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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 July 19, 1989.

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Department Heads



INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

August 17, 1989

The GATT Council of Representatives met on July 19, 1989, under the chairmanship of Ambassador J. Weekes of Canada. The meeting's agenda 2/ included: (i) the Accession of Bolivia; (ii) dispute settlement panels concerning: Japanese tariffs on dimension lumber; Korean import restrictions on beef; and EC export restrictions on copper scrap; (iii) exports of domestically prohibited goods; (iv) GATT's newly established Trade Policy Review Mechanism; (v) Korea's consultation with the Committee on Balance-of-Payments Restrictions; and (vi) the report of the Working Party on Trade with Hungary.

I. Accession of Bolivia

The Council adopted the report of the Working Party on the Accession of Bolivia and proposed that the CONTRACTING PARTIES adopt, by postal ballot, the Draft Decision on the Accession of Bolivia. 3/

The Bolivian representative appealed to contracting parties to vote expeditiously for his accession to GATT. He stated that Bolivia intended to participate actively in the Uruguay Round, and he called on other contracting parties to give due recognition to the trade liberalizing measures already implemented by Bolivia.

Bolivia's accession was supported by a large number of contracting parties. The U.S. representative stated that Bolivia's decision to bind its entire tariff schedule represented a remarkable vote of confidence in the GATT system, and he urged the expeditious acceptance of Bolivia's accession.

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1/ Documents referred to in this report are on file in the Secretary's Department. The Fund observers were Helen B. Junz and Roger P. Kronenberg.

2/ The agenda is set out in GATT document C/W/604.

3/ The report of the Working Party, the Draft Decision on the Accession of Bolivia, and the Draft Protocol of Accession for Bolivia are contained in GATT document L/6542. Bolivia's Schedule of Tariff Concessions is contained in GATT document L/6542/Add. 1.

## II. Dispute Settlement

### 1. Japan--Tariff on imports of Spruce, Pine, Fir (SPF) dimension lumber

The Council adopted the report of a dispute settlement panel that was not able to sustain a Canadian complaint concerning Japanese tariffs on SPF dimension lumber. <sup>1/</sup>

In its complaint, Canada had argued that Japan's 8.0 percent import tariff on SPF dimension lumber contravened GATT rules on equal treatment for like-imported products (Article I:1) as Japan applied a zero duty to imports of dimension lumber made from certain other wood species. Japan had maintained that SPF lumber and lumber of other wood species were not like products in the sense of Article I:1.

The Panel noted that: (i) the General Agreement left wide discretion to contracting parties in determining the structure of their national tariffs; and (ii) Canada's concept of "dimension lumber" did not correspond to Japan's tariff schedule or to any internationally accepted customs classification. As Canada had not contended that different lumber species, per se, should be considered like products, the Panel found no basis for examining Canada's complaint in the general context of the Japanese tariff classification, and it was therefore unable to establish that the Japanese tariff treatment of Canadian dimension lumber was inconsistent with GATT rules.

The Canadian representative entered a formal reservation regarding the Panel's interpretation of the concept of like products and the implied preeminence given to the importing country's tariff classification in making such determinations. In the view of the Canadian authorities this interpretation could fundamentally alter GATT rights and obligations as they had been generally understood. <sup>2/</sup> Canada, therefore, reserved the right to request a further panel on the same subject. While not supporting the present Panel, however, Canada did not stand in the way of the Council's adoption of the report.

The representatives of Argentina, Brazil, India, New Zealand, and the Nordic countries, while not blocking adoption of the report, shared some of Canada's concerns. The representatives of the EC, Japan, and the U.S., however, believed that the Panel's legal conclusions were sound, and they supported adoption of the report. The Australian representative considered that the Panel's conclusions should not set

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<sup>1/</sup> GATT document L/6470. The report had been inconclusively discussed by the Council at its May and June 1989 meetings.

<sup>2/</sup> Canada's reactions to the Panel's findings are set out in GATT document L/6528.

any precedent and believed that the report should be adopted only in the interest of promoting GATT's dispute settlement system.

2. Korea--Import restrictions on beef

The Council continued debate on the reports of three dispute settlement panels which had found that Korean import restrictions on beef were inconsistent with GATT rules on quantitative restrictions. 1/ 2/

The Korean representative said that his authorities continued to have grave concerns about the reports which, in their view, would render meaningless the dispute settlement procedures under GATT's balance of payments provisions and trespass on the competence of the Balance-of-Payments Committee. Although Korea was not in a position to allow adoption of the reports at this time, it was prepared to start immediate consultations with Australia, New Zealand, and the United States to facilitate a satisfactory solution to the dispute.

The representatives of Australia, New Zealand, and the United States recalled that the Panels had already dismissed Korea's arguments, and they called on the Korean authorities to reconsider their position on adoption. The Australian representative added that the time for consultations had passed and that adoption of the reports was now a necessary step in the process of resolving the dispute.

The representatives of Argentina, Canada, Chile, the EC, and Uruguay supported adoption of the reports. The representatives of Brazil and Egypt said that their delegations would not block adoption of the reports, provided that this did not prejudice the work of the Balance-of-Payments Committee and its upcoming consultation with Korea. However, Egypt maintained that the dispute should have been examined in light of the special procedures embodied in GATT's balance of payments provisions (Article XVIII:12(d)) rather than under GATT's regular dispute settlement procedures (Article XXIII), and it entered a formal

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1/ The Panel reports (GATT documents L/6504, L/6505, and L/6503) addressed separate complaints by Australia, New Zealand, and the United States. The Panels recommended that Korea: (i) eliminate or otherwise bring into GATT conformity a ban on beef imports introduced in 1984-85 and relaxed somewhat in 1988; and (ii) hold consultations with interested parties to work out a timetable for the removal of import restrictions on beef justified by Korea since 1967 on balance of payments grounds.

2/ The matter was first discussed at the June 1989 Council meeting. See SM/89/156 (August 2, 1989).

reservation on this point. 1/ Brazil emphasized that Korea deserved special consideration as a developing country, particularly with respect to the time frame for implementation of the Panel's recommendations.

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

3. European Community restraints on exports of copper scrap 2/

The Council agreed to establish a dispute settlement panel, at the request of the U.S., to examine EC restraints on exports of copper scrap. In accepting the United States' right to have the panel established, the EC representative maintained that the restrictions in question were fully justified.

III. Other Matters

1. Exports of domestically Prohibited Goods

The Council agreed to a proposal from African delegations to establish a working party to examine the subject of exports of domestically prohibited goods. 3/

The proposal to establish the working group was endorsed by Côte d'Ivoire, India, Nigeria, and Tanzania. The U.S., which had previously raised doubts about the need for such a group, said it was prepared to go along with the decision. Although the U.S. was not yet convinced that there was a jurisdictional role for the GATT, it accepted that the deliberative competence of the GATT was quite wide. For their part, however, the U.S. authorities were deeply troubled that other delegations had failed to recognize this wide deliberative competence in other areas of interest to the United States. Continued flexibility on the part of the United States would require greater recognition of this fact on the part of other countries. The EC, in accepting the establishment of the working group, shared many of the concerns expressed by the U.S. The Indian representative said that his

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1/ Article XVIII:12(d) requires, inter alia, that the complaining party establish a prima facie case that the restrictions in question contravene Article XVIII or Article XIII (on the non-discriminatory application of restrictions). There is no need to establish a prima facie case in bringing a complaint under Article XXIII.

2/ GATT document L/6518.

3/ The draft decision is contained in GATT document C/W/605. Previous Council discussions on this subject are treated in SM/89/63 (April 6, 1989) and SM/89/50 (March 6, 1989).

delegation had no problem in establishing any working group on a subject that was clearly trade-related.

2. Trade Policy Review Mechanism

The Council adopted an outline format for country reports under the Trade Policy Review Mechanism which was established by the Council at its April 1989 meeting (Attachment). <sup>1/</sup> The Council also decided that the program of country reviews for 1989-90 would be as follows: (i) December 1989: Australia, Morocco, the United States; (ii) spring 1990: Sweden; (iii) summer 1990: Canada, Hong Kong, Japan, and New Zealand; (iv) autumn 1990: the European Community, Hungary, and Indonesia. It was noted that consultations were continuing concerning a possible second consultation for the Spring of 1990.

3. Committee on Balance-of-Payments  
Restrictions--Consultation with Korea <sup>2/</sup>

The Council took note of a brief report from the Committee on Balance-of-Payments Restrictions which stated that the Committee had commenced its consultations with Korea on June 27, 1989. The Committee had heard statements from the representatives of Korea, and the International Monetary Fund and it had conducted an exchange of views on the balance of payments situation and prospects of Korea, including alternative measures taken to restore equilibrium and the status of Korea's remaining restrictions. In light of the particular situation, and in order to allow further time for consideration of these matters, the Committee had agreed to resume its consultation with Korea no later than the week of October 23, 1989.

The representatives of Canada and the U.S. expressed their strong disappointment with the results of the Committee's June meeting. In their view, Korea was in a very strong balance of payments position and had no need to maintain import restrictions for balance of payments purposes. It was their expectation that Korea would disinvoke GATT Article XVIII:B (on trade restrictions for balance of payments purposes), preferably before the Committee reconvened its consultation in October. The U.S. representative further called on the Korean authorities to prepare for a rapid dismantling of these trade restrictions. The EC representative stated that, although the Committee had been working on the outlines of a solution for Korea's

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<sup>1/</sup> The decision to establish a Trade Policy Review Mechanism was adopted by the Uruguay Round Trade Negotiating Committee in April 1989 as part of the package of results of the Round's Mid-Term Review. These agreements were subsequently adopted by the Council at its April 1989 meeting. See SM/89/80 (May 2, 1989).

<sup>2/</sup> GATT document BOP/R/183.

consultation which enjoyed a large measure of support, Korea had been unable to join the emerging consensus in the Committee. The EC authorities had agreed to the suspension of the consultations--an exceptional action--to enable Korea time to assess the Committee's views and participate in the emerging solution. New Zealand supported the views of the previous speakers. The Egyptian representative stated that the emerging consensus should not be seen as setting any procedural precedents in the Balance-of-Payments Committee. The Korean representative stated that his authorities looked forward to constructive discussions at the Committee's October meeting.

#### 4. Consultation on Trade with Hungary

The Council had before it the report of the Working Party on Trade with Hungary concerning its seventh review under the terms of Hungary's Protocol of Accession to the GATT. <sup>1/</sup> The report: (i) acknowledged the importance of Hungary's economic reform process; (ii) recognized that a favorable external environment was essential for the successful completion of these reforms; (iii) took note of a bilateral agreement reached between Hungary and the European Community; and (iv) noted that Hungary had accepted to be reviewed under GATT's newly established Trade Policy Review Mechanism.

The Hungarian representative stated that Hungary was in the process of implementing a complete readjustment of its economic institutions with the view to creating a market economy. He noted with satisfaction that all delegations taking the floor in the Working Party's debate had recognized the importance of Hungary's economic reform process and had supported its goals. The Hungarian representative also: (i) noted that many delegations had called for the accelerated phase-out of EC trade restrictions against Hungary, in advance of the deadline fixed by the EC; (ii) expressed the hope that the United States would grant definitive most-favored-nation treatment to Hungary on a GATT basis; and (iii) welcomed recent initiatives by the seven largest industrial countries, which could result in new trade opportunities for Hungary.

The representative of the EC stated that barriers to Hungarian exports resulted, in part, from differences in economic regimes. Removal of these barriers was linked to the elimination of these differences over time.

The Council took note of the statements and adopted the report of the Working Party.

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<sup>1/</sup> GATT document L/6535.

5. Matters raised under "Other Business"

The Australian representative recalled that in February 1988 the Council had adopted the report of a dispute settlement panel that had concluded that Japanese import restrictions on ten agricultural products were inconsistent with GATT rules on quantitative restrictions. <sup>1/</sup> He further recalled that, in accepting adoption of the Panel report at that time, the Japanese representative had expressed the view that the Panel's findings in respect of two of the products (dairy products and starches) had been seriously flawed. Australia maintained that Japan did not have the right to implement the Panel's recommendation on a selective basis, nor could selective implementation be justified by bilateral understandings with the U.S. (the other party to the dispute). In the absence of clear indications from Japan concerning its intention to implement the Panel findings for these remaining products, Australia reserved its right to pursue the matter under GATT procedures.

The representatives of the EC and New Zealand shared Australia's concern about partial or selective implementation of the CONTRACTING PARTIES' recommendations, and they seconded Australia's request for information about how and when Japan intended to comply with the recommendations in this case. The Japanese representative took note of the requests.

Also under "Other Business," the Canadian representative noted that his authorities had prepared a list of products in conjunction with a request for authority from the CONTRACTING PARTIES to withdraw certain concessions from the United States. The preparation of this list and request came in response to the United States' failure to implement the recommendations of a dispute settlement panel report concerning U.S. taxation of petroleum products. It was the intention of the Canadian delegation to circulate this request to contracting parties in advance of the October 1989 Council meeting. The Canadian representative noted in this connection that the U.S. Congress was now considering ways of bringing its petroleum tax legislation into conformity with the United States' GATT obligations, and he called on the U.S. Congress to implement the necessary legislation. The U.S. representative stated that any action by Canada to withdraw concessions at this sensitive juncture could upset attempts by the U.S. Administration to pass legislation implementing the Panel's recommendations.

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<sup>1/</sup> SM/88/57 (March 9, 1988).

