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To: Members of the Executive Board
From: The Acting Secretary
Subject: Meetings of the GATT Council of Representatives

Attached for the information of the Executive Directors is a report by the Fund observer on meetings of the GATT Council of Representatives, held in Geneva on July 12, 1983.

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Department Heads

INTERNATIONAL MONETARY FUND

Meetings of the GATT Council of Representatives

Report by the Fund Observer 1/

August 11, 1983

The GATT Council of Representatives held a special meeting on July 12, 1983 to review developments in the trading system under the Understanding regarding Notification, Consultation, Dispute Settlement, and Surveillance adopted by the CONTRACTING PARTIES in 1980. 2/ A regular meeting of the Council convened immediately after the end of the special meeting. Ambassador Hans V. Ewerlöf of Sweden chaired both meetings. 3/ The topics of discussion in the special Council meeting were the limited extent to which contracting parties were notifying the GATT secretariat of their trade measures, and how to implement paragraph 7(i) of the GATT Ministerial Declaration of November 1982 which called upon contracting parties to refrain from taking or maintaining any measures inconsistent with GATT and to resist protectionist pressures. The principal items on the agenda of the regular Council meeting were (1) the work program established at the Ministerial Meeting in the areas of trade in high technology goods, trade in counterfeit goods, and safeguards; (2) a discussion of certain dispute panel proceedings; (3) the invocation of Article XXVIII of the General Agreement concerning the modification of tariff schedules by the European Communities on imports from Japan; and (4) a discussion of the measures the U.S. Government was taking against imports of certain specialty steel products. The Fund observer at the meetings was Mr. Richard Eglin.

1. Review of developments in the trading system under the Understanding regarding Notification, Consultation, Dispute Settlement, and Surveillance

At its special meeting to review recent developments in the trading system, the Council decided that in addition to reviewing notifications made

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

2/ GATT/AIR/1922 and BISD 265/210.

3/ GATT/AIR/1926.

by contracting parties, it would henceforth take account of the commitment embodied in paragraph 7(i) of the Ministerial Declaration. 1/

The Director-General introduced a note by the Secretariat containing notifications related to paragraph 2 of the Understanding. 2/ He noted that discussions on this topic in the past had not been productive because contracting parties were not providing full notifications. He said that he had directed the Secretariat to include in the background documentation a list of measures of which it had knowledge even though these had not been formally notified; their inclusion of such information did not imply any judgment by the Secretariat on the legality of the measures under GATT. He added that he was giving attention to the need to improve the Secretariat's capability to handle information in this as well as other areas.

The Director-General noted that the Consultative Group of Eighteen at a meeting held on May 5-6, 1983 had decided to request the special session of the Council to review the implementation of paragraph 7(i) of the Ministerial Declaration. Although there was no need for new machinery to systematically monitor the consistency of measures introduced by contracting parties pursuant to this paragraph of the Ministerial Declaration, it was necessary to consider how to implement the political commitment embodied in the Declaration; in fact, he was worried about the trend of events since the Ministerial Meeting which seemed to run counter to the agreed political commitments. If the Council accepted the Consultative Group of Eighteen's suggestion to monitor the implementation of paragraph 7(i)--which would improve transparency and the CONTRACTING PARTIES' ability to resist protectionist measures--he thought that two meetings a year would be necessary.

The representative of the European Communities shared the concern of the Director-General over the drift towards protectionism since the Ministerial Meeting. On the question of notifications, he cautioned that the Secretariat, in including measures which had not been formally notified, should not upset the work in progress on safeguards within the GATT and should be careful not to pass a judgment on any measures which lay within gray areas around the laws of the GATT. On the question of paragraph 7(i) of the Ministerial Declaration, he noted that member states of the Communities had supported this commitment and were implementing it. They were vigorously resisting requests for protection from firms within

1/ Paragraph 7(i) of the Ministerial Declaration states that the CONTRACTING PARTIES undertake, individually and jointly, "to make determined efforts to ensure that trade policies and measures are consistent with GATT principles and rules and to resist protectionist pressures in the formulation and implementation of national trade policy and in proposing legislation; and also to refrain from taking or maintaining any measures inconsistent with GATT and to make determined efforts to avoid measures which would limit or distort international trade."

2/ C/W/420.

the Communities and he pointed out that the French Government had recently chosen a package of austerity measures rather than intensifying import restrictions even in the face of severe economic difficulties.

The representatives of Australia, Canada, Chile, Egypt, Finland, Hungary, India, Israel, Japan, New Zealand, Nigeria, Poland, Singapore, Switzerland, the United States, and Uruguay all endorsed the Director-General's proposals that the Secretariat continue to collect information whether or not formal notifications had been made, and that biannual meetings should be held to review paragraph 7(i) of the Ministerial Declaration. Several delegations urged that in the GATT's work program called for under the Understanding, notification and consultation procedures should be emphasized rather than dispute settlement and surveillance procedures. Some other delegations, however, expressed their concern that the dispute settlement process was increasingly failing and urged that it be strengthened. In his summing up, the Chairman, inter alia, stressed the importance that contracting parties attached to the need to monitor effectively the multilateral trading system and appealed to contracting parties to fulfill their commitments with respect to notification.

2. The work program arising from the Ministerial Meeting

The representative of the United States urged the Council to adopt the U.S. proposal that the Secretariat carry out a study on trade in high technology goods. 1/ The representatives of Canada, Israel, Jamaica, Japan, the Philippines, and Switzerland supported the U.S. proposal. However, the representatives of Argentina, the European Communities, and Trinidad and Tobago said that since they did not consider this issue to be of immediate priority, and since the parameters of the study had not been fully outlined, they preferred to revert to this item at a future Council meeting. The representative of the European Communities added that the member states were restructuring their economies towards the production of high technology goods and they would not like this effort to be hampered by a study that might be misinterpreted. The Council agreed to revert to this item at its next meeting.

On the question of trade in counterfeit goods, the representative of the United States proposed that the Council set up a working party to study the issue. This proposal was supported by the representative of Switzerland who added that while his country felt particularly strongly the impact of imported counterfeit goods, there was need for caution in this area because legitimate measures taken by governments to combat trade in counterfeit goods might at a later stage become purely protectionist measures. The representative of the European Communities emphasized that GATT's role as regards

1/ C/W/409/Rev.2 and Corr.1.

the monitoring of international trade in counterfeit goods should complement the role of the World Intellectual Property Organization (WIPO). He added that the Communities were open minded over what form of action should be taken within the GATT but he suggested that the Council reflect further on this matter before setting up a working party.

The representatives of Argentina, Colombia, India, Korea, Nicaragua, and Uruguay supported a proposal by the representative of Brazil that a joint study be made by the GATT and WIPO secretariats before a decision was taken on the establishment of a working party. The representative of India added that while the problem of trade in counterfeit goods was undeniably important, his delegation felt there was a tendency in GATT to set up working parties before the basic preparatory work had been completed. The representative of Jamaica said that his delegation did not believe there was a need for a working party or for further study on this matter in view of the lack of recent notifications on marks of origin.

The Council agreed to revert to this matter at its next meeting.

On the question of safeguards, the Chairman presented his own interim report on progress that had been made in developing a comprehensive understanding on safeguards as requested at the Ministerial Meeting. Informal consultations on this matter had suggested to him that it was probably most useful to examine measures of a safeguard nature that had been taken in order to understand the underlying reasons for them and their effects, why Article XIX had not formally been invoked, and how multilateral disciplines could be established. These informal consultations had also indicated that the scope of safeguard measures generally extended far beyond Article XIX of the General Agreement and were extremely varied. He noted that "gray area" measures had been used frequently as alternatives to Article XIX action and to procedures relating to other GATT Articles, notably anti-dumping or countervailing measures provided for in Article VI. Finally, he said that it was his intention to continue the consultations to develop pragmatic proposals to serve as a basis for action in this area in time for the next meeting of the CONTRACTING PARTIES.

The representatives of Canada, the European Communities, India, Israel, Jamaica, Japan, and the United States encouraged the Chairman to continue his informal consultations and pledged their support and readiness to provide information. They also urged that all contracting parties should be brought into the decision-making process on this issue.

3. Dispute panels

The Council considered the report of a Panel which examined the complaint by the United Kingdom on behalf of Hong Kong over the imposition of quantitative restrictions by the European Communities on imports of certain products from Hong Kong. 1/

The representative of the United Kingdom speaking on behalf of Hong Kong said that the report contained the most precise and clear-cut findings and conclusions that had been presented by any panel in the past few years and his delegation believed that the Council should adopt the report urgently. He noted that most of the quantitative restrictions that had been the subject of the report had been in force for a number of years and that one of them, a restriction on quartz watches which had been introduced in October 1981, had resulted in a drastic reduction of Hong Kong's exports to France.

The representative of the European Communities said that his delegation had no objection to the adoption of the Panel's report and its conclusions, but he regretted that the conclusions had not taken sufficient account of the arguments by the Communities concerning the difficult problem of régimes sans limitation de quantité restrictions.

The representatives of Australia, Brazil, Chile, Colombia, Egypt, Hungary, India, Jamaica, Japan, Korea, Pakistan, Peru, and Sri Lanka all supported the adoption of the report and welcomed the constructive statement from the representative of the European Communities. Several of these representatives expressed the hope that the European Communities would take measures to implement the Panel's recommendations. The Council adopted the Panel report and its recommendations.

The Council considered the request by Nicaragua to have recourse to Article XXIII:2 following the reduction of the U.S. quota on imports of sugar from Nicaragua. 2/ The representative of Nicaragua stated that his delegation had consulted with the U.S. delegation but had not reached a satisfactory settlement on the issue, and consequently Nicaragua was now asking the CONTRACTING PARTIES to establish a panel to examine the matter. The representative of the United States questioned whether establishing a panel in this case was useful for the resolution of this dispute, since his Government did not consider that its measure was inconsistent with the General Agreement because it would not increase protection of the U.S. sugar industry. He added that the motives for the measure were not based strictly on trade considerations and in his view any examination of this matter in purely

1/ L/5511.

2/ L/5513.

trade terms would be disingenuous since a GATT panel could not appropriately examine or assist in the resolution of the political or security issues which lay at its core. The representatives of Argentina, Brazil, Colombia, Finland on behalf of the Nordic countries, India, Singapore, Spain, and Switzerland supported Nicaragua's request for a panel. The Council agreed to establish a panel.

The Chairman informed the Council of the agreed composition and terms of reference of the Panels established to examine the complaint by the European Communities over the U.S. Manufacturing Clause and the complaint by the United States over Japan's imposition of measures on imports of leather, and the composition of the Panel to examine the complaint by the United States over the European Communities' imposition of measures on imports of citrus fruit and products.

4. The application of Article XXVIII of the General Agreement to new products 1/

The Council discussion centered on the issue of whether a contracting party could resort to Article XXVIII of the General Agreement in order to modify a bound tariff on a product which was still being traded in limited quantities but for which the prospect was for significant future trade.

The representative of Japan referred to the resort by the European Communities to Article XXVIII in raising its tariff on compact disc players, and said that this should be considered in the much wider perspective of trade in high technology goods as well as the rules concerning safeguard measures and standards. In his view, he said, the tariff increase would block the development of new high technology products. Consequently, Japan had notified the European Communities that it was not prepared to enter into negotiations under Article XXVIII. He raised a number of general issues concerning Article XXVIII and proposed the establishment of a working party to examine them.

The representative of the European Communities referred to earlier instances where Japan had renegotiated tariff rates on new items and regretted that Japan should now refuse the Communities the same opportunities that it had been afforded under Article XXVIII. He did not support the establishment of a working party but felt rather that the issue should be discussed in the Committee on Tariff Concessions.

The representative of the United States said that his delegation shared Japan's concern in this matter and felt moreover that any weakening of GATT tariff discipline in the field of new products could lead to a

1/ L/5522.

narrowing of GATT's role in world trade. He said that his delegation supported Japan's proposal that the application of Article XXVIII should be studied but it was open minded as to the proper forum for the study. The Council agreed to revert to this item at its next meeting.

5. U.S. restrictions on imports of certain specialty steel products

The representative of the European Communities said that his authorities regretted the severe measures taken by the United States against imports of certain specialty steel products and noted that certain specialty steel exports from Communities' member states were already being affected by U.S. anti-dumping measures and countervailing duties. He said that in his view the difficulties facing U.S. steel producers resulted from the general world economic crisis and from the strength of the U.S. dollar, and he requested the United States to notify the measures to GATT formally and to launch consultations as soon as possible. The representatives of Austria, Brazil, Canada, Japan, and Sweden supported the statement by the representative of the European Communities.

6. Other matters

The Council agreed that the thirty-ninth session of the CONTRACTING PARTIES should begin on the afternoon of Monday, November 21, 1983 and would last for three to four days. 1/

The Council agreed to grant Portugal authority under the provisions of Article XXVIII:4 to renegotiate a concession included in the Portuguese schedule in the context of the restructuring of industry in Portugal. 2/ The representative of Portugal stated that the withdrawal of the concession on the product in question would have a positive influence on employment and on the balance of payments.

The Council approved procedures for the rectification and renegotiation of GATT schedules which would become necessary in connection with the introduction of the Harmonized Commodity Description and Coding System, which was expected to enter into force at the earliest on January 1, 1987.

The Council agreed to establish a working party to conduct the fifth consultation with the Government of Hungary provided for in Hungary's Protocol of Accession.

1/ C/123.

2/ SECRET/300.

In response to a question by the representative of the European Communities on the follow up to the report of the Panel on U.S. Tax Legislation (DISC), the representative of the United States said that the U.S. Administration had concluded the technical work on a tax system to replace the DISC and was currently seeking to arrange Congressional sponsorship of the bill.

The representative of Czechoslovakia recalled that the CONTRACTING PARTIES had declared in 1951 that the United States and Czechoslovakia should be free to suspend with respect to each other the obligations of the General Agreement. He noted that Czechoslovakia had asked the United States for consultations within GATT on this issue in February 1983, but the United States had not agreed to the consultations. He said that his authorities felt it appropriate to inform the Council of this problem and he intended to revert to this matter at an appropriate time. The representative of the United States said that his Government had informed the Government of Czechoslovakia that it saw no basis under current circumstances for changing the reciprocal suspension of obligations which did not affect the rights of third countries.