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To: Members of the Executive Board  
From: The Acting 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 a meeting of the GATT Council of Representatives held in Geneva on April 20, 1983.

Att: (1)

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Department Heads

INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

May 9, 1983

The GATT Council of Representatives met on April 20, 1983 under the chairmanship of Ambassador Hans V. Ewerlöf of Sweden. 2/ The Chairman welcomed Maldives as the 89th contracting party to the GATT, effective April 19, 1983, and noted also that Maldives had signed the Multi-Fibre Arrangement. The main items on the agenda were work programs arising from decisions taken at the 38th session of the CONTRACTING PARTIES in November 1982, and proposals to set up two dispute settlement panels and three working parties. 3/ The Fund observer at the meeting was Mr. Richard Eglin; this report summarizes the main points of the discussion.

1. Work programs arising from the 38th session  
of the CONTRACTING PARTIES

The Council considered revised proposed decisions on the work programs to be initiated in the field of Problems of Trade in Certain Natural Resource Products, specifically nonferrous metals and minerals, forestry products, and fish and fisheries products. 4/ The first part of the work program envisages that the GATT secretariat will undertake background studies on problems of trade in these products relating to tariffs, nontariff measures, and other factors affecting trade. The representative of Turkey stated for the record that on the question of trade in fisheries products his Government could not accept the concept of economic zones within the GATT, but that with this reservation it could accept the proposed decision on the work program. The representative of the European Communities noted that it may not be necessary for working parties to be established on these items, while the representative of Canada, noting that the studies were only the first step in the work program, stated that it would not be appropriate to comment on the need for working parties at this stage. The draft decisions were adopted by the Council.

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

2/ GATT/AIR/1901.

3/ GATT document C/W/415.

4/ GATT documents C/W/410/Rev.1, C/W/411/Rev.1, and C/W/412/Rev.1.

Regarding the work program on MTN Agreements and Arrangements, the Council agreed to invite the MTN Committees and Councils to take account of the ministerial decision at the 38th session in their annual reports and to transmit these reports to the Council so that it could assist the CONTRACTING PARTIES in the review called for in that decision. 1/ The Council will report to the CONTRACTING PARTIES at their 39th session on the results of its deliberations. The representative of New Zealand stated that his Government could agree to this proposal only on the understanding that the option for continued review of the MTN Agreements and Arrangements after the 39th session of the CONTRACTING PARTIES was not foreclosed.

In addition to these two programs of work which had been called for by ministerial decisions, the United States submitted to the Council a revised proposal for a GATT work program on aspects of trade in high technology goods which had been referred to the Council for further consideration by the Chairman of the 38th session of the CONTRACTING PARTIES. 2/ The representative of the United States introduced the revised proposal noting that he felt it met the concerns expressed by other contracting parties on earlier drafts, and he stated that his Government wanted the GATT secretariat to begin a study on aspects of trade in high technology goods as soon as possible. The representative of Canada lent his full support to the U.S. proposal, and the representatives of New Zealand and Spain also offered their support but qualified their statements by saying that they did not consider this to be a priority issue. The representatives of Argentina and the European Communities stated that they wished to reflect further on the U.S. proposal. The representative of Brazil, however, called for substantial revisions to the U.S. proposal before he could support it. He stated that it was not clear what aspects of trade in high technology goods should be examined, and he cautioned other contracting parties that it was important to have a precise idea of the scope of any such study before going ahead. In response, the representative of the United States said that his delegation would consult further on the questions raised by the representative of Brazil. He took note of the fact that no contracting party was opposed in principle to such a study being undertaken and he still hoped that a decision for the Secretariat to begin work in this field could be taken at the next Council meeting on May 26.

## 2. Dispute settlement

The Council considered two notifications, one from the European Communities and one from the United States, requesting recourse to dispute settlement procedures under Article XXIII:2 of the General

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1/ GATT document Spec(83)18.

2/ GATT document C/W/409/Rev.1.

Agreement, and agreed to the establishment of two panels to examine the disputes. 1/

Introducing his delegation's request for recourse to Article XXIII:2, the representative of the European Communities stated his view that the restrictive effects arising from the enactment of the U.S. Copyright Act of 1976, which was extended in July 1982 until 1986, constituted a nullification or impairment by the United States of the benefits otherwise accruing to the European Communities under the GATT. The general effect of the Copyright Act is to prohibit importation into, or distribution within, the territory of the United States of nondramatic literary material that is in the English language by an American author, unless such material has been manufactured in the United States or Canada. The representative of the European Communities added that he felt this legislative action was contrary to Articles XI and XIII of the General Agreement because it both constituted a deliberate and arbitrary barrier to trade and also contained a deliberate element of discrimination because it exempted works manufactured in Canada. He stated that informal bilateral consultations to date had not been satisfactory and he wanted a panel set up which would in particular address itself to the amount of prejudice involved and the amount of compensation due to the European Communities. The representative of the United States agreed to the establishment of a panel, but he objected to the reference by the representative of the European Communities to issues of prejudice and compensation before it had been determined whether the U.S. legislative action was inconsistent with Articles XI and XIII of the General Agreement.

The representative of the United States introduced a request for the establishment of a panel to arbitrate in the dispute between his Government and the Government of Japan over Japanese measures on imports of leather. He noted that a decision on this request had been deferred at the last Council meeting, and that although bilateral consultations had been held since then in line with Article XXIII:1, the issue had not been satisfactorily resolved. The representatives of Australia, Canada, the European Communities, and New Zealand all supported the establishment of a panel and expressed their interest in the issue of Japanese measures on imports of leather. The representative of Spain noted that his delegation would wish to make a presentation to such a panel if one were to be set up. The representative of Japan, noting that he felt the establishment of a panel at this time was premature, nevertheless accepted that one should be set up.

A more general discussion on dispute settlement procedures took place as a result of the submission to the Council for the sixth time of the report of the Panel on Imports of Certain Automotive Spring Assemblies to the United States. 2/ The Chairman noted that informal consultations

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1/ GATT documents L/5467 and L/5462.

2/ GATT documents C/W/396, C/W/400, and L/5333.

were still going on between the interested parties on the Panel's findings, and that the report of the Panel could therefore still not be submitted to the Council for approval. The representatives of Brazil and Singapore deeply regretted this state of affairs and expressed their concern that this specific case was indicative of a wider malaise within the GATT in the field of dispute settlement procedures. The representative of Brazil added that an effective dispute settlement system could not exist as long as the Council of Representatives shirked its responsibilities of directly addressing contentious issues in panel reports and arriving at its own conclusions. Simply adopting or rejecting a panel's findings was tending to make the work of panels nothing more than a routine, he said, and in the specific case of the report of the Panel in question his delegation did not believe that a correct solution to the problem was for the Council to continue postponing any discussion. He suggested that one initiative in the field of dispute settlement procedures would be for the Council to write its own conclusion on the basis of a panel's findings. In summing up the discussion, the Chairman added his own support for the need to strengthen the general dispute settlement system in the GATT.

### 3. Proposals for the establishment of working parties

The Council considered the Twenty-Fifth Annual Report by the U.S. Government of the Agricultural Adjustment Act and agreed to establish a working party to examine the report. <sup>1/</sup> No opposition was voiced, but considerable reservations were expressed about the usefulness of repeatedly setting up working parties to review the continued appropriateness of waiver of the obligations of the United States under Articles II and XI of the General Agreement. The representatives of Brazil, the European Communities and New Zealand all stated that they felt that the Annual Report was once again a disappointing document. The representative of Brazil also noted that over the years the annual reports and the work of the respective working parties set up to examine these reports had become a routine formality, and that while originally there were exceptional circumstances underlying the U.S. waiver he wondered whether this was still the case in 1983. The representative of the European Communities supported the statement of the representative of Brazil, and added that he felt that the working parties had had minimal results in the past. He urged that the aim of the CONTRACTING PARTIES should be to strengthen the GATT and that derogations such as the U.S. waiver, which was now out of date, should be dispensed with. The representative of New Zealand emphasized that the purpose of the waiver should not be to grant the United States a permanent derogation from Article XI of the General Agreement. The representatives of Australia, Canada, Chile, Nigeria, and Pakistan all supported the establishment of a working party, and several delegations also noted that this issue should be discussed in the Committee on Trade in Agriculture.

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<sup>1/</sup> GATT document L/5469.

The representative of New Zealand introduced the text of the Australia/New Zealand Closer Economic Relations-Trade Agreement which had been concluded between the two countries on March 23, 1983 and replaced the former 1965 New Zealand/Australia Free Trade Agreement. 1/ There was no discussion of this item but at the request of the representative of the European Communities it was agreed to set up a working party to examine the consistency of this trade agreement with Article XXIV of the General Agreement.

The representative of the European Communities stated that the EC was requesting the establishment of a working party under Article XXIII:2 to examine the nullification or impairment of the benefits accruing to the European Communities under the General Agreement by Japan. 2/ He stated that the EC had taken account of recent trade liberalization measures by Japan, but despite these it was felt that serious access problems to the Japanese market for EC exports still existed and he wanted the working party to examine these access problems in detail. He stressed that he did not want the multilateral trading system to be undermined by a bilateral quarrel, but that his delegation felt that the GATT could be strengthened through the establishment of a working party to examine this issue. The representative of Japan stated that his Government had recently liberalized trade restrictions without expecting reciprocity with a view to strengthening the GATT system. Currently, he said, the multilateral trading system was under a heavy strain and this should be the time for cooperation among contracting parties to strengthen the GATT. He did not feel that this would be achieved by this sort of bilateral dispute. He added that his Government was prepared to continue a dialogue with the EC in an attempt to resolve the issue. The representative of Chile stated that in his view the EC's submission explaining their request for recourse to Article XXIII:2 was too general and ambiguous, and that something more specific should be prepared by the EC before a working party could be agreed to. He felt that it was a dangerous precedent to set up a working party based upon such a broad field of complaint. The Council decided to revert to this issue at a following meeting and urged the delegations of the European Communities and Japan to consult intensively on this issue in the meantime.

#### 4. Other items

At the Council meeting the report of the Committee on Balance of Payments Restrictions' consultation with Hungary was adopted without comment. 3/

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1/ GATT document L/5475.

2/ GATT document L/5479.

3/ GATT documents BOP/R/131 and BOP/R/132.

The Council decided to revert at its next meeting to consideration of the procedures of rectification and renegotiation of GATT schedules which will become necessary in connection with the introduction of the Harmonized Commodity Description and Coding System, to the submission by Poland urging the United States to restore immediately MFN treatment to Poland, and to the terms of reference of the Panel to examine European Community imports of citrus fruits and products. 1/ The Council took note of the biennial report furnished by the parties to the trade agreement between the EFTA countries and Spain, with some delegations expressing dissatisfaction that insufficient documentation had been provided to the CONTRACTING PARTIES on this issue. 2/

The Chairman notified the Council that the Director-General of the GATT had begun consultations with the Director-General of the World Intellectual Property Organization on trade in counterfeit goods. The representative of Canada welcomed the notification by the European Communities of the imposition of an import quota on softwood lumber products into France but asked that the CONTRACTING PARTIES be notified of what Article this measure was taken under. Finally, the representative of Japan drew the attention of contracting parties to recent measures taken by the United States concerning the importation of motor cycles, and in response the representative of the United States said that this was an Article XIX action and that his delegation would formally notify the CONTRACTING PARTIES shortly.

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1/ GATT documents L/5470 and C/W/401.

2/ GATT document L/5465.