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SM/85/284

October 25, 1985

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 observer on a meeting of the GATT Council of Representatives held in Geneva on October 11, 1985.

Att: (1)

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Department Heads

INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observer 1/

October 23, 1985

The GATT Council of Representatives met on October 11, 1985 under the chairmanship of Ambassador F. Jaramillo of Colombia. 2/ The Council agreed to establish a dispute panel to examine U.S. trade measures affecting Nicaragua, and a working party to examine the free trade agreement between Israel and the United States. It received and discussed the report of the Panel set up to examine Canadian measures affecting the sale of gold coins, and reviewed the Panel report on EEC production aids granted on canned fruits. It also discussed the follow-up to the Working Group report on MTN Agreements and Arrangements. The Council agreed that the Forty-First Session of the CONTRACTING PARTIES would begin on November 25, 1985. The Fund observer was Richard Eglin.

1. United States - Trade measures affecting Nicaragua 3/

The Chairman reported that he had consulted informally with several contracting parties on the establishment of a dispute panel to examine U.S. trade measures affecting Nicaragua. 4/ The United States had maintained its position that the dispute required resolution within a broader framework than could be provided in GATT, but it had indicated that it would not oppose the establishment of a panel as long as the terms of reference did not require the panel to make a judgement on the right of the United States to invoke GATT Article XXI to protect its essential security interests. In the light of this, the Chairman said that he would decide on the panel's terms of reference and composition and report back to the Council at its next meeting.

2. Free trade agreement between Israel and the United States

The Council agreed to establish a working party to examine the free trade agreement between Israel and the United States, but it was not able to agree on the working party's terms of reference. The

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

2/ GATT/AIR/2205. The agenda of the meeting is contained in GATT document C/W/483.

3/ GATT documents C/W/475, L/5802 and Corr.1, L/5803, and L/5847.

4/ The background to this dispute was reported in SM/85/168.

representatives of Brazil and India objected to the adoption of the standard terms of reference used to examine other free trade agreements and customs unions because the agreement between Israel and the United States included areas of trade that were not covered by the GATT, and they insisted that these areas of trade should not fall within the competence of a GATT working party. 1/ It was decided that the Council Chairman would hold informal consultations on the working party's terms of reference and report back to the Council at its next meeting.

3. Canada - Measures affecting the sale of gold coins

The Chairman of the Panel that examined South Africa's complaint about Canadian measures affecting the sale of gold coins presented the Panel report. 2/ The Panel had concluded that the exemption from retail sales tax of Maple Leaf gold coins by the Provincial Government of Ontario was not in accord with the provisions of GATT Article III:2, and caused nullification or impairment of benefits accruing to South Africa under the General Agreement. It recommended that the CONTRACTING PARTIES request Canada to secure the observance of Article III:2 by the Province of Ontario and to compensate South Africa for competitive opportunities lost.

The representative of Canada requested more time for his authorities to examine the Panel report. The Council agreed to revert to the matter at its next meeting.

4. EEC - Production aids granted on canned fruits

The representative of the United States noted that this was the sixth time that the report of the Panel on EEC production aids granted on canned fruits had been brought to the Council, and asked whether the European Communities were able yet to agree to the adoption of the report. The representative of the European Communities said that the member states were prepared to agree to the adoption of the report subject to understandings regarding the nullification or impairment of benefits accruing to the United States in the matter, and regarding the relationship of the Panel's findings to the MTN Code on Subsidies and Countervailing Measures. His delegation was willing to consult informally with contracting parties about these understandings. The representative of the United States said that his authorities could not accept any qualification to the Panel's conclusion that the EEC production aids were subsidies that impaired EC tariff concessions to the United States.

1/ GATT document L/5862.

2/ GATT document L/5863.

It was agreed that more informal consultations would be held, and that the Council would revert to the matter at its next meeting.

5. Working Group on MTN Agreements and Arrangements

The Council Chairman reported that informal consultations were continuing on the question of what follow-up action should be taken on the report of the Working Group. 1/

The representative of Colombia recalled that during the Working Group's discussions, his delegation had pointed out anomalies in the application of the MTN Code on Subsidies and Countervailing Measures; specifically, developing countries that wanted to become signatories to the Code had encountered difficulties in meeting the requirements demanded of them by existing signatories in connection with Article 14.5 of the Code. 2/ This problem needed further study, and he proposed that the Working Group should be reconvened for this purpose. The representatives of Argentina, Brazil, Egypt, India, Malaysia, Pakistan, Singapore, Thailand, Uruguay, and Yugoslavia supported this proposal. However, the representatives of the European Communities and the United States considered that the matter could be more usefully discussed in the Committee on Subsidies and Countervailing Measures since it related to only one of the MTN Agreements and Arrangements.

The Council agreed to revert to this issue at a later meeting.

6. Other matters

Under Other Business, the representative of Brazil reported that his Government had held informal consultations with the United States on Brazil's informatics law. In the consultations, it had been emphasized that the Brazilian Government did not recognize the jurisdiction of the GATT over this area of trade, and therefore saw no basis for consulting multilaterally on the matter. The representative of the United States stated that an investigation had been initiated by his Government on September 7, 1985 under Section 301 of the Trade Act to examine whether Brazil's informatics law acted as a trade barrier to U.S. exports of informatics services and investment. It was hoped that the matter could be resolved bilaterally.

1/ GATT document L/5832/Rev.1.

2/ Article 14.5 states that a developing country signatory should endeavor to enter into a commitment to reduce or eliminate export subsidies when these are inconsistent with its competitive or development needs.

Also under Other Business, the representative of Australia noted that the Australian Bureau of Agricultural Economics had prepared a study on the distorting effects on world trade in agricultural products caused by the restrictive import policies and export subsidy programs of the European Communities. He summarized the findings of the study, and stressed the urgent need for action in GATT to liberalize agricultural trade.