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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 the Executive Directors a report by the Fund observers on the meeting of the GATT council of representatives held in Geneva on November 5 and 6, 1986.

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INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observers 1/

December 8, 1986

The GATT Council of Representatives met on November 5-6, 1986 under the chairmanship of Ambassador K. Chiba from Japan. The Council met first in a special session to examine recent developments in the international trading system. 2/ There followed a regular meeting of the Council, at which a working party to examine the accession of Bulgaria to the GATT was established. 3/ The Council also dealt with matters relating to the accession of Costa Rica and Tunisia, respectively; established a working party to conduct the consultations with Romania required by its Protocol of Accession; discussed a dispute panel report on U.S. trade measures affecting Nicaragua; debated the establishment of a dispute panel on Japanese restrictions on the importation of certain fish products; adopted a report from the Committee on Balance-of-Payments Restrictions; and approved its own report and those of the Working Party on Textiles and Clothing, the Group on Quantitative Restrictions and Other Non-Tariff Measures and the Committee on Tariff Concessions to the November 1986 Session of the CONTRACTING PARTIES. The Fund observers were Carlos E. Sanson and C.F.J. Boonekamp.

I. Special Session of the Council

The Chairman noted that the purpose of the semi-annual special sessions of the Council was to review developments in the trading system and to monitor Paragraph 7(i) of the 1982 Ministerial Declaration in which contracting parties had undertaken to resist protectionist measures, to conduct their trade policies in conformity with GATT rules and disciplines, and to avoid measures which could distort or limit international trade. He asked delegations to comment on the future role of the special sessions of the Council in light of the requirement in the 1986 Ministerial Declaration, launching the Uruguay Round, that appropriate mechanisms be established for the multilateral surveillance of the standstill and rollback commitments taken by

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

2/ GATT/AIR/2328.

3/ GATT/AIR/2330 and GATT document C/W/507.

participants in the new round of international trade negotiations. He drew the Council's attention to the Secretariat's background paper, entitled "Developments in the Trading System, April-September 1986." ^{1/}

This paper stated that the single dominating event in the period since April 1986 had been the adoption at Punta del Este of the Declaration launching the Uruguay Round of negotiations. ^{2/} The Declaration provided a comprehensive mandate for the negotiations, reflecting the commitment of governments to an open multilateral trading system based on agreed rules. These governments had also decided that for the duration of the new round they would not "take any trade restrictive or distorting measure inconsistent with the provisions of the General Agreement or the Instruments negotiated within the framework of GATT or under its auspices"; all such existing measures would be phased out or brought into conformity with the GATT within an agreed timeframe.

The report went on to state that three issues had dominated developments during the six-month period under review. These were agricultural trade, trade in textiles and clothing, and the use of unilateral or bilateral restrictive measures in disregard of GATT disciplines. Resort to subsidies threatened to lead to agricultural trade wars. The United States had sold subsidized sugar to China and the European Communities had sold subsidized beef to Brazil. Both had attempted to underbid each other to sell grains to the Soviet Union. In view of the impact of agricultural subsidization by the Communities and the United States on the exports of third-country producers, representatives of 14 countries had met in Cairns, Australia in August 1986 in order to work out a joint strategy to promote reform of agricultural policies. In textiles and clothing, attention had focused on the negotiation of a successor regime to the Multi-Fibre Arrangement (MFA III), which had expired at end-July 1986. With effect from August 1, 1986 the Arrangement had been extended for five years as MFA IV, with a broader coverage than MFA III. The volume of trade covered by "voluntary" restrictive measures did not seem to have increased significantly in recent months. However, the use of these restrictive measures had become more pronounced in certain areas, e.g. high-technology goods. The latest products affected were semiconductors, for which Japan and the United States had concluded a five-year trade arrangement in the summer of 1986.

The report also noted that there had been positive trade developments other than the launching of the Uruguay Round during the period under consideration. Some contracting parties, such as Sweden and

^{1/} GATT documents C/W/502 and Add.1.

^{2/} The report of the Fund observers at Punta del Este is to be found in SM/86/256 (10/16/86).

Switzerland, had refused to negotiate "voluntary" restraint arrangements on certain products on the grounds that the arrangements would violate the provisions of the GATT. Further, a number of governments had continued to resist protectionist pressures. Among them, the U.S. Administration had successfully resisted efforts to override the veto on the Jenkins Bill and to promote restrictive omnibus legislation in Congress. In addition, the Japanese government had undertaken further steps to open its markets and a number of other countries, developed and developing, had taken liberalizing action.

The representative of Brazil noted that the Secretariat in drawing up its document had made use of information gathered from, among other sources, the economic press. His delegation had understood that the Secretariat would rely on official sources and would resort to the economic press only after seeking clarification from the delegation concerned. He regretted that these guidelines had not been observed in this instance. Brazil therefore thought that clear guidelines should be established for the Secretariat to observe when elaborating its background paper for future special sessions of the Council. He proposed that, for the Secretariat's future work in this area: (i) the Secretariat should rely primarily on notifications to GATT; (ii) the Secretariat should depend on official sources, as a secondary avenue for information in cases where no notifications to GATT had been made; (iii) if the Secretariat felt the need to use the economic press as an additional source, the information thus collected should be subject to prior cross-checking with the delegation of the country concerned; and (iv) that information collected in accordance with the above procedures should consist of measures already adopted by governments, during the period under review, and would have to be strictly related to trade matters within GATT's jurisdiction.

The representatives of Argentina, Cuba, India, Uruguay, and Yugoslavia thought that Brazil's suggestions deserved serious consideration. The representatives of Chile, the European Communities, Japan, New Zealand, and the United States said that they found the suggestions to be of interest, particularly points (i)-(iii), which warranted careful reflection. Reservations were expressed about the fourth point, particularly as it was thought useful to continue receiving background reference material on developments which directly affected trade policy. They were concerned also about placing too much of a constraint on the Secretariat's gathering of information. A relative degree of independence was essential for the Secretariat's role in the surveillance process. The point was made, for example, that the Secretariat's use of non-official sources had provoked useful reactions and had shown that the notification system alone was not working as well as desirable.

A number of delegations expressed views on the relationship between the special sessions of the Council and the decisions on surveillance set out in the Uruguay Declaration. The representative of the European Communities said that the special sessions were designed to allow the contracting parties to arrive at a collective evaluation of the world trade and policy situation. As such, they were useful and should be continued. Care should be taken, however, that the sessions did not duplicate the work of the mechanisms to be established for the surveillance of the Uruguay Round standstill and rollback commitments. The representative of Yugoslavia said that regardless of the surveillance mechanisms established in the context of the Uruguay Round the special sessions should continue, as a means for allowing contracting parties to review the overall trading system. The representatives of Austria, India, Japan, Norway for the Nordic countries, the United States, and Uruguay said that a decision to discontinue the special sessions should be delayed until such time as the Uruguay Round surveillance machinery had been established and delegations had had an opportunity to assess its functioning. The representative of Argentina thought that the special sessions had not served to stem protectionism and that therefore they should be discontinued, to be replaced by a simple and effective surveillance mechanism, both in the context of the Uruguay Round and, perhaps, at the level of the CONTRACTING PARTIES.

Some delegations commented on the launching of the Uruguay Round while others drew attention to trade liberalization efforts being undertaken by their countries. The representative of Australia said that while the new round would be an important instrument for liberalizing and expanding world trade it should not be allowed to get out of perspective. All contracting parties should avoid any assumption that the GATT was somehow in suspense. The GATT would remain the instrument to handle contemporary problems, of which there was no shortage. The representatives of Bangladesh and India welcomed the launching of the Uruguay Round but thought that the broadened coverage of MFA IV was especially worrying. The representatives of Canada, Japan, and Norway for the Nordic countries said that the launching of the Uruguay Round had been a clear demonstration of the intent of participating governments to liberalize and reform the world's trading system. Protectionism, however, remained high and all parties to the new round should now cooperate to bring the negotiations to a successful conclusion. In this latter regard the representative of Canada called on the United States to remove its recently imposed differential oil tax and import user-fee. The representative of the United States reported that these measures would be the subject of consultations between his authorities and interested parties. He went on to note that while the U.S. Administration would continue to resist protectionist pressures, these pressures remained strong; it would be difficult for the Administration to continue in its stance unless other contracting parties began to liberalize market access for U.S. exports.

The representative of Egypt informed the Council that in August, 1986 his country had abolished import surcharges and licensing requirements and had implemented a 50 percent across-the-board reduction of Egypt's import tariff. The representative of New Zealand reported that, except for certain products, his country's import licensing system would cease to exist with effect from July 1, 1988, leaving only tariff protection in place.

II. Regular Council Meeting

1. Membership

a. Bulgaria 1/

The Chairman noted that the October 27, 1986 meeting of the Council had reverted the issue of establishing a working party to examine the possible accession of Bulgaria to the GATT to the present meeting of the Council. The representative of the United States said that he thought it advisable that the Council await Bulgaria's submission of a memorandum on its trade regime before creating a working party, particularly as it would not be able to commence its examination in the absence of such a memorandum. He added, however, that his delegation would not oppose a consensus to establish a working party.

The Council, without further debate, agreed to establish a working party to examine the application of Bulgaria to accede to the GATT.

b. Costa Rica 2/

The Chairman reminded the representatives that the July 1985 meeting of the Council had established a working party to examine Costa Rica's application for provisional accession to the GATT. 3/ He drew attention to Costa Rica's recently submitted memorandum on its foreign trade regime. The observer from Costa Rica said that his Government was determined to abide by GATT rules and disciplines as a step towards integrating its economy into the international trading system. As it hoped to participate in the Uruguay Round, Costa Rica

1/ GATT documents L/6023 and Add.1.

2/ GATT document L/6050.

3/ 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 partake in the work of the Council and other GATT bodies, subject to the rules of those bodies.

looked forward to an early and favorable determination on its application for provisional accession. The representative of Nicaragua said that his authorities supported Costa Rica's application.

The Council took note of the statements and Costa Rica's memorandum; it agreed that contracting parties should submit written questions on Costa Rica's trade regime to the Secretariat by December 15, 1986, that Costa Rica should respond in writing to those questions within 30 days after they have been compiled by the Secretariat, and that the Working Party should meet soon thereafter.

c. Tunisia

(i) Accession 1/

The Chairman recalled that the November 1981 Session of the CONTRACTING PARTIES had established a working party to examine Tunisia's application for full accession to the GATT. 2/ Due to a lack of complete documentation the Working Party had never met. The Chairman noted that the Secretariat had now received the necessary documentation and he drew the Council's attention to a communication from Tunisia requesting a resumption of Tunisia's accession to the GATT. The representative of Tunisia said that his country envisaged a liberalization of its trade regime, in line with the objectives of the GATT. In this regard his authorities wished to resume Tunisia's process of accession to the GATT and to begin as soon as possible the necessary negotiations on its schedule of concessions.

The Council, without further debate, agreed to refer the matter to the Working Party on the Accession of Tunisia for appropriate action.

(ii) Provisional Accession 3/

The Chairman noted that the Declaration of November 12, 1959 on the Provisional Accession of Tunisia, as extended by the Seventeenth Proces-Verbal of November 6, 1986, and the Decision of the CONTRACTING PARTIES which provides for Tunisia's participation in the work of the CONTRACTING PARTIES, would expire on December 31, 1986. He drew the Council's attention to the draft of the Eighteenth Proces-Verbal extending the Declaration, and to a draft decision extending the

1/ GATT documents L/6047 and L/6075.

2/ Tunisia's provisional accession to the GATT entered into force in April 1960, following a November 1959 Declaration of the CONTRACTING PARTIES on the Provisional Accession of Tunisia to the General Agreement on Tariffs and Trade (see II.1.c.(ii)).

3/ GATT documents C/W/505 and L/6069.

invitation to Tunisia to participate in the work of the CONTRACTING PARTIES. These drafts extend the provisional accession of Tunisia until December 31, 1987. The representative of Tunisia said as Tunisia's full accession would not be completed by end-December 1986 and as Tunisia wished to continue its participation in the work of the CONTRACTING PARTIES his authorities had decided to request the proposed extension.

The Council approved the text of the Eighteenth Proces-Verbal, approved the text of the draft decision and agreed to recommend its adoption by the CONTRACTING PARTIES at their Session in November 1986.

2. Consultations on trade with Romania

The Chairman informed the Council that under the terms of Romania's Protocol of Accession to the GATT biannual consultations should be held between Romania and the CONTRACTING PARTIES to review the development of reciprocal trade and measures taken under the provisions of the Protocol. He suggested that the Council establish a working party to conduct the consultations.

The Council, without debate, established a working party, with the terms of reference "to conduct on behalf of the CONTRACTING PARTIES the sixth consultations with the Government of Romania provided for in Protocol of Accession, and to report to the Council." The Council agreed that the Chairman would designate the Chairman of the Working Party and that membership of the Working Party would be open to all contracting parties wishing to serve on the Working Party.

3. Dispute settlement

a. United States--Trade measures affecting Nicaragua ^{1/}

The Council had before it a dispute panel report on a complaint by Nicaragua on the trade embargo imposed by the United States against Nicaragua in May 1985. The United States had claimed national security reasons for imposing the embargo and had invoked GATT Article XXI--on security exceptions--as GATT grounds for the embargo. The October 1985 meeting of the Council had established a dispute panel to examine the matter. The Chairman of the Panel, Ambassador M. Huslid from Norway, noted that the Panel's terms of reference had precluded it from examining or judging the validity of, or motivation for, the invocation of Article XXI by the United States. This had hampered the work of the Panel and it had not been able to arrive at a satisfactory solution to the dispute. The Panel had concluded that embargoes such as the one imposed by the United States, independent of whether or not they were justified under Article XXI, ran counter to the basic aims of the GATT,

^{1/} GATT document C/W/506 and L/6053.

to foster nondiscriminatory and open trade policies, to further the development of the less-developed contracting parties and to reduce uncertainty in trade relations. He said that the Panel had recognized that the General Agreement protected each contracting party's essential security interests through Article XXI and that the General Agreement's purpose was, therefore, not to make contracting parties forego their essential security interests for the sake of the above noted aims of the GATT. However, the Panel considered that the GATT could not achieve its basic aims unless each contracting party, whenever it made use of its rights under Article XXI, carefully weighed its security needs against the need to maintain stable trade relations. He concluded by noting that the Panel had recognized that the dispute had raised some general questions regarding Article XXI, particularly with respect to its possible misuse and the nature of investigations of complaints by, and redress for damages inflicted on, parties affected by the invocation of the Article.

The representative of Nicaragua recommended against the adoption of the Panel's report as it had not made any concrete suggestions for a settlement of the dispute and, in particular, as it had not recommended the withdrawal of the embargo or the need to compensate Nicaragua for the damage caused by the embargo. He noted that the International Court of Justice had stated that it had been unable to find that the embargo was in the essential security interests of the United States. Unless the CONTRACTING PARTIES reached the same finding and recommended the withdrawal of the embargo they would be placing the GATT outside of international law and weakening the multilateral trading system. He requested that the Council agree that: (i) the embargo be immediately withdrawn; (ii) the CONTRACTING PARTIES be asked to grant a general waiver which would permit members of the GATT which so desire to alleviate the effects of the embargo by giving, notwithstanding their most-favoured-nation obligations under GATT Article I, differential and more favorable treatment to products of Nicaraguan origin; and (iii) a formal interpretation of Article XXI be prepared. The latter was necessary in order to arrive at answers to the more general questions raised by the Panel.

The representative of the United States said that the Panel had reached sound conclusions and that its report should be adopted by the Council. Similar situations in the past had not resulted in dispute panels largely because contracting parties recognized that the GATT, by its traditions, by its competence, and by the terms of Article XXI, could not help resolve such matters and that pressing the issue would only weaken the GATT in its intended trade role. As the GATT was not a forum for examining or judging national security disputes the Panel could not examine the national security justification for the U.S. action. Consequently a recommendation to modify sanctions that had

not been found inconsistent with the GATT would have been futile and improper. He went on to note that an attempt to formally interpret and/or define parameters for the invocation of Article XXI could launch an interminable political debate in the GATT, which would not produce, in any event, a resolution of the present dispute.

The representatives of Argentina, Cuba, Czechoslovakia, Nigeria, Romania, Uruguay, Yugoslavia, and the observer from Tanzania suggested that the U.S. invocation of Article XXI had been inappropriate, that the embargo should be lifted, that a waiver should be granted to allow contracting parties to give more favorable treatment to Nicaragua, and that Article XXI should be fully reviewed. The representatives of Brazil, Colombia, India, Mexico, and Peru urged the United States to lift its embargo and that consultations be held to find a fair and satisfactory solution to the problems raised by the dispute. The representative of Hungary said that extreme caution should be used in invoking Article XXI, that he hoped that in the spirit of the Uruguay Round the United States would revoke the embargo, and that his delegation was ready to consider the granting of a waiver. The representative of Poland said that the embargo should be lifted immediately while the representative of Trinidad and Tobago urged the revocation of the embargo and a study of Article XXI, so as to avoid damage to the GATT. The observer from China urged the Chairman to conduct consultations in order to resolve the matter. The representative of the European Communities said that it was a nation's sovereign right to determine its own national security interests and that as such he was loath to have Article XXI discussed and/or interpreted. It was difficult, however, not to sympathize with Nicaragua. Moreover, the embargo might damage the trading system as a whole and the United States should consider this latter point very carefully. The representative of Austria said that he was ready to adopt the report in principle but that he would like additional time to study the Nicaraguan proposals. The representatives of Japan, Sweden, and Switzerland said that the Panel had fulfilled its mandate and that they were ready therefore to adopt its report. The representatives of Japan and Switzerland added that they would not be averse to further study of the more general questions related to Article XXI, but that such a study should not be in association with the dispute at hand. The representative of Sweden also noted that Article XXI should be used with great restraint and that future panels on similar matters should be empowered to examine if the Article had been appropriately invoked.

The representative of Nicaragua said that he was ready to enter into consultations to find a satisfactory solution to the dispute. The representative of the United States said that a solution depended on a resolution of the underlying security problem. The Panel had fulfilled its mandate and the report should be adopted; as such there was no need for further consultations within the GATT and he would not participate in further discussions of the matter.

The Council took note of the statements and agreed that the Chairman would hold informal discussions to determine how the Council might further deal with the report.

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

The representative of the United States said his authorities believed that Japanese restrictions on the importation of herring, pollock and surimi contravened, inter alia, the prohibition in GATT Article XI against quantitative restrictions. Japan and the United States had held bilateral consultations on the U.S. complaint but these had not resulted in a satisfactory resolution of the issue. Consequently, the United States requested the Council to establish a dispute panel to review the matter. The representatives of Canada, Chile, the European Communities, and Norway expressed their interest in the dispute and reserved their rights in the matter. The representative of Japan said that as his authorities were considering possible solutions to the problem it would be premature to establish a panel.

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

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

Ambassador P.-L. Girard, the Chairman of the Committee on Balance-of-Payments Restrictions, reported that, in accordance with the simplified procedures for regular consultations on balance-of-payments restrictions for developing countries, consultations had been held with India, Korea, and Yugoslavia and had been commenced with Nigeria at a meeting of the Committee on October 15, 1986. 3/ In the absence of full documentation the Committee had not been in a position to take a decision on the desirability of full consultations with Nigeria and had decided to revert to the question at its next meeting, in December 1986. The Committee had also decided to recommend to the Council that full consultations with India and Korea would be desirable and that Yugoslavia be deemed to have fulfilled its obligations under GATT Article XVIII, paragraph 12(b), for 1986.

The Council, without debate, adopted the Committee's report, agreed that full consultations with India and Korea were desirable and deemed Yugoslavia to have fulfilled its obligations under Article XVIII, paragraph 12(b), for 1986.

1/ GATT document L/6070.

2/ GATT document BOP/R/163.

3/ The report of the Fund representative at the meeting is to be found in SM/86/272 (11/14/86).

5. Reports

a. Council report 1/

The Council had before it a draft report on its work since the November 1985 Session of the CONTRACTING PARTIES. The Chairman noted that the report would be updated to reflect the work of the present meeting of the Council.

Without discussion, the Council approved its report and agreed to submit it to the November 1986 Session of the CONTRACTING PARTIES.

b. Textiles and clothing 2/

Mr. M.G. Mathur, Deputy Director-General of the GATT, introduced his report as Chairman of the Working Party on Textiles and Clothing. He noted that during the November 1985 Session of the CONTRACTING PARTIES it had been agreed that the Working Party should continue to examine modalities of further trade liberalization in textiles and clothing, including the possibilities of bringing about the full application of GATT provisions to this sector. Work in this area would now be pursued in the context of the Uruguay Declaration and any organizational arrangement to this end would have to be made by the appropriate body, the Group of Negotiations on Goods. He said that in these circumstances the CONTRACTING PARTIES might consider it appropriate for the Working Party to terminate its work at the present time.

The Council, without debate, took note of the report and agreed to forward it to the November 1986 Session of the CONTRACTING PARTIES for consideration and action.

c. Quantitative restrictions and other nontariff measures 3/

The Chairman of the Group on Quantitative Restrictions and Other Non-Tariff Measures, Ambassador M. Huslid from Norway, introduced the report of the Group. He noted that the Group had recommended that its documentation and analysis on nontariff barriers be kept up to date for possible use in the Uruguay Round negotiations. The Group had concluded that the best prospect for achieving a reduction or elimination of nontariff barriers lay in the implementation of the Uruguay Declaration. It had also recognized that further reflection was required on the future role of the Group and it had agreed to refer this matter to the CONTRACTING PARTIES. The representative of Chile said that his authorities were of the view that the Group had not fulfilled its mandate, particularly as no substantive progress had been made in the elimination of nontariff barriers and/or of bringing them into conformity with the GATT. The report should

1/ GATT document C/W/501.

2/ GATT document L/6071.

3/ GATT document L/6073.

have laid greater stress on the imbalance of rights and obligations which resulted from the fact that certain contracting parties did not abide by their GATT obligations with respect to nontariff barriers. His delegation reserved the right to raise the matter again at the level of the CONTRACTING PARTIES.

The Council took note of the report and agreed to forward it to the November 1986 Session of the CONTRACTING PARTIES for consideration and appropriate action.

d. Tariff concessions 1/

The Vice-Chairman of the Committee on Tariff Concessions, Mr. A. Woo from Hong Kong, reported that the activities of the Committee during the past year had mainly related to the introduction of the Harmonized System (for tariff nomenclature) and to the GATT Article XXVIII renegotiations of tariff concessions to be carried out in this respect. In early 1986 the Committee had concluded that the date of January 1, 1987 foreseen for the entry into force of the Harmonized System was no longer feasible and it had decided that January 1, 1988 would be a more realistic date. Moreover, it had recognized that in order to meet this new date, the necessary Article XXVIII negotiations between the members of the Committee would have to be carried out as expeditiously as possible, in order to leave enough time for national ratification procedures. To this end, eleven contracting parties had to date submitted the required documentation for the negotiations. Intensive negotiations were presently underway and it was expected that some countries would have concluded their negotiations before the end of the year. He also drew attention to the decision of the Council of March 26, 1980 on the introduction of a loose-leaf system for the schedules of tariff concessions. The decision provided that earlier schedules and negotiating records would remain proper sources for interpreting tariff concessions until January 1, 1987. However, the submission and subsequent certification of loose-leaf schedules had taken substantially longer than originally anticipated, with the result that the date of January 1, 1987 was no longer realistic. The Committee had decided therefore to request the Council to change the wording of its March 1980 decision from "until 1 January, 1980" to "until a date to be established by the Council."

The Council, without debate, agreed to change the wording of its March 1980 decision as requested. It also took note of the Vice-Chairman's report and agreed to forward it to the November 1986 Session of the CONTRACTING PARTIES.

1/ GATT document TAR/132.

6. Other matters

The Council, without debate, approved the draft text of a decision to extend until December 31, 1987 the time-limit of a waiver for Pakistan to suspend the application of GATT Article II (on schedules of concessions) to the extent necessary to enable the Government of Pakistan to maintain in force the rates of duty in its revised Customs Tariff pending the renegotiation of the relevant parts of its schedule of concessions. 1/ The Council agreed to recommend to the CONTRACTING PARTIES that they adopt the decision by ballot.

The Deputy-Director General of the GATT, Mr. M.G. Mathur, reported that informal consultations had been held on setting guidelines for the granting of observer status in the GATT Council. Two draft texts had been prepared, one relating to governments and the other to international organizations. Certain issues, however, still needed to be clarified, such as the duration of the status, attendance by observers at sub-bodies of the GATT and possible financial contributions by observers to cover the costs of distributing documents, organizing meetings, etc. Once these matters had been settled in further informal consultations the texts would be forwarded to the Council for consideration and action. The Council took note of the statement.

Under "other business", Mr. A. Dunkel, Director-General of the GATT, proposed that as the Consultative Group of Eighteen (CG-18) had not met in 1986 its composition remain unchanged for 1987. 2/ Members of the CG-18 are: Argentina, Australia, Brazil, Canada, Colombia, Cote d'Ivoire, Egypt, the European Communities, Hungary, India, Indonesia, Jamaica, Japan, Korea, Nigeria, Norway, Pakistan, the Philippines, Switzerland, Turkey, the United States, and Zaire; and as alternates: Austria, Czechoslovakia, New Zealand, Nicaragua, Romania, Sweden, Tanzania, Uruguay, and Yugoslavia. 3/ The Council agreed to the Director-General's proposal.

Also under "other business", the representative of the European Communities said that the Communities and Japan had held consultations concerning obstacles to the importation of wines and alcoholic beverages into the Japanese market. 4/ He said that the difficulties

1/ GATT documents C/W/503 and L/6065.

2/ The CG-18 is designed to be a small informal group of high officials from capitals who meet from time to time to review issues relating to the trading system.

3/ The February 1986 meeting of the Council decided to increase the membership of the CG-18 from eighteen to twenty-two contracting parties, both in order to widen participation in the Group and to give its composition an improved regional balance.

4/ GATT document L/6078.

related to the very high customs duties, the discriminatory system of taxing these products and the unfair labelling practices used by domestic producers. As the consultations had not resulted in a satisfactory settlement, the Communities requested that a dispute panel be established to examine the question. The representatives of Australia, Canada, Chile, the United States, and Yugoslavia expressed their interest in the issue and reserved their GATT rights in the matter. The representative of Japan said that the measures were consistent with Japan's obligations under the GATT. The duties were below previously negotiated GATT bound rates. Moreover, all of the Communities' concerns had been transmitted to the Japanese Tax Commission, which was in the process of reforming the tax system. The results of the reform would become clear in December 1986 and might well obviate the complaint of the Communities. As such, he said, that there was no present need for a panel and he could not agree to its establishment. The representative of the European Communities said that he regarded the matter as urgent and would request that it be placed on the agenda of the November 1986 Session of the CONTRACTING PARTIES unless it could be resolved in the interim in consultations with the Chairman. The Council took note of the statements.

The representative of Brazil drew attention, under "other business", to a communication from the United States regarding Brazil's informatics sector. ^{1/} He said that the United States intended "to suspend the application of the United States Tariff concessions to imports from Brazil to compensate for the alleged annual loss in United States sales opportunities in Brazil due to the informatics policy." He stated that the United States had not provided the necessary information on the legal basis under which it would adopt its measures against Brazil. Further, it had not specified the exact nature of the measures to be taken; nor had it made it clear if the measures were to be enforced without prior notification to the GATT and appropriate consideration by the CONTRACTING PARTIES. The Brazilian Government could not accept that the United States would have resort to unilateral action without due regard to GATT rules. The action would nullify or impair benefits accruing to Brazil; in the face of that threat Brazil, reserving all its rights under the GATT, intended to invoke the GATT dispute settlement procedures. The representative of the United States said that the United States had no intention of taking action without due regard to GATT rules and procedures. The United States and Brazil had consulted for more than a year on trade restrictions maintained by Brazil for informatics products. It was the understanding of the United States that the restrictions were designed to "promote the establishment" of a particular industry or industries within the

^{1/} GATT document L/6082.

meaning of Article XVIII (on government assistance to economic development). Brazil was aware that the United States considered that the restrictions substantially affected rights and interests of the United States protected by the provisions of the GATT, including Article XVIII. Consequently, if the continuing consultations did not result in a satisfactory resolution of the matter the United States would exercise its multilateral rights under Article XVIII to suspend the application to Brazil of substantially equivalent concessions. The products to which the suspension of concessions would apply would be notified to the GATT in a subsequent communication, in accordance with Article XVIII. The Council took note of the statements.