

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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REPORT OF THE WORKING PARTY ON THE ACCESSION OF COLOMBIA

1. At their thirty-fourth session in November 1978, the CONTRACTING PARTIES appointed a Working Party to examine the application of the Government of Colombia 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 Party¹ met on 19 and 23 April 1979 under the Chairmanship of Mr. E. Selmer (Norway).
3. The Working Party had before it, to serve as a basis for its discussions, an updated Memorandum on the Foreign Trade Régime of Colombia (L/4791), the Memorandum on Foreign Trade Régime submitted earlier by Colombia (L/4039) in connexion with provisional accession, the questions submitted by contracting parties together with the replies provided by Colombia (L/4085 and Add.1) in the context of that country's provisional accession and the Report of the Working Party on the Provisional Accession of Colombia (L/4173) as well as communications by Colombia providing additional information in connexion with accession and the MTN (L/4338 and Add.1). The representative of Colombia also made available to the Working Party the following material:
 - (a) the General Customs Tariff of Colombia;
 - (b) a handbook on "Rules and Procedures for Importation into Colombia" published by INCOMEX; and
 - (c) statistical data with regard to Colombia's trade in 1977 and 1978.
4. In an introductory statement, the spokesman for the Colombian delegation recalled that in July 1975 at the time of provisional accession of Colombia to the General Agreement, he had described certain elements of his Government's economic policy and stressed the fundamental rôle of the foreign trade sector for achieving economic development and social goals. Colombia's foreign trade had grown from US\$1,110 million in 1966 to US\$3,453 million in 1976 and US\$6,355 million in 1978. Exports had increased from US\$436 million in 1966 to US\$1,745 million in 1976 and US\$2,942 million in 1978 while imports had risen

¹The membership of the Working Party is set out in L/4770/Rev.1.

from US\$674 million in 1966 to US\$1,708 million in 1976 and US\$3,413 million in 1978. Since 1973, Colombia's import policy which was related both to foreign exchange availabilities and the need to import raw materials as well as consumer and capital goods had been gradually liberalized. More than 55 per cent of tariff positions were now covered by the free import régime. By Resolution 027 of 1978, the Foreign Trade Council had updated and rationalized the conditions and requirements governing import applications. A recent law, a copy of which would be deposited with the secretariat, had facilitated the delivery of imports prior to customs clearance.

5. As regards exports, he stated that since 1967 these had not been restricted except through a limited number of specific measures described in documents L/4039 and L/4085. A new statute adopted in October 1978 by the Foreign Trade Council which replaced earlier regulations, authorizes the application of temporary export limitations in line with the provisions of Article XI of the General Agreement. Colombia applies a flexible export incentive mechanism known as CAT-Certificate on Tax Receipt - which, in the view of the Colombian delegation, was in full accordance with the principles of the General Agreement. Even though CAT's nominal levels were 1 per thousand, 5 per cent, 9 per cent and 12 per cent of the f.o.b. value of exports, its effective levels were much lower. Furthermore, the effective value of CAT as a percentage of the f.o.b. value of minor exports had declined from 14.2 per cent in 1972 to 3.8 per cent in 1978.

6. In accordance with the Cartagena Agreement, Colombia, together with other members of the Andean Group, was pursuing a far reaching process of economic integration. This process would, inter alia, require the gradual adjustment of economic and trade policies in the member countries over a number of years. Noting that the Colombian tariff would have to be modified in the light of the Andean Common External Tariff yet to be finalized, the Colombian representative said that, at present, the metal-working, petro-chemical and automotive sectors were the only areas where Colombia could negotiate tariff concessions with third countries. In the context of the MTN, Colombia had consulted and entered into tariff negotiations with interested contracting parties. It was expected that these negotiations would be concluded shortly. In this respect, the Andean Group contribution to the MTN should also be taken into account. Even though the results of the MTN had fallen short of the aspirations of developing countries, it was expected that these results would, nevertheless, contribute to the expansion and diversification of Colombia's foreign trade. He stated that the non-tariff measure agreements negotiated in the MTN were being examined in a positive spirit and in the light of national and regional policies. Recalling the statement made at the time of provisional accession, the representative of Colombia reiterated that Colombia's foreign trade legislation, which was based on the principles of universality and non-discrimination and took into account the country's economic, financial and trade needs, was in conformity with the provisions of the General Agreement.

7. Members of the Working Party expressed support for the application of Colombia for full accession to the General Agreement in the context of the multilateral trade negotiations. They welcomed in particular the trade liberalization actions taken by the Government of Colombia which had been described by the Colombian representative. In expressing the hope that the process of accession would be completed as soon as possible, some delegations stated that they were in contact with the Colombian delegation concerning the tariff negotiations required for accession under Article XXXVIII. It was expected that these negotiations would be concluded shortly. One member of the sub-regional economic grouping of which Colombia is also a member, in strongly endorsing Colombia's application for accession, noted that her country and Colombia had agreed to implement common trade policies within that sub-regional grouping.
8. The Working Party carried out an examination of various points concerning Colombia's foreign trade régime. During the examination in the Working Party, the Colombian delegation supplied additional information on the Colombian Government's economic and commercial policy. The main points brought out in the discussion in the Working Party are set out hereunder in paragraphs 9 to 22.
9. In response to a request for statistical data on Colombia's foreign trade and balance-of-payments situation in 1977 and onwards, the Colombian representative, in addition to referring to the information outlined in his introductory statement, made available to the Working Party global 1977 and 1978 trade data as well as data on imports by country of origin and exports by country of destination in the same period. This information is reproduced in the Annex. He also informed the Working Party that at the end of 1978, Colombia's foreign exchange reserves amounted to approximately US\$2,800 million.
10. Replying to a question concerning the negotiation of Colombia's tariff schedule in connexion with Colombia's accession to the General Agreement, the representative of Colombia said that when negotiations with interested contracting parties had been completed, the results would be made available to contracting parties. He noted further that the Andean Group contribution to the multilateral trade negotiations, which was also part of Colombia's contribution in connexion with accession to GATT, had already been circulated to contracting parties in the context of the multilateral trade negotiations.
11. In response to questions regarding the products subject to export controls mentioned in paragraph 3(c) of document L/4791, the operation of these measures and their GATT justification, the representative of Colombia explained that his country's export legislation was based on the principles of the free export of goods and non-discrimination in accordance with Article I of the General Agreement. However, under certain circumstances

which were similar to those contemplated in Articles XI:2 and XX(i) of the General Agreement, as a temporary measure, the Colombian Government applied a number of export restrictions. In accordance with these restrictions, exports may be subject to endorsement or prior approval by specialized bodies or be subject to export suspension. The export of certain foodstuffs and semi-processed products was subject to quality or sanitary control. His Government would provide the current list of products subject to export suspension for circulation to members of the Working Party and notify future changes. Some of the products included in the list were foodstuffs and certain raw materials whose production was insufficient to meet domestic needs or the needs of domestic industries, or whose export was permitted with a certain degree of processing. Other items included in the list of products subject to export suspension were animals, plants or natural resources under threat of extinction or exhaustion. In order to facilitate foreign trade and ensure predictability, the Colombian Government had tried to establish a single and stable list of products subject to export suspension. As warranted by circumstances, the Foreign Trade Council could include or withdraw products from the list. While the inclusion of some of the items therein such as jaguar and alligator skins was more or less permanent because these animals and reptiles were threatened with extinction, the inclusion of certain scarce items required to meet domestic needs could be terminated if production became sufficient to meet such needs.

12. Responding to questions on Colombian import restrictions, the representative of Colombia stated that over 50 per cent of the value of Colombia's total imports was covered by the free import régime. He added that, in respect of the remaining imports, the percentage of licence applications refused was less than 2 per cent; nearly all applications were currently being granted having regard to Colombia's balance-of-payments situation.

13. Some members of the Working Party stated that their governments had received information to the effect that the import licensing system had been used on a discriminatory basis to ensure bilateral balancing of Colombia's trade account with some of its trading partners; they sought clarification on this point. In reply, the representative of Colombia stated that licensing was not used for the purpose mentioned, as evidenced by the chronic trade deficits experienced with some countries. Licensing was basically a device used by the Colombian authorities to limit global imports when foreign exchange problems occurred and as an instrument to promote economic development. The Working Party welcomed the assurances that Colombia will administer quantitative restrictions and licensing in conformity with GATT provisions, in particular those contained in Article XIII.

14. In response to a question on the GATT Articles underlying Colombia's import restrictions, the representative of Colombia stated that the system of import licensing and certain other elements of the Colombian import régime were maintained for balance-of-payments reasons and to protect infant industries, and were, in his view, in conformity with Article XVIII of the GATT. His Government would be prepared to apply and follow the relevant procedures contained in Article XVIII.

15. The representative of Colombia added that in recent years the balance-of-payments situation of Colombia had fluctuated widely as a result of large movements in the international price of coffee, its main export commodity. In this connexion, the need for the deposit required for clearance of goods described in paragraph 4(B)(c) of document L/4791 arose from monetary and cost-of-living reasons, stemming in particular from increased consumer demand resulting from the increased incomes of smallholders from high coffee prices. In order to avoid inflationary pressures and limit foreign exchange liabilities, for customs clearance purposes of consumer goods and some raw materials, importers were required to deposit with a commercial bank in local currency the equivalent of 35 per cent of the value in foreign currency of the corresponding exchange licence. In addition, importers had to pay for imports within certain time-limits: these time-limits were five months for consumer goods, three years for capital goods and up to ten years in the case of capital goods for large industrial projects. The Working Party noted that the security deposit for payments abroad referred to in paragraph 4(B)(b) of document L/4791 had been eliminated.

16. At the invitation of the Working Party, the representative of the International Monetary Fund explained that during the course of 1976 and 1977, Colombia had introduced certain exchange restrictions and multiple currency practices with a view to inducing a contraction in the rate of growth of money and quasi-money. During the most recent Article XIV consultation with Colombia, which took place on 8 February 1978, the Fund had welcomed the fact that a start had been made on the dismantling of some of these restrictions. It had not given approval, however, to the remaining restrictions. He went on to say that the Fund's Executive Board had not considered these restrictions since February 1978. It was his understanding that since that time Colombia had moved further in the direction of liberalization. A further consultation was expected to take place towards the end of the year.

17. Responding to questions concerning domestic taxes on imports (paragraph 4(B)(d) of L/4791), the representative of Colombia stated that his Government was not in a position to eliminate these taxes. The 5 per cent tax was the only source of financing for the Export Promotion Fund whose activities were essential to the Government's efforts to develop and diversify

Colombian exports. His authorities might be able to consider the question of modifications to these taxes when its development position allowed.

18. The Working Party noted the undertaking of Colombia that, in respect of items to be bound in the Colombian Schedule, and in accordance with the provisions of Article II:1(b) of the GATT, the additional taxes on imports would not be raised above their present levels.

19. Replying to questions concerning the possible future elimination of consular formalities and the consular invoice authentication tax, the representative of Colombia reiterated the statement made at the time of provisional accession and said that his Government was not in a position to accept a specific commitment to eliminate consular formalities and taxes but would be ready to review them when its development position permitted. During the course of the multilateral trade negotiations, in the Sub-Group "Customs Matters" and particularly in document MTN/NTM/W/36/Rev.1/Add.3, Colombia had given the reasons for the maintenance of consular formalities. The representative of Colombia also referred to the various measures of simplification and the reduction in consular fees taken following provisional accession; these are recorded in document MTN/NTM/W/36/Rev.1. Some delegations expressed doubts about the conformity with the relevant provisions of the General Agreement of the consular invoice authentication tax as well as the domestic taxes on imports referred to in paragraph 17 above.

20. Replying to a question concerning internal taxes, the representative of Colombia stated that no discrimination existed in the application of sales and consumption taxes against imported goods in relation to those domestically produced.

21. Responding to a question concerning the use of official prices for customs valuation purposes, the representative of Colombia stated that Colombia employed the Brussels Definition of Value, which was in accordance with the General Agreement. Customs duties were not assessed on the basis of official prices. The system of official prices employed earlier for certain items and referred to in L/4035 had been eliminated. Now a system of post facto control after the customs clearance of goods was used, under which the invoice price could be compared with price lists after the customs clearance of goods to see if there was evidence of over or under-invoicing of goods. If that was shown, the importer could be penalized and the correct duty assessed. The price lists were compiled by the International Prices Division of INCOMEX in such a way as to ascertain the normal price in accordance with the Brussels Definition of Value. The aim of the system was to prevent the circumvention of exchange controls through over or under-invoicing. It was not established to deal with problems of anti-dumping, for which Colombia had no legislation; any fines resulting were imposed for exchange control rather than customs reasons.

22. One member of the Working Party enquired whether the Colombian representative could give an indication, without prejudicing his country's eventual decision, of any intention on the part of his authorities to accede to the various MTN Agreements and Arrangements, in particular those on customs valuation and import licensing. In reply, the representative of Colombia stated that for some codes covering areas related to commitments under the Cartagena Agreement, there would have to be a dual process of examination, at the national level and at the level of the Cartagena Agreement Board. Furthermore, certain subjects would require joint decisions by the member countries of the Andean Group. This applied in particular to customs valuation, in respect of which possible harmonization had been under study for some years by the Andean countries; this study was based on the Brussels Definition of Value which was employed in most Andean Group countries. Certain other issues, for example safeguards and subsidies, might be less related to Andean Group commitments. It was therefore not possible at the present time to give a precise answer to the question raised.

23. Having carried out the examination of the foreign trade régime of Colombia and in the light of the explanations and assurances given by the Colombian representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Colombia should be invited to accede to the General Agreement under the provisions of Article XXXVIII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report. It is proposed that these texts be approved by the Council when it adopts the report. When the tariff negotiations between Colombia and contracting parties in connexion with accession have been concluded, the resulting Schedule of Colombia would be annexed to the Protocol, while concessions granted by contracting parties as a result of negotiations with Colombia would be contained in the relevant documentation arising from the MTN. The Decision would then be submitted to a vote by contracting parties in accordance with Article XXXVIII. When the Decision is adopted, the Protocol of Accession would be open for acceptance and Colombia would become a contracting party thirty days after it accepts the said Protocol.

ANNEX

COLOMBIA'S FOREIGN TRADE

	(In US\$ million)	
	<u>1977</u>	<u>1978</u>
<u>Total trade</u>	4,978	6,355
Exports	2,312	2,942
Imports	2,666	3,413
Trade balance	- 354	- 471
Exports of coffee	1,513	2,027
Percentage	65	69
Lesser exports	799	915
Percentage	35	31
Trade with Andean Group		
Total	626	628
Exports	337	368
Imports	289	262
Trade balance	+ 48	+ 106
 <u>Exports by countries</u>		
LAFTA	399	434
Andean Group	337	368
Canada	14	17
United States	640	778
EEC	834	1,139
Germany, F.R.	492	676
Belgium and Luxembourg	44	79
Denmark	20	31
France	71	64
Ireland	1	1
Italy	23	35
Netherlands	117	209
United Kingdom	67	44
EFTA	117	176
Austria	-	1
Norway	17	33
Portugal	-	1
Sweden	90	128
Switzerland	10	13
Japan	84	101

	(In US\$ million)	
	<u>1977</u>	<u>1978</u>
<u>Imports by countries</u>		
LAFTA	495	635
Andean Group	289	262
Canada	71	65
United States	903	1,219
EEC	565	657
Germany, F.R.	224	264
Belgium and Luxembourg	27	24
Denmark	13	14
France	117	105
Ireland	1	2
Italy	72	91
Netherlands	27	54
United Kingdom	84	102
EFTA	96	122
Austria	3	5
Norway	1	1
Portugal	-	1
Sweden	36	45
Switzerland	55	71
Japan	233	295

APPENDIX

ACCESSION OF COLOMBIA

Draft Decision

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed towards the accession of the Government of Colombia to the General Agreement on Tariffs and Trade and having prepared a Protocol for the accession of Colombia,

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

DRAFT PROTOCOL FOR THE ACCESSION
OF COLOMBIA 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 Colombia (hereinafter referred to as "Colombia"),

Having regard to the results of the negotiations directed towards the accession of Colombia to the General Agreement,

Have through their representatives agreed as follows:

Part I - General

1. Colombia shall, upon entry into force of this Protocol pursuant to paragraph 6, 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 Colombia 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 Colombia 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 Colombia shall be the date of this Protocol.

Part II - Schedule

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

4. (a) In each case in which paragraph 1 of Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of each product which is the subject of a concession provided for in the Schedule annexed to this Protocol shall be 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 Schedule annexed to this Protocol shall be the date of this Protocol.

Part III - Final Provisions

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for signature by Colombia until 31 December 1979. It shall also be open for signature by contracting parties and by the European Economic Community.

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

7. Colombia, 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.

8. Colombia may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 7 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

9. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 5, to each contracting party, to the European Economic Community, to Colombia and to each government which shall have acceded provisionally to the General Agreement.

10. 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-nine, in a single copy, in the English, French and Spanish languages, except as otherwise specified with respect to the Schedule annexed hereto, each text being authentic.

ANNEX

SCHEDULE LXXVI - COLOMBIA

(Text to be supplied later)

