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

There is attached for the information of Executive Directors a report by the Fund observers on the meeting of the GATT council of representatives held in Geneva on March 4, 1987.

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INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observers 1/

April 3, 1987

The GATT Council of Representatives met on March 4, 1987 under the chairmanship of Ambassador A. Oxley from Australia. 2/ The Council established working parties to examine, respectively, China's status as a contracting party to the GATT and the Third Lome Convention. It also established dispute panels on the U.S. customs user fee and on Canada's restrictions on the exportation of unprocessed salmon and herring. The Council further discussed the establishment of panels on Japanese trade in semi-conductors and on Japanese restrictions on the importation of certain kinds of fish, deferred additional debate on a panel report on U.S. trade measures affecting Nicaragua and adopted a report from the Textiles Committee. The Fund observers at the meeting were Carlos E. Sanson and C.F.J. Boonekamp.

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

The representative of China, which has observer status in the Council, said that in pursuance of his country's decision to seek the resumption of its status as a contracting party to the GATT it had prepared a detailed memorandum on its foreign trade regime for examination by the CONTRACTING PARTIES. 4/ He requested the Council to establish a working party to examine China's request to resume its GATT membership and he indicated that his authorities were ready to enter into bilateral negotiations with contracting parties on China's schedule of concessions. A number of delegations supported the establishment of a working party and welcomed the opportunity to review China's foreign trade memorandum.

The Council took note of the statements, agreed to the establishment of a working party and authorized the Chairman to hold consultations on its presiding arrangements, terms of reference and any other matters related to the decision to establish the Working Party. The Chairman is to report on the consultation at the next meeting of the Council.

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

2/ GATT/AIR/2383 and GATT document C/W/513.

3/ GATT documents L/6017 and L/6125.

4/ The People's Republic of China withdrew from the GATT in May 1950; see SM/86/190 (8/4/86).

2. The Third Lome Convention 1/

The representative of the European Communities said that the trade elements of Lome III maintained and reinforced those of the previous Conventions, which had also been submitted to the GATT. The representative of Canada reserved his country's GATT rights with respect to the Third Convention and the representative of Colombia requested the establishment of a working party to examine its compatibility with the rules and disciplines of the GATT.

The Council took note of the statements and agreed to establish a working party to examine, in the light of the relevant GATT provisions, Lome III and to report to the Council. It authorized the Chairman to designate, after consultations with interested parties, a presiding officer for the Working Party.

3. Dispute settlement

a. United States--Customs user fee 2/

The Council had before it two separate written requests, from Canada and the European Communities, that it establish dispute panels to examine recent U.S. legislation which had imposed a customs user fee of 0.22 percent ad valorem on imports into the United States. The representatives of Canada and the European Communities said that consultations with U.S. representatives had not served to allay the concern of their authorities that contrary to the rules of the GATT the fee would collect revenues in excess of the cost of customs services. Nor had the consultations led to a satisfactory resolution of the matter. Both suggested the establishment of a single dispute panel, rather than two panels, to examine each complaint separately, provided that the rights of each party would be protected. The representatives of Australia, India, Indonesia for the ASEAN countries, and Japan supported the establishment of a panel and reserved their countries' rights in the matter.

The representative of the United States said that 17 other contracting parties applied a customs user fee on an ad valorem basis and as such he suggested that a working party should be established to examine such fees. The representatives of Canada and the European Communities, supported by the representative of Australia, said that without prejudging the need for a working party on this question their

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1/ GATT documents L/6109 and Add.1. Lome III was signed on December 8, 1984 between the European Communities, its member states and 66 African, Caribbean, and Pacific states; it entered into force on May 1, 1986.

2/ GATT documents L/6113, L/6130, and L/6131.

request was for a dispute panel to deal with a specific complaint on the application of the U.S. user fee. The representative of the United States responded that although his authorities were convinced that the U.S. user fee was in conformity with the GATT they would not oppose a consensus to establish a panel.

The Council took note of the statements, agreed to establish a panel and authorized the Chairman to hold consultations on its composition and terms of reference.

b. Canada--Restrictions on exports  
of unprocessed salmon and herring 1/

The representative of the United States said that his authorities were of the view that Canada's regulations prohibiting the exportation, or sale for export, of unprocessed herring and pink and sockeye salmon contravened Canada's obligations under the GATT. The regulations nullified or impaired U.S. benefits in that U.S. processors were denied access to supplies. As consultations had not led to a satisfactory solution to the matter, he asked that the Council establish a dispute panel to examine the issue. The representative of Canada said that the measures had been taken for conservation purposes and that therefore they were not contrary to the rules and disciplines of the GATT. However, in support of the GATT's dispute settlement procedures, his authorities would not oppose the establishment of a panel.

The Council agreed to establish a panel and authorized the Chairman to conduct consultations to determine the panel's composition and terms of reference. It also took note of the statements.

c. Japan--Trade in semi-conductors 2/

The representative of the European Communities reported that in November 1986 and in January 1987 his authorities had held consultations with representatives from Japan and the United States regarding the arrangement between the two countries on trade in semi-conductor products. His authorities had been concerned, in particular, about: (i) Japanese monitoring of prices of semi-conductors exported to countries other than the United States, which appeared to contravene the rules of the GATT and was already the subject of a special dispute settlement procedure initiated by the Communities in the context of the Anti-Dumping Code; (ii) discriminatory access for third countries to the Japanese market for semi-conductors; and (iii) the transparency of the arrangement. As a satisfactory settlement had not been obtained during the consultations, he requested the Council to

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1/ GATT document L/6132.

2/ GATT documents L/6076 and L/6129.

establish a dispute panel to examine the Communities' concerns. The representatives of Canada, Hong Kong, Malaysia, Singapore, Sweden for the Nordic countries, Switzerland, and Yugoslavia supported the establishment of a panel and reserved their countries' rights in the matter.

The representative of Japan said that the monitoring of prices was undertaken to prevent dumping by Japanese producers, which contravened neither the provisions of the GATT nor those of the Anti-Dumping Code. Further, access to the Japanese market was on a non-discriminatory basis and, moreover, all the details of the arrangement had been explained during the consultations. There were no grounds, therefore, for a panel and he could not accept that one be established. He added that his authorities were ready to continue consultations on the matter. The representative of the United States said that as discrimination in access to the Japanese market had not been established and as the monitoring provisions of the arrangement were not in violation of the GATT there was no basis for a panel.

The representative of the European Communities, supported by the representatives of Nigeria, and Singapore, said that it was the right of each contracting party to have a panel examine its complaint against the trade actions of another contracting party. To have the latter block a panel could result in serious harm to the dispute settlement procedures of the GATT. The representative of Hong Kong suggested that the Chairman hold informal consultations on the matter with a view to preventing the establishment of a panel being blocked at the next meeting of the Council.

The Council took note of the statements and agreed that the Chairman would consult with the parties concerned and report on the matter to the next meeting of the Council.

d. Japan--Restrictions on imports  
of herring, pollock and surimi 1/

The representative of the United States said that his authorities had held a fifth round of consultations with representatives from Japan on the U.S. complaint that Japanese restrictions on the importation of herring, pollock, and surimi contravened, inter alia, the GATT Article XI prohibition against quantitative restrictions. Progress toward settling the matter had been made and therefore there was no need now to establish a dispute panel to examine the issue. He reserved his country's right, however, to have a panel established at a later date if the matter was not resolved. The representative of Japan confirmed that progress had been made in the bilateral consultations and thought that a panel would not prove to be needed.

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1/ GATT document L/6070; see also SM/87/57 (2/26/87).

The Council took note of the statements.

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

The Chairman noted that the February 1987 meeting of the Council had deferred consideration of the panel report on U.S. trade measures affecting Nicaragua to a future meeting of the Council. Since then he had been requested to hold consultations on the matter.

At the Chairman's suggestion, the Council agreed to defer consideration of the issue to its next meeting.

4. Trade in textiles 2/

The Council had before it a report from the Textiles Committee on its meeting in December 1986 and a report from the Textiles Surveillance Body on its activities during the period October 1985-July 1986. The representative of Hong Kong, supported by the representatives of Brazil, India, Indonesia for the ASEAN countries, Pakistan, Turkey, Uruguay, and Yugoslavia, noted that a bill had recently been introduced in the U.S. Congress with a view to protecting the U.S. textiles and clothing industries. He said that the provisions of the bill were inconsistent with both the safeguard provisions of the GATT and with the Multi-Fibre Arrangement and would contravene the standstill commitment of the Uruguay Round. He urged the U.S. Administration to resist the enactment of the bill. The representative of the United States said that the Administration would oppose the bill.

The Council took note of the statements and of the report of the Textiles Surveillance Body and adopted the report of the Textiles Committee.

5. Other matters

The representative of the United States reported that in accord with the U.S. waiver to implement the Caribbean Basin Economic Recovery Act his authorities were preparing a report, based on 1986 trade data, on activity under the Act for assessment by the CONTRACTING PARTIES. 3/ The representatives of Cuba and Nicaragua said that the implementation of the Act did not appear to be raising the level of economic welfare in the Caribbean. They regretted that a detailed report was not yet available. At the suggestion of the representative of Australia, the Council deferred consideration of the matter to its next meeting. The Council took note of the statements.

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

2/ GATT documents COM.TEX/53 and COM.TEX/SB/1181 and Add.1.

3/ GATT document L/5779.

Under "other business" the representative of Japan, supported by the representatives of Canada, Hong Kong, Korea, and Singapore said that it was not clear that the proposed action of the European Communities to apply anti-dumping duties to the component parts of products to be assembled in the Communities was legal under the GATT. He asked the Communities to withdraw its proposal and reserved his country's rights to avail itself of the GATT's dispute settlement procedures if the proposal went into effect. The representative of the European Communities said that the proposal was still being studied. Its intent was to prevent assembly operations from circumventing anti-dumping duties that had been placed on imported finished goods. He added that his authorities would meet soon with representatives from Japan to explain the proposal in detail. The Council took note of the statements.

Also under "other business" the representative of Indonesia for the ASEAN countries, supported by the representatives of Argentina, Australia, Canada, Iceland on behalf of Iceland and Norway, Hungary and the United States, said that his authorities were concerned that the enactment of the proposed tax on vegetable oils in the European Communities could have serious negative trade effects for the ASEAN countries. He asked that the Communities reconsider the proposed tax. The representative of the European Communities said that any measure that would be taken would be in conformity with the GATT. He added that the proposal was part of the effort of the Communities to modify its Common Agricultural Policy so as to reduce production levels and minimize the Communities' budget deficit. The Council took note of the statements.