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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 Executive Directors is a report by the Fund observers on a meeting of the GATT Council of Representatives held in Geneva on July 17-18, 1985.

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INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observers 1/

August 14, 1985

The GATT Council of Representatives met on July 17-18, 1985 under the chairmanship of Ambassador K. Chiba of Japan. 2/ Under the main item on the agenda, which was a review of Recent Developments in International Trade and their Consequences for GATT, the Council discussed whether to convene a meeting of senior trade officials in September 1985 to begin preparing the agenda and modalities of a new round of multilateral trade negotiations. 3/ It failed to reach agreement on holding the meeting, and as a result the U.S. delegation said that it intended to request a special session of the CONTRACTING PARTIES to address the question of the new round.

Other important agenda items included a statement on safeguards by the Council Chairman, and consideration of several matters relating to dispute settlement proceedings. In addition, under other business, many delegations expressed their concern over proposed legislation in the United States that would restrict imports of nonrubber footwear. The Fund representatives were C. Sanson and R. Eglin of the Geneva Office.

1. Recent developments in international trade and their consequences for GATT, and status of implementation of the 1982 Ministerial Work Program

The Council Chairman recalled that at the last Council meeting held on June 5-6, 1985 the representative of India had made a statement on behalf of the delegations of 24 less developed contracting parties which reflected their position on a new round of multilateral trade

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

2/ GATT/AIR/2178.

3/ GATT document C/W/478.

negotiations confined to trade in goods only. 1/ Written submissions had been received since then from the delegations of the ASEAN countries, Australia, Austria, Canada, the European Communities, Japan, New Zealand, the Nordic countries, Switzerland, and the United States, which contained views on the scope and objectives of a new round of multilateral trade negotiations. 2/ A preliminary discussion of these submissions had been held by the Consultative Group of Eighteen at its meeting on July 8-9, 1985, and a summary report of the meeting was now available. 3/ He invited delegations to address themselves to the subjects of the status of the Ministerial Work Program, the need for a new round of multilateral trade negotiations, and the scope and nature of such negotiations.

The representative of the European Communities said that the Ministerial Work Program had been conceived as a program for the 1980s. Several elements of the Program had been completed, particularly those of a procedural nature, but there remained many important elements on which no further progress would be possible until contracting parties committed themselves to entering contractual negotiations. Agreement to begin negotiations was necessary in order to initiate a standstill and rollback of trade restrictions. The European Communities therefore proposed the convening of a meeting of senior officials to undertake discussions aimed at broadening consensus in favor of moving towards a new round of trade negotiations, and asked the Council to agree to the proposal at its current meeting. Participation in the senior officials' meeting, which should begin on September 9, 1985, would not carry with it any commitment that countries were prepared to agree to a new round. At the meeting, however, discussions could be held on the subject matter and modalities of a new round, and a progress report would then be prepared for the November session of the CONTRACTING PARTIES.

The representative of Chile supported the EC proposal for a senior officials' meeting in September to begin the preparatory work for a new round of trade negotiations. He was aware of the

1/ The statement by the representative of India was reported in SM/85/183 and has been reproduced in GATT documents L/5818 and Add.1. Cameroon and Trinidad and Tobago associated themselves with this statement shortly after the June Council meeting, bringing to 24 the total number of delegations subscribing to the statement.

2/ These submissions are contained in GATT documents L/5848 (ASEAN); L/5842 (Australia); L/5849 (Austria); L/5834 and L/5836 (Canada); L/5835 (European Communities); L/5833 (Japan); L/5831 (New Zealand); L/5827 (Finland, Iceland, Norway, and Sweden); L/5837 (Switzerland); and L/5838 and L/5804 (United States).

3/ GATT document CG.18/28.

differences between delegations in GATT over the inclusion of trade in services on the agenda of a new round. In his view, trade in services was of only secondary importance to trade in goods, but he did not support its exclusion from the agenda of a senior officials' meeting. Although GATT had no explicit competence in this field for the time being, this should not prevent serious discussion of the matter from taking place; ultimately, the CONTRACTING PARTIES could grant GATT the necessary competence. As a less developed contracting party with a large trading sector, Chile considered that a new round of trade negotiations was urgently needed. It was equally important that high-level discussions be held on strengthening the multilateral trading system through improving the observance of GATT disciplines and, where necessary, deciding on new disciplines in areas such as subsidies, safeguard measures, and quantitative restrictions. If it proved, eventually, the most appropriate course to adopt, Chile could support turning GATT into a permanent forum for negotiation.

The representatives of Australia, Austria, Canada, the United Kingdom on behalf of Hong Kong, Israel, Japan, Korea, New Zealand, Sweden on behalf of the Nordic countries, Spain, Switzerland, the United States, and Singapore on behalf of the ASEAN countries supported the proposal to hold a senior officials' meeting in September to broaden consensus on beginning a new round and to discuss the agenda and modalities for negotiations. Among these, the representatives of developing countries stressed that trade in services was an issue of secondary importance for them, but they accepted that it should figure in the discussions at a senior officials' meeting since failure to agree on a new round of trade negotiations with industrial contracting parties would represent a negation of their own trade interests. This did not detract from their support of many elements of the position outlined at the last Council meeting by the Indian representative on behalf of 24 less developed contracting parties, including the need for industrial countries to recognize Part IV of the GATT as the basis for developing country participation in the multilateral trading system. The industrial country representatives stressed the urgency of agreeing to hold a senior officials' meeting in September without any preconditions on topics that might be discussed, but equally without any prior commitments from governments on their willingness to participate in new trade negotiations. They added that the written submissions received from national delegations on a new round should form the focus for discussions at the senior officials' meeting.

The representative of Brazil said that his Government could support the need for new trade negotiations to revive progress on the Ministerial Work Program, but only as long as negotiations

were confined to trade in goods. The limit of GATT's competence with respect to trade in services had been defined in November 1984 when the CONTRACTING PARTIES instructed the chairman to arrange for the exchange of information among interested contracting parties. Negotiations to liberalize trade in goods were in everyone's interest, particularly the heavily-indebted developing countries which needed to generate a trade surplus to help meet their debt service obligations. However, these negotiations should not be held hostage by the industrial countries against agreement by developing countries to participate in negotiations on trade in services. Trade in services was a completely unknown area to most developing countries, and they would need to carry out extensive studies of their own before being in a position to decide whether it should be included under the ambit of GATT. Brazil was therefore proposing that a senior officials' meeting be held in September 1985 to explore the possibility of a consensus on the need, the subject matter, and the modalities for multilateral negotiations on trade in goods only. A separate senior officials' meeting could be held in October 1985 to review the exchange of information on trade in services that had been agreed to by the CONTRACTING PARTIES in November 1984, and the results of the meeting could be communicated to the CONTRACTING PARTIES' session in November 1985; if it was found that any multilateral action in services was appropriate, this would have to be subject to prior understandings that: (a) there could not be any parallelism between possible multilateral action on services and GATT negotiations on trade in goods; (b) at no stage could there be any trade-offs or cross-linkages between the two processes; (c) GATT principles and rules would not apply to services; and (d) secretariat support for work in services would be provided jointly by international bodies to be agreed upon.

The representatives of Argentina, Colombia, Egypt, Ghana, India, Jamaica, Nicaragua, Nigeria, Pakistan, Peru, Romania, Trinidad and Tobago, Uruguay, Yugoslavia, and Zaire, and the observer from Venezuela, supported a senior officials' meeting in September to discuss the coverage of negotiations confined to trade in goods only, but rejected the consideration of trade in services under the auspices of the GATT until more preparatory work had been completed along the lines of the CONTRACTING PARTIES' decision of November 1984. They considered that the Brazilian proposal for a two-track approach to trade in goods and services was a constructive one that deserved serious consideration. In respect of preparatory work for negotiations on trade in goods, these delegations referred to the statement made by the Indian representative on behalf of 24 less developed contracting parties as a comprehensive basis for discussions at a senior officials'

meeting; they emphasized the need for standstill and rollback and for recognition of Part IV of the GATT as the basis for the participation of developing countries in trade negotiations. In respect of trade in services, they emphasized that GATT was not competent, at least at present, to carry out more than a technical examination of the matter. They rejected the existence of linkages between trade in services and trade in goods, particularly the notion of exchanging concessions in one area for advantages in another during the course of the negotiations. In their view, pressing and important problems confronted the multilateral trading system in the area of trade in goods alone, and these required resolution on a priority basis. The design of a new round should not be made too ambitious by inclusion of new subjects for negotiation which could frustrate progress in the traditional areas of GATT competence.

The representatives of the European Communities and the United States rejected entirely the proposals made by Brazil. They could not accept that there be any preconditions placed on the agenda of a senior officials' meeting, since participation in that meeting would not bind any country to participate in future trade negotiations.

Following this initial exchange of views on the convening of a senior trade officials' meeting in September, protracted informal consultations among delegations took place. A compromise proposal was put forward by Sweden. This recalled the 1982 Ministerial Decision and the 1984 CONTRACTING PARTIES' decision to organize an exchange of information on trade in services, and to consider whether any multilateral action was appropriate or desirable; against this background, it proposed that a senior trade officials' meeting be convened in September with no preconditions on what subjects could be raised for discussion nor prejudice to any contracting party's decision on whether subsequently to participate in a new round. Prolonged discussions dealing mainly with procedural issues ensued. The Swedish proposal found the support of some of the developing country delegations that had opposed the proposal of the European Communities, but others, including in particular Brazil, insisted that trade in services should be explicitly excluded from the agenda of the senior officials' meeting that would consider trade in goods. In the end, the representative of the United States informed the Council that in view of its failure to agree to hold a senior trade officials' meeting, his delegation would request the Chairman of the CONTRACTING PARTIES to convene a special CONTRACTING PARTIES session in September at which the agenda and modalities of a new round would be discussed. The representatives of Canada, the European Communities, and Japan indicated that they would support this request.

2. Safeguards

The Chairman of the Council reported on informal consultations that he had been holding to try to make progress towards reaching a comprehensive understanding on safeguard measures. ^{1/} He noted that all participants in the informal consultations had agreed that safeguard actions should be emergency, temporary actions that should be progressively liberalized. There was no agreement on other issues, however, such as the concepts of "serious injury" and "threat of injury," the treatment of existing "grey area" measures, and, most importantly, whether safeguard actions could be taken on a discriminatory, non-MFN basis. This latter issue was currently the main obstacle to reaching a comprehensive understanding on safeguard action.

The representative of Brazil said that in his view, while the informal consultations had been useful, it was time to consider moving on to a formal dialogue among contracting parties aimed at negotiations on improved disciplines on safeguard actions. His delegation considered that negotiations should seek agreement on a Protocol to the General Agreement that would modify present requirements for safeguard action under Article XIX and be adopted as a formal amendment. It preferred this course of action to the drafting of a code on safeguards along the lines of the MTN Agreements, since a separate code would not necessarily legally bind all contracting parties nor have an explicit relationship to the General Agreement. His delegation considered that a solid understanding on safeguards demanded acceptance by all contracting parties that it would be based on the MFN principle. The idea of partially waiving Article XIX:3(a) rights concerning retaliation/compensation was acceptable provided strict disciplines were adopted with respect to the effective verification of "serious injury." Moreover, the concept of "threat of injury" should be eliminated. Finally, his delegation favored the reconvening of the Safeguards Committee to provide for a more transparent examination of the issues.

The representatives of the United Kingdom on behalf of Hong Kong, and Singapore stressed that the principle of MFN application of safeguard action was non-negotiable as far as they were concerned. The representative of the European Communities disagreed that this principle should not be negotiated, but concurred that it was timely to reconvene the Safeguards Committee; on this last point, he was supported by the representatives of Australia, Chile, and New Zealand, who also expressed agreement on many issues raised by the representative of Brazil. Other delegations asked for more time to consider the matter, and the Council agreed to revert to it at a later meeting.

^{1/} GATT document MDF/16.

3. Dispute settlement proceedings

a. European Economic Community--
production aids granted on canned fruit 1/

The representative of the United States urged the Council to adopt the Panel report without further delay. The representative of the European Communities said that his delegation could not accept adoption of the report for reasons that had been explained in previous Council meetings, but the Communities were prepared to reduce production aids on canned fruit. The representatives of Australia and the United States welcomed the EC commitment to reduce production aids, but insisted that the report should be adopted nevertheless.

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

b. New Zealand--imports of
electrical transformers from Finland 2/

The Panel chairman introduced the Panel report, noting that the Panel had decided that New Zealand had been unable to demonstrate that its industry had suffered material injury from imports of electrical transformers from Finland. It therefore recommended that New Zealand revoke the antidumping determination that it had made on the sale of the transformers, and reimburse the antidumping duty paid.

The representative of New Zealand accepted the adoption of the Panel report by the Council, and agreed that its recommendations would be implemented. He noted, however, that the Panel had acknowledged that the transformers had been sold by Finland at dumped prices. The representative of Canada, the United Kingdom on behalf of Hong Kong, Hungary, and Pakistan welcomed the readiness of the New Zealand Government to accept the Panel's findings.

The Council adopted the Panel report.

c. Japan--measures on imports of leather 3/

The representative of the United States noted that the Panel report had been adopted by the Council in May 1984, but that the Japanese Government had so far made an insufficient effort to comply with the Panel's findings. Quotas had been eliminated on some forms of semi-processed leather, but not on finished leather. He insisted that Japan announce a timeframe within which it could comply with the Panel's findings; if not, the United States would request consultations with Japan to discuss compensation.

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

2/ GATT document L/5814.

3/ GATT documents L/5623 and C/W/474.

The representative of Japan noted that his Government was facing great difficulties on this issue because of the depressed state of the Japanese leather industry. Nevertheless, it had adopted a new policy that would involve the conversion of all quotas on leather to tariffs; the policy was currently being elaborated, and his Government would soon request negotiations with interested contracting parties under Article XXVIII:5 to modify its tariff schedule.

The Council took note of the comments made, and decided to revert to the matter at a later meeting.

d. Japan--quantitative restrictions
on imports of leather footwear 1/

The representative of the United States said that in the course of examining Japanese quotas on imports of leather, his authorities had come to the conclusion that Japanese quotas on imports of leather footwear contravened the GATT. The measures on footwear were the same as the measures maintained on leather, and since a panel had already recommended that Japan remove its quotas on leather, he was asking the Council to act under Article XXIII:2 and recommend to Japan that it remove its quotas on leather footwear.

The representatives of Australia and the European Communities considered that a panel should investigate the charges made by the United States before any action could be taken by the Council, in order that Japan's views on the matter be fully taken into account. The representative of Japan said that his Government faced the same sensitive problems on imports of leather footwear as it faced on imports of leather. He considered it too hasty to refer the matter directly to a dispute panel, but said that he would not oppose the establishment of a panel.

The Council agreed to establish a panel to examine the dispute.

4. Proposed U.S. safeguard action on nonrubber footwear

Under other business, the representatives of Brazil, the European Communities, the United Kingdom on behalf of Hong Kong, Korea, the Philippines, Portugal, Romania, Spain, and Uruguay expressed their concern over a finding by the U.S. International Trade Commission (ITC) in favor of taking safeguard action against imports of nonrubber footwear. They noted that this finding had been made less than a year after a similar enquiry by the ITC had failed to show that U.S. producers were suffering injury from imports of nonrubber footwear. Several delegations pointed out the importance of footwear exports to the U.S. market for

1/ GATT document L/5826.

their economies, and considered that if these were restricted it would compromise their own balance of payments adjustment efforts. They stressed that the matter was not one of unfair trading practices on the part of exporters but of inadequate structural adjustment in the U.S. footwear industry. If safeguard action were to be taken, it would seriously undermine confidence in the U.S. commitment to trade liberalization in a new round. The representative of the European Communities added that safeguard action by the United States could force other major footwear importers to take similar action because they would face the threat of exports redirected from the U.S. market.

The representative of the United States said that the U.S. President would take a decision on the ITC findings by August 30, 1985, and that he would report the views expressed to his authorities.

5. Other matters

The Chairman of the CONTRACTING PARTIES reported briefly on the informal exchange of information on trade in services that he had been organizing in conformity with the decision of the CONTRACTING PARTIES of November 1984. 1/ He noted that national studies on services had been received from Belgium, Canada, Denmark, the European Communities, Finland, the Federal Republic of Germany, Italy, Japan, Norway, Sweden, Switzerland, the United Kingdom, and the United States. A study was expected presently from Australia, and the Secretariat was in the process of collating replies from other international organizations on work they were doing in this area.

The Council authorized its Chairman to carry out informal consultations on the purpose and terms of reference of a proposed dispute panel to examine trade measures applied by the United States on exports from Nicaragua, and agreed to revert to the matter at its next meeting. 2/ The representatives of Argentina, Brazil, Chile, Colombia, Cuba, Peru, Poland, Spain, and Uruguay supported the request of Nicaragua for a dispute panel. The representatives of Canada, Japan, and Sweden felt that the dispute in question was not primarily a trade matter, but said that they would not oppose the establishment of a panel, and the representative of the European Communities said that he would oppose it if the terms of reference required the panel to interpret Article XXI(b) which could be invoked unilaterally by any contracting party to defend its national security interests.

The representative of Japan informed the Council that his Government had announced on June 25, 1985, the outline of the tariff component of the Action Program included in the External Economic Measures of

1/ GATT documents MDF/6, 10, 13, and W/44.

2/ GATT documents L/5802 and Corr.1, and L/5803.

April 9, 1985. He provided details of the tariff reductions that had been decided upon, and said that Japan was ready to reduce the tariff rates on industrial products to zero along with other advanced industrialized countries in the context of a new round of trade negotiations. 1/

The representative of Korea expressed his Government's concern at a proposal of the European Communities to raise the tariff on video tape recorders from 8 percent to 14 percent, and urged that the increase not be adopted by the Council of the European Communities. The representative of the European Communities took note of this statement.

The Council took note of the report of the Working Group on MTN Agreements and Arrangements, and agreed to revert to the matter at a later meeting in view of the dissatisfaction expressed by the representatives of Colombia, Chile, Egypt, Jamaica, and Uruguay with the Working Group's findings. 2/

The Council agreed to establish a working party to examine the request of Costa Rica for provisional accession to the General Agreement. 3/

1/ GATT document L/5843.

2/ GATT document L/5832.

3/ GATT document L/5830.