

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/4849

25 October 1979

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## REPORT OF THE WORKING PARTY ON THE ACCESSION OF MEXICO

1. At its meeting on 29 January 1979, the Council appointed a Working Party to examine the application of the Government of Mexico 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<sup>1</sup> met on 26 April 1979, 3 July 1979 and 9, 11 and 17 October 1979 under the Chairmanship of Dr. P. Tomić (Yugoslavia).

3. The Working Party had before it, to serve as a basis for its discussion, a Memorandum on the Foreign Trade Régime of Mexico (L/4793 and Rev.1), the communication from Mexico concerning its possible accession to the GATT (L/4766) and the statement by the Mexican delegation to the GATT Council on 29 January 1979 (C/W/319), as well as an earlier communication from Mexico concerning the General Import Tariff (L/4210). The Mexican delegation also made available to the Working Party the following material:

- (a) the General Import and Export Customs Tariffs of Mexico;
- (b) the Customs Valuation Act for Imported Goods of 20 December 1978;
- (c) the Presidential Regulation of 14 September 1977 on import and export permits;
- (d) the National Plan for Industrial Development 1979-82.

4. The Working Party recalled statements by the Mexican delegation at the GATT Council meeting on 29 January 1979 to the effect that: (i) Mexico was a developing country and faced serious problems of a structural nature which had prevented it from meeting the basic needs of its population in the field of social well-being; (ii) with a high rate of unemployment and under-employment, a population of 62 million inhabitants and a population growth rate of 3.2 per cent, Mexico needed to create between 800,000 and one million jobs each year; (iii) if Mexico were to open its doors to free trade and unrestricted competition, it would never be able to attain the objectives set out below and therefore it must maintain flexibility to regulate its imports and its industrial development policies which were linked to foreign trade;

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<sup>1</sup>The membership of the Working Party is set out in L/4769/Rev.3

(iv) the country must generate foreign exchange in order to maintain the level of its imports of capital goods and raw materials and achieve an increasingly rapid rate of development; (v) Mexico must decentralize its industrial development and encourage employment and growth in certain geographical areas of the country in a manner consistent with the population growth pattern. This meant that it must create jobs where manpower was available; (vi) Mexico could only succeed in solving these problems to the extent that the country's international relations in trade matters could satisfy its interests and its needs.

5. In an introductory statement, the representative of Mexico stated that in view of the problems of underdevelopment his country was facing, the Government of Mexico attached primary importance to its economic and social development objectives. He recalled that at the GATT Council meeting of 29 January 1979, the Mexican delegation had summarized the most urgent and unalterable development objectives and policies of his country as follows:

- (a) To protect and promote its agriculture, which supplies the basic food requirements of the Mexican people and employs the great majority of its labour force. Hence the importance of developing agro-industry in a developing country like Mexico and the need to grant the necessary protection to this sector, at all stages of production.
- (b) To protect and promote Mexico's industrial development consistently with its domestic policies and the economic and social commitments deriving therefrom.
- (c) For this purpose, in the negotiations with a view to accession, to set mutually acceptable conditions guaranteeing the necessary flexibility for the operation of its economic and trade policy instruments.
- (d) In fact, to secure the full operation of its domestic legal provisions consistently with its development objectives, since its development policies are implemented in relation to those provisions.

These objectives, in respect of both internal and external policy, and the measures employed in order to attain them were not different from those of other countries, which were currently, or had in the past, experienced similar developmental problems. They were also in line with the spirit and the letter of the General Agreement. He stated that Mexico's right to employ the measures required to meet the objectives and overcome its problems would need to be recognized. His Government would evaluate positively the results of the accession negotiations in so far as membership of GATT would assist his country in achieving these ends and improve the conditions under which its foreign trade was carried out. He suggested that, in conformity with the

traditions of GATT, the Working Party should proceed in a pragmatic and realistic way in order to reach mutually acceptable solutions that would allow Mexico the necessary flexibility to fulfil its objectives while observing the principles and practices which governed the GATT.

6. Members of the Working Party welcomed, and expressed their support for, the application of Mexico for accession to the General Agreement, in view of Mexico's importance in international trade and the active rôle that it had played during the multilateral trade negotiations. Some members referred to the trade links that their countries had with Mexico and stated that they expected that accession to the GATT by Mexico would have mutually beneficial consequences for these trade relations. Many members welcomed the moves made by the Mexican authorities in recent years towards a more liberal and open trade régime. Some members expressed the view that the advantages of GATT membership, particularly after the implementation of the results of the Tokyo Round, would contribute towards the expansion of Mexican foreign trade and towards the realization of Mexico's development objectives.

7. A number of members stated that the Working Party should seek to arrive at a mutually acceptable outcome that would take into account Mexico's development needs and enable Mexico to benefit from the full range of GATT rights, while upholding the principles and rules of the General Agreement. They recognized that Mexico might have certain difficulties in adapting its trade régime so as to make it fully compatible with the General Agreement, but were of the view that these difficulties could be overcome if flexibility was shown on all sides.

8. Recalling that tariff negotiations were required for accession to the General Agreement under Article XXXIII, one member stated that a satisfactory outcome of the tariff negotiations currently under way with Mexico was no less important than the terms of accession to be provided in the respective Protocol of Accession.

9. Several members of the Working Party outlined in detail the flexibility that existed in the General Agreement, in such Articles as XXVIII and XIX, which were available to all contracting parties, and in Article XVIII and Part IV which were designed for the particular development needs of the developing countries. These members also noted the improvements in the GATT framework for developing countries that had been negotiated in the context of the Multilateral Trade Negotiations. Taken together these provisions gave developing countries sufficient flexibility to pursue their development objectives within the GATT framework as is witnessed by the large number of such countries that were contracting parties to the General Agreement. These members expressed the view that, were Mexico to become a contracting party, this flexibility would allow Mexico to continue to meet its development needs while at the same time enjoying the benefits and rights that would accrue to Mexico under the General Agreement.

10. The Working Party carried out an examination of various aspects of the Mexican trade régime. During this examination, the delegation of Mexico provided additional information on, and clarification of, Mexico's economic and commercial policy. The main points brought out in the discussions are set out below in paragraphs 11 to 56.

Balance-of-payments and trade situation

11. One member recalled some of the main features of Mexico's external trade as outlined in document L/4793/Rev.1 (pages 4-8), including the increase in the volume of Mexico's foreign trade and the growth in the Mexican trade deficit. He noted that increased exports of petroleum, whether crude or refined, could be expected to provide a solid basis for development that would have beneficial consequences for other sectors of the Mexican economy and lead to an improvement in the Mexican balance-of-payments position.

12. The representative of Mexico, referring to Section II of document L/4793/Rev.1 dealing with economic and trade policy objectives, stated that one of the principal objectives of the Mexican Government in these fields was the securing of an equilibrium in the balance of payments. The aim was to achieve this without depending on petroleum exports. He added that, while petroleum exports could be of great assistance to Mexico, they were not considered by the Mexican authorities to be a panacea for Mexico's chronic structural problems of underdevelopment.

13. Providing information on the evolution of Mexico's balance-of-payments situation additional to that contained in document L/4793/Rev.1, the representative of Mexico stated that the structural problems underlying Mexico's foreign trade situation had continued to manifest themselves during the first five months of 1979, during which period the trade deficit had risen to US\$982 million, 49 per cent more than in the corresponding period of 1978. Imports had grown rapidly, by 48 per cent, to about US\$4,200 million, as industrial activity had recovered after a period of recession. However, exports of products other than petroleum had not shown comparable vigour, rising by 22 per cent. In the first five months of 1979, the value of exports had been about US\$3,200 million. Mexican imports consisted primarily of capital goods - a weak sector of the Mexican domestic economy. The main export products, other than petroleum, were coffee and tomatoes. The trade deficit for the whole of 1979 was expected by the Mexican authorities to be in the region of US\$2,500 million, a figure that would be twice as large if petroleum exports were not taken into account. These facts confirmed the situation described in paragraph 4 above and the need to search for a solution in this context that would take into account the situation of Mexico and its special problems.

### Industrial Development Plan

14. One member sought an elaboration of the objectives of Mexico's foreign trade programmes relating to selective import substitution and rationalization of imports (L/4793/Rev.1, page 9), particularly as regards the mechanisms employed and the sectors concerned. In response, the representative of Mexico stated that the National Plan for Industrial Development 1979-82, approved on 19 March 1979, sets forth the priority industrial sectors established by the Mexican Government. In general terms, these sectors included those producing the following goods: agro-industrial products; agricultural inputs; capital goods; some non-durable consumer goods, such as textiles and footwear; and intermediate inputs. Further discussion on certain points concerning the National Industrial Development Plan appears in paragraphs 36-40.

### Tariff and additional duties

15. In response to a question concerning the mechanisms in the Mexican tariff for applying higher duty rates to imports of goods produced in Mexico than to those of other goods (L/4793/Rev.1, page 12), the representative of Mexico stated that where items produced in Mexico were not subject to the prior import régime, they generally carried a higher rate of duty. There was no distinction in the tariff between items produced in Mexico and items not produced in Mexico. The level of protection accorded, whether through the tariff or by other means, was geared to the particular needs of individual industries. He added that goods in the Mexican tariff were classified strictly according to the Nomenclature of the Customs Co-operation Council.

16. A number of members sought clarification and additional information on the various duties on imports additional to the basic customs tariff, including the reasons for these duties, the possibility of their simplification or consolidation in the basic tariff rates, the exceptions from them and their future treatment in respect of items to be bound in the Mexican Schedule. Replying to these questions, the representative of Mexico stated that his Government was not in a position to consolidate into the basic tariff or eliminate all the additional duties. Elaborating on the information contained in document L/4793/Rev.1, pages 10 and 11, he stated that the additional 2 per cent duty was 2 per cent of the value of the goods, while the 3 per cent levy was an additional 3 per cent of the amount of the General Duty chargeable under the customs tariff. This latter levy, which was an import tax and not a sales tax, was received by the municipality where the import was carried out to improve the facilities for handling shipments. The 10 per cent levy in respect of imports by post was 10 per cent of the general duty payable and was designed to compensate for the additional costs falling on the Mexican postal system. As regards exceptions, there were no exceptions to the

3 per cent and 10 per cent levies. Exceptions to the 2 per cent duty were listed in the Revenue Act of the Federation published in the Diario Oficial of Mexico, and were also set forth in document L/4793/Rev.1, pages 10 and 11. The items in the Mexican tariff which had a duty rate of less than 5 per cent and were therefore exempt from the 2 per cent additional duty were mainly basic consumption goods that Mexico needed to import.

17. The representative of Mexico also stated that in his view these additional duties or levies on imports were not inconsistent with the provisions of the General Agreement, and that Mexico had a right to maintain them. However, for those products which would be included in Mexico's Schedule, the additional duties or levies would be covered by bindings in accordance with the provisions of Article II:1(b). The Working Party noted that for unbound items Mexico would retain full flexibility with respect to duties and other import charges. Duties and other import charges applicable to items bound in GATT could be modified in accordance with the procedures set out in the General Agreement.

#### Customs valuation and unfair business practices

18. Replying to questions from a number of members on the Mexican system of customs valuation, the representative of Mexico stated that under the Customs Valuation Act for Imported Goods, which entered into force on 1 July 1979, the general basis for the valuation of goods was that of normal value in line with the Brussels definition of value. This had been adopted, inter alia, in view of the harmonization efforts being made in this direction by LAFTA, of which Mexico was a member. In order to be equitable among supplying nations, insurance and freight charges were excluded for purposes of customs valuation. The new system should facilitate and speed up the process of importation since the valuation declared by the importer would in principle be accepted. Subsequently, adjustments could be made by the customs authorities when the particular nature of the commercial transaction in question was known.

19. The representative of Mexico further stated that, whereas until 30 June 1979, the Mexican Government had found it necessary to fix official prices for customs valuation purposes in respect of all imported goods, under the new Act such prices were fixed to cover exceptional situations only, in particular when imports caused or threatened to cause injury. As from 1 July 1979, official prices were being retained for some 800 items accounting for 6 per cent of imports by value, compared to approximately 7,500 items under the preceding legislation. These prices were minimum prices in the sense that the rules for customs valuation involving normal value would apply if the valuation figure thereby attained was higher than that resulting from the official price. He said that Mexico had at present no legislation on dumping; dumping and under-invoicing, inter alia, were dealt with through the systems

of official prices and prior permits. For this reason, it was necessary to apply official prices to goods for which there was domestic production, in particular to be able to cope with possible large sales from abroad at marginal prices. Referring to the manner in which official prices were established, he stated that official prices were fixed on the basis of the domestic wholesale price obtaining in the main supplying country to Mexico of the product in question, with a few exceptions to take care of special situations. Generally, these prices were adapted to the value of internationally traded goods. The retention of a system of official or minimum prices for certain goods was considered essential to avoid negative effects on Mexico's development efforts in the industrial and agricultural sectors.

20. Some members of the Working Party said that the Mexican application of official prices was inconsistent with Article VII of the General Agreement and stated that the Mexican authorities should take action to bring the Mexican system of customs valuation into line with the relevant GATT provisions.

21. The representative of Mexico stated that it was the view of his authorities that the general valuation principles of Mexico's new legislation on customs valuation, together with the spirit behind that legislation, were fully in accordance with Article VII of the General Agreement. It was intended to prevent injury or the threat of injury to domestic industry or the national economy. Although the system of official prices was likely to be primarily applied to a number of goods exempt from the prior permit system, its practical effect would be only noticeable in exceptional cases such as where goods were being dumped on the Mexican market to the detriment of domestic production or where there were clear instances of under-invoicing

22. Replying to a number of questions concerning measures to deal with unfair business practices, the representative of Mexico stated that protection against dumping was achieved primarily through official prices and prior permits. He recognized that modifications of official prices to deal with dumping situations affected all goods imported under the item lines in question, whether dumped or not. Under the Mexican Constitution it was not possible to apply any legislation retroactively, including legislation with respect to charges on imports such as anti-dumping or countervailing duties. However, any importer had the right under the Constitution to petition review of measures taken by the Government. If the dumping situation had been corrected, it would then be possible to revert to the level of official prices that would not penalize imports. Because of the unconstitutional nature of any retroactive sanctions, efforts to avoid dumping, whether through official prices or import permits, were necessarily preventive rather than remedial. Action was taken only when there was knowledge of dumped imports, and then only in respect of future such imports. Increased official prices could not be applied against imports already cleared through customs before the increase, nor could prior permits be refused to an

importer who could demonstrate that the goods in question were purchased before the introduction of the prior permit requirement. As regards the requirement of injury to domestic industry before countermeasures were taken, the representative of Mexico stated that imports at favourable prices were welcomed except where adverse effects to domestic industry or agriculture might ensue. The Ministry of Trade had the necessary powers to determine in what circumstances injury was being caused. His Government was currently examining the best way of defending Mexican industry and agriculture in respect of unfair business practices. He could not state at this stage whether the results of this examination would be a classical anti-dumping law, or whether it would take the form of legislation at all.

23. Some members of the Working Party, noting Mexico's explanation regarding the use of official prices, stated that to combat unfair trade practices Mexico could eliminate the use of official prices in such instances by the adoption of anti-dumping and other appropriate legislation that is applied consistently with the General Agreement. These same members pointed out that Mexico's application of official prices as an anti-dumping measure appeared inconsistent with Article VI of the General Agreement.

24. The representative of Mexico stated that at the next domestic review by his authorities of the Mexican system of customs valuation, account would be taken of the various comments by members of the Working Party, in the light of his country's development, financial and trade needs.

25. Recognizing that Mexico, by its recently enacted Customs Valuation Act, had made significant progress toward the adoption of a valuation system compatible with the General Agreement, and cognizant of Mexico's intention to work within the framework of the Act to bring the valuation of items to which official prices were being applied into conformity with Article VII of the General Agreement, the Working Party recommended that the CONTRACTING PARTIES review the matter to determine if Mexico would be, at the time of the review, in a position to assume full obligations under Article VII or if an alternative decision by the CONTRACTING PARTIES would be necessary.

#### Agricultural restrictions

26. The representative of Mexico stated that account would have to be taken by contracting parties of the special circumstances of agriculture in Mexico, which was regarded by his Government as a priority sector of Mexico's economy. With over 15 million people involved in agriculture, it was vital as a source of employment, especially in view of the nation's rapidly increasing population. While increased productivity and production were desired, it was not Government policy to encourage production of certain items as against others in the interest of specialization. Rather, the aim



was to find solutions to the special rural problems that existed. In this context, it was necessary in particular to bear in mind the system of land-tenure applied in Mexico. He stated that while providing adequate protection to agricultural production, Mexico had no intention of excluding imports of needed agricultural products and was prepared to negotiate selected concessions, but required full flexibility in pursuing its agricultural policies. It needed to be understood that the liberalization of import restrictions would only be possible to the extent that this was consistent with Mexico's objectives in this sector and in the light of employment, income and land-tenure conditions. Some members of the Working Party stated that GATT rules should be applied to trade in all products, whether agricultural or industrial, and that it was in the interest of all exporters of agricultural commodities, including Mexico, to endeavour to ensure this. Some members of the Working Party noted that there was not sufficient information on the agricultural restrictions currently applied by Mexico, their legal basis and the value of trade involved. Under the circumstances these members could only agree to the maintenance of such restrictions under specific terms detailed in the Protocol of Accession. The Working Party noted that matters relating to agriculture would be taken up in the Protocol for Mexico's accession to the General Agreement.

#### Import licensing

27. Responding to a number of questions concerning the Mexican system of import licensing, the representative of Mexico said that there were two categories of items, those which were not subject to the system of prior import permits (68.5 per cent of the lines in the Mexican tariff), and those for which prior permits were required (31.5 per cent of the lines in the Mexican tariff). As regards the items not subject to prior import permits, the only requirement for importation was the payment of the import duty; they were not subject to any quantitative control, either direct or indirect. For certain of the items requiring prior import permits, licensing restrictions were implemented through import quotas. Items subject to import quotas within the context of the prior permit system consisted of products for which Mexican domestic production was not sufficient in quantity or in variety to meet Mexican consumption needs. Information on these quotas, including the product coverage, the amounts of the quotas whether in value or volume terms, and criteria for their distribution among Mexican importers, was published in the Diario Oficial. Products subject to import quotas were, for example, leather, animal skins, red phosphorous and certain fabrics as well as some final consumption products such as toys and table wines.

28. The representative of Mexico stated that the charge for the issue of import permits was 0.02 per cent of the value of the imports thereby authorized. These charges reflected the costs incurred by the Mexican authorities for the services involved.

29. In response to a question concerning the number of import permits granted and refused and the criteria applied to this effect, the representative of Mexico stated that most licence applications were granted. In the fifteen months, 1 January 1978 to 31 March 1979, 258,516 import permits had been granted and 26,683 refused. Importers had a right to ask for reconsideration of refusals; 1,392 requests for such reconsiderations of refusals were received in the period concerned, and as a result, in 800 cases the permit was granted. He stated that it would appear that in over 25,000 cases the importer had accepted the reasons given for refusal. The grounds for rejection of an application were not discretionary or arbitrary, but were defined in Mexican law, notably in a Regulation on import and export permits published in the Diario Oficial of 14 September 1977. He added that 71 per cent of permits were issued within one to five days of the application, whereas the regulations governing this matter provided for a maximum period of fifteen days for deciding on the issue or otherwise of permits.

30. Some members of the Working Party raised the question of future liberalization of quantitative import restrictions as administered in Mexico through prior permits and the way in which products were included in, or deleted from, the list of products requiring prior import permits. The representative of Mexico stated that in 1977 the Mexican Government had initiated a progressive and careful programme of substitution of tariff measures for prior import permits within the general context of a rationalization of imports and the protection afforded by the Mexican trade régime, aimed at encouraging greater efficiency in Mexican industry. The Mexican Diario Oficial set forth, in January 1975, the dates on which the implementation of import control measures in respect of different groups of products were to be reviewed to determine whether such measures should be extended or eliminated. There was no time-table or programme for the elimination of import control measures as such, but only for the review of items subject to such measures. Decisions were to be taken in accordance with Mexico's development needs. The next review was scheduled to take place in December 1979.

31. The representative of Mexico said that in order to facilitate the elimination of import permits, it was necessary for the Mexican authorities to have flexibility to reintroduce permit requirements should circumstances so require. He confirmed that the possibility of reintroducing prior import permits on unbound items would be within the context of the implementation of Mexico's programme for the gradual substitution of customs duties for import permits as stated in paragraph 3 of the Protocol for the Accession of Mexico to the General Agreement.

32. Commenting on the information provided by the Mexican representative in respect of the system of import permits, some members of the Working Party stated that the Mexican system did not appear to conform to the

provisions of Article XI of the General Agreement. Noting that one of the main premises of the General Agreement was that customs duties were to be the basic means of import protection, some members suggested that there should be an agreed time-frame for the liberalization of Mexico's import control system. In this regard, these members proposed that Mexico should be invited to report periodically to the CONTRACTING PARTIES on the progressive substitution of current import restrictions by customs duties and other measures consistent with the General Agreement and that, at the end of the agreed period, the CONTRACTING PARTIES should review the matter with a view to considering further progress towards the possible liberalization of any remaining quantitative import restrictions and prior permits. It was agreed that, consistent with the provisions of Article XXII of the General Agreement, Mexico would, upon request of any contracting party, enter into consultations regarding the implementation of paragraph 3 of the Protocol of Accession.

33. The Working Party agreed that the question of quantitative restrictions and import permits should be dealt with through an appropriate provision in the Protocol for Mexico's accession to the General Agreement. It was understood by Mexico and other Working Party members that in terms of paragraph 3 of Part I of the Protocol, the CONTRACTING PARTIES will review the remaining import restrictions in the light of the provisions of the General Agreement and the Protocol. The import restrictions in effect at the date of the review will either be justified under the applicable provisions of the General Agreement in the course of the review or will be considered as residual restrictions or will be considered in the light of whatever decisions may be adopted at the time of the review by the CONTRACTING PARTIES, including a possible decision regarding the retention of such restrictions. Any decisions regarding agricultural products will be taken in the light of the priority status of the agricultural sector in Mexico's economic development policy as recognized in the preamble to the Protocol and of the provisions of paragraph 3 of the Protocol relating to agriculture. In the review, the CONTRACTING PARTIES will give full consideration to Mexico's development, financial and trade needs as elaborated in the preamble to the Protocol.

#### Tokyo Round agreements

34. Responding to questions concerning Mexico's possible acceptance of multilateral agreements on non-tariff measures negotiated in the Tokyo Round, in particular those on import licensing and customs valuation, the representative of Mexico stated that the texts in question were being analyzed and assessed by the competent authorities individually as well as in the context of a general analysis of the results of the Tokyo Round for Mexico.

35. The Working Party noted that the Protocol of Accession and this report would not oblige Mexico to adhere to any of the MTN arrangements. Mexico's rights and obligations under any GATT multilateral arrangement that it might subsequently accept would stem directly from the provisions of the multilateral arrangement in question.

Internal quantitative regulations

36. A member referred to the Decree for Development of the Motor Vehicle Industry of 20 June 1977, which specified in its Article 7, minimum percentages of domestic content in respect of motor vehicles. Under Article 11 of the same Decree, certain motor vehicle components were designated as requiring local procurement on a compulsory basis, except when prior approval for imports was given. He expressed the view that these provisions appeared to be inconsistent with the General Agreement, in particular with Article III:5, unless they could be justified under the infant industry provisions of the GATT. He sought information concerning the purpose and GATT justification of these domestic content requirements.

37. The representative of Mexico said that the aim of the Mexican Government was to increase the domestic manufacture of vehicle components so as to eliminate the trade deficit in the motor vehicle sector, which had for many years been the largest for any sector of Mexican foreign trade. The Decree for Development of the Motor Vehicle Industry set forth minimum percentages for domestic content - 50 per cent for automobiles, 65 per cent for trucks, 70 per cent for buses, and 65 per cent for agricultural tractors - and, further recommended that these be increased to the range of 75 per cent to 90 per cent in 1981. The motor vehicle industry could, however, allow the domestic content percentage to fluctuate between the minimum and recommended levels during the period 1978-1981. Components of mandatory domestic origin were those already produced in Mexico. However, imports may be authorized should there be a rapid increase in demand or problems of domestic supply, in accordance with criteria established, in particular, by the Inter Departmental Commission for the Motor Vehicle Industry. Motor vehicle components were produced competitively in Mexico and were in many cases exported. He expressed his belief that these arrangements for the motor vehicle industry did not involve any incompatibility with Article III:5 of the General Agreement. Since the motor vehicle industry was of great importance to Mexico, it was difficult to envisage the possibility of modifying the domestic legislation concerned.

38. In reply to a question as to whether there was any intention on the part of the Mexican authorities of extending the type of régime existing in the motor vehicle industry to other sectors, the representative of Mexico stated that the general concepts of domestic content and export requirements were applicable in other sectors. The Mexican Government envisaged using any measure that would help ensure the full utilization of domestic resources and industrial capacity so as to increase production and employment.

39. The representative of Mexico further stated that the Mexican Government had approved and decided to implement, within the context of its global planning for social and economic development, the National Plan for Industrial Development through the Decrees and provisions contained therein and accordingly that Mexico had the right and liberty to continue applying the existing legal instruments and complementary requirements and to establish in the future such further legal instruments and industrial policy measures, including those of a fiscal and financial nature, as may be necessary for the effective fulfilment of the objectives and targets of the Plan. The Working Party took note of this statement on the understanding that it would be without prejudice to the rights and benefits accruing to contracting parties under the General Agreement.

40. The representative of Mexico also stated that in any case Mexico reserved its position with respect to Article III, paragraph 5 of the General Agreement in so far as it may be necessary to apply the domestic content requirements embodied in the National Plan for Industrial Development. Some members of the Working Party stated that after accession where Mexico might wish to apply similar measures to industries other than the automobile sector, it would need to follow the provisions and procedures of the General Agreement. Should Mexico in the implementation of the Plan contravene any provisions of the General Agreement, there would be opportunity for consultations as necessary with a view to arriving at a mutually satisfactory solution in the light of Mexico's development, financial and trade needs.

#### Cinematographic films

41. The representative of Mexico stated that the exhibition of cinematographic films in Mexico was subject to a Regulation under the Ley de la Industria Cinematográfica under which 50 per cent of screen time was reserved for films of national origin. It was the view of his authorities that this regulation was consistent with the General Agreement, in particular Article IV thereof.

#### Consular formalities

42. Replying to certain questions on consular formalities, the representative of Mexico stated that Mexico had a very simple system of consular formalities which was applied in a manner consistent with the General Agreement. Fees were reasonable. In this respect, some members of the Working Party urged Mexico to eliminate its system of consular formalities as soon as possible in accordance with the Recommendations adopted by the CONTRACTING PARTIES on the matter reproduced in BISD First Supplement page 25, Sixth Supplement page 25 and Eleventh Supplement page 59. The representative of Mexico stated there was no intention of eliminating consular formalities as, among other things, they played a useful rôle for the purpose of verifying price information and other trade data. Other members of the Working Party felt that such information could be collected by other means.

### Compensated interchange

43. In response to requests for further information on the system of compensated interchange (L/4793/Rev.1, page 17), the representative of Mexico stated that this had its origin in a system, now no longer in force, under which certain types of imports could be effected only if the importer was in a position to cover the foreign exchange requirement through exports of goods. Under the current system, importers of certain goods were required to pay a duty, the proceeds of which were eventually used to support the Mexican Foreign Trade Institute. The duty was an indirect payment for services rendered by the Institute. The duty applied to private sector imports of some 500 items, consisting of non-priority consumer goods. The goods affected and the rates in force were published in the Diario Oficial. The duty also applied to all imports by Mexican public sector entities, with the exception of those carried out by Compañía Nacional de Subsistencias Populares-"CONASUPO", the agency concerned with importing certain basic foodstuffs.

### State trading

44. Some members of the Working Party sought information concerning the scope and nature of the activities of Mexican State-trading enterprises, and the principles on which they conducted their business. One of these members stated that it was his understanding that there were some 950 public or semi-public enterprises in Mexico engaged in importing activities. Some of these bodies had an import monopoly with respect to the purchase of certain products. He further understood that the Mexican Government insisted that all prospective suppliers register annually with the Ministry of Trade as well as with the specific enterprises with which they wished to do business. On the basis of Mexican Government statistics, it appeared that his country did some 40 per cent of its trade with Mexico through such State agencies. He expressed the hope that Mexico would be willing to consider a simplification of its procedures relating to imports by State-trading enterprises in the context of its accession to the GATT.

45. In response, the representative of Mexico stated that the requirement for suppliers to the some 950 public or semi-public agencies to register with the Mexican Ministry of Trade arose from the Mexican law on public purchasing, and applied to domestic suppliers as well as foreign suppliers. There was thus no discrimination in respect of imports. The need for such registration was linked to ensuring adequate State control and orientation of the purchasing capacity of the public sector as a whole. It was estimated that 35 to 40 per cent of total Mexican imports were carried out by the public sector and semi-public enterprises. In no case did the public sector have a monopolistic position in respect of imports, with the exception of the sole importer of certain essential foodstuffs, "CONASUPO", which also served to help regulate internal agricultural markets.

46. The Working Party took note of the assurances of the representative of Mexico that State-trading activities would be carried out on a commercial basis and conform to the relevant provisions of the General Agreement, in particular with respect to transparency and non-discrimination.

#### Government procurement

47. Recalling the provisions of the General Agreement with regard to government procurement, the representative of Mexico indicated in response to a question that his Government had no intention of modifying current policies in this area, including the 15 per cent preference accorded to domestic suppliers.

#### Export restrictions

48. The Working Party noted that the General Agreement contains provisions on export restrictions and charges, and that Mexico maintained certain export restrictions on the grounds of its social and development needs as well as to guarantee continued domestic availability of resources and materials. Replying to questions concerning Mexico's export restrictions, the representative of Mexico stated that certain export restrictions and prior permit requirements fell under Article XX of the General Agreement. The particular item lines to which prohibitions or prior permits were applied were indicated in the General Export Tariff. With respect to some products, prior export permits were required in order that Mexico could fulfil its international commitments, for example, in respect of textiles or cocoa. As regards the temporary or permanent nature of the restrictions, export prohibitions on items such as drugs, national artistic or archaeological treasures, explosives, and animal species in danger of extinction were of a permanent character. The export controls on the 14 per cent of the item lines in the General Export Tariff that were subject to prior permits were not of a permanent nature, nor were they temporary in the sense that they were of a fixed and limited duration. However, they were constantly reviewed to ascertain if the conditions that gave rise to their original application still obtained. As soon as such conditions ceased to exist, the requirement for prior export permits was abolished. It was the view of the Mexican authorities that controls on these items fell under Article XX(i) and (j) of the General Agreement. One member of the Working Party, noting that Article XX specified certain conditions that should be met, stated that his delegation reserved its position on the consistency of Mexico's export control measures with Article XX of the GATT. The representative of Mexico further stated that it was the view of his authorities that the General Agreement contained no undertakings regarding security of supply, and that the doubts expressed by one member could not in any way imply that Mexico would undertake any commitments of this nature.

### Export incentives

49. The representative of Mexico stated that his Government regarded the use of incentives as key elements of development policy, especially as regards promoting exports and the decentralization of industrial activity. His Government had made firm commitments in this respect to domestic industry and had decided to continue to employ industrial and export incentives in the future, including those of a fiscal and financial character. He stated that it was his understanding that Mexico's practices in this area were in conformity with the relevant provisions of the General Agreement. Some members of the Working Party stated that in this respect they maintained their rights under Article VI of the GATT.

50. In response to a question concerning the possible implications of the introduction of a value-added tax system from the beginning of 1980 on the reimbursement of indirect taxes, the representative of Mexico said that substantial changes would be made to Mexico's system of indirect tax refund certificates.

### Fiscal measures

51. In response to questions concerning internal taxation, the representative of Mexico stated that the exceptions to the general treatment in respect of sales tax referred to in Section H.1 of L/4793/Rev.1 did not involve any discrimination against imported products; the products affected paid a special tax at a rate higher than that of the general sales tax. He also stated that there was no discrimination in the tax base for internal taxes on alcoholic beverages; for both imported and domestic products the tax base was the first-hand sales price.

### Resale prices

52. The representative of Mexico stated that the Mexican Government had legal authority, for the purpose of protecting consumers, to fix maximum retail prices for a number of commodities and products of general consumption whether domestic or imported.

### Bilateral trade agreements

53. Responding to questions as to whether Mexican bilateral trade agreements involved specific purchase and sales commitments, the representative of Mexico stated that the aim of Mexico's various bilateral agreements was to establish a general basis for economic and trade co-operation. In no case did the agreements lay down contractual purchase or sales commitments. Mexico had attempted to use the bilateral agreements to encourage the balancing of



mutual trade when this was unfavourable to Mexico, as it was in the case of trade with some industrialized countries with whom Mexico had bilateral agreements, but had had limited success in this so far. The joint commissions established under the agreements, which usually met once or twice a year and which often included representatives from the private sector, did sometimes explore mutual trade possibilities, but without negotiating specific commitments that might go beyond the most-favoured-nation principle.

#### Trade negotiations among developing countries

54. Replying to a question concerning Mexico's approach towards an eventual enlargement of the GATT Protocol Relating to Trade Negotiations Among Developing Countries, the representative of Mexico stated that his country viewed very favourably action which would result in an expansion of the number of participating countries as well as in the enlargement of the product coverage and scope of the concessions under the arrangement. Mexico which was a member of the Committee of Participating Countries, would give appropriate support to proposals from other participating countries to this end.

#### Consultations

55. In response to a specific question posed by the Mexican delegation regarding the scope of consultation requirements in GATT mechanisms and particularly, whether these requirements would imply that Mexico should enter into prior consultations before the implementation of any measure within its economic and social development plans and policies, the Working Party noted it was not GATT practice to require prior consultations on measures relating to a country's economic and social development plans and policies. The General Agreement provides, however, for consultations on trade measures where these affect the rights and benefits of contracting parties under the GATT.

#### Conclusions

56. Having carried out the examination of the foreign trade régime of Mexico and in the light of the explanations and assurances given by the Mexican representatives, the Working Party reached the conclusion that, subject to the satisfactory completion of the relevant tariff negotiations, Mexico should be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose, the Working Party 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. The Working Party noted that considerable effort had gone into meeting Mexico's needs and that the draft Protocol reflected the flexibility that is inherent in the application of the General Agreement. It

further noted that while the considerations listed in the preamble to the Protocol are without prejudice to the rights and benefits accruing to the contracting parties under the General Agreement, they did provide a framework in which the CONTRACTING PARTIES could take future decisions relating to the Protocol, and a suitable recognition of Mexico's particular development objectives. When the tariff negotiations between Mexico and contracting parties in connexion with accession have been concluded, the resulting Schedule of Mexico would be annexed to the Protocol, while concessions granted by contracting parties as a result of negotiations with Mexico would be contained either in the Geneva (1979) Tariff Protocol or in the Supplementary Protocol or in a schedule annexed to the Protocol of Accession. In the last-mentioned case, it is understood that such a schedule will become a schedule to the General Agreement relating to the contracting party concerned on the thirtieth day following acceptance of the Protocol by that contracting party and that it shall enter into force not earlier than the date of entry into force of the Protocol of Accession. After the tariff negotiations had been concluded and Mexico's tariff schedule had been made available to contracting parties the Decision would be submitted to a vote by contracting parties in accordance with Article XXXIII. When the Decision had been adopted, the Protocol of Accession would be open for acceptance and Mexico would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX

ACCESSION OF MEXICO

Draft Decision

The CONTRACTING PARTIES,

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

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

DRAFT PROTOCOL FOR THE ACCESSION OF MEXICO  
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 United Mexican States (hereinafter referred to as "Mexico"),

Taking note of the communication of Mexico dated 16 January 1979 (L/4766) concerning Mexico's desire to enter into negotiations for possible accession to the General Agreement and recalling that pursuant to Part IV and other provisions of the General Agreement developing contracting parties may use special measures to promote their trade and development,

Bearing in mind Mexico's development policy objectives within the context of its global planning for social and economic development including those contained in the National Plan for Industrial Development approved by the Mexican authorities on 19 March 1979, its implementing legislation and complementary requirements,

Having regard to the results of the Multilateral Trade Negotiations including those relating to improvements to existing provisions and procedures of the General Agreement in order to permit differential and more favourable treatment to developing countries,

Recognizing the priority status of the agricultural sector in Mexico's economic development policy and its rôle as a supplier of the basic food requirements of the Mexican people and as a source of employment opportunities and income for a substantial proportion of the labour force,

Noting that in order to promote economic development in general, and in particular that of the industrial and export sectors, Mexico has decided to continue using various types of incentives, including those of a financial and fiscal nature,

Bearing in mind that developing contracting parties have not accepted the Declaration of 19 November 1960 giving effect to the provisions of Article XVI:4 and that within the framework of the Multilateral Trade Negotiations it has been recognized, inter alia, that subsidies are an integral part of the economic development programmes of developing countries,

Noting further that the General Agreement contains provisions on export restrictions and charges, and that Mexico maintains certain export restrictions on the grounds of its social and development needs as well as to guarantee continued domestic availability of resources and materials,

Recognizing that Mexico has introduced as of 1 July 1979 a new system of customs valuation based on the Brussels definition of value, with exceptions for a certain number of items,

Taking note of the report of the Working Party on the Accession of Mexico,

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

Have through their representatives agreed as follows:

Part I - General

1. Mexico shall, upon entry into force of this Protocol pursuant to paragraph 9, 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 Mexico 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 Mexico 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 Mexico shall be the date of this Protocol.

3. In conformity with its programme of gradual substitution of tariff protection for prior permits, and consistently with its development, financial and trade needs, Mexico intends to continue removing quantitative restrictions and prior permits on most of its imports.

(a) As regards the agricultural sector, Mexico, while providing the necessary protection to ensure domestic production has decided to continue to apply the above-mentioned programme to the extent that it is consistent with its objectives in this sector and in the light of employment, income and land-tenure conditions.

(b) Mexico shall endeavour to ensure that existing restrictions and import permits are applied in such a manner as to cause minimum harm to the interests of contracting parties, and, consistent with Article XIII of the General Agreement, shall apply all restrictions in accordance with the principle of non-discrimination.

(c) It shall furnish biennially to the CONTRACTING PARTIES a report on the measures taken pursuant to the above programme and objectives.

(d) 12 years following the entry into force of this Protocol, or by 31 December 1991 whichever is earlier, the CONTRACTING PARTIES shall review the restrictions which exist at that time.

(e) In the review the CONTRACTING PARTIES shall recognize the priority status Mexico accords the agricultural sector in its economic development policy.

4. Mexico shall endeavour to bring the valuation of items to which official prices are now being applied into conformity with Article VII of the General Agreement by applying to them the general valuation principles of the Mexican Customs Valuation Act for Imported Goods of 1978. If by 31 December 1985 official prices are still in effect, the matter will be reviewed by the CONTRACTING PARTIES.

5. Without prejudice to the rights and benefits accruing to contracting parties under the General Agreement as applied pursuant to the other provisions of this Protocol, the CONTRACTING PARTIES are aware that Mexico intends to implement its National Plan for Industrial Development through the legal instruments and complementary requirements therein and to establish such further legal instruments and industrial policy measures including those of a fiscal and financial character as may be necessary for the effective fulfilment of the objectives and targets of the Plan.

#### Part II - Schedule

6. The schedules in the Annex shall, upon the entry into force of this Protocol, become Schedules to the General Agreement.

7. (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 Schedules 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 Schedules annexed to this Protocol shall be the date of this Protocol.

Part III - Final Provisions

8. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for acceptance by Mexico until 31 May 1980. It shall also be open for signature by contracting parties and by the European Economic Community.
9. This Protocol shall enter into force on the thirtieth day following the day upon which Mexico has deposited its instrument of ratification.
10. Mexico, 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.
11. Mexico may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 10 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.
12. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each signature thereto, pursuant to paragraph 8, to each contracting party, to the European Economic Community, to Mexico and to each government which shall have acceded provisionally to the General Agreement.
13. 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 Schedules annexed thereto, each text being authentic.

ANNEX

SCHEDULE LXXVII - MEXICO

(Text to be supplied later)

