International Lawyer

Volume 10 | Number 4 | Article 13

1976

Informational Report of the Committee on International Economic Organizations

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Informational Report of the Committee on International Economic Organizations

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Inter-American Development Bank

The IADB held its sixteenth Annual Meeting in Cancún, Mexico, during the week of May 17, 1976. The meeting, appropriately convened in the recently completed elaborate tourism complex financed in part by the Bank, marked several new developments in IADB's history.

Agricultural Development

As is customary, the meeting received the Annual Report for 1975. It came as no surprise that the total of loans authorized in 1975, amounting to $1.375 billion, set a new record. Nor did the breakdown of $646.2 million from ordinary capital resources ("hard loans"), $634.2 million from the Fund for Special Operations ("soft loans"), $83.2 million from the Venezuelan Trust Fund and $11.4 million from other resources, depart significantly from established patterns.

Decidedly interesting, however, is a pronounced shift in emphasis in the range of economic sectors that benefited from the Bank's infusion of resources. Heading the list of these sectors in 1975 is Agriculture, for which $332 million were authorized. As a result, the cumulative total for authorized loans to Agriculture has nudged out of first place the cumulative total of approved loans to the Electric Power sector. A significant portion of the Agriculture sector loans took the form of financing farm credit programs, rural savings and loan

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cooperatives and similar efforts, essential not only to stimulate productivity but also to facilitate land reform.

The Bank's Annual Meeting was immediately preceded in Cancún by the first meeting of the International Group for Agricultural Development in Latin America (IGAD/LA). This new consultative group, organized under the auspices of IADB, includes in its membership the IADB itself, the World Bank, OAS, ECLA, the UN Development Program, AID, the Canadian International Development Agency, FAO, the Interamerican Institute for Agricultural Sciences, the Consultative Group on Food Production and Investment, the Ford Foundation and the Rockefeller Foundation. The objectives of IGAD/LA are said to be:

(a) To develop a better understanding of agricultural problems and opportunities common to the regional or subregional groups.

(b) To promote and channel toward the agriculture of Latin American countries an increased and better coordinated flow of external and internal public and private resources for technical and financial cooperation, aimed at food production and rural development.

(c) To improve coordination among the major agencies in order to enhance the quality of the financial and technical cooperation currently being provided in Latin America.

At least initially, IGAD/LA is expected to emphasize the aspects of management personnel training, international coordination of research, and assistance in the preparation of specific agricultural investment programs for selected geographic areas.

The first IGAD/LA meeting in Cancún was attended by agriculture ministers or comparable officials of the several member countries. While it would be difficult to define any concrete accomplishment of this meeting, it appears that another international forum has been created to concentrate attention specifically on a problem area in which there are also great opportunities for significant progress in Latin America.

Inter-Regional Membership—Capital Increase

The Cancún meeting was attended by, among others, representatives of the twelve countries outside the region who signed the Declaration of Madrid in December, 1974 (See 9 *The International Lawyer,* Fall, 1975). United States congressional action on the amendments to the Agreement Establishing the Bank was completed while the Cancún meeting was in progress.

At a ceremony held in Washington on July 9, nine of the prospective non-regional members formally took up their membership in the Bank. The memberships of Austria, the Netherlands and Italy still await completion of their internal constitutional processes; France, which had not been a signatory

of the Declaration of Madrid, expressed its intention to join. In the meantime, the regional memberships of the Bahamas and Guyana also became effective.

This combination of actions will have the following results:

Ordinary capital. IADB's subscribed ordinary capital has been increased by $4 billion—from $5,964,957,000 to $9,964,957,000. Of the addition, up to $344 million will be paid in over the next three years, and $3,656 million will be callable, to be subscribed over the next three years. The United States share of the $4 billion increase will be $1.2 billion, or 30 percent ($120 million paid in and $1.08 billion callable).

After completion of the $4 billion increase in 1978, the members are committed to a further $1.3 billion increase in the callable capital in 1979. The United States share of this further increase will be $450 million, or 34.6 percent.

It will be remembered that the "callable capital" amounts in effect to members' guarantees of the Bank's borrowings in the international capital markets. These guarantees have never been invoked and, in the light of the Bank's liquidity and the quality of its loan portfolio, it is not expected that they ever will be.

Inter-regional capital. The new inter-regional capital stock will provide a separate convertible currency fund to support international capital market borrowings. To this class of capital the non-regionals are expected to subscribe $372,712,000 ($61,475,000 paid in over three years and $311,237,000 callable).

Actually, the inter-regional capital stock will also be open for subscription by present members. Of the $1,530,000,000 callable capital subscriptions to be made by the United States, as mentioned above, $930 million will be subscribed to the inter-regional capital stock; a portion of the Canadian and Latin American subscriptions will similarly be made to this new class of stock.

Fund for Special Operations. The Bank's "soft loan window," which does not have access to outside borrowing, will also benefit from substantial new funding. In addition to the $4,395 million heretofore in the Fund, a further $1,045 million will be paid in over the next three years. Of this amount, $600 million will come from the United States and $372,712,000 from the non-regionals.

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World Bank

The World Bank, earlier this year, reconsidered its policy towards financing certain types of projects in the petroleum sector. Previously, the Bank's financing in this sector had been directed primarily at "downstream" projects, such as refineries, pipelines, and the like. The Bank had not generally been willing to consider projects relating to oil exploration or production.

The basis for the Bank's previous policy had been that sufficient private capital was available for oil exploration and production projects. In addition, in those instances where private capital was not available, the projects did not meet the Bank's tests for economic viability due to the high cost of oil in relation to the world market price of oil.

As a consequence of the substantial increase in world market prices for oil in recent years, the economic viability of producing oil in many less developed countries has improved and projects which were previously not viable may be so now. In addition, the Bank appears to believe that financing from sources other than the Bank is not readily available for oil production projects in less developed countries. This is presumably the result of increased political risks.

Consequently, the Bank is now willing to consider financing oil production projects in less developed countries. But the Bank is still not willing to finance oil exploration. Its current position is that oil production projects will be considered for Bank financing if economically viable and if capital from other sources is not available. As of the present time, no such projects have in fact been financed by the Bank. However, with its change in attitude toward these projects, it is expected that the Bank will finance such projects in the future.

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Export-Import Bank of the United States

Over the past few months, Eximbank has been reducing the amount of its direct lending, in part as the result of circumstances, but largely as the result of policy decisions at the Bank and in the United States Government. Encouraging this trend, among other things, is the fact that Exim will be back under the United States budget as of October 1 (so that its loan disbursements will appear as budget expenses), the renewed effort of the Bank under President DuBrul to avoid Bank financing unless other funds are demonstrably not available, that Exim's rates (8-1/4 - 9-1/2%) are at or near market levels, and that it has increased its other charges. The Bank welcomes the reduction in its new lending, with President DuBrul's statement, "Small is beautiful." The Bank is more and more frequently declining to lend for large projects, pushing borrowers to commercial lenders, often with Eximbank guarantees (which are not budget disbursements). It is not yet clear how this policy will apply to projects in the $5-20 million range.

Although Exim's total authorizations for FY 1976 were, at $8.6 billion, some $300 million higher than in FY 1975, there was a drop of $400 million to $2.1 billion in the amount of direct loans. Increases were almost entirely in the insurance programs which were up $600 million.

Another major policy change, in credit terms, was announced by Exim in June, on a one-year trial basis. Although the announcement was unilateral, government export credit institutions in other major creditor countries made similar announcements thereafter. Under these announcements, the creditor institutions volunteered to set floors on *blended* interest rates (combined official and commercial) in a range of 7-1/2 to 8% on over-five-year credits, and of 7-1/4 to 7-3/4% on two-to-five-year credits, the floor rate in each category being determined by the income level of the borrower's country. The institutions also announced a 15% minimum down payment requirement, a significant increase for Exim, where 10% down payments had been common. Exim also plans to give advance notice to its major counterparts abroad of the terms of proposed over-five-year credits to developed country borrowers. The new guidelines do not apply to aircraft, ships, power plants credits and some other categories.

Walter Sauer, Exim's No. 2 man since 1962, has resigned after thirty years with the bank. He has been succeeded as Vice Chairman and First Vice President by Delio E. Gianturco, a thirteen-year bank employee-officer.

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Reform in International Monetary Discipline

I. Introduction

In a report issued to the Board of Governors of the International Monetary Fund (IMF) on June 14, 1974 by the Ad Hoc Committee on Reform of the International Monetary System and Related Issues, the Committee attached an *Outline of Reform*. The Outline specified some steps for immediate consideration by the IMF, including the preparation of draft amendments of the Articles of Agreement of the IMF.

The Executive Directors of the IMF considered possible draft amendments and the results were discussed in Kingston, Jamaica, at a meeting of the Interim Committee of the Board of Governors on the International Monetary System, in effect, the successor to the Ad Hoc Committee on Reform referred to above.

The Interim Committee, in its Communique issued January 8, 1976, "welcomed the agreement that had been reached on provisions concerning the important problems of exchange rates. In this respect, it has endorsed the new Article IV of the Articles of Agreement which establish a system of exchange arrangements. The new system recognizes an objective of stability in economic and financial factors."

The present article focuses on the important change in international monetary discipline embraced by this shift from the fixed exchange rate requirements that had been embodied in the original Articles of Agreement, the "Bretton Woods System." Briefly, it seeks to compare the highlights of the international legal obligations embraced in the fixed rate system* with members' legal obligations under the proposed system.

II. The "Bretton Woods" Exchange Rate Discipline

A. *Specific Obligations*

Under the original Articles, a member was required to establish with the IMF a par value for its currency, directly or indirectly, in terms of gold. Spot exchange transactions between the currencies of members taking place within their territories were required not to differ from parity by more than one percent. Each member was required to take appropriate measures to ensure that all exchange transactions between its currency and the currencies of other members took place within the one-percent margin from parity. A member that freely bought and sold gold in settlement of its foreign obligations within the prescribed

*This paper does not deal with other specific obligations regarding members' exchange rate arrangements contained in the Articles, e.g., (1) prohibition of restrictions on payments and transfers for current international transactions, (2) multiple currency practices, and (3) discriminating currency arrangements without IMF approval. Those interdictions continue without change in the Articles as proposed to be amended.

margins for gold transactions was deemed to be fulfilling that obligation. The United States, until August 15, 1971, stated that it was freely buying and selling gold to settle its international transactions and therefore was not required by the Articles to take any additional measures to ensure that exchange rates between the United States dollar and other members' currencies took place within the prescribed margins. A member that did not maintain exchange rates for its currency within the prescribed margins, described as a "floating" currency, was not acting in conformity with the Articles. While the IMF could approve other deviations from the margin requirements, for example, multiple currency practices, it had no power to approve a unitary fluctuating rate.

A normal method that a member with a market economy would use to ensure conformity with the margin requirements was for its monetary authorities to intervene in the foreign exchange market by using its reserves, typically, United States dollars. By such intervention, the exchange rate for members' currency was prevented from falling more than one percent below parity or from rising more than one percent above parity.

Except for changes in par value that did not exceed ten percent of the initial par value, proposals for changes were subject to Fund concurrence and the satisfaction of three conditions:

1. the proposal of the member for a change had to correct a fundamental disequilibrium;
2. a change in par value could be made only on the proposal of the member; and
3. a member proposing change was required to consult with the IMF prior to a change.

B. *General Obligations*

In addition to the specific obligations referred to above, the Articles provided some general obligations. Article IV, Section (a), reads as follows:

> (a) Each member undertakes to collaborate with the Fund to promote exchange stability, to maintain orderly exchange arrangements with other members, and to avoid competitive exchange alterations.

III. Breakdown of the "Bretton Woods System"

The fixed rate system established at Bretton Woods accompanied the tremendous expansion of world trade and payments in the post-war years and was also blessed with orderly exchange arrangements for the major part of world trade and payments. The story of the breakdown of the fixed rate system starting during a period in 1971 and the generalized floating continuously since March 1973 has often been told. The causes of the breakdown and need for reform were amply set forth by the IMF in the Ad Hoc Committee's *Outline of Reform*

referred to above. Suffice it to say, the IMF has concluded that the specific legal obligations of members regarding their exchange system embodied in the Articles could not ensure one of the chief objectives of the system, namely, exchange stability.

Members that suffered strong deficits in their balance of payments did not always take timely and adequate measures to shore-up confidence in their currencies. The exchange rates for their currencies, accordingly, declined vis-à-vis the currencies of members that enjoyed strong surpluses. The latter resulted, of course, in increasing confidence in the currencies of the surplus countries and a resultant increase in the exchange rates of those currencies. Exacerbating the situation frequently were the activities of speculators who would transfer from weak currencies to strong ones, further driving down the rates for weak currencies and driving up rates for the strong ones. Indeed, market forces thus frequently had an extraordinary impact on the direction in which exchange rates moved beyond what otherwise would have resulted from the normal flows of currencies in international trade and payments.

For their part, the member countries, except for those that freely bought and sold gold, were required without limit and without exception to intervene in the foreign exchange market to keep exchange rates within the prescribed margins. On certain critical occasions, the monetary authorities in some countries were obliged to intervene to the extent of over $1 billion (equivalent) in a single day in order to maintain exchange rates within the prescribed margins.

It was not always clear whether, at times of crisis these violent fluctuations in exchange rates were the consequence of inadequate restraining policies on the part of the deficit country whose exchange rate was weak, or inadequate expansionary policies on the part of a surplus country whose exchange rate was strong, or both. The certainty, however, was that there was inadequate coordination of monetary policies among the member countries to avoid the resultant exchange instability, and, indeed, the ultimate abandonment in 1973 of adherence to a fixed exchange rate discipline.

As will be seen below, the philosophy of the regime envisaged in the reform is that, until the international community finds itself amply prepared to undertake once more the discipline inherent in a fixed exchange rate, members will be free to choose their respective exchange arrangements, whether they involve floating rates, fixed rates or arrangements in concert among groups of countries. Under this approach, with greater coordination of the monetary and related policies of members under the surveillance of the IMF, the result should be a stable system of exchange rates.

IV. Discipline Envisaged in the Proposed Amendments

A. *General Obligations*

The proposed revision in the obligations of members regarding exchange arrangements may be summarized as follows: the general obligations under the

original Articles, namely, to collaborate with the IMF and other members to assure orderly exchange arrangements and to provide a stable system of exchange rates would continue. In addition, the Articles will provide that:

In particular, each member shall:

(i) endeavor to direct its economic and financial policies toward the objective of fostering orderly economic growth with reasonable price stability, with due regard to its circumstances;
(ii) seek to promote stability by fostering orderly underlying economic and financial conditions and a monetary system that does not tend to produce erratic disruptions;
(iii) avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members; and
(iv) follow exchange policies compatible with the undertakings under this Section.

B. *General Exchange Arrangements*

Each member is to notify the IMF of the exchange arrangements it intends to apply and of any changes in its exchange arrangements. The arrangements may be (i) for a fixed rate, that is, the maintenance by a member of a value for its currency in terms of a denominator, or (ii) cooperative arrangements by which members maintain values for their currencies in relation to each other, or (iii) other exchange arrangements, e.g., floating rates, that is, without a requirement that the value of a member's currency be maintained at a given rate.

C. *Surveillance Over Exchange Arrangements*

Coordination of the monetary policies of members in order to bring about a system of stable rates is envisaged as taking the following form: the IMF is required to oversee the monetary system in order to ensure its effective operation and it is to oversee the compliance of members with the obligations mentioned in IV(i) above. In this connection, the IMF "shall exercise firm surveillance over the exchange rate policies of members, and shall adopt specific principles for the guidance of all members with respect to those policies." The duty of each member is to provide the IMF with the information necessary for such surveillance. Moreover, the member, if requested, shall be required to consult with the IMF regarding its exchange rate policies.

V. Major Thrust of the Proposed Discipline

To recapitulate, the principal changes that are to be wrought into the Articles are:

(a) the freedom of members to choose their exchange rate system;
(b) the surveillance by the IMF of members' exchange rate policies;
(c) the duty of members to consult with the IMF, when requested by the IMF, on the members' exchange rate policies; and
(d) the international coordination of members' economic and financial policies.

The authority in the IMF to initiate consultation with a member regarding its exchange rate policies and, implicitly, the appropriateness of its exchange rate, is regarded in some quarters as the most striking change and a much-needed improvement over the Bretton Woods System. Under the Bretton Woods System, the IMF was without power to take any formal initiative in looking toward a change in a member's par value. Changes in par values could take place only on the proposal of the member and in the eventuality the member's proposals, when they were made, were late and large. The new system is designed to produce economic and financial coordination of members' monetary policies to avoid undue aberations in exchange rates as the result of inappropriate or inadequate monetary policies on the part of members, those in surplus as well as those in deficit.

In the view of some critics, the provisions of the proposed amendments constitute little more than a codification of present practice. The premise underlying that view is that more specific legal obligations are needed, for example, with respect to a duty that a member intervene in the foreign exchange market in prescribed circumstances or to take other specified measures to ensure the avoidance of erratic exchange rate movements.

On the other hand, a more optimistic view more widely held in other quarters is that the coordination of monetary practices of members with the IMF establishing and overseeing principles to be followed by members as circumstances change, coupled with the new authority in the IMF to require that a member consult with it regarding the member's exchange policies, augurs well for the new monetary regime. That regime is designed to afford greater flexibility to meet given circumstances in substitution of the prescribed rigid rules which continued to apply irrespective of prevailing circumstances and without necessarily producing exchange stability. A basic premise underlying this view is that with the IMF's new role in the management of the monetary system, its long experience in times of exchange stability as well as periods of exchange instability, and the presence of its ex-officers and others formerly associated with the IMF now in authoritative positions in their respective countries, a number of them being ministers of finance or governors of central banks, the opportunity exists for effective coordination of monetary policies through the IMF working closely with its members and closer working relations among the members themselves, sometimes referred to as the "Spirit of Rambouillet." Under this view, the set of rules embodied in the proposed amendments could well be the harbinger of a stable system of exchange rates.

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The International Atomic Energy Agency

As the international horizons of the atomic energy industry expand in terms of its technology and potential market, States are relying to a critical extent on the activities of the International Atomic Energy Agency (IAEA) to lead discussion on problem areas emerging and to enforce safeguards.

Since its formation in 1957 in Vienna, pursuant to the terms of the IAEA Statute, the Agency has demonstrated a flexibility and efficiency suited to the difficult tasks assigned to it. The Agency's ability to perform its vital functions and gain the cooperation of a wide range of States in its specific programs can be attributed to a number of factors including the Agency's unique status and organizational structure.

Although the IAEA is not, properly speaking, a specialized agency, the principal difference between it and the other agencies of the United Nations system, and the degree of autonomy which it thereby enjoys, is that the IAEA reports directly to the General Assembly rather than to the Economic and Social Council. This arrangement was the result of an early struggle between the United States and Soviet Union concerning the potential control of the Agency by the United Nations Security Council. The present status of the Agency in the United Nations system reflects the United States position.

Another important distinction between this Agency and most other intergovernmental agencies lies in the composition of the ruling organ of the Agency, the Board of Governors. Instead of the usual formula for membership based on geographical distribution, the IAEA Statute devised a complex scheme to arrange membership in a manner satisfactory to the have and have-not States without sacrificing the Board's ability to act in a coordinated and decisive fashion in achieving its goals. The categories to each of which a set number of seats is assigned are designated as: (1) most advanced members, including most advanced in the world and most advanced in each region, (2) other producers of source materials, (3) supplier of technical assistance, (4) geographic representatives, and (5) "floaters" elected without designation of geographic areas. The other organs include the General Conference which is modeled after the United Nations General Assembly, but given little authority, and the Secretariat which includes a staff of 400 professionals and 800 general workers who are led by the Director General in the administration and implementation of the Agency's various programs.

The IAEA's role as originally conceived was and continues to be a positive one of encouraging the peaceful use of atomic energy throughout the world. This position has not hindered the Agency's ability to regulate the industry in terms of safeguards where requested by States. The Agency was assigned a critical role in the international effort to deter nuclear proliferation, which led to the United Nations-sponsored Non-Proliferation Treaty (NPT) to which over a hundred

States are today parties. Under the terms of the NPT, the Agency applies its safeguards to nuclear facilities and materials with the cooperation of the vendor and vendee States in allowing inspection and providing the necessary records. In 1975, the NPT was reviewed at a conference in Geneva to analyze the effectiveness of the treaty. Generally, satisfaction was expressed with NPT and IAEA's performance under it; universal adherence to the treaty and to IAEA safeguards was assigned priority.

The activities of the IAEA are diverse, although its most effective and utilized program involves the application of IAEA safeguards (as under the NPT) to ensure that nuclear materials and equipment are not diverted to military purposes. On the safety aspect of atomic energy, the Agency has assumed an increasingly important role in the formulation of standards and codes relating to safe transport of nuclear materials and operation of nuclear facilities. For example, the IAEA is now developing guides in the areas of Government Organization, Siting, Design, Operations, and Quality Assurance which are especially aimed at the needs of developing states purchasing nuclear power systems.

The Agency's concern for the needs of developing states is reflected in its programs for technical cooperation with such States. Under these programs, experts, equipment and training courses are made available to States for nuclear power project planning and implementation. The Agency also supplies nuclear material to developing states; however, this aspect of the IAEA's role in the field has been limited.

As a quasi-member of the United Nations "family" of intergovernmental agencies, the IAEA has cooperated with such other international agencies as the United Nations Food and Agriculture Organization, the United Nations Environment Program and the United Nations Development Program, in the furtherance of the safe use and availability of atomic energy for peaceful purposes. Besides these efforts, the IAEA performs the task of gathering and disseminating the latest technical information available through the International Nuclear Information System (INIS), a sophisticated computerized system.

The future role of the IAEA is indicated by the discussions now being initiated by the Agency in areas such as the transport of nuclear materials and the disposal of nuclear wastes. Of special interest is the Agency's suggestion of regional nuclear power facilities to fulfill future energy needs in areas not appropriate for independent material programs. In such multilateral programs, the IAEA's presence would be essential to ensure cooperation among participating States and world security.

The Agency enjoys the endorsement of both developing and developed states. It was fitting, therefore, that the scene of the Agency's 1976 annual conference, Rio de Janeiro, Brazil, was also the subject of one of the most significant recent

transfers of nuclear technology from developed to developing States, the sale by West German Companies to Brazil of a nuclear power system.

The most serious threat to the continued effectiveness of the Agency in performance of its present programs such as safeguards, and of new tasks in the future, appears financial in view of its present budget. There is now, however, legislation pending before the United States Congress which recognizes this problem and seeks to alleviate it.

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General Agreement on Tariffs and Trade

Multilateral Trade Negotiations

1. *Goal of Completing MTN in 1977 Reaffirmed*

An "economic summit" meeting was held in Puerto Rico on June 27 and 28, 1976, at which President Ford played host to the heads of state of Canada, France, West Germany, Italy, Japan, and the United Kingdom. The participants discussed a number of current developments on the worldwide economic scene, and, in their closing statement, they reaffirmed the goal of completing the Geneva multilateral trade negotiations by the end of 1977.

2. *United States Presents "Safeguards" Proposal*

At the July 19, 1976 meeting of the MTN Safeguard Group, the United States presented a "concrete paper" outlining the basic elements that the United States would like to see in a new multilateral safeguards code. Article XIX of the GATT sets forth the existing rules governing the use of import restrictions to protect domestic industry against serious injury caused by increased imports. The United States proposal attempts to lay the groundwork for development of a more effective and useful international safeguards system

than the present Article XIX, which often has been circumvented by countries imposing protectionist measures.

The United States proposal stresses the need for an "open" or "transparent" safeguard system, under which all interested parties would have the opportunity to make their views concerning the need for import protection known. Import relief would be temporary, and would be phased out over the period of its effectiveness. The United States paper suggests that tariff compensation and retaliation (as provided in GATT Article XIX) would not be necessary or permitted under the new code. Countries that did not subscribe to the code, however, would continue to be subject to the GATT Article XIX provisions.

The United States proposal, which advances an approach similar to the import relief procedures presently used in the United States, was submitted to stimulate discussion of a new safeguard formula. Negotiations on the proposal are expected to begin early in 1977.

3. *EEC Offers Tariff-Cutting Formula*

On July 7, 1976, the EEC presented a proposed tariff-cutting formula, based on a "harmonization" approach, which emphasizes negotiating tariffs to more or less uniform rates, with the greatest reductions being made in the highest tariffs. The EEC proposal suggests that tariffs be reduced by their own amounts —e.g., a 10 percent duty by 10 percent—and that this formula be applied to each duty four times over an extended period. This would reduce a 20 percent tariff to about 10 percent and a 50 percent duty to about 13 percent. The proposal would not apply to agricultural products, which the EEC considers a matter for negotiation by the MTN Agricultural Group, rather than the Tariff Group. The question whether agricultural products should be considered separately in the MTN negotiations, or along with liberalization of industrial trade, continues to divide the United States and the EEC.

While United States negotiators welcomed the EEC proposal as a positive step, they criticized the proposal's exemption of agricultural products, which is the area in which the EEC applies its higher duties. The United States also considers that the EEC formula would not lead to sufficient across-the-board reductions in the five to fifteen percent duty range, where the majority of international trade takes place.

Bilateral GATT Issues

1. *United States "DISC" Tax Treatment Challenged in GATT*

The GATT Council has convened a "panel of conciliation" to consider a complaint filed by the EEC against the United States DISC tax provisions and a countercomplaint filed by the United States against certain tax practices of three EEC member countries. The EEC contends that the DISC ("Domestic

International Sales Corporation") provisions, which permit deferral of taxation of a portion of a DISC's export sales earnings, have the effect of providing an export subsidy, in contravention of GATT Article XVI:4. The United States contends that the DISC tax deferral does not amount to a forgiveness of taxes, and that it is not a subsidy within Article XVI. The United States further has argued that if the DISC is a prohibited export subsidy, the practices of Belgium, France and the Netherlands in exempting foreign source income from taxation (including income from sales of exports through foreign subsidiaries) are even more clearly prohibited export subsidies.

The five-member panel of experts, meeting in Geneva, heard an oral presentation of the complaints of the parties on March 15, 1976. (Canada also argued against the DISC, as an "interested party.") Briefs were filed by the parties at the end of April, and further oral arguments were made before the panel at the end of June. The decision of the panel, which has indicated it will issue separate opinions on each of the four measures complained of, is expected sometime this fall.

2. *United States Specialty Steel Quotas*

In January, following hearings in an "escape clause" proceeding, the United States International Trade Commission recommended that quantitative limitations be imposed on United States imports of specialty steel (stainless steel and alloy tool steel). On June 11, 1976, the United States and Japan concluded an "orderly marketing agreement" limiting Japanese exports of these products to the United States to specified quotas over the next three years. Efforts by the United States Government to negotiate similar agreements with European countries were unsuccessful, and on June 14, 1976 the United States imposed unilateral restraints on imports of specialty steel from other foreign suppliers for a three-year period. Under the Presidential Proclamation imposing the restraints, specific allocations of quotas (by item) are provided for Japan, the EEC, Canada and Sweden, with a residual quota allocation for each item being applicable to all other suppliers. (Proclamation No. 4445; 41 Fed. Reg. 24101.) The Presidential action was taken pursuant to authority contained in Section 203 of the Trade Act of 1974.

At the June 14, 1976 GATT Council meeting, Council members generally criticized the United States import controls on specialty steels as being unwarranted. No formal complaint was presented against the United States, although a number of participants, including the EEC and Canada, reserved their rights to take future GATT action.

3. *United States Drops Automobile Antidumping Investigation*

A major source of tension between the United States and its industrialized trading partners was removed when the United States Treasury Department

announced, on May 4, 1976, that it was discontinuing its antidumping investigation against automobile manufacturers in Europe, Canada and Japan. Although Treasury found that most foreign manufacturers were selling their cars in the United States at prices below their home market prices, the antidumping proceeding was dropped in return for assurances of corrective action by the manufacturers. An element in the Treasury Department's decision may have been potential difficulty in proving that domestic car manufacturers were injured by the foreign producers' pricing practices, since sales of United States-manufactured automobiles have been strong.

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Council for Mutual Economic Assistance

Developments within CMEA indicate that continued priority will be given to measures furthering economic integration of its member nations. At the thirtieth session of the CMEA countries, held in Berlin July 7-9, 1976, Mr. Kosygin emphasized the importance of working out common progams for achieving long-term goals in vital economic sectors. The communique issued after the session included raw materials, energy, engineering, consumer goods and transport among those sectors. In this connection, the International Investment Bank (IIB), the USSR Foreign Trade Bank (*Vneshtorgbank*) and the banks of other CMEA member countries have been cooperating in financing the creation on Soviet territory of additional facilities for the production of oil, natural gas, iron ore, ferrous metals, ferro-alloys, asbestos and other raw materials. Such cooperation, particularly in the raw material and energy sectors, should serve to strengthen the influence of the USSR upon other member countries. In a press interview, the Chairman of the Board of *Vneshtorgbank* described cooperation with CMEA member countries in implementation of the comprehensive program of integration of the socialist economies as the main trend in the Bank's activity.

An interesting development is the growing contact between United Nations agencies and organs of CMEA. A representative of the United Nations European Economic Commission (ECE) took part in the April, 1976 session of the CMEA Chemical Industry Permanent Commission, which discussed the preparation of long-term target plans to 1990 and integration measures. Also, the 1975 annual report of the International Bank for Economic Cooperation (IBEC) reports progress in developing business contacts with the Bank for International Settlement, the UNCTAD and the ECE. In addition, several United Nations agencies (ECE, UNCTAD and UNESCO) were represented at a recent conference on East-West cooperation held in Dresden under the auspices of the International Economic Association.

One of the topics considered at that conference was the role of "production trading" as a form of compensation for the Western investor in large-scale, long-term projects in CMEA member countries. This approach to financing East-West trade was also discussed in a recent IBEC bulletin and was the subject of a paper read by a Soviet participant at the January, 1976 meeting of the legal committee of the US-USSR Trade and Economic Council, Inc. Clearly, production trading arrangements best accommodate the financial limitations and economic needs of CMEA members, and Western firms capable of making such arrangements will continue to enjoy a competitive edge over firms that insist upon more conventional financing. However, Western firms selling complete factories and installations in Eastern Europe and making a commitment to accept partial payment in goods produced have been criticized for exposing domestic industry to unfair competition from low priced goods and threatening the jobs of domestic workers. The criticism applies more strongly to compensation arrangements resulting in the import of Eastern European finished goods than to arrangements leading to the import of scarce raw materials. The problem was raised by a Belgian representative in a written question to the European Commission, which replied that the European Community cannot interfere in private contracts but noted that imports from Eastern Europe are subject to the regulations implementing EEC commercial policy and that the Community can take appropriate steps to protect its interests.

The short-range prospects for an agreement between the European Community and CMEA are in serious doubt. The Community's experts have been studying the CMEA draft of an agreement, which was submitted during a February, 1976 meeting in Luxembourg. Their analysis has been described as so cautious as to give cause to wonder whether there is in fact common ground for negotiations. The fundamental problem lies in the diverse nature of the EEC and CMEA, the former being a highly integrated customs union with supranational institutions empowered to act for its members while the latter prides itself on the absence of supranational organs and implicitly concedes that

economic integration is still only a goal. The CMEA draft provides for an agreement between CMEA and its members and the EEC and its members, ignoring the difference between the two organizations. The EEC would favor negotiation of separate agreements between the EEC Commission and each individual CMEA member with an umbrella agreement between CMEA and the EEC recognizing the authority of the CMEA Secretariat in areas where economic and political integration has actually been achieved. Such negotiations would require that CMEA recognize the authority of the EEC Commission to speak for the EEC member countries, while the CMEA members would be negotiating unilaterally. The controversy over the structure of an agreement has political overtones, of course. The Eastern European Bloc has never recognized the legitimacy of the EEC but has frequently castigated it as the economic arm of NATO. If individual CMEA members are obliged to negotiate with the EEC as a whole, the result may be the economic and political division of CMEA. Any weakening of the economic cohesiveness of the Eastern Bloc and its orientation toward the Soviet Union would be resisted by the latter, particularly if political consequences are foreseen. While Soviet interests are served by Bloc to Bloc negotiations, the EEC is reluctant to take steps to undercut whatever political and economic autonomy is enjoyed by the smaller CMEA members and, in its own economic interest, fears any agreement that might permit domination of both Eastern and Western Europe by the USSR.

Besides those general concerns, the EEC experts have numerous economic objections to the terms of the agreement proposed by CMEA, the most significant of which are directed against the proposal that the member nations of CMEA and the EEC grant each other most favored nation treatment (MFN). The EEC experts question whether market economy countries can receive adequate compensation for reducing their tariff barriers against imports from nations with a planned economy and a state monopoly of foreign trade. Also, the legal position of the CMEA members has been that no exception to MFN is possible and that MFN applies not only to tariffs but to all trade matters, including the Community's Generalized System of Preferences (GSP), the Lome Convention, the Common Agricultural Policy (CAP), the annual EEC quotas for East European imports and the consolidated lists adopted within the framework of the GATT. In short, MFN is an undefined term which CMEA views as an all-encompassing, legally binding obligation but which the EEC views as a narrower, nonbinding, unilateral concession. An article published during the recent CMEA session in *Rude Pravo*, the Czechoslovak party newspaper, charged that the EEC is seeking unilateral economic and political advantages in its relations with CMEA. The two organizations have a long way to go both in resolving substantive issues and in adjusting mutual perceptions. It is expected that the EEC will respond to the CMEA draft agreement in October, 1976 and that negotiations will begin sometime in 1977.

In the meantime, member nations of the two blocs continue to conclude bilateral economic cooperation agreements. In March, 1976, France concluded a five-year intergovernmental economic cooperation agreement with Bulgaria, and on May 6, 1976, French firms concluded sixteen specific cooperation agreements with Polish foreign trade agencies. The growth of economic ties between Western European firms and Eastern European agencies and the growing economic interdependence of member nations of the EEC and CMEA provide continuing motivation to find some basis on which an agreement between the two organizations can be reached.

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