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SM/89/260

December 7, 1989

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 observers on the meeting of the GATT Council of Representatives, held in Geneva on November 7, 1989.

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Department Heads



INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observers 1/

December 6, 1989

The GATT Council of Representatives met on November 7, 1989 under the chairmanship of Ambassador J. Weekes of Canada. The agenda 2/ included: (i) the accession of Costa Rica; (ii) reports from the Committee on Balance of Payments Restrictions on its consultations with Colombia, India and Korea; and (iii) dispute settlement cases.

The Council endorsed Korea's decision to disinvoke GATT balance of payments cover for its trade restrictions by January 1, 1990 and to eliminate, or otherwise bring into GATT conformity, its remaining restrictions by July 1, 1997. In dispute settlement cases, with the balance of payments question settled, Korea cleared the way for the adoption of panel findings against Korean restrictions on beef imports; the United States unblocked the adoption of a panel finding that certain patent protection elements of the 1930 U.S. Tariff Act were inconsistent with the U.S. obligation to accord imports national treatment. However, the Council again deferred action on a number of other dispute settlement matters, including a case against Canadian restrictions on ice cream imports, which raises the general question of the use of quantitative restrictions to implement production controls in the dairy sector. 3/

I. Accession of Costa Rica

The Council adopted the report of the Working Party on the Accession of Costa Rica. 4/ Under the terms of its accession Costa Rica intends to bind its entire tariff schedule, eliminate within four years its 1 percent tax on customs value of imports, the 2 percent surcharge on all imports, and the 6 percent surcharge on select items

1/ The Fund observers were H.B. Junz and C.F.J. Boonekamp. Documents referred to in this report are on file in the Secretary's Department.

2/ GATT document C/W/619.

3/ See SM/89/226 (11/3/89).

4/ The report of the Working Party, the Draft Decision on the Accession of Costa Rica, and the Draft Protocol of Accession for Costa Rica are contained in GATT document L/6589.

in excess of bound tariff rates, and gradually eliminate, or bring into GATT conformity, within a period of four years its import licensing and quantitative restrictions.

II. Committee on Balance-of-Payments Restrictions

The Council adopted the reports of the Committee on its mini-consultation with Colombia and its full consultations with India and Korea. 1/ 2/ 3/ 4/ In its consultation with India the Committee concluded that India's balance of payments and reserve position had deteriorated markedly since the 1987 consultation; noted the Fund's view that appropriate fiscal, monetary and exchange rate policies were necessary to avoid further deterioration in India's external position; encouraged India to continue to liberalize and to increase the transparency of its import policy; and noted the need for adequate market access for India's exports.

During the consultation Korea decided to disinvoke the balance of payments cover for its trade restrictions by January 1, 1990 and undertook to eliminate these restrictions, or bring them into conformity with GATT, by July 1, 1997. This involves: (a) a phase-out of the relevant restrictions over two three-year programs beginning in 1991; (b) informing the Council annually on its progress in liberalizing trade measures; and (c) notifying its three-year programs for liberalization by March of the calendar year before their introduction. In turn, other contracting parties will exercise due restraint in bringing GATT actions against Korean products being liberalized. Japan noted that Korea retained discriminatory restrictions against some of its products and that it would address this matter at an appropriate time.

III. Dispute Settlement

a) The Council adopted the reports of three dispute panels that had found that Korean import restrictions on beef, justified under balance of payments need, were inconsistent with GATT rules on quantitative

1/ GATT documents BOP/R/184, for India, and BOP/R/185, for Colombia.

2/ The report of the Fund representative at the consultations with Colombia and India is contained in SM/89/29 (11/7/89).

3/ GATT documents BOP/R/183 and Add.1, for the consultation with Korea.

4/ The report of the Fund representative at the consultation with Korea is contained in SM/89/241 (11/16/89).

restrictions. 1/ At previous Council meetings 2/ Korea had blocked the adoption of the reports, arguing that their adoption would prejudice Korea's case in the Balance of Payments Committee. As the Committee had completed its work and in the interest of contributing to the functioning of the dispute settlement mechanism, Korea agreed to the adoption of the reports. Korea would enter into consultations with interested parties to settle on an appropriate phasing-out period for the restrictions, taking into account the domestic sensitivity of the matter. Australia, Canada, Hungary, New Zealand, and the United States indicated that they wished to be part of the consultation process, with Australia adding that Korea's obligation to remove its restrictions on beef imports were separate and in addition to those it had undertaken in the context of its disinvocation of balance of payment cover for trade measures.

b) The United States unblocked the adoption of a dispute panel finding that US patent protection under Section 337 of the Tariff Act of 1930 was inconsistent with its GATT obligation to provide national treatment to imports. 3/ The United States noted that its implementation of the Panel's findings would require legislation to amend Section 337. The ability to pass such legislation would be enhanced if the Uruguay Round results included effective enforcement of intellectual property rights. Brazil, the EC, India, and Japan argued that dispute settlement results should not be contingent on other developments and urged the United States to amend its legislation within a reasonably short time.

1/ The Panel report (GATT documents L/6503-L/6505) addressed 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 slightly relaxed 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 had been discussed previously at the June 1989, July 1989 and October 1989 meetings of the Council; see SM/89/156 (8/2/89), SM/89/182 (8/21/89) and SM/89/226 (11/3/89).

3/ GATT document L/6439. The report was extensively discussed at the February 1989, March 1989, and April 1989 meetings of the Council; see, respectively, SM/89/50 (3/6/1989), SM/89/63 (4/6/89), and SM/89/80 (5/2/89). The United States had objected to the adoption of the Panel's report on the grounds that its interpretation of the relevant GATT provision on national treatment (under Article III:4) was very expansive and difficult to apply, in particular, it implied that each individual element of every law and practice must ensure at least equal treatment for imports.

c) Canada and the EC again sought authorization to proceed with a tariff increase of 2.5 percentage points on some of their imports from the United States in response to the failure of the United States to equalize taxes on domestic and imported petroleum products, as required by a panel report adopted by the Council in June 1987. 1/ Countries were generally sympathetic to the requests. However, the Council agreed to defer the matter to a future meeting after the United States explained that it was committed to complying with the panel. Appropriate legislation was now being considered in Conference between the House of Representatives and the Senate. Should the matter not be resolved in Conference it would be proper for the Council to return to the Canadian and EC requests.

d) Canada requested the establishment of a panel to help resolve its dispute with the United States on the latter's imposition of countervailing duties on imports of pork from Canada. 2/ The United States suggested further bilateral consultations and the Council agreed to reconsider the issue at the next annual session of the CONTRACTING PARTIES (CPs) in December.

IV. Other Matters

Turkey put forward what it believed to be a routine request enabling it to continue to apply a stamp duty of up to 10 percent on imports. 3/ It explained that its structural adjustment program included a substantial liberalization of its trade regime and that a wide-ranging fiscal reform would permit the stamp duty to be eliminated within the next few years; until such time the revenues from the duty were needed to support the budget. Although some countries supported Turkey's request, the EC and the United States, recalling that the waiver had already been in effect for 26 years and that its most recent extension, in November 1987, 4/ had limited the duty to 6 percent, suggested reconsideration of both the level of the duty and the time period for the waiver. Interested parties are to hold consultations on the matter prior to its reconsideration at the December Session of the CPs.

The Philippines sought an extension until December 31, 1992 of its waiver to apply national treatment to imports in order to allow time for the required legislation to equalize taxes on domestic and imported

1/ GATT documents L/6559, C/W/540 and Add. 1 and C/W/608; see also SM/88/92 (4/26/88) and SM/89/226 (11/3/89).

2/ GATT documents L/6583 and DS7/1.

3/ GATT documents L/6586, L/6588, and C/W/618/Rev 1.

4/ GATT document L/6255.

cigarettes. 1/ The matter was referred to the Session of the CPs in December after both the EC and the United States objected to the length of the proposed extension.

As Mexico, Sri Lanka, and Turkey are negotiating new schedules in connection with the introduction of the Harmonized System of tariff nomenclature, and Zaire is doing so in the context of a structural adjustment program, the Council approved draft decisions providing these countries with the necessary flexibility with regard to their bound tariff rates during the negotiating process and recommended that the Session of the CPs in December adopt these texts. 2/

1/ GATT documents L/6579 and C/W/614.

2/ GATT documents L/6584 and C/W/616 for Mexico; L/6578 and C/W/613 for Sri Lanka; L/6585/Rev. 1 and C/W/617/Rev. 1 for Turkey; and L/6586 and C/W/618/Rev. 1 for Zaire.

