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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 February 12, 1986.

Att: (1)

Other Distribution:  
Department Heads



INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

March 10, 1986

The GATT Council of Representatives met on February 12, 1986 under the chairmanship of Ambassador K. Park of Korea. 2/ The Council established Working Parties to examine (i) the request of the Government of Mexico for accession to the GATT, (ii) the Canadian request for a waiver from the Most Favoured Nations (MFN) provisions of the GATT with respect to the extension by Canada of duty-free treatment to imports from the Commonwealth Caribbean nations, and (iii) the accession of Portugal and Spain to the European Communities in the light of the relevant GATT provisions. The Council approved the composition of the Consultative Group of Eighteen for 1986, considered dispute panel reports and adopted reports from the Committee on Balance-of-Payments Restrictions and the Sub-Committee on Protective Measures. In addition, it granted observer status to the World Intellectual Property Organization, reviewed the request for observer status from the Cooperation Council for the Arab States of the Gulf and considered the establishment of a Working Party to examine the broader question of setting criteria for the granting of observer status. Under other business the Council discussed the formation of a Working Group to study the meaning and coverage of GATT Article XVII on State Trading Enterprises. The Fund observer at the meeting was C.F.J. Boonekamp.

1. Establishment of Working Parties

a. Accession of Mexico 3/

The Chairman noted that at the November 1985 meeting of the CONTRACTING PARTIES Mexico had formally requested accession to the GATT and that in line with normal procedures the Council should consider the establishment of a Working Party to examine Mexico's application. The representatives of Brazil, Canada, Chile, Egypt, the European Communities, India, Japan, New Zealand, Nicaragua, the United States, and Uruguay welcomed Mexico's request, endorsed the formation of a Working Party and indicated their intention to participate in the deliberations of the Working Party.

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

2/ GATT/AIR/2236.

3/ GATT document L/5919.

The Council established a Working Party with the terms of reference to examine the application of the Government of Mexico to accede to the GATT under Article XXXIII, and to submit to the Council recommendations which may include a draft protocol of accession. Membership of the Working Party is open to all contracting parties indicating their wish to serve on the Working Party. <sup>1/</sup> The Chairman encouraged the Working Party to complete its work by June 30, 1986 so as to facilitate the early accession of Mexico to the GATT.

b. Canadian request for a waiver <sup>2/</sup>

The Council had before it a notification from the Government of Canada requesting a waiver, pursuant to paragraph 5 of Article XXV of the GATT, from the MFN provisions of paragraph 1 of Article I of the GATT, which would authorize Canada to extend duty-free treatment to imports from the Commonwealth Caribbean nations. The representative of Canada stated that the proposed action by his Government was the cornerstone of a package of trade and development assistance measures, to be known as CARIBCAN, which was designed to give concrete expression to the special relationship which exists between Canada and the Commonwealth Caribbean. It was not intended that the duty-free provisions of CARIBCAN should raise barriers to the trade of any other contracting parties. As Canada wished to abide fully by the procedures of the GATT, he urged the early establishment of a Working Party to examine Canada's request. A number of representatives welcomed CARIBCAN in principle. However, the representatives of Colombia, Malaysia, and Singapore worried about the possibilities of discrimination against other contracting parties; the representatives of the European Communities and Japan felt that the waiver should be time bound; and the representative of Switzerland indicated that his authorities would ask for clarification on certain elements of the program. The representatives of Jamaica and Trinidad and Tobago supported CARIBCAN, noted that it would not impede the trade of other contracting parties and urged an early granting of the waiver so as to allow the program to come into effect in mid-1986.

The Council established a Working Party with the terms of reference to examine the Canadian request for a waiver, and to report to the Council. Membership of the Working Party is open to all contracting parties indicating their wish to serve on the Working Party.

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<sup>1/</sup> A memorandum on the foreign trade regime of Mexico has been circulated as GATT document L/5961.

<sup>2/</sup> GATT document L/5948.

c. Enlargement of the European Communities 1/

The European Communities had notified the GATT that the Accession Treaty of Spain and Portugal to the European Communities had entered into force on January 1, 1986 and that, therefore, the Communities were ready to follow procedures under the provisions of Article XXIV, concerning territorial application, customs unions and free-trade areas. A number of delegations welcomed the proposed establishment of a Working Party to examine the enlargement of the Communities. The representative of the United States, supported by the representatives of Argentina, Australia, Canada, Hungary, Jamaica, Japan, and New Zealand, noted that by the terms of the Accession Arrangements certain actions with a likely major adverse impact on the rights and interests of some contracting parties were scheduled to take effect by March 1, 1986. He regretted that there had been an insufficient forewarning of these measures to enable a GATT examination and bilateral negotiations with affected members before implementation of the measures. He urged an early start to negotiations under Articles XXIV and XXVIII, on the modification of schedules. The representative of Colombia thought that, as a result of the accession of Portugal and Spain to the Communities, Colombia's MFN rights on certain of its export products, particularly cut flowers, might be impaired. The representative of the European Communities indicated that the Communities would cooperate fully with the Working Party and would attempt to address the concerns of all interested parties.

The Council established a Working Party with the terms of reference to examine the accession of Portugal and Spain to the European Communities in the light of the relevant GATT provisions, and to report to the Council. Membership of the Working Party is open to all contracting parties indicating their wish to serve on the Working Party.

2. Consultative Group of Eighteen (CG-18)

The Director-General reported that both in previous meetings of the Council and in informal consultations many contracting parties had expressed the need for wider participation and better regional balance in the composition of the CG-18. He, therefore, proposed that the size of the Group be increased to 22 members with, as previously, 9 alternates. He asked the Council to approve for 1986 as members: Argentina, Australia, Brazil, Canada, Colombia, Cote d'Ivoire, Egypt, the European Communities, Hungary, India, Indonesia, Jamaica, Japan, Korea, Nigeria, Norway, Pakistan, Philippines, Switzerland, Turkey, the United States, and Zaire; and as alternates: Austria, Czechoslovakia, New Zealand, Nicaragua, Romania, Sweden, Tanzania, Uruguay, and Yugoslavia.

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1/ GATT document L/5936 and Add.1.

The representatives of the European Communities and the United States noted that the Group was meant to be a small, informal gathering of high officials from capitals to review issues relating to the trading system. The Group could no longer be considered small but the representatives were prepared to abide by the enlarged composition on an experimental basis for 1986. The representatives of Indonesia, on behalf of the ASEAN countries, and Jamaica felt that the enlargement of the Group to 22 members showed a sound compromise on composition. The representative of Egypt stressed that not all questions on the inequality of representation in the Group had yet been addressed and that, therefore, the size of the Group had to be considered as fixed only for 1986.

The Council approved the composition of the Group.

3. Dispute settlement

a. European Economic Community--Production aids granted on canned fruits 1/

The Chairman reported that he had been informed by the European Communities and the United States that the dispute had been settled in a mutually satisfactory way. He stated that the settlement was based on three elements: (i) the reduction of the production aid on canned pears, already decided autonomously by the European Communities in the last three years, and the limitation by quota of the quantity of product benefiting from the aid; (ii) the undertaking that production aid by the European Communities for canned peaches for the marketing year beginning in July 1986 will be 25 percent lower than that applying for 1985/86; and (iii) the assurance that, in subsequent marketing years, the production aid will be fixed in such a way as not to subsidize the processing operation for peaches, either canned or as part of fruit mixtures. The representatives of the European Communities and the United States stated that as the dispute had now been settled the panel report could be removed from the agenda for future Council meetings.

The Council took note of the settlement of the dispute.

b. Canada--Measures affecting the sale of gold coins 2/

The representative of Canada reported that Royal Assent had been given to the annual budget of the Provincial Government of Ontario and that, therefore, the exemption from the retail sales tax on Maple Leaf

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1/ GATT documents C/W/476 and L/5778.

2/ GATT document L/5863.

gold coins had been repealed, thereby eliminating the cause of the dispute. Moreover, as a consequence of the Panel's findings the Provincial Government of Quebec had modified a similar law to that which had been in place in Ontario, eliminating discrimination against gold coins competing with the Maple Leaf. As to acceptance of the Panel's report, he indicated that his authorities needed more time to examine its conclusions, in particular with respect to Article XXIV:12 (on the issue of federal jurisdiction over regional and local governments), where he felt that the Panel's findings might lead to an imbalance between a contracting party's rights and obligations. 1/ The representative of Brazil joined in this latter concern. The representative of South Africa welcomed the actions of the Governments of Ontario and Quebec and felt strongly that the report should be adopted; in his view it would serve to strengthen the dispute settlement process.

The Council noted the right of contracting parties to revert to this matter as circumstances required.

4. Committee on Balance-of-Payments Restrictions 2/

The Chairman of the Committee on Balance-of-Payments Restrictions reported on the full consultations with Colombia and Israel, on the consultations under simplified procedures with Brazil, Egypt, Ghana, and Tunisia and on the program of consultations for 1986. 3/ He further noted that the measures Portugal had maintained for balance of payments purposes had been eliminated on December 31, 1985 and that, therefore, Portugal had disinvoked the balance of payments provisions of the GATT. 4/

Without discussion the Council adopted the reports of the Committee, deemed Brazil, Egypt, Ghana, and Tunisia to have fulfilled their obligations under Article XVIII:12(b), took note of Portugal's disinvocation of the balance of payments provisions of the GATT and agreed to the program of consultations for 1986. Under the latter, full consultations are to be held with Argentina and Greece in April 1986 and with the Philippines in the autumn of 1986; simplified consultations will be held in April 1986 with Bangladesh and Peru and with India, Korea, Nigeria, and Yugoslavia in the autumn of 1986. The Council, on the basis of an understanding arrived at in the Committee, agreed that the next regular consultation with Egypt would be a full consultation.

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1/ SM/85/325 (12/9/85), page 12.

2/ GATT documents BOP/R/155, 156, 157, and 158, and C/W/491/Rev.1.

3/ A report by the Fund representative on these consultations is contained in SM/85/343 (12/31/85).

4/ GATT document L/5958.

5. Sub-Committee on Protective Measures 1/

The Council considered the report on the Eighth Session of the Sub-Committee on Protective Measures. The report noted that the meeting had been short, with scarce attendance and limited participation by its members. The representatives of the European Communities and Jamaica noted that suggestions for new and/or stronger surveillance mechanisms had been made in the GATT Preparatory Committee for the proposed new round of multilateral negotiations. They felt that these suggestions should be called into question if existing mechanisms, such as the Sub-Committee, were not efficiently used. The representatives of Egypt and India supported the work of the Sub-Committee and thought that consultations on improving the effectiveness of the Sub-Committee might need to be held.

The Council adopted the report of the Sub-Committee.

6. Observer status

a. World Intellectual Property Organization (WIPO) 2/

The Chairman recalled that at the November 1985 meeting of the Council the question of observer status for WIPO had been reverted to the present session of the Council pursuant to the request by some delegations for additional time to consider the matter. 3/ Informal consultations had taken place since then and he thought that the Council could now resolve the matter.

Without discussion, the Council granted observer status to WIPO.

b. The Cooperation Council for the Arab States  
of the Gulf (GCC) 4/

In its written request, the GCC noted that its members had committed themselves to coordinate their commercial policies and relations with other countries and that this required, inter alia, that the GCC be able to follow closely the work of the GATT. There were some forty interventions on the request, most of which supported observer status for the GCC. Some delegations, though sympathetic to the request, thought that the Chairman should hold informal consultations on the matter before the Council decided on it.

The Council agreed to revert the matter to the next meeting of the Council.

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1/ GATT document COM.TD/SCPM/8.  
2/ GATT document L/5893.  
3/ SM/85/325 (12/9/85), page 13.  
4/ GATT document L/5954.

c. Criteria for observer status

During the deliberations on the GCC, the representative of Jamaica stated that, in the past, observer status had been granted on an ad hoc basis with the result that no objective criteria existed for such decisions. The danger, therefore, arose that the number of observers would proliferate, particularly as each request could in some manner be justified. Accordingly, he suggested the establishment of a Working Party to study the matter and to make recommendations to the Council. This suggestion received support from a large number of representatives, but some of them felt that informal consultations should be held prior to the establishment of a Working Party.

The Council agreed that the Chairman would hold informal consultations with delegations on the establishment of a Working Party to examine criteria for granting observer status.

7. Other matters

Without debate the Council adopted biennial reports on:

- (i) Agreement between EFTA countries and Spain; 1/
- (ii) Agreement between the European Communities and Israel; 2/
- (iii) Central American Common Market; 3/ and
- (iv) EFTA and Finland. 4/

The Council, without discussion, reverted to its next meeting a consideration of the waiver granted to India relating to the auxiliary duty of customs. 5/ The waiver is due to expire on March 31, 1986.

Under other business, the representative of Chile stated that his authorities had not been able to fulfill the obligation of replying to the questionnaire on State Trading since the meaning and coverage of the term "State enterprise" in Article XVII:1(a) of the GATT are not clear. 6/ Accordingly, he suggested the formation of a Working Group to study the matter. The representatives of Cuba and the United States agreed with the need for clarification of the terms in the article and asked for time to consider the question of establishing a Working Group. The Council agreed to discuss the issue at its next meeting.

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1/ GATT document L/5886.

2/ GATT document L/5910.

3/ GATT document L/5938.

4/ GATT document L/5946.

5/ GATT document L/5959.

6/ GATT document L/5955.

