Peter Sutherland takes over

At a Special Session of the Contracting Parties in Geneva on 9 June, Mr. Peter Sutherland (Ireland) was appointed as the next Director-General of GATT. Mr. Sutherland, whose appointment was decided by consensus, took office on 1 July 1993. He will serve for an initial period of two years.

“The dedication and the ability of Mr. Sutherland as a national and international public servant as well as in the private sector will ensure that the helm of the GATT and the Uruguay Round will be in good hands,” said Mr. Arthur Dunkel, the outgoing Director-General, in welcoming the decision.

In a statement to the press, following the decision on his appointment, Mr. Sutherland said:

The immediate priority is concluding the Round

My appointment as Director-General brings with it an extraordinary responsibility and an enormous personal challenge. In many ways the GATT system holds the key to the future world prosperity and a way out of the pain of unemployment which so many nations face today.

Above all, it is a multilateral system looking after the interests of countries, large and small, developed and developing. None of the demands of my new job can be more important than safeguarding every one of the varying interests represented among GATT’s 111 members.

Clearly, the immediate priority must be to help the participants of the Uruguay Round secure a quick, comprehensive and far-reaching conclusion to their negotiations. The meeting of the G7 in Tokyo will be crucial - but we will need deeds, not words.

The new GATT Director-General, Mr. Peter Sutherland, promised to “leave no stone unturned” in trying to bring the Uruguay Round negotiations to a balanced conclusion before the end of the year. He made this pledge after the Trade Negotiations Committee, which oversees the Round, elected him by acclamation on 5 July as TNC Chairman at officials level to succeed the former Director-General, Mr. Arthur Dunkel.

Mr. Sutherland was elected Chairman in his personal capacity. As Director-General, he already heads the Group of Negotiations on Goods. The TNC oversees negotiations in both trade in goods and trade in services.

The Chairman of the Contracting Parties, Ambassador B.K. Zutshi, who initially chaired the meeting, noted that one principal criterion of GATT members in their search for a new Director-General was finding a person who had the ability and the capacity to facilitate an early success to the Round. “In Mr. Sutherland, we have found that person,” Ambassador Zutshi said.

Referring to the G-7 Meeting, Mr. Sutherland said “the new days would be of considerable importance to the conclusion of the Uruguay Round”. But “whatever results from the Tokyo Summit, the function of concluding the Round is with us.” He added: “one of the defining moments of the latter half of this century would be bringing the Uruguay Round to a successful conclusion - I gladly take this responsibility, and I gladly share it with you.”

The new Chairman cautioned that he was “at best a facilitator - not a magician”. “It would be impossible to organize deals if the deal-makers - that is, you, the governments - are not ready or willing; our partnership will have to be, therefore, a

Continued on page 10
Russia applies for GATT membership

Panel rules against EC members’ restrictions on bananas

Russia’s formal application to join the GATT was hailed by many contracting parties, at the 16-17 June meeting of the Council, as a contribution to the universalization of the GATT and an indication of its relevance to reforming countries.

Russia’s Minister for External Economic Relations, Mr. Sergei Glaziev, told the Council that the importance of GATT membership for his country was shown by the fact that President Boris Yeltsin had personally handed the accession request to the GATT Director-General, Mr. Arthur Dunkel, in Moscow on 11 June. Mr. Glaziev said the request was a logical part of Russia’s market-economy reforms, and a necessary step in Russia’s integration into the world trading system. He said that after several years of economic reforms, Russia had become an open market. Mr. Glaziev stressed that Russia’s accession would present trading opportunities for both Russia and the contracting parties, and would contribute to world trade growth.

The United States described Russia’s decision as “a momentous one” for both the country and GATT, adding that the accession process could contribute to the construction and maintenance of a firm and comprehensive framework for Russia’s future trade-led economic development. The European Community said accession was an essential step for Russia’s reform process, to which it had been making significant contributions.

In welcoming Russia’s application, Norway, speaking on behalf of the Nordic countries, pointed out that the working party process would necessarily take some time to be completed. Japan underlined that an acceding country should have a system compatible with the General Agreement, and hoped that Russia would be fully prepared for the working party exercise.

Brazil said Russia’s accession would affirm GATT as a truly universal agreement. Malaysia, speaking on behalf of the ASEAN contracting parties, said Russia’s move was a sign of world confidence in the GATT. Hungary said accession would add “a catalyst to Russia’s moves towards an open market economy”.

The Council established a working party to examine Russia’s accession request.

The former Soviet Union was originally a member of a preparatory committee appointed in 1946 by the UN Economic and Social Council to draft the charter of a world trade organization. However, it chose not to attend the meetings of the committee, whose members became the founding contracting parties to the GATT in 1948. In May 1990, the Council granted observer status to the former Soviet Union. In February 1992, the Council Chairman announced that the former USSR’s GATT observer status would be continued through the Russian Federation.

EC member states’ import restrictions on bananas

The panel that examined the complaint by Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela against the EC member states’ import regimes for bananas presented its report to the Council. This panel was established by the Council on 10 February 1993 under the expedited procedures of the 1966 Decision for disputes involving developing countries, the first time the Decision was used to establish a GATT panel. The panel submitted its report to the parties within nine weeks of its constitution - faster than any other previous GATT panel.

The panel reached the following conclusions:

- The quantitative restrictions maintained by France, Italy, Portugal, Spain and the United Kingdom on imports of bananas were inconsistent with Article XI:1 (this Article refers to the general elimination of quantitative restrictions) and were not justified by Article XI:2(c)(i), Article XXIV (on customs unions and free-trade areas), or the existing legislation clauses in the protocols through which these EEC member States had become contracting parties. The Panel recommended that the Contracting Parties request the EEC to bring these restrictions into conformity with the General Agreement.
- The tariff preference accorded by the EEC to imports of bananas originating in ACP countries was inconsistent with Article I (on most-favoured-nation treatment) and that a legal justification for the preference could not emerge from an application of Article XXIV to the type of agreement described by the EEC in the Panel’s proceedings, but only from an action of the Contracting Parties under Article XXV (on joint action by the Contracting Parties). The Panel recommended that the Contracting Parties request the EC to bring the preference into conformity with the General Agreement unless, in accordance with the provisions of Article XXV, the EEC were authorized to maintain this preference.

Costa Rica, speaking on behalf of the complainants, urged the immediate adoption of the panel report, which it said resulted from a sound and logical analysis of the import regimes in question. It said that compliance with the panel’s recommendations would demonstrate that the GATT dispute-settlement system was a true guarantee for the development of international trade relations based on multilateral rules.

The EC said it had received the report only recently, and was still analysing its legal implications, particularly the part dealing with Community’s trade preferences under the Lomé Convention. It said this part presented a major problem not only for the EC but also for other countries that had non-reciprocal preferential trade agreements with developing countries. The Community said it would be prepared for a substantial discussion of the matter at the next Council meeting in July.

Many ACP contracting parties denounced the panel’s findings. Jamaica, emphasizing the critical economic importance of banana exports to many ACP members, maintained that the panel had overstepped its mandate. Saint Lucia objected to the panel’s conclusions with respect to the Lomé Convention, arguing that the EC-ACP arrangement had been the most successful example of North-South cooperation. St. Vincent and the Grenadines questioned why the EC should be condemned for extending a helping hand to some of the poorest countries in the world. Dominica said the panel findings had incited banana farmers to vigorous public protests.

A number of Latin-American countries urged the adoption of the report. Mexico said the panel report supported the trend in agricultural trade policies away from trade-distorting measures and towards di-
The panel on this dispute was established by Council on 10 February 1993. It sent its report to the disputants on 19 May, and to the contracting parties on 3 June. The panelists were Mr. I.G. Patel (chairman), Mr. Peter Hamilton and Mrs. Naoko Saiki.

Background
As of 31 December 1992, quota restrictions on bananas existed in France, Italy, Portugal, Spain and the United Kingdom. Bananas entering those same countries, as well as Belgium, Denmark, Greece, Ireland, Luxembourg and the Netherlands, were subject to the EC bound tariff of 20%, except for bananas originating in ACP (Africa, Caribbean and Pacific) countries, which entered duty-free. (All bananas entering Germany in practice faced a zero tariff). Both the quota restrictions and the ACP preferences were considered by the Latin-American producers to be inconsistent with a variety of GATT Articles.

Analysis by the Panel
Quotas. The complainants held, and the panel agreed, that the quotas were clearly inconsistent with the basic prohibition on such measures in Article XI:1. The EC claimed that, nevertheless, the restrictions were, in part at least, covered by Article XI:2 which permits quantitative restrictions on agricultural products if they are necessary to the enforcement of governmental measures aimed at restricting the quantities of the like domestic product being marketed or produced. The panel found, in general, that the criteria used to determine the validity of this clause were not met.

The Community further claimed that the measures were covered by the so-called existing legislation clauses contained in the protocols of accession of the countries concerned - in other words, that on accession they apply commitments in Part II of the GATT (i.e. including Article XI) “to the extent not inconsistent with...(their)...legislation existing on the day of the protocol.” The panel examined the relevant measures in detail (for the most part they date from the 1930s) and found that they were, in no case, mandatory in nature: a necessary condition if the “existing legislation” defence was to be accepted.

Tariff Preferences. The EC’s defence of the ACP preferences - unarguably contrary to Article I since they are discriminatory - was based on the claim that they are covered by Article XXIV which relates to customs unions and free-trade areas.

The panel first had to decide whether procedures under Article XXIV:7 (the clause under which the Contracting Parties can make recommendations about particular FTAs or customs unions referred to them) prevail over the general dispute procedures under Article XXIII. The panel decided that even were it the case that Article XXIV prevailed, the agreement concerned would have to be on the face of it capable of justification under that Article - in other words a genuine FTA or customs union in the sense of the Article. To argue otherwise, reasoned the panel, would mean that the mere invocation of Article XXIV could deprive a contracting party of its rights of recourse to Article XXIII where it was involved in a dispute.

Therefore, the panel then addressed the question - so far avoided in the GATT - of whether the Lomé Convention was prima facie the type of agreement covered by Article XXIV. It did so bearing in mind, that Article XXIV calls for the removal of trade restrictions on substantially all the trade between the territories involved. This clearly was not the case with the Lomé Convention preferences, since that the Convention provided only for the liberalization of imports from ACP countries into the Community but not vice versa.

On this point the EC argued - as it has in the past - that the non-reciprocal nature of Lomé was covered by Part IV of the GATT, specifically Article XXXVI, when taken in conjunction with Article XXIV, provides for and encourages measures by developed countries favourable to products of export interest to developing countries.

However, the panel noted that Part IV did not permit contracting parties to accord preferences inconsistent with Article I. It was intended to create obligations for developed contracting parties in addition to those in other parts of the General Agreement - not to subtract from them. The legal basis for tariff preferences in favour of developing countries was the Enabling Clause under which falls the Generalized System of Preferences (a system intended to be applied in a non-discriminatory manner to all - not specific groups - of developing countries). The panel therefore concluded that the EC’s interpretation was inconsistent with Part IV and its purpose in the GATT system.

The panel’s conclusion was that a legal justification for the tariff preference accorded by the EC to imports of bananas produced in ACP states could not be found in Article XXIV - or in Article XXIV taken together with Part IV.

Conclusions
The panel recommended that the Community be requested to bring its national quota arrangements for bananas into conformity with the GATT. (The system, in any case, lapses on July 1 when the new regime comes into force.)

The panel also recommended that the tariff preferences be brought into conformity - or that the EC seek a waiver for its Lomé preferences for bananas under Article XXV. (It should be noted that a waiver could have been sought - and would almost certainly have been granted - many years ago. The US was given a waiver for the preferences offered to the countries which benefit from its Caribbean Basin Initiative.).
They charged that the EEC Common Organization of the Market in Bananas (Regulation No. 404/93 adopted on 13 February 1993) nullified or impaired benefits accruing to them under the General Agreement, and infringed a number of EC obligations under the GATT, including those set forth in Articles I, II, III, V, VIII, XI, XIII, XVI, XXIV and Part IV.

Costa Rica, speaking on behalf of the complainants, stressed that they had explored all avenues in the GATT regarding the EC measure. It said that consultations held under XXII:2 with the Community had had no satisfactory result. Costa Rica said their complaint should be considered by the panel as an emergency matter, pursuant to the 1989 improvements to the GATT dispute-settlement mechanism.

The EC stressed that the measure in question was not yet being applied, thus the establishment of a panel on this matter would be inappropriate. However, it had to abide by the letter of the 1989 Decision, which provided for the establishment of a panel the second time the request was considered by the Council. The EC did not accept the suggestion that the matter should be treated as an “urgent case”. It argued that the panel would need sufficient time to do a good job and consider the views of the many parties involved.

The United States strongly supported the request by the Latin-American banana exporters that the dispute be treated as an urgent case. It pointed out the commercial importance of the matter to many countries, and stressed that GATT members should have the benefit of the panel’s findings before the conclusion of the Uruguay Round. A number of other countries supported the panel request, including many Latin-American countries.

The ACP (Africa, Caribbean and Pacific) contracting parties objected to the establishment of a panel but said they would not block a consensus in the Council on the matter. They maintained that the complaint was not an “urgent case”, and most of them stressed that they should be allowed to participate fully in the panel proceedings.

The Council established a panel to examine the complaint lodged by the five Latin-American countries.

Chile hits EC countervailing charge on apples

Chile provided more details on its complaint, raised under “Other Business” at the May Council (see Focus No. 99), against EC’s countervailing charge on Chilean apples. It said that on 7 April 1993, the EC Commission adopted Regulation No. 846/93 introducing the countervailing charge that was, initially, at ECU 1.84 per 100 kilogrammes but which had reached EC 16.7 in May and ECU 6.43 in June. Chile estimated that losses to its apple exporters would amount to some US$14 million.

According to Chile, the measure was discriminatory as it applied only to apples from Chile. Furthermore, the system used by the EC for the determination of the charge was complex and lacked transparency. Chile said its apple shipments to the EC had gone down in recent months, and that this decline was similar to the effects of an EC measure in 1988, which was found GATT-inconsistent by a panel. It said it would continue to hold bilateral meetings with the EC on the matter.

Brazil, Canada, Colombia, Australia, Argentina, Bolivia and New Zealand shared Chile’s concerns.

The Community explained that the countervailing charge on Chilean apples was due to an EC Regulation on a common organization of the Community market in fruits and vegetables, which provided for the automatic imposition of surcharges on imports under certain circumstances. It believed that the charge had not impeded Chilean apple shipments, as indicated by the number of import licenses the EC had issued for the Chilean fruit.

Status of work in panels

The Council considered the twice-yearly report of the Director-General, Mr. Arthur Dunkel, on the status of work in panels and implementation of panel reports. The introduction to the report highlighted the following developments over the past twelve months:

- Requests for consultations had increased substantially, due mainly to requests for consultations under the Tokyo Round Agreements, which rose from 5 to 10. Requests for consultations under the General Agreement had increased only slightly, from 6 to 7.
- The total number of panels established had fallen somewhat because the number of panels established under the Tokyo Round Agreements fell by one-half from 10 to 5. Panels established under the General Agreement increased from 1 to 3.
- It was observed that in most cases, panels had been established and constituted without delay and had submitted their reports within the prescribed time limits. However, delays had occurred in the process of adopting panel reports. The introduction pointed out that there were still ten panel reports that had remained undrafted even though the initial request for adoption was made more than six months ago. Serious concern was expressed over claims that eleven adopted panel reports had not been either implemented or fully implemented.

The EC expressed frustration at what it called insufficient implementation of panel reports. It cited as an example a panel report, adopted in November 1987, regarding Japan’s customs duties and taxes on imported wine and alcoholic beverages. While acknowledging that Japan had revised tax laws to implement the panel findings, the EC charged that Japan’s tax system still did not fully follow the national treatment provision of the GATT.

Japan replied that since the adoption of the report, it had taken a number of measures to implement the recommendations despite great domestic difficulties. It pointed out that the share of imported whisky in the Japanese market had more than doubled in recent years.

Two cases in the Director-General’s list of disputes were deleted:
- Pakistan reported that its consultations with Turkey regarding the latter’s anti-dumping duties on Pakistani cotton yarn had been successful. It said that in January, Turkey withdrew the measure in question.
- Mexico said that the case raised by Brazil against Mexican anti-dumping investigation on imports of textiles from Brazil was now moot. In December 1992, Mexico announced that the investigation had been concluded and that no anti-dumping duty was applied to the Brazilian product.

Sweden said that on eight different occasions, it had urged the Committee on Anti-Dumping Practices to adopt a panel report on US anti-dumping duties on stainless steel pipe tubes from Sweden. It welcomed informal consultations by the Committee Chairman on the stumbling block to the report’s adoption, which was the United States’ objection to the specific remedy recommended by the panel.

Free-Trade Agreements

The Council took several decisions with respect to free-trade agreements:
- Modified the terms of reference of the Working Party on the EFTA-Czech and Slovak Federal Republic Free Trade Agreement to take account of the breakup of Czechoslovakia;
- Established a working party to examine the EFTA-Romania Free Trade Agreement; and
- Established a working party to examine the Free-Trade Agreements between Switzerland and Estonia, Latvia and Lithuania.
“Other Business”

Under “Other Business”, delegations raised the following points:

- Argentina complained that new import-licensing requirements had discouraged EC imports of Argentina’s garlic. Mexico shared Argentina’s concern. The EC said the import licences were given automatically, and the aim was merely to monitor import quantities.

Paraguay set to join the GATT; Serbia-Montenegro out

The Council welcomed the new Japanese representative to GATT, Ambassador Minoru Endo.

The Tokyo Round Committees have elected the following officers to serve in 1993: Technical Barriers To Trade: Mr. Carlos M.B. Cozendey (Brazil), chairman, and Ms. Vera Nicholas (Canada), vice-chairperson; Import Licensing Procedures: Mr. Sergio Soto Nuñez, chairman, and Mr. Adrian Constantinescu (Romania), vice-chairman; Anti-Dumping Practices: Mr. David Walker (New Zealand), chairman, and Mr. Mohan Kumar (India), vice-chairman; Subsidies and Countervailing Measures: Mr. Andrés Espinosa (Colombia), chairman, and Mr. Michitaka Nakatomi (Japan), vice-chairman; Government Procurement: Mr. David Hayes (United Kingdom), chairman, and Mr. Harald Ernst (Switzerland), vice-chairman; Customs Valuation: Mr. Raymond Tam (Hong Kong), chairman, and Mr. Eki Lim (Korea), vice-chairman; Civil Aircraft: Mr. Mikael Lindstrom (Sweden), chairman, and Mr. Pierre Latrille (France), vice-chairman; International Dairy Council: Mr. Jorge A. Ruiz (Argentina), chairman, and Mr. Kim Luotonen (Finland), vice-chairman; Dairy Protocol Committees: Mr. Luotonen; International Meat Council: Ms. Brid Cannon (Ireland), chairperson, and Mr. Peter May (Australia), vice-chairman; and Meat Market Analysis Group: Mr. May.
A fond farewell to Dunkel

GATT members, at the Council meeting on 16 June, paid a warm tribute to the Director-General, Mr. Arthur Dunkel, for his contributions to the multilateral trading system during his thirteen years at the helm of the GATT Secretariat.

The following are excerpts from the statements made by the Chairmen of the Contracting Parties and the Council, respectively, on behalf of the GATT members:

“Nurturing GATT with patience and love”
Ambassador B.K. Zutshi, Chairman of the Contracting Parties

This one is about Arthur Dunkel, the Director-General, and my capacity is that of the Contracting Parties’ Chairman. Words are mine, but I am sure sentiments are those of all my colleagues present here today. I said that this was about Arthur Dunkel, the Director-General. I should, however, add that this is about Arthur, the man also. I would venture that this be the Contracting Parties’ tribute to Arthur, the official and the man.

Arthur Dunkel is demitting office at the end of this month after nearly 13 years at the helm of the GATT and, if I may say so, what 13 years! A period in which the little-known and even less-understood acronym the “GATT” has become a household word in the better part of the world. This transformation of the image of the institution and perceptions about how it relates to the real world is no less due to Arthur’s untiring efforts at projecting the true nature and scope of the GATT and its relevance to the real world than to the exertions of participants to give it a new dimension and to lick it into shape through the Uruguay Round Round negotiations.

This was supposed to be a rich men’s club, and believes in taking, and advising others to take, what may be possible now so as to be able to live for the day when more could be had.

He has, in particular, nursed a vision of the GATT: to gain for it its rightful place in the Trinity of Institutions conceived at the Bretton Wood’s for orderly development of trade and financial relations among nations with a view to ushering in world peace and prosperity. His vision has extended to encompass a whole gamut of economic relations in the world based on fairness, equity and a strong commitment to multilateralism. On the notion of multilateralism, as opposed to that of unilateralism/bilateralism, as the bedrock of international trade and economic relations, he has never faltered, never wavered.

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I need hardly dwell on his contributions to the negotiations in the Uruguay Round. His untiring efforts in bringing the Round to where it stands now is too well-known to need any reiteration. I may well turn out that the defining moment of these negotiations was the tabling of the Draft Final Act Text of December 1991. We all know what personal efforts he made and what risks he undertook in the autumn of 1991 to bring out that Text.

That was Arthur Dunkel, the official. If I may now turn to Arthur, the man. From time to time I have disagreed with him, often mildly, but sometimes rather strongly. So I am sure, have others, sometimes or the other, but still we all have been able to retain his friendship, goodwill and mutual respect. That is the hallmark of a gentleman. Nothing reflects this better than my own experience, if I may share it with you. Arthur has always given me the impression that India has a special place in his heart, not that I recall him saying so in so many words, or in specific terms, but by way of a word here, a hint there and by his grasp of our problems and concerns he has created this impression on me. In the beginning, I thought this was unique for India, until I discovered, with a tinge of disappointment, but also with understanding and appreciation, that he had been able to convey the same impression to others also about them; not in the sense of being everything to everybody but in the sense of conveying a feeling of singular value to each contracting party and each participant in the Round. This is a reflection of the special quality of empathy he possesses, a rare gift...

His awareness of human foibles and failings is acute. For, in his time he has heard and seen us all being inconsistent from one day to the next, contradictory in our approaches from one issue to another, presenting parochial interests as questions of high principle. That this has not bred cynicism in Arthur Dunkel is a tribute to his innate sense of optimism and faith in the commitment of the international community to live by a set of values.

I have talked of Arthur Dunkel, the official and Arthur, the man, separately. However, I am not suggesting that these are two different personalities; these are different aspects of the same person. How do these aspects come together in the person of Arthur Dunkel? I have been thinking about it lately. Last year I read a very profound piece by Mr. Vaclav Havel, the former President of the erstwhile Czechoslovakia, a well-known thinker and writer. It was published in the International Herald Tribune under the heading “Planting, Watering and Waiting”. It is based on Mr. Havel’s reflections on his own impatience with the slow transformation of the then Czechoslovakia into a fully-pledged functioning democracy in the Western style. I would call it a metaphor on History and Destiny. In his own words:

“I thought time belonged to me. This was a great error. The world and history are ruled by a time of their own, in which we can creatively intervene but never achieve complete control.”

He adds: “…. I realised with fright that my impatience for the re-establishment of democracy had something almost communist in it; or, more generally, something rationalist. I had wanted to make history move ahead in the same way that a child pulls on a plant to make it grow more quickly. I believe we must learn to wait as we learn to create. We have to patiently sow the seeds, assiduously water the earth where they are sown and give the plants the time that is their own. One cannot fool a plant any more than one can fool history. But one can water it. Patiently, every day. With understanding, with humility, but also with love.”

This is a profound metaphor and contains a profound truth and perhaps a crucial lesson for us all individually, and, for the world community as a whole in the context of current international concerns, be they in the fields of economic and political relations or in those of social and human rights. Perhaps, I am digressing. You may well ask where does Arthur come into all this? I believe this metaphor fits him well: for the last 13 years he has...
been tending the multilateral trading system in the sense envisaged by Vaclav Havel. Everyday, with understanding and with care, Arthur Dunkel has been nurturing the plant of multilateralism. That is his contribution to the GATT.

That brings me to what is the best tribute that we can pay to him. The best tribute to him would be to complete the Uruguay Round as soon as possible so that the seed of the Round sprouts and starts growing into a gigantic tree and, in due course, providing fruit and shade to all those it will cover.

Arthur has many active years ahead of him outside GATT. This is a goodbye only in a formal sense, for we will have an occasion to meet him again. I have also no doubt that, even from outside his advice and wisdom will be available to us and to the GATT for many more years."

"Historical changes"
Ambassador András Szepesi,
Chairman of the Council

Thirteen years is an extremely important period in the professional career of any person, the more so if this period is devoted to serving as Head of the Secretariat of an extremely important international organization. It is a testimony of the work accomplished that the institution and the negotiations conducted under its auspices are identified, and not only by public opinion, with the name of one person - Arthur Dunkel, Director-General of the GATT and Chairman of the Trade Negotiations Committee at Officials level. During his term in office, historical changes have taken place in the world and I dare to use the same adjective, historical changes have characterized the activities of GATT as well.

During this period of thirteen years, the GATT has changed from a relatively small, rather closed, exclusive and quasi-technical club to an agreement and institution of wide geographical representation whose activities are debated worldwide.

"GATT has changed from a relatively small, rather closed, exclusive and quasi-technical club to an agreement and institution of wide geographical representation whose activities are debated worldwide..."

Particular mention should be made to his outstanding personal involvement in the process leading to the Draft Final Act which is commonly referred to as the Dunkel Text. His excellent credentials, his attention to and understanding of the problems, the ability to identify the political sensitivity of these issues while understanding the complex technical details behind them, have helped the Director-General in assuming his responsibilities. This outstanding performance has been achieved by showing calm on the surface and certainly hiding the fact that the person subject of these challenges is also vulnerable.

Arthur, on behalf of us all, let me express once again our appreciation and deep gratitude. We know that our relations in your capacity are getting close to an end but we are convinced that the personal relations with you will be maintained also in the future."
Periodically, governments - especially in the advanced industrialized countries, and even more so in times of recession - seem to forget what trade really is, and what makes it happen," says Arthur Dunkel, outgoing Director-General of the GATT, in his introduction to GATT Activities 1992, published on 30 June. "Put differently, there seems to be a difficulty in comprehending what the word competition actually means. They lose sight of the fact that competition is epitomized by difference - differences in access to raw materials, in wage rates, in education, in publicly- or privately-funded research and development, in exchange rates, in labour productivity, in investment, in standards of health-care, in industrial and commercial structures and so on.

"Real competition is too often seen - for largely protectionist reasons - as an eternal balancing act. Put everyone on an equal footing with us, goes the theory, and our businessmen will beat the world. But, if everyone else is not operating under the same conditions, then one way or another their exports must be suspect and some compensatory action must be considered. A recent refinement, where GATT commitments do not exist, is to offer market access only on the basis that similar market access exists in the opposite direction - bilateral reciprocity. One can only say that had GATT tried to expand world trade through such a philosophy, then the world would now be a very much poorer place", comments Mr. Dunkel.

Naturally, not all the differences among countries and firms which permit trade to take place are, in themselves, desirable. Nobody in the GATT would encourage perpetually low labour rates and conditions, the absence of adequate environmental standards or the survival of outmoded, anti-competitive commercial practices. But experience shows that trade brings economic growth, and economic growth brings change - change of many different kinds; social, political, environmental. This is not a static world, but the protectionists - or, to give them their modern title, the 'trade-managers' - seem to want to make it so. The Uruguay Round is not an attempt to manage world trade. It is an attempt to create, or re-create, the conditions of real competition in which trade will thrive.

"In the past two or three years we have lost several opportunities to conclude the Round. At root, it has been a question of timing - rightly or wrongly, the political winds were never quite right, never blowing in the same direction for everyone. And while the major industrial countries have tried vainly to find a politically acceptable point at which to settle, the rest of the world has had to wait with increasing frustration. Let us hope the omens are turning to the current GATT multilateral system. For the Uruguay Round continues to be poised precariously at the brink of a final success."

Turning to the current GATT multilateral trading system, Mr. Dunkel points out the high level of demand to enter the GATT - 22 new contracting parties since the launch of the Round in 1986, eight of which joined in the last year or so; about 15 other countries currently pursuing accession; and a large number of new observer countries stepping onto the ladder of eventual accession. "Thus the ranks of GATT members are likely to go on expanding very rapidly over the coming years; with the especially challenging prospect of many of the independent states of the former Soviet Union joining the trading system as their economic reforms proceed," says Mr. Dunkel.

At the same time, many GATT member-countries, which are in the process of trade and economic reform, are using the trade policy review system as a valuable tool to learn from the successes and shortcomings of their peers. "Recently, this learning process has been a disillusioning experience for many of the newly-reforming countries," he emphasizes. "They have acted as they were advised to act; they have opened their economies to international competition and to imports. They have begun to see worthwhile results in many cases. However, to the extent that their reforms have been implemented in anticipation of a strengthening of the multilateral trading system and of new market opportunities worldwide, they have been disappointed."

GATT Activities 1992 can be obtained from the Secretariat. Price SwF 20.

Forthcoming GATT publications

- International Trade Report 1993 with a special topic on "Regionalism and Multilateralism". This annual report examines trends in world trade. GATT economists investigate, in addition, the likely factors behind the changes that are taking place in the world economy. SwF 30.-


- Analytical Index. Contains notes on the drafting history, interpretation and application of the Articles of the GATT. The 1993 edition includes a substantially revised and expanded account of GATT law and practice. Autumn 1993.
TPRM

Council reviews
South Africa’s trade regime

The GATT Council conducted its first review of South Africa under the trade policy review mechanism (TPRM) on 1-2 June 1993. The TPRM enables the Council to conduct a collective review of the full range of trade policies and practices of each GATT member at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The following are excerpts from the Chairman’s concluding remarks:

“The Council identified five major themes for discussion:

Economic and political background

Participants recognized that fundamental political, social and economic changes were currently taking place in South Africa. The task of transformation was complicated by the current deep recession. The domestic economy was characterized by high inflation, unemployment of around 40%, a large fiscal deficit and low reserves; investor and consumer confidence was low. Members ascribed the present difficulties in part to South Africa’s long-standing import replacement policy, which had necessitated protection for domestic producers and considerable government support, and the factor rigidities induced by apartheid. During the 1980s, the situation had been exacerbated by exogenous factors such as recurrent droughts and declining world prices for minerals. The urgent need to foster growth made greater competitiveness a priority; trade, internal liberalization and improvements in education and training would play crucial roles in the process.

Participants welcomed the recent changes in South Africa’s trade policy, which aimed to restructure the productive capacity of the economy. The Normative Economic Model, introduced as a discussion paper for the National Economic Forum, highlighted international trade as key to economic prosperity. The aim was to further open the market, using the tariff as the basic trade policy instrument. However, participants emphasized the risks inherent in the cautious approach adopted by the authorities and urged that reform be more rapid.

In reply, the representative of South Africa said that his authorities envisaged that the process of structural adjustment would lead to equitable access for all South African citizens to opportunities in the economy. Growing per capita income was essential to the process; to this end, it was necessary to overcome functional imbalances and domestic market inefficiencies. A major element in the present investment climate was the uncertainty inherent in political transition. He recognized that the instability, complexity and lack of transparency in trade policies were not favourable to foreign investment.

Measures affecting imports

Council members stressed that South Africa’s tariff structure was complex and far from transparent, with few bindings and frequent rate changes. Formula duties added to the complexity and exacerbated an already escalatory structure. Participants recognized the Government’s intention to phase out formula duties, with the introduction of anti-dumping legislation, and sought information on the timing of this process. The import surcharge violated tariff bindings and was applied on a discriminatory basis; members sought information on a timeframe for its removal.

Members commended the significantly reduced incidence of import licensing on industrial goods. Nevertheless, widespread barriers still remained in certain sectors, particularly agriculture.

The various measures to restrict imports resulted in high levels of effective protection. The system of rebates increased tariff escalation, and made effective protection levels even higher.

Participants welcomed the planned replacement of formula duties by new anti-dumping procedures, but the absence of published regulations reduced transparency. Members questioned the consistency of South Africa’s safeguard legislation with Article XIX, particularly in relation to provisions governing “disruptive competition”.

In response, the South African representative said that a thorough review of trade policy was being undertaken. The Government was committed to a more open, transparent trading system. He recognized that the tariff was complex and fluid, created uncertainty and lacked transparency. Tariff reduction and rationalization was a high priority, but the aim of uniformity might lead to increases in some rates. Formula duties would be phased out.

Tariff and other reforms were under discussion in the National Economic Forum; hence, a precise answer on timing could not be provided now. The weakness of the economy implied that the reform process would have to be gradual.

South Africa intended to submit a revised tariff offer, in the framework of the Uruguay Round, which would improve the level of bindings and reduce the average rate. The revised offer would be submitted on schedule, after discussion in the National Economic Forum.

The import surcharge had been introduced as a temporary measure in order to safeguard the balance of payments. South Africa would soon consult in the relevant GATT forum. The Minister of Finance had already indicated that the surcharge would be withdrawn as soon as circumstances permit.

Progress had been made in phasing out quantitative restrictions; those on remaining industrial tariff lines should be phased out within the next year, remaining only for secondhand goods and items subject to social, health and cultural consider-
Domestic policies

Members noted that industrial goods were protected by preferences for local content in government procurement. Local content incentive schemes also applied to the motor vehicles and other sectors.

In response, the South African representative stated that regional preferences in government procurement would be eliminated by the end of June 1993. Preferences for electronics were also being phased down. The local content scheme for motor vehicles was being reviewed and might be replaced.

Trade agreements

Participants noted that South Africa, though an original signatory to the General Agreement, was not fully integrated into the GATT system. Information was sought on its willingness to accede to remaining Tokyo Round Agreements, particularly those on government procurement, technical barriers, anti-dumping, and subsidies and countervailing measures. One member felt that South Africa should notify the Southern African Customs Union under Article XXIV and another requested information on the bilateral agreements concluded with certain central and eastern European countries.

Officials and negotiators, but to Manhattan.

I plan to work with companies, with those overseas as well as with American, bringing buyers, sellers and investors together. I look forward to working with what Arthur Dunkel calls "the users of the GATT", the enterprises and entrepreneurs who create the bones, muscles and sinews of a more closely integrated global economy.

Thirty-seven years ago this autumn, as a young foreign service officer, I entered what was then called the Trade Agreements Division of the Department of State, the division that dealt with trade and GATT problems. Too junior to meet the head of GATT - the legendary Eric Wyndham White - too junior to be included in delegations to Geneva, I never imagined that some day, I would be a Deputy Director-General of GATT and sitting up here.

For that opportunity I must thank Arthur Dunkel and you. I consider it an honour to have served the GATT and to have served you. Your serious, but collegial and problem-solving approach to problems could serve as a model for many organizations."
**Butter to Russia exempted from minimum export prices**

Butter shipments to the former Soviet Union, normally subject to internationally-agreed minimum prices under GATT’s International Dairy Arrangement, can be sold at prices below the minimum up to the end of the year.

The GATT Committee of the Protocol Regarding Milk Fat, on 22 June 1993, decided to accord a general derogation from the minimum export price (US$1,350 per metric ton) to butter shipped to countries of the former Soviet Union. The decision took account of the significant price uncertainty and the availability of supplies of butter on concessional terms in the former USSR market.

The Committee decided as an exceptional arrangement and without setting a precedent that:

- the provisions with respect to the minimum export prices for butter and butter oil shall not apply to exports to countries of the former Soviet Union up to a maximum quantity of 50,000 metric tons (butter equivalent) per participant for butter and butter oil exclusively for consumption in those countries;
- this Decision applies to sales contracts unconditionally concluded before 31 December 1993; and
- deliveries of butter and butter oil to countries of the former Soviet Union pursuant to this Decision are to be completed by 31 March 1994.

**Panel on US CVD action on EC steel**

The Committee on Subsidies and Countervailing Measures, on 4 June, established a dispute-settlement panel to examine a complaint by the European Community against United States’ definitive affirmative countervailing duty, pursuant to the US Federal Register in January 1993. The EC charged that the US methodology of calculating the amount of subsidization had resulted in the determination of excessive countervailing duties. This, it said, violated the provisions of the Subsidies Code. The United States did not agree with the EC but said it would rather state its arguments before the panel.

**GATT organizes course for reforming economies**

For the first time, officials from the newly independent states in Central Asia have joined other senior trade officials from Central and Eastern Europe in a Special Trade Policy Course, organized by the GATT Secretariat, which began 24 May in Geneva.

This is the third such special course supported financially by the Swiss Government, following on from the success of the first two held in 1991 and 1992. The courses are aimed at assisting the countries’ transition to market-oriented economies and fuller participation in the multilateral trading system.

The nine-week course involves 25 officials from Albania, Armenia, Azerbaijan, Belarus, Bulgaria, the Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Poland, Romania, the Russian Federation, the Slovak Republic, Ukraine and Uzbekistan.

**Aircraft Code**

The Sub-Committee on Trade in Civil Aircraft, in charge of negotiations for a new GATT Code on Civil Aircraft, held its fifth meeting on 26–27 May. Participants discussed submissions put forward informally by Canada and by the United States as well as the following issues: subsidy-based versus support-based disciplines, direct government development subsidies/support, indirect subsidies/support, prohibition of production subsidies/support, prior government commitments, and disciplines for products other than large civil aircraft.

The Chairman, Mr. Mikael Lindström (Sweden), called for more specific proposals at the next meeting in July.

**Focus marks 100**

This issue marks the century edition and the twelfth year of the GATT Focus Newsletter. Issue No. 1 February-March 1981 came out as an experimental number with the following promise to its readers:

> Until now, there has been no continuous account of international efforts to maintain and enlarge an open world trading system. GATT FOCUS will try to fill this gap, by describing how the member countries are jointly tackling trade problems and issues in the framework of GATT.

Why “Focus”? The first issue explains: “From its Latin origin, meaning ‘hearth’, or ‘fireplace’, focus has a principal meaning in English the point at which the image produced by a lens is clearly-defined. English and French share the adjective “focal”, while the English verb “to focus” has a close French counterpart, “focaliser”. Focus is thus a name easily understandable in both English and French, a real advantage for a publication appearing in both languages. We hope that our newsletter GATT Focus will live up to its name by throwing some light on the work of GATT, and its role in international trade”.

With Focus No. 3 (May 1981), the GATT Newsletter became established as a regular and continuous record of GATT activities. It replaced the issuance of GATT press releases to the general public.

Focus No. 82 (July 1991) marked the entry of the newsletter into the desktop-publishing age. Computer production has resulted in substantial savings in time and money.

**Saudi Arabia TBT observer**

The Committee on Technical Barriers to Trade, on 11 May, granted observer status to the Kingdom of Saudi Arabia. The Saudi representative said the decision would allow his country to make further progress towards accession to the GATT and the TBT Agreement.

A number of national measures were discussed at the meeting, including the Republic of Korea’s Marks of Origin System and marking requirements; the German Ordinance on Packaging and Packaging Waste; Mexico’s new rules on imports of meat; a recent labelling regulation based on the US Clean Air Act; and US labelling regulations on nutritional content of food products.

**Meat markets**

The Chairman of the Meat Market Analysis Group, Mr. Peter May (Australia), reported to the International Meat Council on 25 June that “the world meat markets may not be at the best of their shape, but have seen worst days”. He said that at meetings held on 16 and 17 June, the Group noted that the North Asian markets remained the most buoyant in the world but that red meat continued to suffer from the sluggish economic situation in Western Europe.

The Group discussed the impact of several national measures, including the US Meat Import Law, the Canadian tariff quota on boneless beef, US voluntary export restraint agreements with Australia and New Zealand, and the EC’s reform of the Common Agricultural Policy in the beef sector.
**TNC**

Continued from page 1

two-way street,” he said.

The Chairman underlined that the “acid test of the success or failure of efforts in the capitals to bring the Round back on track will have to be made at the multilateral negotiating table. The concluding deals - or the end game - will have to be played out in Geneva, not elsewhere.”

Mr. Sutherland said he would be working closely with the TNC Chairman at Ministerial level, Uruguay’s Foreign Minister Sergio Enrique Abreu Bonilla. He also paid tribute to his predecessor by referring to the Draft Final Act of the Uruguay Round, which he said was the only available multilaterally acceptable basis for concluding the Round, as “a testimony to Mr. Dunkel’s guidance and leadership.”

In concluding, Mr. Sutherland welcomed four new participants, which had recently acceded to the GATT: Dominica, Saint Lucia, Saint Vincent and the Grenadines and Swaziland. He also proposed, and the TNC agreed, that in accordance with a recent decision by the GATT Council, the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue the participation of the former Yugoslavia in the Round and in the TNC.

Many developing-country TNC participants hailed Mr. Sutherland’s election and expressed their full support and cooperation. They included Egypt, speaking on behalf of the African Group; Bangladesh, on behalf of the least-developed countries; El Salvador, in the name of the Latin-American and Caribbean countries; and Morocco, the coordinator of the developing countries in the GATT. The European Community also pledged its full cooperation in bringing the Round to a successful conclusion.

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**Biographical Note**

Peter Denis Sutherland

Peter Sutherland was born on 25 April 1946 and was educated at Gonzaga College, University College Dublin, and at the Honourable Society of the King’s Inns, Dublin. Of Irish nationality, Mr. Sutherland graduated in Civil Law and was admitted to the Irish Bar (King’s Inns), the English Bar (Middle Temple) and the New York Bar. He was also admitted to practice before the Supreme Court of the United States of America.

From 1969 to 1981, he practised at the Bar, and thereafter served as the Attorney General of Ireland and as a Member of the Council of State until the end of 1984 when he was nominated by the Government of Ireland as a Commissioner of the European Communities. From 1985 to 1989, he served in Brussels as the Commissioner responsible for Competition Policy. During this period, his other Commission portfolios were Social Affairs, Education and Relations with the European Parliament.

Since 1989, he has been the Chairman of Allied Irish Banks plc. In addition, he is currently a board member of various companies, including British Petroleum and Guinness Peat Aviation. He is also a member of the International Advisory Board of Volvo and a member of the Board of Governors of the European Institute of Public Administration in Maastricht.

In 1989, he was the Haffernan Visiting Fellow at the Kennedy School of Government at Harvard University. His current academic posts include Visiting Professor at University College, Dublin, and Distinguished Visiting Fellow at the Centre for European Policy Studies, Brussels.

In 1988, he was the first EC Commissioner to receive the Gold Medal of the European Parliament. His other awards include the First European Law Prize (Paris 1988), the Grand Cross of Civil Merit (Spain 1989), and the Grand Cross of King Leopold II (Belgium 1989).

His publications include Premier Janvier 1993 ce qui va changer en Europe (1989), and numerous articles in law journals. He is married and has three children, and his leisure interests include reading and sport.

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**GATT CALENDAR**

The following is a tentative schedule of meetings in GATT:

**JULY**

1. WP on Accession of Chinese Taipei

1-2. Textiles Surveillance Body; BOP Ctte (Israel)

5-6. WP on Accession of Honduras

5-7. Group on Environmental Measures and Int'l Trade

6. WP on Nordics/Baltic States FTA

7-8. BOP Ctte: South Africa

7-9. Sub-Ctte on Civil Aircraft

8-9. WP on Acc of Mongolia

12-13. WP on Acc of Bulgaria

15-16. WP on Acc of Slovenia

19-20. Council TPRM: Malaysia

21-22. GATT Council

26, 28. Ctte on Trade and Development

**SEPTEMBER**


20-21. Ctte on Milk Powders, Milk Fat and Cheeses

22-23. GATT Council

22. Intl Dairy Products Council

27-28. Council TPRM: India

28-30. WP on China

**OCTOBER**


Week. Ctte on Anti-Dumping of 25 Ctte on Subsidies

27-28. GATT Council

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**GATT FOCUS**

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