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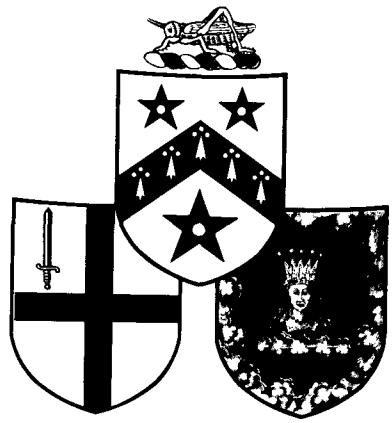

CLOSING THE URUGUAY ROUND

A Lecture by

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1. *Introduction*

On 15 December, 1993, the Trade Negotiations Committee (TNC) of the Uruguay Round adopted by consensus the principal texts of the Final Act embodying the results of the Round. These texts amount so far to some 550 pages in length; they are now being "rectified" to ensure internal concordance and they do *not* include (i) the results of the "market access negotiations" through which individual participant countries make binding commitments to reduce or eliminate specific trade tariffs or non-tariff barriers, or (ii) specific "initial commitments" of participants on the liberalization of trade in services. These will be subsequently recorded in national schedules, which will, of course, be essential features of the outcome of the Round. The Final Act texts, I should also add, do *not* include the new Agreement on Government Procurement, the negotiations for which were not technically part of the Uruguay Round; it is expected that the text of this Agreement will be available later this year and that it will extend to the services sector (the existing Agreement, of 1988, covers only goods) and will bring in sub-central levels of government (regional, provincial, state, municipal) and public utilities.

The concrete phase of the Uruguay Round multilateral trade negotiations began formally on 20 September, 1986, at Punta del Este, Uruguay, although a Preparatory Committee had been established a year earlier. Ninety-two participating nations established the objectives and scope of the Uruguay Round negotiations at Punta del Este in 1986. Over 120 participating nations were involved by the close of the Round. 15 December, 1993, was the last available date for the conclusion of the Round since this was the expiry date of the so-called "fast-track authority", granted by the US Congress to the President to facilitate multilateral trade negotiations. "Fast-track" authority ensures that Congress can only vote for or against an entire package of agreements, rather than debate and vote on items sector by sector.

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2. *The Framework and Objections of the Round*

The Uruguay Round was the eighth negotiating round to be held under the auspices of Art.XXVIII *bis* of the General Agreement on Tariffs and Trade (GATT) since the twenty-three countries that were among the original Contracting Parties to the GATT took part in the first round of tariff cutting exercises at Geneva in 1947. The predecessor of the Uruguay Round was the Tokyo Round, 1973-79, but let me remind you that GATT provides for the holding of negotiations on customs tariffs and related matters *from time to time* - there is no formal periodicity The General Agreement is *not* a treaty; it has been applied continuously under a Protocol of Provisional Application since 1 January, 1948. It is *not* a constitutive document but it *does* provide treaty mechanisms for the establishment and maintenance of a common code of conduct for international trade. It provides machinery for the stabilization and progressive reduction of tariffs and a forum for regular consultations and periodic negotiating rounds between its participants. It provides also a structure and procedures for the conciliation and settlement of disputes so as to protect and secure a balance of interests between contracting parties - it depends essentially on reciprocal bargaining and concessions and it rests upon a unique, but temporising and fundamentally unsatisfactory legal and institutional framework. The GATT emerged from unsuccessful efforts made immediately after the Second World War to establish an International Trade Organization (ITO) specifically as a specialized agency of the United Nations Organization. GATT is *not* a specialized agency but it has close relationships with the International Monetary Fund (IMF) and with the United Nations Conference on Trade and Development (UNCTAD) which was set up as an organ of the General Assembly in 1964. UNCTAD itself provides the largest forum for the consideration of North-South economic issues and is a participating and executive agency of the United Nations Development Programme (UNDP) in the area of international trade. In effect, UNCTAD, as primarily representative of developing Third and Fourth World countries' interests, but including all States which are members of the United Nations Organization or of its specialized agencies, has become a highly significant forum for the exchange of views on trade, aid and development problems between countries with widely differing economic systems and at different levels of economic development. Criticisms of GATT policies and techniques, made within UNCTAD by developing countries who are also contracting parties (or adherents *de facto*) within the GATT, have been highly influential in shaping the Uruguay Round objectives.

What were those objectives? In general terms they were, originally,

(i) to strengthen the multilateral structures and disciplines of the GATT system and to seek to adapt it for application to new areas of international trade, and

(ii) to achieve a further liberalization of world trade in goods and to begin a similar process in the field of services on the basis of reciprocity and mutual advantage.

The negotiations, to be conducted as one overall operation and package, were intended for completion by 1990. Negotiating priority was to be given to five sectors, (i) agriculture, (ii) services, (iii) intellectual property rights, (iv) trade - related investment measures, and (v) the GATT disputes settlement procedures. Later, as the negotiations progressed, a substantial emphasis emerged, under the impetus of the United States delegation, towards the establishment of an umbrella Multilateral Trade Organization (MTO) which would oversee the operation of the GATT and the Tokyo Round Agreements, as modified by an eventual Final Act of the Uruguay Round, and have an institutional structure and an international legal personality which would enable it to administer and co-relate to separate segments of what has become the GATT system. So, in a remarkable reversion to the essence of the ITO concept of 1946, the GATT would not disappear nor be replaced; it would instead be subsumed, as well as regulated, within the new MTO. So the fundamental objectives of the Uruguay Round, behind the specific sector objectives of the fourteen issue-specific negotiating groups which began work in the Spring of 1987, were to revive a flagging world trade regulatory system, and, at the same time, dramatically to widen the ambit of that system - especially through its extension to the services and intellectual property sectors. All of this had to be done in an economic environment fundamentally different from that prevailing in any of the previous negotiating rounds.

3. *The Progress of the Negotiations*

It was apparent from the outset that national priorities were widely divergent in the approach of the various delegations to these formidable objectives. I do not propose now to review events before 1992 since I gave earlier Gresham lectures in 1990, 1991 and 1992, copies of which are available from the authorities in Gresham College. I want today to concentrate, admittedly in a very selective way, on certain of the sectoral agreements that have been reached at the conclusion of the Round, to changes in the disputes settlement procedure, and to the creation of the new Multilateral Trade Organization (MTO - which, because of last-minute pressure from the United States, is to be known as the World Trade Organization - WTO).

(i) *Agriculture*

I make no apologies for commencing with the new agreement on trade in agriculture. Once again, as in earlier negotiating rounds, tariff cutting here attracted the widest public attention, especially because of the wide disparities of approach between the United States and the European Community, negotiating as a single entity. The Uruguay Round negotiations,

it must be remembered, proceeded alongside, but not in parallel with, the Community's progress toward the achievement of its single market objectives. Some major negotiating sectors of the Round - notably on services, trade-related investment measures (TRIMS) and trade-related aspects of intellectual property rights (TRIPS) - figure largely in the Community's 1992 programme.

Other significant negotiating areas of the Round - especially safeguards, government procurement, nontariff measures and agriculture - have been under review in the Community quite separately from, but still very much under the influence of, negotiations in the Round. It has become apparent that, in both overlapping and non-overlapping sectors, apparently similar trade liberalization objectives and motives have not served to conceal widely disparate attitudes and approaches. The Community has often exhibited a preference for sector-specific reciprocity rather than for the national treatment principles of the General Agreement. When, however, the end of the Uruguay Round multilateral negotiations appeared to be in sight in 1990 there was a return to essentially bilateral negotiations between the Community and the United States on the core agriculture issues - reviving memories of events after the disastrous Ministerial meeting of the GATT in 1982.

The Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations was tabled in Geneva on 20 December, 1991. After revision by a legal drafting group, established by the Trade Negotiations Committee of the Uruguay Round, the twenty-eight legal texts in the Draft Final Act were reissued in December, 1992. In the majority of cases the texts represented the result of consensus among the negotiators in the 'issue-specific' negotiating groups up to December, 1991.

The draft text on agriculture had four principal elements. They were (i) a basic agreement, (ii) a supplementary agreement on the modalities for the establishment of specific binding commitments under the reform programme, (iii) a decision on the application of sanitary and phytosanitary measures - food safety and animal and plant health regulations, and (iv) a declaration on measures to assist the net food-importing developing countries. The market access provisions foreshadowed the tariffication of all non-tariff measures and the reduction of the resulting tariffs, together with all existing customs duties, by an overall average of 36% over the six years 1993-1999. There would be a minimum reduction of 15% for each tariff line. Current access opportunities would be maintained; where there were no current access opportunities, the establishment of minimum access equal to 3% of domestic consumption in 1993 and 5% of 1999 was proposed. All agricultural customs duties would be bound within the GATT. A safeguard clause would allow importing countries to impose additional duties in

situations where there was an import surge or shipment at prices below given reference levels.

Domestic support measures were to be categorised into (i) those which distort trade (the "amber policies"), and (ii) those which have at most a minimal impact on trade (the "green policies" or policies in the "Green Box"). Only the amber policies were to be subject to reduction commitments. The green policies included a wide range of support measures, including government services - in areas such as research, disease control, infra-structure, environment protection and food security - as well as direct payments to producers - such as certain forms of income support, structural adjustment assistance, and payments under environmental programmes and regional assistance programmes.

The reduction commitments in respect of the amber policies were to be expressed in the form of aggregate measurements of support (AMS), in which, for each basic agricultural product, a single figure for the value of all forms of support subject to reduction would be calculated. The assessed amber support figure would be reduced by 20% between 1993 and 1999. The draft text contained an extensive listing of export subsidies that are subject to reduction commitments which would take effect between 1993 and 1999, and would amount to 36% in terms of budgetary outlays and 24% in terms of quantities of subsidized exports. There would also be an undertaking not to introduce or re-introduce export subsidies on products on which export subsidies had not been granted during the base period. There were also provisions designed to prevent the circumvention of the export competition commitments. The least-developed countries would be exempted from all reduction commitments and other developing countries would only be required to undertake lesser reduction commitments which could be introduced over a ten-year implementation period. A new Agriculture Committee would be established to monitor and evaluate what is seen to be an ongoing reform programme in this sector; an initial review of the reform process would take place five years after the coming into effect of the Uruguay Round Agreements. The draft text also contained significant provisions on transparency, including the publication of regulations, the establishment of national enquiry points and notification procedures.

The Draft Final Act contained a careful balancing of support reductions in each of the three principal areas of the negotiations on agriculture that followed upon the communication from the Community to the issue - specific negotiating group on 25 and 26 September, 1989 - and the resumption of the substantive Uruguay Round negotiations in April, 1991. The debate there over levels of *internal support* (e.g. which policies were to be exempt from reduction and commitments), market access (e.g. the methods to convert non-tariff measures (NTMS) to tariff measures - and the need for a safety net) naturally reflected in large measure the concerns expressed within the

Community over proposals for the reform of the Common Agricultural Policy.

However, the guidelines for the achievement of a fundamental reform of the CAP which were approved by the Commission on 31 January, 1991, did comparatively little toward a resolution on the conflicts over agricultural trade between the Community and its major trading partners, especially the United States, which it may be recalled, were the primary causes of the suspension of the Uruguay Round negotiations on 7 December, 1990. As Professor Snyder has commented:

> At the societal level of analysis, the most important process affecting the creation and evolution of the CAP has been the internationalization of the food and agricultural economy...

The law of the Common Agricultural Policy since 1958 has been conditioned and shaped by these changes and to some extent reflected them. To some extent, however, it has also been relatively autonomous from the 'process of internationalization'.

This separation between the reform directions of the CAP and the 'process of internationalization' became increasingly apparent after the tabling of the *Draft Final Act*. The Community made it clear on several occasions that very substantial improvements would have to be made in the draft provisions on agricultural support and failed to submit amendments to the draft by the 31 March, 1992, deadline previously agreed between the 108 delegations then taking part in the Uruguay Round negotiations. At a meeting in Washington on 22 April, 1992, the Community put forward demands that (i) income support to farmers should not be defined as trade-distorting, (ii) that the US should restrain exports to Europe of cereal substitutes, and (iii) that the US should accept a so-called 'peace clause' under which US companies would not challenge agricultural subsidies under US law. The US, for its part, continued to demand severe limitations upon both the volume as well as the value of agricultural exports from the Community. That meeting did not produce a *rapprochement*; the two sides could not agree on the basic issues of what agricultural subsidies to exempt and for how long.

The details of the Community's internal reform of the CAP, finally agreed upon on 21 May 1992, dramatically underlined the difficulties of reaching an accommodation with these measures as a basis. The stalemate was affecting the Uruguay Round negotiations as a whole. Many delegations, particularly those from developing countries, were not prepared to make specific offers to improve access to their markets for foreign manufactured goods and services until the Community and the US were able to reach substantive agreement on agricultural trade. Tensions between the principal disputants were, at the same time, heightened by a revival of their quarrel

over subsidies given by the Community to oil-seeds producers. Twice, in January, 1990, and again in March, 1992 a GATT dispute settlement panel had ruled in favour of the United States. The original complaint to the GATT Contracting Parties, dated 22 April, 1988, arose from a S.301 Unfair Trade petition filed by the American Soyabean Association which alleged that the Community had nullified and impaired its duty-free commitment for soyabeans and soyabean meals by granting subsidies to growers and processors of oilseeds.

In June, 1992, the Community requested and received authorization from the GATT to renegotiate its tariff concessions on oilseeds under Art.XXVIII:4 of the General Agreement but the parties were unable to agree on a mutually acceptable compensation for the right to raise tariffs beyond the zero-duty rate in effect since 1962. The second GATT panel report had concluded that the Community's modified oilseeds regime (as amended following the initial panel report) had continued to impair US benefits and that the Community should either further modify the revised regime or renegotiate its tariff concessions. The US estimated that the global damage of the Community's oilseeds policy amounted to some $2 billion annually, with a loss to US industry of some $1 billion annually. The Community, for its part, conceded that global damage was of the order of $400 million annually.

The nature of this dispute, and the positions adopted and evolved by the parties from the outset, inevitably focussed attention upon some central issues in the confrontation between the Community and the US in the attempt to assemble a comprehensive Uruguay Round package of measures on agricultural policies. The United States was seeking a *secure* limitation on Community oilseeds production that would go beyond increased 'set aside' undertakings. Their negotiators sought a production limit in the region of 8 mmt. The Community was in effect at this stage offering a reduction of its production of oilseeds to about 9.5 mmt but was not prepared to guarantee this offer. At GATT Council meetings held on 29 September and on 4 November, 1992, the US requested that the Community should submit to binding arbitration on the oilseeds dispute. At the latter meeting the US asked the GATT Council for authorization to withdraw $1 billion in trade concessions from the Community by way of compensation. Both of these requests were rejected with the Community blocking the required consensus in the Council.

These rebuffs provoked the United States, on 5 November, 1992, into a unilateral threat to withdraw concessions from the Community and to raise tariffs, as from 5 December, 1992, on imports from the Community of a range of products (including white wines, rapeseed oil and wheat gluten) by some 200 per cent. In the course of a hectic series of bilateral meetings, complicated by the resignation and then the reinstatement of Mr. MacSharry (the Community's Commissioner for Agriculture), the Commission prepared a

counter-retaliation list of US products for action should the US proceed with its retaliatory tariffs.

Further meetings between Commissioners Andriessen and MacSharry and the US Special Trade Representative Carla Hills and Secretary of Agriculture Medigan led to a compromise agreement (the so-called "Blair House" agreement) on the oilseeds dispute which was announced on 20 November, 1992, together with the 'resolution' of a number of other bilateral issues on agricultural trade which were obstructing the further progress of Uruguay Round negotiations. In this agreement both the US and the Community agreed to support a 20 per cent reduction in internal farm supports as outlined in the Draft Final Act. On agricultural export subsidies both sides agreed to amend the Draft Final Act so as to reduce such subsidies by 21 per cent on a volume basis over six years using a 1986-90 base period. There was also an understanding (the so-called 'peace clause') that measures which reflect the commitments and criteria agreed upon to reduce internal support measures and export subsidies were not to be challenged under GATT subsidies rules; however, countervailing duties would still apply should subsidized imports either cause or threaten injury. On oilseeds the Community agreed to keep its production below 9.5 mmt with a level set aside of 15 per cent in the first year and a minumum of 10 per cent annually thereafter.

Significantly, there was agreement for binding arbitration in the event of a dispute over these reduction limits *in addition to* the use of the dispute settlement mechanisms within the GATT. It unclear how the negotiators foresaw the integration of this agreement with the provisions of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, which formed part of the Draft Final Act and which outlined new panel procedures followed, in certain circumstances, by review by an Appellate Body.

Although the agreement of 20 November, 1992, was initially regarded as clearing the way for the resumption of the multilateral Uruguay Round negotiations in Geneva, a week later, these expectations were short-lived. A euphoric communiqué issued after the fifth semi-annual summit meeting between the Community and the US, held on 18 December, 1992, could not conceal that further progress was, in general, at best: stalled, and, at worst, in danger of collapsing, with the unravelling of a number of issues in various sectors of the Round which had been widely regarded as already settled in substance. Many complaints over the compromise agreement were voiced in the European Parliament and allegations that the Commission had exceeded in negotiating mandate, and gone beyond the limits of the internal CAP reforms, came from various quarters in the French government; the latter were reinforced after the elections held in France in March, 1993. In the United States prospects for the use of the "fast-track" procedure before the

President's trade-negotiating authority from Congress expired on 31 May, 1993, rapidly receded.

However, that "fast-track" authority was again extended to 15 December, 1993, and, despite continuing protestations by France within the Community on what it saw as the unsatisfactory provisions of the Blair House Agreement (with frequent threats to veto the outcome), negotiations between the Community and the United States to secure an understanding and agreed interpretation recommenced in October, 1993. The appointment of Peter Sutherland as Director-General of the GATT (as successor to Dr. Alfred Dunkel) in July, 1993, did much to revitalise the talks between Sir Leon Brittan (EC) and Mickey Kantor (US STR).

The Agreement on Agriculture that we now have as the outcome of the Round has three principal features. They are

(i) in the area of *market access*, the replacing of non-tariff border measures by tariffs offering similar levels of protection. Tariffs will be reduced by an average of 36% (developed countries), 24% (developing countries) over six and ten years respectively. The least-developed countries are not required to reduce their tariffs.

(ii) *domestic support measures* have been divided into those which distort trade ("amber policies") and those which have a minimal impact on trade ("green" or "green box" policies). Only the amber policies are subject to reduction commitments - these would be of the order of 20% of an assessed support figure over the next six years.

(iii) *direct export subsidies* will be reduced in value to a level 36% below the 1986 - 90 base period over six years and the quantity of subsidized exports by 21% over the same period.

The intention behind all of this is to establish a fair and market-oriented trading system with the reduction in subsidies leading to more sustainable markets for farmers and the creation of opportunities for governments to relieve excessive burdens at present borne by taxpayers and consumers. Very similar intentions, of course, lay behind the reform of the Community's Common Agricultural Policy. It remains to be seen if that reform will also lead the Community to an "internationalization" rather than a continuation of the past "internalization" of its policies.

(ii) A central objective of the Uruguay Round negotiations, of crucial importance to the developed countries, was *the extension of the GATT system to include the establishment of a multilateral framework of principles and rules for the liberalization of trade in services.* The negotiations here, sector by sector, took place in the context of the evolution and conclusion (with

entry into force on 1 January, 1989) of the bilateral Canada-US Free Trade Agreement and of the tri-lateral Canada-US-Mexico North American Free Trade Agreement (with entry into force in 1993). The sectors of banking, insurance, transportation, telecommunications, computer and data processing, tourism, distribution services, and health and education services, were all subject to most protracted and difficult negotiations. What was sought was (i) the recognition of the sovereign right of every country to regulate its service industries subject only to the external control over measures which had the "purpose or effect" of restricting market access by foreigners, (ii) the avoidance of the imposition of new restrictive measures by foreign service providers, and (iii) the provision of services in such a way as to make a positive contribution to development without compromising any individual country's development objectives.

What has been achieved is a framework *General Agreement on Trade in Services* (GATS) in 29 articles. This provides for Most Favoured Nation (MFN) treatment with regard to national measures on trade in services, subject to a list of negotiated exemptions. The framework provides for the continued negotiation of specific commitments, and provides for the incidents of such commitments. Schedules of specific commitments will be attached to the GATS. Negotiations will continue this year on financial services, basic telecommunications services, and the liberalization of the movement of persons (natural, not legal, persons) for the purpose of supplying services.

The responsibilities of the newly established GATS Council include the supervision of the overall reciprocal MFN obligation and of the numerous specific exemptions to this obligation which are listed in an Annex and are effective for a period of ten years, with a review after five years. The framework agreement has provisions for transparency (the publication of all relevant laws and regulations), recognition requirements (educational qualifications) and security exceptions (similar to those in Articles XX and XXI of the GATT). There are many provisions on market access and national treatment which are set out in national schedules and which deal with limitations on service providers, the total value of service transactions, or the total number of service transactions or of people employed. There are provisions for ongoing negotiations toward a further progressive liberalization in the service area - with eventual allowance for arbitration on compensation for loss caused through the withdrawal of commitments included in national schedules. There is an important Annex to the framework agreement on financial services, largely in banking and insurance, which protects the right of contracting parties to take measures for the protection of investors, deposit holders and policy holders, and to ensure the integrity and stability of the financial system.

(iii) *The Agreement on Trade-Related Aspects of Intellectual Property Rights*

(TRIPS), which is attached as Annex 1C to the WTO Agreement, contains 73 articles and sets out the applicability of basic GATT rules to this sector as well as those of major international intellectual property agreements, to a list of specific rights as well as to problems of trade in counterfeit goods. Patents, copyright, trademarks and service marks, industrial designs, trade secrets and know-how, the rights of performers and producers of sound recordings, and anti-competitative practices in contractual licences are dealt with in turn. Contracting parties are obliged to provide effective and timely enforcement measures. A new TRIPS Council will monitor the operation of the agreement and compliance with it; this could lead to the use of the new integrated dispute settlement procedures now established under the WTO. A one-year transition period is being allowed for developed countries to bring their legislation and administrative practices into conformity with the rules and principles of the TRIPS agreement; developing countries will have a five-year transition period and the least-developed countries will have an eleven-year period. There is a general national treatment requirement and also an MFN clause, a novelty in an international intellectual property agreement, under which any advantages a party gives to nationals of another party must be extended immediately and unconditionally to the nationals of all other parties, even if such treatment is more favourable than that which it gives to its own nationals.

(iv) *The Agreement on Trade-Related Aspects of Investment Measures (TRIMS)* was negotiated, with considerable difficulty, because of the complexity and wide variety of TRIMS which either restrict or distort international trade. What was eventually done was to state a general principle - that no contracting party shall apply any TRIM inconsistent with Article III (which requires national treatment) and Article XI (prohibition of quantitative restrictions) of the GATT and then to append to the agreement an illustrative list of TRIMS agreed to be inconsistent with this central principle. This includes measures which require "local content requirements" (measures which require particular levels of local procurement by an enterprise) or "trade balancing requirements" (restrictions on the volume or value of imports which an enterprise can purchase or use to an amoiunt related to the level of products it exports). The elimination of non-conforming TRIMS will be monitored by a new Committee on TRIMS.

(v) The GATT system has not so far developed *a single dispute settlement procedure of general application*. The avoidance of disputes has depended largely upon the effectiveness of notification by the contracting parties of measures that they take in relation to or affecting their international trade. So settlement by negotiation to restore a balance of advantage between the disputants has always been a primary objective. However, an attempt was made after the Tokyo Round of negotiations to crystallise a description of what had become customary practice in dispute settlement procedures - this is contained in the *Understanding regarding Notification, Consultations,*

Dispute Settlement and Surveillance (the "1979 Understanding"). An analysis of these procedures shows that, in general, they follow a sequential pattern of (i) the use of the "good offices" of the Director-General of the GATT, (ii) bilateral and/or multilateral consultation (under, for example, the provisions of Articles XXII, XXIII or XXXVII of the GATT), (iii) conciliation, (iv) examination of the dispute by a panel of experts, (v) the submission of the reports so obtained to the Council, and (vi) the adoption of such reports, together with recommendations and rulings, by the Contracting Parties.

The effectiveness of this partially quasi-judicial procedure has been under substantial strain since 1979, as has the limited sanctions possibility, under Article XXIII:2 of the GATT, against offending States through countermeasures. Annex 2 to the new WTO Agreement, which I shall be considering in a few moments, sets out a new *Understanding on Rules and Procedures Governing the Settlement of Disputes*. This will apply to the Uruguay Round Agreements on trade in agriculture, goods, trade-related investment measures, services, trade-related aspects of intellectual property rights and the four agreements done in 1979 which are being re-negotiated outside the Uruguay Round (Trade in Civil Aircraft, Government Procurement, the International Dairy Agreement, and the Arrangement Regarding Bovine Meat).

The new disputes settlement Understanding will be administered by a Dispute Settlement Body (DSB), which will reach decisions solely by consensus. Disputes will be considered by a panel of three experts and may be appealed against to a new seven-member standing Appellate Body. A panel may be established at the request of a complaining party and the report of the panel or of the Appellate Body will be adopted by the DSB by consensus (instead of by reference to the entire Council of the GATT, as at present). Similarly, it will be the DSB which receives and adopts, or rejects, complaints of non-compliance with panel recommendations or notings - or authorises the suspension of concessions or other obligations by way of sanctions for non-compliance. The new time-limit of six months for the completion of panel reports, adopted since 1989, will continue to be enforced. So the existing system has been significantly strengthened and continues to affirm that the contracting parties shall not themselves make determinations as to violations or suspend concessions, but must make use of the procedures set out in the new Understanding. The mid-term review modifications adopted in 1989 will continue in force until the WTO enters into force.

(vi) *The Trade Policy Review mechanisms* were also revised at the mid-term review in 1989. These mechanisms are designed to secure consistent and full adherence to GATT rules and disciplines by the contracting parties. A Trade Policy Review Body (TPRB) will from time to time call upon member states

for a comprehensive review of their trade policies and practices. That report is then examined and reported upon by the Secretariat of the GATT to the Council. The TPRB will also carry out an annual overview of developments in the international trading environment. Since the mid-term review important evaluations of the trade policies of Australia, Morocco, the United States and the European Community have been made. Recently, reports on Japan, Canada, all of the EFTA member states (except for Iceland), Chile, Hungary, Indonesia, Nigeria, Norway, Switzerland and Thailand have also made important contributions to achieving greater transparency in trade policies.

(vii) I have deliberately left until last the decisions made mostly in the final stages of negotiations with respect to *the establishment of the new World Trade Organization (WTO)* which I believe to be the most significant result of the Round as a whole and which will prove its most enduring legacy. The WTO is to be "... the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this agreement." Those Annexes include (Annex 1) substantive agreements on trade in goods, the new General Agreement on Trade in Services (GATS), and the new Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Annex 2 consists of the new Understanding on Rules and Procedures Governing the Settlement of Disputes. Annex 3 covers the revised Trade Policy Review mechanism and Annex 4 lists plurilateral trade agreements binding only on parties which have specifically subscribed to them and which were negotiated outside the Round - such as the Agreement on Government Procurement (which I mentioned at the outset) and the Agreement on Trade in Civil Aircraft.

The WTO is to have a multilevel structure headed by a Ministerial Conference which will meet at least once every two years. A General Council will carry out the Ministerial Conference's functions between those meetings and will approve the budget and financial regulations. This General Council will perform the functions of the Dispute Settlement body and the Trade Review Policy body, as set out in Annexes 2 and 3. It will establish subsidiary bodies - separate Councils for Trade in Goods, Trade in Services and Trade -Related Aspects of Intellectual Property Rights.

The WTO will ensure a "single undertaking approach" to the Round results. Original membership in the WTO is open, as of the date of its entry into force, to existing parties to the GATT 1947 and to other parties subsequently acceding; 118 States have signed the Final Act of the Round. The entry into force of the WTO and of the Agreements annexed to it will be determined at a Ministerial conference on implementation of the Round which began today at Marrakesh in Morocco. That entry into force is predicted for early in 1995 and negotiations are now going on in Switzerland for a massive increase in

the accommodation and other facilities which GATT - currently with a staff of some 450 - has in Geneva.

One final note on a decision-making in the new WTO. Historically, the GATT has depended on joint action by the Contracting Parties and on multilateral negotiation with respect to rules which are general and sanctions which are discretionary. In the WTO, unless otherwise provided (in very exceptional circumstances) decision-making is to be by consensus - defined as non-objection - with a fallback in some circumstances to majority vote, with one vote per Member. Certain provisions in some of the Round Agreements require special majorities of two-thirds, three quarters or consensus only. The European Community will be an original member of the WTO in its own right. On voting the European Community will have a number of votes equal to and not exceeding the number of its Member States which are Members of the WTO.

4. *Conclusions*

On 28 January, 1994, Mr. Peter Sutherland, the incoming Diector-General of the GATT, said in an address to the World Economic Forum at Davos:

> "On 15 December, 1993, the world changed.... We have created a revolutionary framework for economic, legal and political co-operation."

We shall see. If there *is* a viable framework, attractive and helpful - above all relevant - to the developing as well as the developed world, then world trading relationships will have undergone a fundamental change. The Uruguay Round has *not* produced an end product; its success will depend upon whether or not the new agreements, the new rules and structures, will spur a widespread commitment to a dynamic and continuing process of reform. For the first time in 45 years we now have a permanent forum. This forum will not give us a final victory over protectionism and unilateralism and it remains to be seen how attractive it will be to the least-developed countries or how relevant it will be to the reform process in Central and Eastern Europe. However, to bring the new WTO together with the World Bank and the IMF is a great achievement; we now have, as was originally intended, three complementary Bretton Woods institutions.

Let me end on an optimistic note. During the later stages of the Uruguay Round negotiations, a GATT working party began to look in detail at the complex inter-relationships between world trading relationships and the protection and preservation of the environment. In conjunction with the results of the Round, the GATT member countries decided on 15 December, 1993, to draw up a very ambitious work programme on trade and environmental policy-making for adoption at this week's Marrakesh

ministerial meeting. Could it be that another artificial disciplinary boundary has been breached? That *would* be a really remarkable achievement.

GRESHAM COLLEGE

Policy & Objectives

An independently funded educational institution, Gresham College exists

- to continue the free public lectures which have been given for 400 years, and to reinterpret the 'new learning' of Sir Thomas Gresham's day in contemporary terms;

- to engage in study, teaching and research, particularly in those disciplines represented by the Gresham Professors;

- to foster academic consideration of contemporary problems;

- to challenge those who live or work in the City of London to engage in intellectual debate on those subjects in which the City has a proper concern; and to provide a window on the City for learned societies, both national and international.

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