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To: Members of the Executive Board
From: The Acting Secretary
Subject: Report on the Forty-Fourth Session of the CONTRACTING PARTIES
to the GATT

There is attached for the information of the Executive Directors a report by the Fund observer on the forty-fourth session of the CONTRACTING PARTIES to the GATT, held in Geneva on November 7 and 8, 1988.

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INTERNATIONAL MONETARY FUND

Forty-Fourth Session of the
CONTRACTING PARTIES to the GATT

Report by the Fund Observer 1/

December 13, 1988

The Forty-Fourth Session of the CONTRACTING PARTIES to the GATT was held on November 7 and 8, 1988 under the chairmanship of Ambassador A. Oxley of Australia. 2/ Under the agenda item, "Activities of the GATT," a large number of delegations took the floor to comment on recent developments in international trade and in the Uruguay Round. The CONTRACTING PARTIES also examined and adopted the report of the GATT Council of Representatives. Without discussion, they adopted the reports of the GATT Committee on Trade and Development and of the MTN (Tokyo Round) Committees and Councils. At the close of the Session, the CONTRACTING PARTIES elected: Ambassador A. Jamal of Tanzania as Chairman of the CONTRACTING PARTIES; Ambassador J. Weekes of Canada as Chairman of the GATT Council of Representatives; and Ambassador R. Ricupero of Brazil as Chairman of the Committee on Trade and Development. The CONTRACTING PARTIES also renewed the appointment of the GATT Director-General, Mr. A. Dunkel, for a further period of two years, from September 30, 1989 to September 30, 1991. The Fund observer at the meeting was Roger P. Kronenberg.

I. Activities of the GATT

In his opening remarks, the Chairman noted that the CONTRACTING PARTIES were meeting on the eve of the mid-term ministerial review of the Uruguay Round, the most comprehensive round of trade negotiations since the founding of the GATT. On the international trade scene at large the mood was more optimistic than it had been for many years: annual rates of growth in international trade had risen; trade liberalization had become one of the major priorities on the international agenda; there had been intense work to date in the Uruguay Round on many of the major trade issues; and, as a result, the international standing of the GATT had risen.

The past year had been a busy and important one for the GATT, owing in part to the extraordinary increase in GATT's dispute settlement activities. The number of dispute settlement panels established in the

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

2/ GATT document L/6398. A session of the CONTRACTING PARTIES is a meeting of all members of GATT, and normally takes place once a year. The GATT Council of Representatives oversees the work of the GATT on behalf of the CONTRACTING PARTIES, and generally meets once a month.

GATT had increased from an average of 2.5 per year before the launching of the Uruguay Round to seven in 1987 and 14 in 1988. In the Chairman's view, this development demonstrated that GATT procedures were capable of handling serious disputes. For example, many panels had addressed agricultural trade disputes, a subject which had effectively been taboo for many years. The growing vitality of the GATT had also been demonstrated by the number of new requests for accession.

Despite the overall mood of optimism, the Chairman stated that certain serious--potentially fatal--flaws remained: there had not been much reduction in the existing network of discriminatory export restraint arrangements in areas such as automobiles, steel, and textiles; levels of support for agriculture remained unacceptably high; and the possibility of recourse to unilateral or bilateral protection was still present. No adequate, long-term solution had been found to the debt problem, and many indebted countries could not afford the levels of imports necessary to sustain economic growth and living standards. Large trade and payments imbalances also persisted among the major industrialized countries, and many economists were predicting a downturn in the world economy in the year ahead. Finally, the question of whether regional trading arrangements were preferable to improved multilateral disciplines remained a subject of continuing debate.

Against this background, the Chairman stated that, first, the mid-term review had to be a success, and secondly, that the next two years would be even more critical for the international trading system and the GATT. The opportunity to capitalize on the general mood of optimism was there. It was up to the CONTRACTING PARTIES and other participants in the Uruguay Round to take advantage of this opportunity.

Following the Chairman's remarks, the heads of a large number of delegations took the floor to comment on recent developments in international trade and in the Uruguay Round. Their statements are selectively summarized in the following paragraphs.

The representative of Australia said that the challenge facing contracting parties would be to maintain growth in international trade as the world grappled with the problems of fiscal deficits and debt. While the GATT could not solve these problems by itself, a successful mid-term review of the Uruguay Round could make an important contribution, and in this regard, it was important for the key trading entities to play a leading role. The Australian representative noted that international tolerance for protectionist practices in agriculture had been substantially reduced. He also welcomed Japan's market opening program for beef and citrus. Commenting on regional arrangements, he stated that these had the potential to complement multilateral arrangements and to contribute to the expansion and liberalization of world trade. However, it was essential for these arrangements to be outward-looking.

The representative of Brazil stated that the disparities and inequalities separating developed and developing countries had grown to such an extent that the two groups of countries seemed to be living in different worlds. Against this background of growing inequality, the Uruguay Round negotiations had so far failed to meet even minimum standards from the point of view of development. Developing countries were being told that the abolition of special and differential treatment was the best way to integrate their economies in the world trading system. In the view of the Brazilian authorities, such arguments ignored the factual and objective differences among nations. The outlook was hardly more encouraging when one considered the contribution of the negotiations to the strengthening of the multilateral trading system. Contrary to expectations for a rollback of protectionist measures, there had been an irrational escalation of unilateral measures and threats against so-called recalcitrant participants. His country had recently been the object of unilateral measures by the United States which, in the view of his authorities, were illegal under the GATT and constituted an undeniable breach of the Uruguay Round's standstill commitment.

The representative of the European Community commented, inter alia, on the U.S. Trade and Competitiveness Act and the European Community's single market project. He noted with satisfaction that the U.S. Trade and Competitiveness Act had given the U.S. Administration the necessary negotiating authority for the Uruguay Round, and he paid tribute to the U.S. authorities for their great efforts to purge the draft legislation of its ultra-protectionist features. Nevertheless, other aspects of the Act were a source of serious concern to the European Community, since they reduced the discretionary authority of the U.S. Administration and could lead to increased use of unilateral measures by the United States, possibly in violation of GATT rules. Moreover, the law could serve to enhance the United States' negotiating leverage in the Uruguay Round, contrary to the provisions of the standstill commitment. Turning to the subject of the single market, the EC representative stated that its formation would be carried out in full compliance with the EC's international obligations. However, the European Community could not be bound in areas where international obligations did not yet exist. In light of these remarks, the EC representative urged participants in the Uruguay Round to speed up negotiations so that agreed obligations in certain new areas could be in place before the completion of the single market.

The representative of Japan spoke of the need to safeguard and strengthen the multilateral trading system and stated that the dangers of unilateralism, bilateralism, and regionalism must be resisted.

The representative of Mexico stated that for many countries, including his own, the problem of foreign debt continued to be the major impediment to achieving economic, political, and social goals. The net transfer of resources abroad had greatly affected domestic

investment opportunities and jeopardized growth and investment. Moreover, IMF-supported adjustment programs, World Bank structural adjustment loans, the demands of creditor banks, and the trade policies of industrialized countries were often incompatible, further limiting debtor countries' management of their economies. Against this background, Mexico considered it of great importance to move forward in the identification of specific actions regarding the link between debt, finance, money, trade, and development.

The representative of the Nordic countries said that the mid-term review of the Uruguay Round should be used to provide clear and precise guidelines for the rest of the negotiations. The effectiveness of the multilateral trading system could be enhanced by concrete results in Montreal with regard to such issues as dispute settlement and the functioning of the GATT system. There was also a need for balanced negotiations in agriculture and in the more traditional market access areas. Tropical products, in particular, had been identified for special attention in the Punta del Este Declaration.

The representative of Pakistan stated that the launching of the Uruguay Round had given his authorities confidence that the framework for international trade could be improved to protect the interests of weaker trading nations. However, these expectations had been somewhat disappointed by the persistence of protectionist trends in the major trading countries which focused most directly on the weakest developing countries. Against this background, there was an urgent need for progress in the areas of greatest interest to developing countries at the upcoming mid-term review of the Uruguay Round. He recalled that at a recent meeting, hosted by his authorities in Islamabad, Trade Ministers from a number of countries had recognized: that formal linkages among issues were not helpful to the negotiating process; that countries should seek pragmatic compromises rather than aiming for all-or-nothing solutions; and that more work was needed in the new areas of the Round to allay the considerable concerns of some participants.

The representative of Tanzania stated that the Uruguay Round needed to give more substance to the tenets embodied in Part IV of the GATT (on special and differential treatment for developing countries). He went on to say that the mid-term review would not serve the interest of the global trading system if it focused excessively on the new areas of the negotiations. The Punta del Este Declaration needed to be adhered to in letter and in spirit to achieve a trading framework that would serve the interests of all and provide breathing space for developing economies.

The representative of the United States said that, although the Uruguay Round had been making impressive progress in both old and new areas, much work remained to be done to ensure the successful completion of the Round by the end of 1990. In this connection he stressed that, for reasons already stated by the EC representative, new commitments

should be in place before the completion of the EC single market. He went on to say that the principle of special and differential treatment for developing countries was an "old theology." In his view, trade liberalization was a sound economic policy for countries at all levels of development. Commenting briefly on the U.S. Trade and Competitive-ness Act, he said that enactment of the law represented a defeat for the forces of protectionism in the United States and underscored the U.S. authorities' commitment to multilateralism. As regards the links between the problems of trade, debt, money, and finance--a subject of considerable concern for a number of delegations--he noted that there had been a growing recognition of these interrelationships by the international community, and that the U.S. authorities had been working closely with others to improve the international coordination of macroeconomic policies. Having said this, he added that the GATT was still a trade agreement and could not perform the functions of the IMF or the World Bank.

The representative of Uruguay informed the CONTRACTING PARTIES that on October 29, 1988, the Presidents of seven Latin American countries--Argentina, Brazil, Colombia, Mexico, Peru, Uruguay, and Venezuela--had issued a declaration which addressed a number of issues directly related to the Uruguay Round negotiations. The declaration stated, inter alia, that the full implementation of the standstill and rollback commitment was a matter of priority; that the scope, form, and modality of implementation of the principle of special and differential treatment for developing countries should be defined in each of the negotiating areas; that recognition of the links between external debt and trade should be given concrete effect through specific measures; and that access for the exports of developing countries should be expanded and stabilized. As regards the negotiations in the new areas of services, trade-related investment measures, and trade-related aspects of intellectual property rights, the declaration stated that the special situation of developing countries should be taken into account, including their need to consolidate an industrial and technological base.

II. Discussion of the Work of the GATT Council of Representatives

The CONTRACTING PARTIES had before them the report of the GATT Council of Representatives on the latter's work over the past year. 1/ Following a discussion of the report, the highlights of which are summarized below, the CONTRACTING PARTIES took note of the statements made and adopted the Council's report. The CONTRACTING PARTIES also

1/ GATT documents L/6419 and Add.1.

adopted, without discussion the reports of the GATT Committee on Trade and Development 1/ and the individual reports from the MTN (Tokyo Round) Committees and Councils. 2/

1. Exports of domestically prohibited goods

The GATT Deputy Director-General, Mr. Carlisle, reported that, since the last meeting of the Council, the Secretariat had held two rounds of consultations with a number of interested delegations on the subject of exports of domestically prohibited goods. A technical note prepared by Nigeria had served as a basis for these discussions. 3/ Three principal questions had been addressed by participants: (i) what factors inhibited developing countries from taking action to prevent the importation of domestically prohibited goods; (ii) what steps were exporting countries taking to prevent or prohibit these exports; and (iii) how satisfactory were the existing disciplines established in other international organizations. With respect to the first question, participants generally felt that the authorities in developing countries had insufficient information to prevent the importation of these products. False customs declarations, inadequate local testing facilities, and the inadequacy of local consumer protection legislation were also factors cited by participants. On the second point, the representatives of developed countries all agreed that the matter was a serious one. On the third question, some delegations noted that existing international arrangements, while very useful, were only voluntary. They considered that trade in domestically prohibited goods should be made subject to binding obligations in the GATT, both for exporting and importing countries, and they believed that the matter should be placed on the agenda for the Uruguay Round negotiations. Some delegations considered that the matter was too technical or too specialized to be addressed in the GATT, while some others considered that a further examination of the operation of existing international disciplines was first necessary.

The representatives of Cameroon, Côte d'Ivoire, Nigeria, Sri Lanka, and Tanzania noted that, although the issue of trade in domestically prohibited goods had been on GATT's work program since 1982, little concrete action had been taken to date. They supported holding further informal consultations on the matter in the GATT.

1/ GATT document L/6418.

2/ The reports of the MTN Committees and Councils are contained in the following GATT documents: Committee on Trade in Civil Aircraft, L/6415; Committee on Technical Barriers to Trade, L/6403; Committee on Import Licensing, L/6414; International Dairy Products Council, L/6407; Committee on Government Procurement, L/6420; Committee on Anti-Dumping Practices, L/6423; Committee on Subsidies and Countervailing Measures, L/6422; Committee on Customs Valuation, L/6413.

3/ GATT document W.44/14.

Nigeria also firmly believed that the matter should be addressed in the Uruguay Round. Sri Lanka suggested that the matter be raised at the upcoming mid-term review. The representative of Tanzania stated that this was not a negotiable matter like others in the Uruguay Round--it could not be the subject of give and take.

The CONTRACTING PARTIES took note of the statements and suggested that further informal consultations be held on the matter, with a view to enabling the Council to make, if necessary, appropriate arrangements for pursuing work in this area.

The representative of the European Community said that it would be inappropriate for the GATT to duplicate the important work done in this field by other international organizations. This was a delicate subject that should be approached with caution and, in any event, should not be addressed at the ministerial mid-term review. The representative of the United States stated that it was not his understanding that the CONTRACTING PARTIES had taken a decision to refer the matter to the ministerial mid-term review. He supported further consultations on the matter in the GATT. The representative of the Nordic Countries supported the United States and expressed his delegations' interest in participating actively in further consultations. The representatives of Malaysia and Nigeria said it was their understanding that a decision had been taken to refer the matter to the Uruguay Round meeting.

The Chairman stated that the CONTRACTING PARTIES could not take a decision to place the matter on the agenda for the mid-term review, since the GATT and the Uruguay Round were formally on separate tracks. At this stage, the CONTRACTING PARTIES could merely note that further consultations would be conducted in the GATT and that some contracting parties had expressed their intention to raise the matter at the mid-term review.

2. Dispute settlement

a. Canada--Provincial liquor marketing boards

The representative of the European Community recalled that in March 1988 the GATT Council had adopted the report of a dispute settlement panel that had examined certain practices of Canadian provincial liquor marketing boards. ^{1/} While noting that the Panel had recommended that the Canadian authorities should be given a reasonable amount of time to bring the practices of the provincial liquor boards into line with relevant GATT provisions, the EC representative stated that his authorities expected the Panel's recommendations to be implemented in full by January 1989. The representative of the United States said

^{1/} SM/88/92 (April 26, 1988).

that his authorities had an interest in the matter, and he requested Canada to report on its progress in implementing the Panel's recommendations. The representative of Canada stated that his authorities intended to respect their GATT obligations, and he pledged to report on the actions taken, before the end of 1988.

b. Japan--Practices concerning imported alcoholic beverages

The representative of the European Community asked Japan to provide information on its compliance with the recommendations of a dispute settlement panel that had examined certain Japanese practices concerning the treatment of imported alcoholic beverages. 1/ He acknowledged the efforts of the Japanese authorities so far and expressed the hope that the measures under consideration would be approved by the Diet and implemented in the near future. He also expressed the expectation that Japan would take additional measures to implement fully the Panel's recommendations.

The representative of Japan stated that the proposed measures in respect of alcoholic beverages were part of the tax reform bill that had been submitted to the Diet in July 1988. If approved, the measures would be implemented from April 1, 1989.

The representatives of Finland and Sweden signalled their keen interest in the matter and expressed the hope that early steps would be taken by Japan to implement the Panel's recommendations.

c. Japan--Trade in semi-conductors

In May 1988, the Council had adopted the report of a dispute settlement panel that had examined the Japan-United States Arrangement Concerning Trade in Semi-conductor Products. 2/ The representative of the European Community asked for information on Japan's implementation of the Panel's recommendations. The representative of Japan took note of the request and said that he would refer the matter to his authorities.

1/ SM/87/296 (December 21, 1987). The Panel had concluded that several categories of alcoholic beverages imported into Japan were subject to discriminatory taxes, contrary to GATT provisions.

2/ SM/88/129 (June 9, 1988).

d. United States--Customs user fee

In February 1988, the Council had adopted the report of a dispute settlement panel that had examined the United States' customs user fee. The representative of the European Community asked the United States for a progress report on its implementation of the Panel's recommendations. The representatives of Canada and Mexico also expressed their interest in the matter.

The representative of the United States replied that his authorities had been working on the matter with the U.S. Congress. Although they had not been able to complete this work in 1988, as had been hoped, his authorities now expected to submit legislation during 1989.

e. United States--Taxes on petroleum
and certain imported products

In March 1988, the European Community had requested the Council's authorization to suspend the application of concessions to the United States in response to the United States' failure to implement the recommendations of a dispute settlement panel that had examined U.S. taxation of petroleum and certain imported products. 1/ The representative of the European Community stated that the request to withdraw concessions remained on the table, and he reserved his delegation's right to revert to the matter. The representative of Canada expressed concern over the United States' failure to implement the Panel's recommendations. The representative of Mexico stated that an appropriate basis for compensation had to be determined.

The representative of the United States stated that his authorities had offered, as an interim measure, to enter into negotiations on this matter with the European Community. However, it remained the intention of his authorities to bring the relevant U.S. legislation into compliance with the United States' GATT obligations.

f. United States--Sugar import regime

The representative of Nicaragua referred to a panel report on U.S. sugar imports that had been adopted by the Council in March 1984. 2/ Nicaragua had argued before the Panel that the U.S. sugar import regime contravened GATT Article XI (on quantitative restrictions) and was not justified by the United States' agricultural waiver. 3/ She recalled that the Panel had found that the reduction in the United States' sugar quota allocated to Nicaragua had been inconsistent with the provisions

1/ SM/88/255 (November 21, 1988) and SM/88/92 (April 26, 1988).

2/ SM/84/67 (March 28, 1984).

3/ The Decision of the CONTRACTING PARTIES of March 5, 1955.

of GATT Article XIII (on the nondiscriminatory administration of quantitative restrictions). This being the case, the Panel had considered it unnecessary to examine whether the U.S. sugar import regime had violated other GATT provisions. She explained that she was raising the matter at this time to make the general point that dispute settlement panels should examine complaints in light of all GATT provisions, rather than choosing the provisions which appeared to be the most relevant. She added that many other contracting parties would have benefitted from the Panel's findings if it had examined the U.S. sugar regime in light of Article XI.

g. Sweden--Import restrictions on apples and pears

The representative of the United States recalled that, at the October 1988 meeting of the Council, his delegation had stated that it would be compelled to request the establishment of a dispute settlement panel if a mutually acceptable solution could not be reached on the matter of Swedish import restrictions on apples and pears. 1/ He informed the CONTRACTING PARTIES that a new proposal had been made in the course of recent consultations with Sweden, and that his delegation wished to defer its request for the establishment of a panel.

The representative of Sweden stated that his delegation had reached an ad referendum agreement with the United States and other suppliers that would imply the total elimination of existing quantitative restrictions on apples and pears in 1989. As a transitional arrangement, earlier opening dates for imports of apples and pears had been agreed. New bound tariff rates would be implemented, and the duty-free periods would be bound in the GATT. Legislative enactment of the agreement was expected shortly.

3. Waivers under GATT Article XXV:5

The CONTRACTING PARTIES had before them requests for waivers, or extensions of waivers, from several contracting parties. These waivers would provide temporary exemptions from the obligations of GATT Article II (on schedules of concessions) to facilitate the implementation of the Harmonized Commodity Description and Coding System (the Harmonized System) by these contracting parties. The CONTRACTING PARTIES took note of the requests and adopted the draft decisions granting waivers from the obligations of Article II to: Brazil (until December 31, 1989); Morocco (until June 30, 1989); Sri Lanka (until June 30, 1989); and Turkey (until December 31, 1989). 2/ The CONTRACTING PARTIES also adopted the draft decisions extending

1/ SM/88/255 (November 21, 1988).

2/ The four draft decisions are contained, respectively, in GATT documents W.44/2, W.44/9, L/6419 Annex I, and W.44/9.

the waivers from the obligations of Article II for: Indonesia (until October 31, 1989); Israel (until June 30, 1989); Malaysia (until June 30, 1989); and Mexico (until July 1, 1989). 1/

4. Provisional accession of Tunisia

The CONTRACTING PARTIES had before them three documents concerning Tunisia's provisional accession to the GATT: a request for a further extension of the Declaration on Provisional Accession which, under the Nineteenth Procès-Verbal of November 10, 1987, was scheduled to expire on December 31, 1988; 2/ a draft Twentieth Procès-Verbal extending the Declaration until December 31, 1989; 3/ and a draft decision to extend Tunisia's participation in the work of the CONTRACTING PARTIES until the Government of Tunisia acceded to the General Agreement under the provisions of Article XXXIII or until December 31, 1989, whichever date was earlier. 4/

The CONTRACTING PARTIES, without debate, approved the text of the Twentieth Procès-Verbal and adopted the draft decision to extend Tunisia's participation in the work of the CONTRACTING PARTIES.

5. European Community--Animal hormone directive

The representative of the United States stated that the European Community's animal hormone directive, when fully implemented, would lead to the loss of some US\$150 million in U.S. exports. He said that there was no scientific evidence to support the view that the growth hormones posed any health danger and added that this was well known to the EC authorities. Requests by the United States for an examination of the matter in the Technical Group of the Committee on Technical Barriers to Trade had repeatedly been blocked by the European Community, and attempts to reach a compromise had been rebuffed. The U.S. authorities believed that these actions were preventing the United States from exercising its GATT rights, and they wished to bring the matter to the attention of the CONTRACTING PARTIES. The representative of Canada recalled his delegation's concern in the matter.

The representative of the European Community said that he categorically rejected the statements made by the United States and Canada. The European Community had not blocked anything. In his view, the United States had needlessly complicated matters by choosing to pursue

1/ The four draft decisions are contained, respectively, in GATT documents W.44/3, W.44/8, W.44/11, and W.44/12.

2/ The request is contained in GATT document L/6417.

3/ GATT document W.44/6, Annex 1.

4/ GATT document W.44/6, Annex 2.

the matter under the Agreement on Technical Barriers to Trade, despite long-standing disagreement over the coverage of that Agreement. If the Committee on Technical Barriers to Trade were to proceed with a scientific examination of the matter, this could prejudge the legal question of the applicability of the Agreement. For their part, the EC authorities were prepared to follow a legal approach, which would first address the question of whether the Committee on Technical Barriers to Trade had competence in the matter. The EC representative went on to say that these hormones were dangerous to human health, and he emphasized that political support for the measure in the European Community was very strong.

The representative of the United States reiterated that the hormones posed no health risk and stated that, if the EC authorities faced a political problem, it was up to them to find a way to compensate affected contracting parties.

6. Internationally recognized labor standards and international trade

The representative of the United States reported that his delegation had so far been unable, in its consultations with other delegations, to find a mutually agreeable way to address in the GATT the relationship between internationally recognized labor standards and international trade. ^{1/} His authorities continued to regard this as an important issue and would continue to search for a mutually acceptable way to address the matter in the GATT. The GATT Director-General said that he intended to offer some personal suggestions in this regard in the coming weeks.

^{1/} SM/88/255 (November 21, 1988).