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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 observers on the meeting of the GATT Council of Representatives held in Geneva on November 5 and 6, 1985.

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INTERNATIONAL MONETARY FUND

Meeting of the GATT Council of Representatives

Report by the Fund Observers 1/

December 5, 1985

The GATT Council of Representatives met on November 5-6, under the chairmanship of Ambassador Chiba of Japan. The Council met first in Special Session to examine recent developments in the international trading system. 2/ There followed a regular meeting of the Council, at which the major agenda items were a review of the status of the implementation of the Ministerial work program, a report by the Director-General on the work of the Consultative Group of Eighteen, and consideration of dispute panel reports and committee reports, including, among the latter, those of the Committee on Balance-of-Payments Restrictions on Consultations with Portugal, Sri Lanka and Turkey. 3/ The Fund observers at the meetings were Carlos E. Sanson and C.F.J. Boonekamp.

I. Special Session of the Council

The Chairman noted that the purpose of these special semi-annual meetings was to review developments in the trading system and to monitor Paragraph 7(i) of the Ministerial Declaration of November 1982, in which contracting parties had undertaken to resist protectionist pressures, to conduct their trade policies in conformity with GATT rules and disciplines, and to avoid measures which could limit or distort international trade. He drew the Council's attention to the Secretariat's background paper entitled "Developments in the Trading System, April 1985 - September 1985." 4/

This paper stated that since April 1985 there had almost certainly been an increase in protectionist pressures. While there had been a variety of actions around the world, attention had centered on the vigorous domestic debate on trade policy in the United States, where some 300 bills that would affect trade had been tabled in the Congress.

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

2/ GATT/AIR/2219.

3/ GATT/AIR/2221.

4/ GATT document C/W/485 and Corr.1.

The great majority of bills are of minimal significance but there remain several of great importance, such as the "Jenkins Bill" and the proposed Trade Emergency and Export Promotion Act, on which decisions are expected before the end of the year. It had to be emphasized that none of the proposed legislation is supported by the Administration. On the other hand, there had been a perceptible shift in the terms of U.S. policy discussions, underlined by the President's statement that the United States would explore bilateral and regional trade arrangements if multilateral cooperation could not be carried forward, and would establish a "war chest" to match the subsidized export credits of other countries. "Fair trade" had replaced "free trade" as the agreed theme of policy debate and action.

The report went on to note that globally there had been some encouraging developments, including the refusal of the President of the United States to accept a recommendation for protection for the U.S. footwear industry; the continued pursuit, despite difficult circumstances, of liberalized trade policies by certain countries; some further improvements in GSP schemes; and Japan's announcement of a number of market-opening initiatives. Further, discussion of possible new multilateral trade negotiations had begun in the GATT, and the contracting parties had agreed that a preparatory process for the proposed negotiations had been initiated. Against this, there were few signs of any easing of problems in the troubled sectors of agriculture, steel, textiles, clothing, footwear, automobiles, and electronics. There had been several large bilateral agreements for the subsidized sale of temperate agricultural products and there seemed to have been an appreciable increase in the use of subsidized export credits. Market-sharing had been carried further with the negotiation of additional agreements aimed at blocking "loopholes" in existing restraint arrangements. There had also been an increase in the number of countertrade transactions recorded, although for the first time there was some evidence that countries were reassessing the merits of this strategy.

The representative of Japan said that protectionist pressures were increasing and might, in fact, be gaining momentum. These pressures were fueled, in part, by the large U.S. fiscal and trade deficits, continuing high levels of unemployment and lagging growth in Europe, stagnant commodity prices, and a continuation of the debt crisis. These factors brought out the need for structural and financial policy adjustments rather than for a resort to additional protectionist measures. In this respect the continued resistance of the U.S. Administration to protectionist pressures, the positive Communique from the IMF Interim Committee Meeting in Seoul, and the recent sharp decline in the level of the U.S. dollar exchange rate, were encouraging. Nothing, however, could be more effective in combating

protectionism than a strong message that a new round of multilateral trade negotiations would take place. Japan attaches great importance to a revitalized multilateral trading system and would be active, therefore, in working towards a new round of negotiations. Such negotiations should address all measures and not just those which are currently subject to GATT rules and disciplines.

The representative of Australia felt that it was evident that there had been an increase in the resort to protectionist measures during the last six months, particularly in the agricultural, steel and textile sectors. Moreover, the notification and safeguard provisions of the GATT were being largely ignored, the prospects for improved adherence to GATT rules and disciplines were bleak, and the outlook for trade liberalization was not encouraging. To arrest this decline there was a strong need for the early commencement of a new round of multilateral trade negotiations, especially to address such issues as export subsidies, particularly in agriculture, a standstill and rollback, and stronger surveillance functions under the GATT.

The representatives of Canada, Spain, and Sweden, on behalf of the Nordic countries, agreed that the increased use of nontariff measures and, particularly, agricultural export subsidies were worrying. Protectionist pressures remained high and to turn this tide a new round of negotiations was needed. The representative of Hungary, in drawing particular attention to the increased use of agricultural export subsidies and the difficulties that they created for small exporting nations, hoped that this problem could be dealt with in the context of new multilateral trade negotiations.

The representatives of Egypt, India, and Yugoslavia, noted that the fulfillment of standstill and rollback commitments were crucial to creating the climate of confidence that would be needed for a new round. The representatives of Korea and Turkey drew attention to their trade liberalization efforts and to the need for these efforts to be supported, especially in the context of a new round of negotiations, through similar actions by other contracting parties.

The representatives of Singapore and Trinidad and Tobago expressed surprise that the Secretariat's paper had noted some improvements in GSP schemes. In their view there was an increasing tendency to exclude developing countries from such schemes, sometimes on the basis of arbitrary criteria, such as per capita income. The representative of Poland noted the lack of progress regarding MFN status for Polish exports to the United States, and the representative of South Africa felt that the trade restrictive measures taken by some countries against South Africa were in conflict with the GATT and stated that his Government would revert to this issue at some future date.

The representative of the European Communities thought that the Secretariat's paper provided an excellent framework for a collective assessment of the current status of the international trading system. It had correctly drawn attention to the great importance of the domestic debate on trade policy in the United States and had appropriately noted the disturbing trend toward bilateral arrangements. With respect to GSP schemes, it had to be remembered that these were an incentive for new industries to become competitive and that, therefore, at a certain point the benefits of the schemes were no longer justified for some products from certain countries. He then informed the Council that as the United States had recently raised tariffs on pasta imports from the European Communities, the Communities had raised, on an equal value of trade basis, duties on citrus imports from the United States. In this respect he noted that the Communities were in a position to protect themselves but that smaller countries might not be able to do so and that this was not a good omen for the proposed new round of multilateral trade negotiations.

II. Regular Council Meeting

1. Ministerial work program

The regular Council meeting was the last held before the Forty-First Session of the CONTRACTING PARTIES scheduled for November 25-29, 1985. As a result, the Ministerial work program review dealt briefly with reports and Chairmen's Statements in anticipation of a more general review at the meeting of the CONTRACTING PARTIES.

a. Safeguards--Statement by the Chairman of the Council

The Council Chairman reported that the safeguard question had been reviewed by the Group of Senior Officials, and a broadly shared view had emerged that a satisfactory understanding on safeguards was essential to maintain and strengthen the multilateral trading system. Accordingly, high priority should be assigned to the issue in any new round of trade negotiations. Attention should be given to the organization of work on safeguards and it would be for the meeting of the CONTRACTING PARTIES to consider how this work should be pursued. The representatives of Chile, Egypt, India, and Yugoslavia, were in favor of a comprehensive agreement on safeguards on an MFN basis; the latter three representatives noted that perhaps the time had come to convene the Safeguards Committee to take stock of the situation. The representatives of Japan and the United States felt that a new round of trade negotiations would provide a good opportunity for concentrated

work in the safeguard area. The Chairman of the Council reported that his consultations had not revealed a clear understanding on the question of convening the Safeguards Committee.

The Council took note of the statements and recommended that the meeting of the CONTRACTING PARTIES consider the context in which the work on safeguards should be pursued.

b. Dispute settlement procedures--Roster of non-government panelists 1/

The Director-General suggested that all the names submitted on the roster be retained. He was aware that some representatives favored a shorter list but thought that a list of thirty-five names was still manageable.

The Council approved the roster.

c. Trade in agriculture--Report of the Committee 2/

The Committee had concluded that it should pursue an indepth examination of all the approaches referred to in the Recommendations, and of the way they could be elaborated as a basis for possible future negotiations on liberalizing trade. 3/ The representative of India expressed the view that the work of the Committee might be losing momentum, which was worrying in view of the need for more favorable treatment for developing countries, especially in regard to export subsidies.

The Council agreed to forward the report to the CONTRACTING PARTIES for adoption.

d. Quantitative restrictions and other nontariff measures-- Report of the Group 4/

The chairman of the Group on Quantitative Restrictions and Other Non-Tariff Measures said that the report had been unanimously adopted. The Group had completed its review of existing nontariff barriers and on the basis of this had made a number of recommendations which, if accepted by the CONTRACTING PARTIES, would require that arrangements be

1/ GATT document C/W/488.

2/ GATT document L/5900.

3/ GATT document L/5753, which was adopted at the Fortieth Session of the CONTRACTING PARTIES in November 1984.

4/ GATT document L/5888.

made for further work. Amongst the recommendations were that: (i) contracting parties should be invited to send complete notifications of their quantitative restrictions by the end of April 1986, and at two yearly intervals thereafter; (ii) the first review of the accuracy and adequacy of the documentation and GATT conformity of the measures should be held in October 1986, and thereafter at two yearly intervals; (iii) a multilateral review should also be held in October 1986, with a view to achieving progress in the elimination of nontariff measures which are not in conformity with the GATT or their being brought into conformity with the GATT and in liberalizing other quantitative restrictions and nontariff measures; (iv) that consideration should be given to drawing up bilateral request and offer procedures, subject to multilateral surveillance, that would be used to eliminate or liberalize nontariff barriers; and (v) that the Inventory of Non-Tariff Measures should be examined with a view to identifying areas that might warrant multilateral action and, if so, what action might be taken. The Group had agreed that it should not enter into the substantive questions relating to possible future negotiations which were being dealt with elsewhere and which were a matter for the CONTRACTING PARTIES to decide.

The representatives of Chile and Nicaragua felt that the recommendations did not clear the way for full compliance by contracting parties with the GATT and, therefore, they reserved their positions. The representative of Hungary indicated that his Government could accept the report. The representatives of the European Communities and Spain felt strongly that the report should be adopted by the Council for a decision on further action by the CONTRACTING PARTIES.

The Council took note of the report and forwarded it to the CONTRACTING PARTIES for its consideration and decision.

- e. MTN agreements and arrangements--Follow up on the Working Group report 1/

The Council Chairman reported that informal consultations were continuing on the question of how the Council might proceed on the report of the Working Group on MTN Agreements and Arrangements. He had been encouraged to continue in his efforts and to report to the CONTRACTING PARTIES.

The Council took note of the Chairman's statement.

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

f. Trade in counterfeit goods--Report of the Group of Experts 1/

The chairman of the Group of Experts on Trade in Counterfeit Goods reported that the Group had been unable to come to a common view on whether it would be appropriate for CONTRACTING PARTIES to take action within the framework of the GATT on the trade aspects of commercial counterfeiting. This was a policy question and its examination could not be carried further at the expert level.

The representatives of Argentina, Brazil, Chile, Egypt, India, Gabon, Nicaragua, and Yugoslavia felt that satisfactory international provisions for dealing with the matter existed under the auspices of the World International Property Organization and that the issues involved were best left to be handled by that organization. The representatives of Canada, the European Communities, Israel, Japan, and the United States felt that, as counterfeit goods were traded, this matter fell fully within the purview of the GATT.

The Council took note of the report and agreed to forward it to the CONTRACTING PARTIES with a suggestion that they review the matter.

g. Textiles and clothing--Report of the Working Party 2/

The chairman of the Working Party on Textiles and Clothing reported that the Working Party had not developed a common view on the modalities or techniques to achieve further trade liberalization in textiles and clothing. It had recognized that GATT provisions should ultimately apply to international trade in textiles and had agreed that its work should continue and looked to the Council and the CONTRACTING PARTIES for a decision on this matter.

The representatives of the United Kingdom, on behalf of Hong Kong, Hungary, Korea, and Peru felt that it was urgent that the work continue toward the full liberalization of trade in textiles and its ultimate return to the rules of the GATT. The representatives of Egypt, India, and Yugoslavia agreed on the need for a return to GATT principles and hoped that the Working Party would consider the modalities of such a return. The representatives of the European Communities thought that all options with respect to a future trading environment for textiles should remain open.

The Council took note of the report and agreed to forward it to the CONTRACTING PARTIES.

1/ GATT document L/5878.
2/ GATT document L/5892.

h. Problems of trade in certain natural resource products--Reports

The Council considered reports on (1) fish and fisheries products, (2) forestry products and (3) non-ferrous metals and minerals.

(1) Report of the Chairman of the Working Party on Fish and Fisheries Products 1/

The chairman of the Working Party reported that the Working Party had completed its examination of the problems affecting trade in fish and fisheries products. It had come to the consensus that any major expansion of trade in this area would require a process of trade liberalization. This could best be achieved by entering into negotiations on a multilateral basis, perhaps within the context of a new general round of multilateral trade negotiations.

The representatives of Argentina, Canada, Chile, Colombia, Cuba, Egypt, Iceland, on behalf of the Nordic Countries, India, Nicaragua, Peru, Hungary, Yugoslavia, and Zaire indicated acceptance of the findings of the report but felt that any attempt in future negotiations to link, as some members of the Working Party had thought appropriate, access to markets with access to fish resources should be resisted. In their view, the notion of such linkage was alien to the GATT. The representatives of the European Communities and Spain noted that it was not a matter of linkage but rather one of addressing all matters that relate to trade and that in this respect the decisive impact that access had on the world fishery should be borne in mind. The representatives of Japan, New Zealand, and the United States agreed to the acceptance of the report, noting that future negotiations on the matters raised should be conducted within the proposed new round of trade negotiations.

The Council took note of the report and agreed to forward it to the CONTRACTING PARTIES for adoption at its Forty-First Session.

(2) Report of the chairman of the Working Party on Forestry Products

The chairman reported that the Working Party had held discussions on problems in trade of forestry products, including those arising from GSP and MFN coverage, quotas and technical standards. Further study and analysis was required, however, in order to determine

1/ GATT document L/5895.

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1/ GATT document L/5895.

the impact of these difficulties on trade flows. He thought that a resolution of problems in this area should be sought in the context of the proposed new round of trade negotiations.

The Council took note of the chairman's report and agreed to forward it to the CONTRACTING PARTIES.

(3) Interim report of the chairman of the Working Party on Non-Ferrous Metals and Minerals

The chairman noted that a detailed examination of trade problems in non-ferrous metals and minerals was still taking place and that work would continue after the CONTRACTING PARTIES' meeting. He anticipated that the report of the Working Party would be issued in late 1986.

The Council took note of the chairman's interim report.

i. Services--Statement by the Chairman of the CONTRACTING PARTIES

The Chairman reported briefly on the informal exchange of information on trade in services that he had held pursuant to the decision of the CONTRACTING PARTIES of November 1984. 1/ Since his last report to the Council, in July 1985, national studies on trade in services had been received from Australia and France, bringing to 15 the total number of such submissions. 2/ A consensus view on trade in services was not apparent. The Chairman said he would present a report on the exchange of views to the upcoming session of the CONTRACTING PARTIES.

The representative of the European Communities noted that trade in services should be brought into the ambit of the GATT and the representative of India felt that a decision on the adequacy of the exchange of information would need to be taken by the CONTRACTING PARTIES.

The Council took note of the statements and of the fact that the Chairman of the CONTRACTING PARTIES would present a report to the CONTRACTING PARTIES.

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

2/ Previous submissions were reported in SM/85/231.

2. Consultative Group of Eighteen

The Director-General introduced the annual report of the Consultative Group of Eighteen (CG-18) and noted that its work had been concentrated on the full range of considerations relating to the launching of a new round of trade negotiations as a means of furthering the liberalization of trade and restoring the integrity of the trading system. 1/ Differences of views existed but these related to the context and timing, rather than to the principle, of a new round. These deliberations of the CG-18 had played a useful role in clarifying positions and preparing the ground for discussion in the CONTRACTING PARTIES and the Senior Officials Group.

The Director-General also drew attention to the fact that he had undertaken consultations with a large number of delegations on the composition of the CG-18. These consultations had been inconclusive; while they confirmed the existence of many strongly held views they also revealed that these views were very difficult to reconcile, even on the basic question of the size of the Group.

Following the Director-General's report the representative of Korea requested that Korea become a member of the CG-18 and the representative of Turkey asked for inclusion among those with whom the Director-General conducts consultations. The representatives of Chile, Colombia, and Uruguay felt that developing countries were not adequately represented in the Group and that perhaps the CG-18 should be restructured and increased in size. The representatives of the European Communities, the United States, and Zaire did not favor an increase in the size of the Group, since it might impair the efficiency of the Group. The Director-General stated that he would continue his consultations on these issues and he hoped that, as a result, the CONTRACTING PARTIES would be in a position to come to a decision on the matter in 1986.

The Council took note of the report.

3. Trade in textiles

The Director-General presented the report of the Textiles Committee. 2/ It had met in July 1985 to initiate a discussion on the future of the MFA, which expires in July 1986. He emphasized that the Committee was far from a common view and that long, difficult negotiations lay ahead. It was felt, however, that understandings would be arrived at in a timely manner.

1/ GATT document L/5887.

2/ GATT document Com. Tex/41.

The representative of the United Kingdom, on behalf of Hong Kong, was of the opinion that textiles were a touchstone for negotiations in other areas and that the understanding that the Committee reached would have important consequences for a liberalization of the trading system. In this context he asked that the Committee be aware of the report of the Working Party on Textiles and Clothing which had recognized the importance of liberalizing trade in textiles and clothing and of its ultimate return to GATT provisions.

The Council adopted the report of the Textiles Committee.

4. Committee on Balance-of-Payments Restrictions

The Chairman of the Committee on Balance-of-Payments Restrictions (BOP Committee) reported on consultations with (a) Portugal, (b) Sri Lanka and Turkey, and (c) on other business which had arisen.

a. Consultation with Portugal 1/

The Committee had welcomed the substantial liberalization and simplification which had taken place in the measures maintained by Portugal for balance of payments purposes, as well as the announcement by Portugal that no such measures would be maintained after December 31, 1985; other restrictions expected to remain in force after that date were those now maintained under the terms of Portugal's Protocol of Accession to the GATT. The representative of Japan welcomed Portugal's liberalization measures but felt that it yet retained some discriminatory measures and requested that these be eliminated. The representative of Portugal responded that questions not directly related to balance of payments restrictions should be dealt with in the CONTRACTING PARTIES' examination of the Act of Accession of Portugal and Spain to the European Communities.

The Council adopted the report.

b. Consultations with Sri Lanka and Turkey 2/

The Chairman reported that consultations in accordance with the simplified procedures had been held with Sri Lanka and Turkey. The representative of Hungary indicated reservations about the fact that certain Turkish enterprises and companies have the exclusive right to import from countries whose trade has been nationalized. The representative of Turkey replied that the objective of this measure was to facilitate the healthy development of trade with such countries.

1/ GATT document BOP/R/152. A report by the Fund representative on these consultations is contained in SM/85/282.

2/ GATT document BOP/R/153.

The Council adopted the report and deemed Sri Lanka and Turkey to have fulfilled their obligations under Article XVIII:12(b).

c. Other business of the Balance-of-Payments Committee 1/

The Chairman reported that full consultations with Colombia and Israel and consultations under simplified procedures with Brazil, Egypt, Ghana, and Tunisia would be held in December 1985. Due to the unavailability, for technical reasons, of the relevant information, it had become necessary to postpone the consultation with Argentina to 1986.

The Council took note of the report.

5. Dispute settlement

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

The representative of Canada reported that on October 24, 1985 the Provincial Government of Ontario in its annual budget statement had announced its intention of repealing the exemption from retail sales tax of Maple Leaf gold coins, thereby eliminating the cause of the dispute. As to the acceptance of the Panel's report, he requested more time for his authorities to examine its conclusions, in particular with respect to Article XXIV:12, where he felt that the Panel's findings might lead to an imbalance between a contracting party's rights and obligations. 3/ The representatives of Australia and Jamaica joined in the request for time to reflect on the issues involved. The representative of South Africa welcomed the action of the Ontario Government and felt strongly that the report should be adopted; in his view, it would serve to strengthen the dispute settlement process. The representative of the European Communities thought that credence should not be lent to the notion that federally governed states have the same rights but not the same obligations as other contracting parties and that as the report made a contribution on this issue he could, on balance, favor its adoption.

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

1/ GATT document BOP/R/154.

2/ GATT document L/5863.

3/ GATT Article XXIV:12 holds that "each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory."

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

The representative of the United States noted that this was the seventh time that the report had been brought to the Council and he urged that it now be adopted, especially as it reaffirmed important GATT principles. The representative of the European Communities said that, as he had emphasized in the past, 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 had consulted informally with the United States on these matters and would continue to do so. However, not much progress had been made. The representatives of Argentina, Australia, Chile, and New Zealand asked for an unqualified adoption of the report.

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

6. Other matters

The request by the World Intellectual Property Organization for observer status at the meetings of the GATT Council was reverted to the next meeting of the Council on the request of the representative of the United States to allow his authorities more time to consider the matter. 2/

The representative of Tunisia presented the request of his Government for an extension of the Declaration on the Provisional Accession of Tunisia to the GATT, which is to expire on December 31, 1985. Without discussion, the Council approved a draft decision to this effect and recommended its adoption by the CONTRACTING PARTIES. 3/

The Council had before it a request from the Government of Egypt to extend to the end of 1990 the period during which the "Consolidation of Economic Development Tax" might be maintained in effect on bound duties. 4/ The representative of the United States noted that repeated extensions of the time limit would not help build confidence for the return of all contracting parties to the rules of the GATT, and hoped that the measure would be phased out by the end of 1990. The Council approved a draft decision of extension and recommended its adoption by the CONTRACTING PARTIES.

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

2/ GATT document L/5893.

3/ GATT documents C/W/489 and L/5894.

4/ GATT documents C/W/486 and L/5866.

The representative of Turkey introduced his Government's request for an extension of the waiver to permit the maintenance of a stamp duty on certain imports into Turkey until December 31, 1987. 1/ Turkey had undertaken a liberalization of its trading regime and had engaged on fiscal reform, and it was hoped that the stamp duty could be phased out as these measures took hold. The Council agreed to the text of a draft decision to approve the extension and recommended its adoption by the CONTRACTING PARTIES.

The Council approved and recommended the adoption by the CONTRACTING PARTIES of a draft decision extending until December 31, 1986 the time limit for Pakistan to complete negotiations or consultations to enable it to maintain in force the rates of duty provided for in its revised Customs Tariff. 2/

The chairman of the Committee on Tariff Concessions reported that the work of the Committee in 1985 had concentrated on the harmonized system of tariffs. Forty contracting parties had exchanged information, which had served as the basis for consultations. The consultations would continue. It was thought that negotiations on a harmonized system could commence in early 1986, for completion in mid- to late 1986. The Council took note of the chairman's report.

Under other business, the representative of Japan informed the Council that his Government had decided that new tariff measures would replace the quota system on imports of leather and leather footwear, and that it would enter into negotiations with interested contracting parties under Article XXVIII:5 to modify its tariff schedule accordingly. The representatives of Argentina, Australia, Austria, Canada, Chile, Colombia, the European Communities, India, Korea, New Zealand, Pakistan, Spain, Switzerland, Thailand, the United States, Uruguay, and Yugoslavia expressed their interest in entering into such negotiations. The Council took note of the statements.

1/ GATT documents C/W/487 and L/5879.

2/ GATT documents C/W/484 and L/5875.