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To: Members of the Executive Board
From: The Secretary
Subject: Meeting of the GATT Council of Representatives

Attached for the information of the Executive Directors is a report by the Fund observer on the meeting of the GATT Council of Representatives held in Geneva on October 7, 1987.

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INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

November 3, 1987

The GATT Council of Representatives met on October 7, 1987, under the chairmanship of Ambassador A. Oxley of Australia. 2/ The Council established a Working Party to examine the application by Bolivia to accede to the GATT, discussed a proposal by the European Communities to study Japanese measures for copper ores and concentrates, and recommended that the CONTRACTING PARTIES adopt a decision extending Turkey's stamp duty waiver for a period of two years. The Council discussed requests for the establishment of dispute settlement panels to examine the European Communities' Third Country Meat Directive and India's import restrictions on almonds; it also decided to establish a panel to examine the United States exclusion order on imports of aramid fibers from the Netherlands. Debate was deferred on a request for a dispute settlement panel to examine certain trade consequences of the enlargement of the European Communities. Several communications were made by delegations under the agenda item of "other business." The Fund observer at the meeting was Roger P. Kronenberg.

I. Establishment of a Working Party for the Accession of Bolivia 3/

The observer from Bolivia presented his country's request for accession to GATT under Article XXXIII and asked that a working party be established to set the process in motion. He stated that Bolivia was already conducting a liberal trade policy based on a de facto application of the GATT. The representatives of Argentina (speaking on behalf of the Latin American countries), Austria, Canada, the European Communities, India (speaking on behalf of the informal group of developing country contracting parties), Japan, the Nordic countries, and the United States welcomed Bolivia's request to accede to GATT and supported the establishment of a working party.

The Council took note of the statements and agreed to establish a working party to examine the application of Bolivia and to submit appropriate recommendations to the Council. It also authorized the Chairman to nominate, after consultations with interested parties, the presiding officer of the Working Party.

1/ Documents referred to in this report are on file in the Secretary's Department.

2/ GATT/AIR/2475.

3/ GATT document L/6217.

II. Measures Affecting the World Market for Copper Ores and Concentrates 1/

The Chairman recalled that the European Communities had requested that certain matters pertaining to Japanese pricing practices in the copper concentrates industry be referred to the Director-General of GATT for binding arbitration. 2/ The representative of Japan raised questions about the legal status of such an approach. He stated that it would be preferable to pursue the further liberalization of world copper trade in the context of the Uruguay Round (particularly in the Negotiating Group on Natural Resource-Based Products) as had been recommended in the Report of the Group of Governmental Experts. The representative of the European Communities noted that the Group of Governmental Experts had been unable to reach agreement on whether the Japanese practices constituted a distortion in the supply and demand situation of copper concentrates, and he reiterated his request for Japan to submit to binding arbitration. The European Communities favored a two-stage approach. In the first stage, the GATT Secretariat, assisted by experts, would ascertain certain facts about Japanese market prices and costs of production. On the basis of this fact-finding exercise the Director-General of GATT would determine whether Japanese practices constituted a breach of Japan's GATT obligations.

The Council took note of these statements and agreed to revert to the matter at a future meeting.

III. Turkey--Stamp Duty

The Chairman noted that the waiver allowing Turkey to maintain a stamp duty on certain imports was scheduled to expire on December 31, 1987. 3/ The representative of Turkey presented his authorities' request for an extension of the waiver until December 31, 1989. 4/ He noted that his authorities were in the process of implementing important fiscal reforms which included the introduction of a value added tax in 1985. In the area of trade policy Turkey had eliminated quantitative restrictions, simplified its tariff structure and substantially reduced many import duties. Despite these important

1/ GATT document L/6167.

2/ SM/87/214.

3/ By a decision taken under Article XXV:5 on July 20, 1963 the CONTRACTING PARTIES agreed to waive, subject to specified terms and conditions, the provisions of GATT Article II:1 to allow the Government of Turkey to maintain as a temporary measure a stamp duty on certain imports into Turkey. The validity of that decision was extended by successive decisions of the CONTRACTING PARTIES until December 31, 1987.

4/ GATT document L/6214.

initiatives the persistence of a large fiscal deficit had so far prevented the full attainment of Turkey's economic goals. For this reason, the Turkish authorities were requesting a further two year extension of the waiver.

The representative of the United States commended Turkey for the steps it had taken to liberalize trade but expressed doubts as to whether a further extension of the waiver was warranted. He stated that the United States did not want the waiver to be renewed perpetually and asked what measures had been taken or were envisaged to bring the Turkish import regime into conformity with GATT rules. He also asserted that Turkey had not been fully abiding by the terms of the waiver since it had raised the stamp duty rate to six percent in December 1986 from the agreed rate of four percent. The representative of Turkey said that his authorities would take all steps necessary to continue the process of economic liberalization. Their ultimate goal was to eliminate all practices inconsistent with the GATT. In this light, the elimination of the stamp duty was an important policy objective. The representative of Turkey declined to make any commitment additional to this policy statement, and he rejected a suggestion by the United States delegation that the waiver be extended for just one year.

The representatives of Pakistan and Uruguay expressed the view that Turkey was making adequate progress toward fulfilling its GATT obligations, and they believed the draft decision 1/ offered sufficient guarantees in this regard. They therefore supported the Turkish request. The representative of the United States said that his delegation could accept a further two year extension of the waiver at this time. However, he informed the Council that this was the last extension that his authorities were prepared to accept.

The Council took note of these statements, approved the text of the decision extending Turkey's stamp duty waiver until December 31, 1989, and recommended that Contracting Parties adopt the decision by postal ballot.

IV. Dispute settlement

1. European Communities--Third Country Meat Directive

The representative of the United States stated that implementation of the European Communities' Third Country Meat Directive would be inconsistent with GATT Article III (on national treatment) on the grounds that it would require third country meat exporters to comply with more stringent requirements than those imposed on domestic producers within the European Communities. The United States believed that the equivalency of U.S. meat packing standards had been well

1/ GATT document C/W/526.

established and that implementation of the Directive could not be justified on health or safety grounds. The United States also believed that implementation of the Directive would severely disrupt U.S. meat exports to the European Communities. The delegation of the United States therefore asked the Council to establish a panel to examine the matter. 1/ The United States further requested the European Communities to delay implementation of the Third Country Meat Directive until such a panel had issued its findings. The request for establishment of a panel was supported by Australia, Canada, and Uruguay; New Zealand expressed a close interest in the matter.

The representative of the European Communities said that the purpose of the Directive was to protect the health of EC citizens and was therefore in keeping with GATT Article XX:b (on general exceptions). He also questioned the relevance of Article III to the issues at hand, since that Article applied to the treatment of goods that had already been imported. The representative of the European Communities supported the right of any contracting party to request a panel to help resolve a dispute, but in this case he believed that there had been inadequate opportunity for consultations between the two parties. He therefore proposed that a second consultation be held and pledged that his delegation would make serious efforts to bridge its differences with the United States. He also pledged that his delegation would not oppose the establishment of a panel if, following further consultations, the United States still believed this course of action was necessary.

The Chairman proposed that the European Communities and the United States hold further consultations on the matter of the Third Country Meat Directive, and the Council decided to revert to the issue at its next meeting.

2. India--Import restrictions on almonds

The representative of the United States recalled that, at the July 1987 meeting of the Council, his delegation had requested the establishment of a dispute panel to examine restrictions maintained by India on its imports of almonds. 2/ The request has been made on the grounds that such restrictions were justified neither under GATT Article XI (on quantitative restrictions) nor under GATT Article XVIII:B (on restrictions by developing countries for balance of payments reasons). It was also recalled that the representative of India had requested further consultations with the United States with a view to resolving the matter within a reasonable period of time. The representative of the United States informed the Council that further consultations

1/ GATT document L/6218.

2/ SM/87/214 and GATT document L/6197.

were held with India on September 28, 1987, but these did not result in a satisfactory resolution of the matter. His delegation therefore resubmitted its request for the establishment of a panel.

The representative of India said that his country's restrictions in respect of almond imports were applied in a manner consistent with India's obligations under GATT Article XXIII:B. He stated that India had been regularly participating in consultations with the Committee on Balance of Payments Restrictions, and at no time did that Committee, nor any individual contracting party, state that India had not complied with its obligations under Article XXIII:B. He added that India had consistently lowered import restrictions to the extent possible over the past decade, with the result that imports had risen considerably. He also noted that his authorities had recently agreed to the establishment of a panel under the Committee on Import Licensing Procedures to examine India's import licensing regime in respect of almonds. In view of the overlapping of issues and the small value of trade involved, the delegation of India believed that the establishment of a second panel was not warranted.

The representative of Egypt, supported by the representatives of Argentina, Brazil, Cuba, Nicaragua, Peru, and Yugoslavia, said that a dispute panel was not appropriate. India's trade restrictions on almonds had been taken for balance of payments reasons and should therefore be examined in the Committee on Balance of Payments Restrictions. The representative of Nigeria urged the parties to continue their bilateral consultations. The representatives of Australia, Canada, the European Communities, New Zealand, and Switzerland supported the establishment of a panel as a matter of principle. They argued that recourse to the dispute settlement procedures of Article XXIII was a fundamental right which must not be eroded. In their view the fact that a contracting party had consulted with the Balance of Payments Committee did not diminish the right of another contracting party to request a panel.

The Council took note of these statements and agreed to revert to the issue at its next meeting.

3. United States--Section 337 of the Tariff Act of 1930

The representative of the European Communities reiterated his delegation's request for the establishment of a panel to examine the U.S. exclusion order under Section 337 of its Tariff Act on imports of aramid fibres from the Netherlands. ^{1/} The U.S. action was taken in response to an alleged patent infringement by a Dutch company. The European Communities had requested the panel because it believed the exclusion order was not consistent with Article III (on national treatment) and did not fall within the provisions of GATT Article XX (on general exceptions).

^{1/} SM/87/214 and GATT documents L/6160 and L/6198.

The delegations of Hong Kong and Japan also expressed concerns about the application of Section 337 in certain cases, and they supported the establishment of a panel. The representative of the United States stated that Section 337 of the United States Tariff Act had already been discussed in the GATT in 1983 and had been found to be consistent with the United States' obligations under the GATT. Although disappointed by the request of the European Communities, the United States would agree to the establishment of a panel. The representative of Brazil said that the panel's mandate should be strictly limited to trade-related issues, since GATT did not have jurisdiction in matters of intellectual property rights.

The Council took note of the statements, agreed to establish a panel and authorized the Chairman to hold consultations on its composition. It was noted that the panel's terms of reference should reflect the concerns expressed by the delegation of Brazil.

4. Enlargement of the European Communities

The representative of Argentina reported that consultations between Argentina and the European Communities concerning the trade consequences of the enlargement of the Communities were proceeding satisfactorily. Therefore, Argentina did not wish to bring the matter before the Council for discussion at this time but would like to revert to the subject at a future meeting. The representatives of Canada and Japan said that their authorities were also holding consultations with the European Communities on the subject of the enlargement. The representative of Japan reserved his country's right to invoke dispute settlement procedures if these consultations did not reach a satisfactory conclusion. The representative of Uruguay said that his delegation also had a continuing interest in the matter.

The Council took note of these statements and agreed to revert to the matter.

V. Other matters

On the subject of the Integrated Data Base, ^{1/} the Chairman noted that some delegations had requested additional time to clarify the proposal and to formulate an agreed approach. The Chairman therefore proposed postponing discussion of the matter to the next meeting of the Council.

Under the agenda item of "other business" issues were raised by the delegations of Australia, Canada, the European Communities, Indonesia, and Japan. The representative of Australia noted that the United States' annual report describing import restrictions taken under the U.S. Agricultural Adjustment Act was now more than one year

^{1/} SM/87/214

overdue, and he asked for information on its status. ^{1/} The representative of the United States said that the report was in the final stages of preparation. He regretted the delay and said the report would be submitted as soon as possible. The representative of Australia reserved the right to raise the matter at the next Council meeting. The Council took note of these statements.

The representative of Canada reported that on October 3, 1987, representatives of Canada and the United States initialed, ad referendum, a free trade agreement. The agreement was expected to result in significant trade liberalization and would contribute to a strengthened and more competitive Canadian economy. He stated that the agreement was fully consistent with Canada's obligations under the GATT, was complementary to the goals of the Uruguay Round, and would not raise trade barriers to any third countries. He added that Canada would provide notification of the agreement pursuant to GATT Article XXIV at an appropriate time. The representatives of Canada and the United States said that background information on the agreement would be made available to interested parties through the GATT Secretariat. The representative of Japan looked forward to examining that information. He stressed that the compatibility of the new agreement with GATT obligations should be thoroughly studied before the agreement entered into effect. The Council took note of these statements.

The representative of Japan recalled that, at the June 1987 meeting of the Council, the United States agreed to his delegation's request to hold consultations concerning the imposition of 100 percent tariffs by the United States on certain Japanese electronic products. The representative of Japan reported that these consultations were held on August 4, 1987, but the two parties were unable to reach a satisfactory resolution of their differences. His authorities continued to believe that the measures being applied by the United States were in contravention of GATT Articles I and II, and should be withdrawn by the United States. Pending such action they intended to reserve their rights in the matter. The representative of the United States said that the measures being applied by his country were consistent with its GATT obligations and were justified by the lack of Japanese compliance with the semiconductor arrangement. He stated that the United States had already reduced the incidence of these measures to the extent that Japan had improved its compliance with the semiconductor arrangement. The Council took note of these statements.

^{1/} The report is to be submitted in accordance with the decision of March 5, 1955, waiving U.S. obligations under GATT Articles II and XI to the extent necessary to prevent their conflict with actions the U.S. Government is required to take under Section 22 of the U.S. Agricultural Adjustment Act, as amended.

The representative of Japan, supported by the representatives of Australia, Canada, the European Communities, Hong Kong, Korea, and Pakistan, expressed concern over the protectionist elements of the U.S. Omnibus Trade Bill and said the legislation could adversely affect the future of the Uruguay Round. The representative of Japan noted with appreciation the efforts by the U.S. Administration to resist protectionist legislation, including its pledge to veto the Bill; and he urged the U.S. Administration to persevere in its efforts. The Council took note of the statements.

The representative of the European Communities, supported by the representatives of Canada and Mexico, asked whether the United States had taken any steps to implement the recommendations of the GATT panel which found that certain tax aspects of the U.S. Superfund Act were inconsistent with the provisions of GATT Article III (on national treatment). 1/ The representative of the United States recalled that his delegation had agreed to the adoption of the panel report and said his authorities were currently reflecting on the best course of action to achieve a satisfactory outcome. He reminded the Council that any change in U.S. tax law would require legislative action, and he pledged to convey the concerns expressed by delegations to his authorities. The Council took note of the statements.

Noting that the subject of preshipment inspection had been only on the agenda of the Committee on Customs Valuation, the representative of Indonesia, supported by the representative of Nigeria, said that the subject should be discussed in a forum open to all contracting parties. The representative of the European Communities said that preshipment inspection was a rapidly evolving and increasingly important topic in international trade. His delegation believed that the subject should be treated both in the Committee on Customs Valuation and in the Uruguay Round, with a view to achieving greater transparency and multi-lateral discipline. The representatives of Switzerland and the United States expressed their interest in the issue. The Council took note of the statements.

The Chairman reported that the process of consultations between Nicaragua and the United States would be continued. He also reported that informal consultations were held on the proposals made by the United States in respect of Workers' Rights. The representative of the United States reiterated his delegations interest in this subject.

1/ SM/87/183 and GATT document L/6175.