintaining against Hungarian exports quantitative restrictions inconsistent with Article XIII of the General Agreement.

(d) Other questions relating to Hungarian exports.

(ii) Hungarian imports

(a) General trend and geographical distribution of Hungarian imports from the contracting parties and of total Hungarian imports.

(b) Development of Hungarian imports of various categories of goods, e.g. agricultural products, raw materials, semi-manufactured goods, machinery and consumer goods.

(c) Other questions relating to Hungarian imports.

(iii) Developments in Hungary's trading regulations as covered by paragraph 3(a) and review of the operation of Hungary's undertaking in paragraph 3(b) of the Protocol.

Annex C

SCHEDULE LXXI - HUNGARY

/The Schedule is not reproduced in this document. Two copies of the
Schedule are being sent to each contracting party./

Annex II

DRAFT DECISION ON THE ACCESSION OF HUNGARY

The CONTRACTING PARTIES,

HAVING REGARD to the results of the negotiations directed towards the accession of the Government of the Hungarian People's Republic to the General Agreement on Tariffs and Trade and having prepared a Protocol for the accession of Hungary.

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