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

Attached for the information of the Executive Directors is a report by the Fund observer on the meeting of the GATT Council of Representatives, held in Geneva on May 14, 1987.

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THE INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

June 1, 1987

The GATT Council of Representatives met on May 14, 1987 under the chairmanship of Ambassador A. Oxley from Australia. 2/ In brief statements the observers from Algeria and Morocco, respectively, informed the Council that Algeria would soon take the necessary steps to begin the procedures for its accession to the GATT and that Morocco would sign its Protocol of Accession to the GATT on May 18, 1987. The Council agreed to the terms of reference for a working party on China's status as a contracting party, established working parties to examine the applications by El Salvador and Honduras for provisional accession to the GATT, adopted the report of the Working Party on the Israel-United States Free-Trade Agreement, deferred additional debate on a panel report on U.S. trade measures affecting Nicaragua and briefly debated Generalized System of Preferences (GSP) schemes. The Fund observer at the meeting was C.F.J. Boonekamp.

1. Membership

a. China's status as a contracting party 3/

The Chairman recalled that the March 1987 meeting of the Council had established a working party on China's status as a contracting party and had authorized him to hold consultations on its presiding arrangements, terms of reference and any other related matters. 4/ He said that as a result of the consultations he was able to propose terms of reference for the Working Party which, as usual, would follow GATT procedures and practices. The proposed terms of reference were:

The People's Republic of China has submitted to the GATT CONTRACTING PARTIES a request to resume its status as a contracting party (L/6017) and a Memorandum on the People's Republic of China's Foreign Trade Regime (L/6125). Taking note of the statements made in the Council of March 4, 1987, a Working Party was established by the Council. This Working Party will examine the foreign trade regime of the

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

2/ GATT/AIR/2419 and Add.1 and GATT document C/W/516.

3/ GATT documents L/6107 and L/6125.

4/ SM/87/63 (4/3/87) and SM/87/04 (5/8/87).

People's Republic of China, develop a draft Protocol setting out the respective rights and obligations, provide a forum for the negotiation of a schedule, address as appropriate other issues concerning the People's Republic of China and the GATT, including procedures for decision-making by the CONTRACTING PARTIES, and make recommendations to the Council.

The representatives of the European Communities and Japan supported the proposed terms of reference and said that it was their understanding that the decisions to be made by the CONTRACTING PARTIES regarding the integration of China into the GATT would be made in accordance with established GATT procedures and practices.

The Council, without further debate, agreed to the proposed terms of reference.

The Chairman requested the Council to authorize him to continue to hold consultations in order to settle the presiding arrangements for the Working Party. The representative of the European Communities, supported by the representative of Brazil, stressed that the Working Party's presiding arrangements should be such as to ensure the continuity of the process of China's integration into the GATT. The representatives of Canada, Israel, Korea, and the United States looked forward to further consultations in a manner that would follow normal GATT procedures and practices. The observer from China noted that the agreed terms of reference did not prejudice the outcome of the Working Party and hoped that the matter of the presiding arrangements could be settled soon.

The Council took note of the statements and authorized the Chairman to continue his consultations.

b. El Salvador and Honduras 1/

The Council had before it written requests from El Salvador and Honduras to accede provisionally to the GATT. 2/ Both requests noted that they derived from the provision of the Ministerial Declaration

1/ GATT documents L/6163 and L/6164.

2/ Countries acceding provisionally to the GATT are not required to negotiate a schedule of concessions. Provisional accession is valid for a limited period of time only, after which the decision on provisional accession needs to be extended by the CONTRACTING PARTIES. Countries with provisional accession status agree to abide by GATT rules and disciplines and are permitted to take part in the work of the Council and other GATT bodies, subject to the rules of those bodies.

launching the Uruguay Round under which participation in the Round is open to, inter alia, developing countries that have, by April 30, 1987, initiated procedures for accession to the GATT, with the intention of negotiating the terms of their accession during the course of the Round.

The observers from El Salvador and Honduras said that their authorities attached great significance to the work of the GATT and to the aim of the Uruguay Round to strengthen the multilateral trading system. The representative of Argentina, on behalf of the Latin American countries, supported by the representative of Nicaragua, welcomed the applications of El Salvador and Honduras.

The Council took note of the statements and, on the proposal of the Chairman, agreed to establish two working parties with terms of reference to examine, in the light of the relevant provisions of the GATT, respectively, the requests of El Salvador and Honduras to accede provisionally to the GATT and to make recommendations to the Council. It also authorized the Chairman to hold consultations on the chairmanship of each working party.

2. Israel-United States Free-Trade Agreement 1/

The Chairman of the Working Party on the Israel-United States Free-Trade Agreement introduced the report of the Working Party. He noted that the parties to the Agreement had been of the opinion in the deliberation of the Working Party that the Agreement was in full conformity with GATT Article XXIV (on free-trade areas and customs unions). Other members of the Working Party, however, had been hesitant about the matter of conformity and had reserved their countries GATT rights in the matter. The Working Party, therefore, had not drawn conclusions on the issue of conformity; rather, it had limited itself to reporting the opinions expressed during its discussions. The Working Party had agreed to forward its report to the Council and had recommended that the CONTRACTING PARTIES invite the parties to the Agreement, consistent with normal GATT practice, to furnish reports on the operation of the Agreement biennially until such time as its provisions had been fully implemented. He recommended that the Council adopt the report of the Working Party.

The representatives of Israel and the United States said that in their view the Agreement, which would significantly liberalize trade between their countries, met the requirements of GATT Article XXIV.

1/ GATT document L/6140.

They were satisfied with the report of the Working Party and asked the Council to adopt it. The representative of Australia was of the view that the Agreement represented an earnest attempt to meet the provisions of GATT Article XXIV in many areas. He was not convinced, however, that the Agreement provided for free-trade in agriculture where it sanctioned additional barriers, if necessary. The representatives of Brazil, India, and Yugoslavia said that the Agreement contained a number of provisions, particularly with respect to trade-related performance requirements relating to investment and trade in services, which lay beyond the scope and jurisdiction of the GATT; they reserved their rights in this regard. The representative of the European Communities said that non-parties to such agreements always seemed to be of the view that they did not fully conform to the provisions of GATT Article XXIV. As such, the Communities would not object to the issue being discussed in the context of the Uruguay Round. The representative of Hong Kong expressed concern about the proliferation of Article XXIV-type agreements which he said was detrimental to the most-favoured-nation provisions of the GATT.

The Council took note of the statements, adopted the report of the Working Party and agreed that the implementation of the Agreement should be examined every two years in the GATT.

3. United States--Trade measures affecting Nicaragua 1/

The Chairman noted that the April 1987 meeting of the Council had agreed to revert further discussion of the panel report on U.S. trade measures affecting Nicaragua to the present meeting of the Council. He reported that he had held consultations on the matter during which the parties to the issue had expressed a preference for not discussing the disposition of the report at this stage. He suggested that the matter be reverted to a future meeting of the Council.

The Council, without debate, agreed to the Chairman's suggestion.

4. Implementation of GSP schemes 2/

The representative of Brazil, supported by the representatives of Chile, Colombia, Cuba, India, Korea, Mexico, Nicaragua, Nigeria, Singapore, and Yugoslavia, noted that in accord with the decisions of the CONTRACTING PARTIES of June 25, 1971 and November 28, 1979 developed countries acting individually are authorized to grant preferential treatment to products originating in developing countries provided that the schemes under which the preferences are

1/ GATT documents C/W/506 and L/6053.

2/ GATT document L/6166.

granted are of a generalized, non-discriminatory and non-reciprocal nature. It was his belief that in the implementation of their GSP schemes some countries were moving away from the above basic principles. The fact that such schemes were of a voluntary character did not give these countries the right to ignore the legal GATT framework under which they had been authorized. As an illustration of deviations taking place he referred to the U.S. GSP program. According to an official announcement of January 2, 1987 the U.S. Government had decided to exclude from the benefits of its scheme some developing countries, as well as a substantial number of products originating in other developing countries, on the basis of criteria which were not foreseen in the GATT, such as the observance of workers' rights as unilaterally defined by the United States. Moreover, as criteria for the exclusion or maintenance of products in its GSP scheme, the U.S. Government reviewed beneficiary developing country practices in areas not related to the GATT, such as intellectual property rights and access for services and investments; this established links which clearly affected the principle of non-reciprocity and which might be discriminatory. He said that preference-giving countries should notify to the GATT any modifications to their schemes which they had not yet notified. In the future they should notify in advance any modifications that they might wish to introduce. This would enable a determination to be made if such modifications would be in conformity with the basic principles that GSP schemes should observe. Finally, he asked that the matter be kept on the Council agenda in order to allow the CONTRACTING PARTIES to make appropriate recommendations, if necessary. The representatives of Colombia and Mexico added that the Chairman should hold consultations on the matter. The representative of Hong Kong said that GSP schemes should be careful not to introduce distortion in trade.

The representative of the United States said that the U.S. GSP scheme was fully transparent, allowed for consultations with beneficiary countries and had been revised taking the views of recipient nations into account. The revised scheme, which had been notified to the GATT, was fully consistent with the decisions of the CONTRACTING PARTIES who had required, inter alia, that preferences be granted in a dynamic manner consistent with the level of development of the recipient nations. The representative of the European Communities said that the discussion indicated that it might be appropriate to have a general debate at the Council level on the implementation of GSP schemes. Consultations should be held so as to ensure a meaningful debate.

The Council took note of the statements, authorized the Chairman to hold consultations on the issue and agreed to revert to the matter at the next meeting of the Council, in June 1987.

5. Other matters

The representative of the European Communities asked the Council to establish a dispute panel to examine certain aspects of the U.S. tax reform legislation for small passenger aircraft. ^{1/} He said that he realized that the measure had little trade impact but that the GATT principle of national treatment (no less favorable treatment for like domestic and imported products) had been abridged. The representative of the United States noted that the measures, which had been temporary, were now a thing of the past and that they would not be reintroduced. There was no need, therefore, for a panel. He undertook to report the views of the Communities to the U.S. Administration and Congress. The representatives of Canada, Japan, and Sweden shared the opinion of the Communities with respect to the GATT-legality of the U.S. measures but said that as the measures had been terminated and would not be reintroduced there was no need for a panel, whose chief function would have been to seek an elimination of the measures. The representative of the European Communities said that in view of the statement by the U.S. representative he would not insist on a panel at this stage; he reserved his rights in the matter and indicated that he would expect a panel to be established without delay should the United States again have resort to like measures. The Council took note of the statements.

^{1/} GATT document L/6153.