

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/GC/M/47**  
30 August 1999

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**General Council  
Special Session  
29 July 1999**

## **MINUTES OF MEETING**

Held in the Centre William Rappard  
on 29 July 1999

*Chairman: Mr. A. Mchumo (Tanzania)*

### **Subjects discussed:     Preparations for the 1999 Ministerial Conference**

- **Continuation of discussion of substantive issues arising from the Ministerial Declaration of May 1998, including proposals by Members, with the following suggested focus: "Further discussion of proposals on paragraphs 9 and 10 of the Ministerial Declaration, and the organization of future work".**

1.     The Chairman recalled that, as agreed by the General Council at its Special Session on 25 February, the suggested focus of the present meeting was "further discussion of proposals on paragraphs 9 and 10 of the Ministerial Declaration and the organization of future work", and noted that since the General Council Special Session on 7 July, several additional proposals had been received in regard to paragraph 8, 9 and 10 issues. As regards the organization of future work in the preparatory process, he said that the next phase of work would require the General Council to produce the text or texts and the recommendations to be sent to Ministers at Seattle for their decision. Clearly, there was now a substantial amount of material on the table from which to distil recommendations to Ministers. Indeed, the process of distillation had already begun in recent informal meetings. In view of the task ahead, he suggested that the next phase might be characterized as recommendation-driven and multi-layered. Recommendation-driven in the sense that its main aim was to produce recommendations to Ministers, and because it would be important to focus the work around draft recommendations as soon as possible. Multi-layered because Phase 3 should be structured with maximum flexibility in order to make the most efficient use of the limited time available. He suggested that this entailed a process which, firstly, combined frequent informal General Council meetings - hopefully more and more at the Head-of-Delegation level - with less frequent Special Sessions. This level of meetings would be the guarantee of transparency and full participation, and all results in other fora would have to be brought back to it. Secondly, there would be a need, as on all past occasions, to hold other informal consultations at short notice to take up specific issues, and for detailed drafting work. Such consultations were an essential part of a result-oriented process. They should, of course, be conducted in full respect of transparency and non-discrimination. It might, if Members agreed, be useful to associate the Director-General with such consultations. Thirdly, he would be stepping up his own consultations with delegations at the individual level, and he expected that delegations would also be intensifying the pace of their own multilateral and plurilateral discussion. Clearly, the General Council would be the body to which the work in this multi-layered process would all come back to. While he had noted the emphasis that delegations had placed on the primacy of the General Council in the preparatory process, in all the past experience a multi-layer

structure such as he had outlined had been proven indispensable to enabling the work at the level of the General Council to reach a successful outcome.

2. Since the core of work in Phase 3 would be the recommendations to be submitted to Ministers, it was important to get a draft setting out possible elements on the table as soon as possible, and he understood that some delegations were actively considering possible language. On his own responsibility as Chairman, he intended to circulate a draft outline of a Ministerial text or texts to delegations in the first week of September. He wished to emphasize that this would be an outline, and without prejudice to Members' positions regarding the elements that might eventually be included in the text or texts that would go forward from the process to Ministers. His intended outline would take into account the work in Phases 1 and 2 and could serve as a basis for assisting the work in Phase 3. With this aim in mind, he would circulate shortly to delegations a schedule of work in Phase 3 beginning with an informal General Council meeting on 8 September. He suggested that at that meeting Members continue their examination of specific proposals, including any that might have been submitted over the summer break, and undertake a first reading of the draft outline. The process in the next phase would clearly have to be flexible, with more meetings added as necessary in the light of his earlier comments. He suggested that the General Council aim to finish its work in Phase 3 in Geneva by the beginning of November in order to allow time for consideration of the resulting text in capitals, as well as time for translation and processing. The Special Session that he would propose be scheduled at the beginning of November could, however, remain on call so that any necessary amendments could be made.

3. The representative of Venezuela, introducing a proposal on behalf of Cuba, Honduras, Paraguay and Venezuela on TRIPS, said that their countries believed that the traditional knowledge of the indigenous and local communities should be protected through one of the existing systems of protection of intellectual property or a new ad-hoc system to address the concerns of these communities on the lack of protection of their knowledge. Although attempts had been made in international conventions to redefine the rights of indigenous peoples by recognising their intellectual property rights, discussions and even disputes on this subject had intensified since the entry into force of the TRIPS Agreement. Similarly, different actions had been undertaken on this complex issue at WIPO, such as the round table on indigenous intellectual property held on 23-24 July 1998. At present, intellectual property was defined as a form of property, generally private, which was a temporary exception to free competition to allow exploitation of specific creations of human ingenuity. This exception did not offer protection for the traditional knowledge of local and indigenous communities, such as art, music, medicine, and handicrafts, because this knowledge represented the collective rights of a community or a people, and therefore did not have a known creator or author. Their countries believed that the specific contribution of indigenous and tribal peoples and communities to the cultural diversity, and social and ecological harmony of mankind should be recognized. In this regard, the expectations of these people to participate in global economic development should be met, without discrimination and under conditions of trade permitting access of their products and knowledge to other countries with due protection. Exports of value-added products resulting from ancestral knowledge should also be facilitated, to allow their economic value to be quantified and income to be generated to promote development and welfare in these communities. It was not equitable that countries with such communities were compelled to assume accelerated technological development and to give protection to emerging technologies without being able to protect the custodians of their traditional knowledge. They therefore requested that, at the Ministerial Conference, a mandate be elaborated for a detailed study of the manner in which protection could be accorded to these intellectual property rights including the traditional knowledge, medicinal practices and folklore of local and indigenous communities. This study should be carried out under the TRIPS Council within two years, and a final report should be presented to the fourth Ministerial Conference. Furthermore, on the basis of this study and the final report, negotiations should be mandated to establish multilateral rules to accord effective moral and economic intellectual property rights in this area, taking into account the social and collective nature

of these rights. These rules should become provisions of the TRIPS Agreement and enter into force on 1 January 2004.

4. The representative of Brazil, introducing a proposal on the Anti-Dumping Agreement (WT/GC/W/269), said that the Agreement, although being an improvement over the previous situation, still had serious gaps in the text that allowed some Members to use it as an instrument of protection. On the one hand, affected countries often had insufficient legal resources to contest the legitimacy or legality of anti-dumping measures, and, on the other, countries imposing the measure were protected by the lack of clarity in the Agreement, giving room for manoeuvre with respect to the criteria for the imposition and collection of duties, the procedures for reviews, and the methodology of calculations. In addition, Article 17 provided the imposing Member a safe haven from challenges raised by other Members in the context of the Dispute Settlement Understanding. To address this situation, Brazil believed that several provisions of the Agreement should be improved, with a view to reducing the ability of Members to arbitrarily apply anti-dumping measures, and to prevent the perpetuity of such measures or their widespread use as a means to protect inefficient sectors of domestic industry. Brazil also highlighted in the proposal that the special and differential provisions in the Agreement were inadequate, as the provisions of Article 15 were only recommendatory, and there was no evidence that, since the Agreement had come into force, developed-country Members had implemented, or even intended to implement, these provisions. Brazil therefore proposed, first, that the Anti-Dumping Agreement should be improved, and had outlined the areas where improvement was feasible and necessary. Second, the provisions of Article 15 should be made more comprehensive, operational and mandatory. Third, when investigating dumping of imports from a developing country, the use of the "lesser duty" rule should be made mandatory. Finally, Article 17 of the Agreement should be modified to allow Members to effectively challenge, under the Dispute Settlement Understanding, any aspect related to the implementation of the Agreement or to a specific anti-dumping measure. In particular, Brazil believed that panels should be authorized to fully assess whether or not the investigating authorities had properly established and evaluated the facts of a specific case and to determine conformity of a measure based on the panel's own interpretation of relevant provisions of the Agreement.

5. Presenting a proposal on the Agreement on Subsidies and Countervailing Measures (WT/GC/W/270), he said that the Subsidies Agreement had established equal disciplines, rights and obligations for all Members, and except for a few transitional provisions, there were no actual clauses for special and differential treatment, which would allow the use of incentives by developing countries to address their economic, financial or social policy needs. This might be the result of developing countries believing, at the time of the Uruguay Round, that if subsidies were disciplined to such an extent that no Member would subsidize production or exports, developing countries would be the beneficiaries. During implementation of the Agreement, it had become clear that some obvious inequalities among Members had not been addressed in areas such as investment attraction, availability of external financing, acute regional contrasts, as well as shortcomings for developing countries in terms of financing of research and development projects. All these were structural deficiencies that could not possibly have been overcome within the short transition period allowed for in the Agreement. Article 27, regarding special and differential treatment, stated in its first paragraph that Members recognized that subsidies might play an important role in economic development programmes of developing-country Members, which was a major contradiction in the Agreement as that paragraph was followed by a transitional provision allowing developing countries to make use of those provisions only for a period of eight years. In its proposal, Brazil had suggested, first, that the review of Article 8, as mandated by Article 31, classify, as non-actionable subsidies, measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification, development and implementation of environmentally sound methods of production, manufacture of high technology and value-added goods. These areas were not all included in Article 8, which, in essence, only included subsidies of interest to developed countries. Brazil also suggested that

Article 27 should be re-evaluated so as to address, under a more permanent and adequate framework, the needs and specificities of developing countries concerning incentives and subsidies. In addition, the language of the Agreement regarding investigation procedures should be further clarified, possibly by incorporating provisions that would improve disciplines in areas such as review procedures, facts available, sampling, significant volumes, calculation of the amount of a subsidy, and imposition and collection of a countervailing duty. Finally, the proposal touched on the sensitive issue of export financing. Brazil believed that the language of item (k) of Annex I of the Agreement did not address the disparities between developing and developed countries. Brazil's recent experience before a panel led it to believe that a developing-country Member having costs of capital higher than those of a developed-country Member could not match the export financing terms of a developed country with regard to long-term financing. Brazil believed this to be unacceptable, and that this important systemic issue for developing-country Members should be addressed before Seattle if possible, or during the next round.

6. Introducing a proposal on the TRIMs Agreement (WT/GC/W/271), he said that this Agreement disregarded obvious structural inequalities among Members, which could not have been overcome within the five year transition period for developing countries. Implementation of development policies in developing countries was usually constrained by lack of official funds, domestic or foreign. While investments from the private sector were important in this regard, they had proved to be highly volatile and closely linked to the circumstances of the international financial markets. Other important fiscal and monetary factors also came into play, such as the high volatility of international capital flows which aggravated balance-of-payments difficulties inherent to the early stages of productive investments, which was when expenditures on imports largely outstripped export revenues. Brazil believed that this was an important issue in the light of possible further liberalization in international trade, as new undertakings usually set off an investment cycle in developing countries that required special care in sensitive areas such as employment relocation, currency stability, and fiscal equilibrium. Brazil suggested that developing countries should have some flexibility in the use of TRIMs and be allowed some latitude in devising policies that might attenuate the negative effects of investment cycles and create a hospitable environment for foreign and domestic investors. It was therefore fair and imperative to review the concepts that had led to the acceptance of horizontal and uniform TRIMs disciplines without due consideration to the needs and singularities of developing countries. Brazil's proposal was very broad in this regard, and suggested that specific provisions be included in the TRIMs Agreement to provide developing countries the necessary flexibility to implement development policies. Proposals by other Members in this area had suggested the extension of time-frames, and Brazil believed that, although this might be appropriate in some circumstances, it was not sufficient in this case, and was seeking more than a temporary exemption or a favourable transitional provision for developing countries.

7. The representative of Hungary said that his delegation supported the proposals by Cuba also on behalf of several other Members, the Czech Republic, India and Turkey regarding the extension of the scope of additional protection for geographical indications to products other than wines and spirits under the TRIPS Agreement. Hungary believed that the extension of the product coverage of Article 23 of the Agreement should include agricultural products and foodstuffs. It was also important to establish, as soon as possible, a multilateral system of notification and registration of geographical indications as provided for in Article 23:4, since in the absence of such a system, paragraphs 1, 2 and 3 of Article 23 were very difficult to apply in a reliable and consistent manner. Hungary recognized, however, that additional protection was not legally dependent on notification and registration. He noted that several delegations had observed in the TRIPS Council that the multilateral registration system should not impose undue administrative burdens and costs on the WTO Secretariat, and Hungary supported this view. For this reason, Hungary proposed<sup>1</sup> that the Ministerial Conference should consider whether to invite the International Bureau of WIPO to take part in the management of

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<sup>1</sup> Subsequently circulated as WT/GC/W/294.

the new system. A precedent for such involvement already existed, whereby, under Article 3 of the 1995 Agreement between WIPO and WTO, the procedures relating to communication of emblems and transmittal of objections under the TRIPS Agreement was administered by the International Bureau of WIPO. The different membership of WIPO and WTO had not proved to be an obstacle to the establishment and operation of that implementation scheme, which had led to a considerable saving of resources. As regards the mandated negotiations on agriculture, he informed the General Council that his delegation would shortly be submitting a proposal also on behalf of the Czech Republic and the Slovak Republic regarding agricultural market access.<sup>2</sup>

8. The representative of Hungary, speaking on behalf of the CEFTA countries and Latvia, addressing the issue of non-violation complaints under the TRIPS Agreement, noted that the proposal by India on this issue (WT/GC/W/225) called for the modification of Article 64:2 of the Agreement in order to clarify that subparagraphs 1(b) and 1(c) of GATT Article XXIII should not apply to the TRIPS Agreement. Article 64:3 mandated the TRIPS Council to examine, before 1 January 2000, the scope and modalities for complaints of the type provided for under these subparagraphs of Article XXIII pursuant to the TRIPS Agreement and to submit its recommendations to the Ministerial Conference for approval. The CEFTA countries and Latvia shared the view that for the adoption of these recommendations, consensus was needed in the TRIPS Council. Furthermore, in their understanding, approval by the Ministerial Conference of the recommendations on the scope and modalities for non-violation complaints made pursuant to the TRIPS Agreement was a pre-condition of the application of these subparagraphs of Article XXIII. Thus, irrespective of the expiration of the five year period provided for in Article 64:2, non-violation complaints would remain indispensable under the TRIPS Agreement until the Council's recommendations were adopted by consensus at the Ministerial Conference. In the light of the lack of clarity regarding even the basic notions with respect to non-violation complaints, the genuine complexity of the issue and the divergence of views as to the applicability of this remedy, further in-depth analysis was needed. The CEFTA countries and Latvia believed that the deadline of 1 January 2000 could not be met, and that a new realistic deadline for the examination should be set to allow the necessary analytical work and consensus building to be undertaken. During this analytical phase, complaints under the subparagraphs of Article XXIII should be inadmissible under the TRIPS Agreement. The CEFTA countries and Latvia were not convinced of the need for and applicability of the non-violation remedy, as the TRIPS Agreement contained a fine and fragile balance of rights and obligations, and they were concerned that the introduction of non-violation disputes under the Agreement, particularly without a proper understanding of the issue, might unsettle this delicate balance. The CEFTA countries and Latvia would shortly be tabling a proposal in this regard<sup>3</sup>, and supported the proposal for an extension of the five-year period in Article 64:2 submitted by Canada.

9. The representative of Japan, referring to his Government's proposal on trade facilitation (WT/GC/W/257), said that there were many WTO agreements related to trade facilitation, and that a number of developing countries were facing serious difficulties in implementing the existing agreements. Thus, as a first step to progress in this area, the difficulties faced by developing countries and the necessary remedies needed clarification. For example, a number of developing countries were facing difficulties in implementing the Customs Valuation and TRIPS Agreements, and these difficulties were due not only to lack of knowledge of the Agreements but also to not having the appropriate information on the correct way to implement the Agreements while maintaining proper customs clearance and taxation. It was not enough to disseminate only general explanations on such agreements, and for this reason Japan had suggested that a study be undertaken by WTO on the possibility of establishing schemes for further cooperation, such as sending experts or receiving trainees, taking into account the actual needs of customs offices in developing countries. Specific issues to be addressed in the Customs Valuation Agreement included measures for implementing a

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<sup>2</sup> Subsequently circulated as WT/GC/W/285.

<sup>3</sup> Subsequently circulated as WT/GC/W/275.

post-entry audit system, the training of customs officers on valuation techniques for goods and various types of transaction, and a customs clearance system with a proper allocation of officials in accordance with the flow of cargo. In the TRIPS Agreement, issues included measures for distinguishing IPR infringing goods, and for maintaining balance between the rights of importers and those of the IPR owners. He also wished to request three clarifications on the proposal in this area submitted by the European Communities (WT/GC/W/190). First, in paragraph 2 it was stated that a rules-based approach would guarantee transparency and predictability for traders, and his delegation would be interested to know whether this meant the amendment of existing WTO agreements or the development of a new agreement. Second, as a background to the proposal, his delegation wondered if the EC recognized that existing WTO agreements relevant to trade facilitation were being fully implemented, and if this were not the case, that all Members, including developing countries, should ensure the full implementation of existing WTO agreements. In this regard, his delegation would be interested to know what the EC thought about taking necessary measures, such as technical cooperation, to secure the implementation of existing WTO agreements. Finally, with regard to the fourth indent of paragraph 3, his delegation would like clarification of the concept of "seamless integrated transactions". Turning to the question of electronic commerce, he said that while this was an area that had been growing rapidly, countries were still exploring which rules and disciplines should be applied to it. Japan believed that a free trading environment, without unnecessary regulations, should be developed so that the benefits of electronic commerce could be fully realized. In this regard, Japan has submitted a proposal in this area (WT/GC/W/253), and he wished to highlight three salient points of the proposal. First, with respect to the treatment of digital contents transmitted electronically, it would be appropriate to examine the issue further so that the GATT principles of MFN, national treatment, and the general elimination of quantitative restrictions could be applied to digital contents. Second, Members should maintain the current practice of not imposing customs duties on electronic transmissions. And third, measures for privacy and consumer protection and so on had legitimate policy objectives in themselves. However, a balanced approach was important in order to ensure that such measures did not develop into unnecessary regulations in developing a free trading environment.

10. He also wished to briefly introduce his Government's proposal under paragraph 10 on the organization and management of the work programme. Japan proposed that the negotiations should be comprehensive, conducted as a single undertaking, and completed within a period of approximately three years. The scope of the negotiations should include issues clustered around five areas: (i) implementation and rules; (ii) agriculture; (iii) services; (iv) industrial tariffs, and forestry and fishery products; and (v) response of the WTO under a globalized economy. With regard to the structure of the negotiation, the Ministerial Conference should be the primary body to supervise the next negotiations. At the same time, several options could be considered for the actual negotiating structure, taking into account factors such as efficiency and the burden on developing-country Members, as well as horizontal aspects such as meeting developing-country concerns and environmental factors. With regard to the time-frame, the Fourth Session of the Ministerial Conference should be held towards the middle of 2001 to review results and to provide guidance for the period covering the remaining negotiations. The Fifth Session of the Ministerial Conference should be held at the end of 2002 for the conclusion of the negotiations. Japan welcomed the proposal submitted by Hungary on behalf of the CEFTA countries on a draft Ministerial Declaration, and believed that it would facilitate work in Phase 3.

11. The representative of Kenya said he wished to introduce four proposals on behalf of the African Group, which reflected preliminary views of the Group and were without prejudice to the positions of individual Members. With regard to technical assistance, the African Group firmly believed that increased participation of developing countries, and in particular LDCs, in international trade should remain one of the priority areas of the WTO. This should also be one of the main objectives of WTO technical assistance activities. The Group's proposal in this area (WT/GC/W/299) suggested that Members should reaffirm their commitment to technical assistance as a core activity of

the WTO, and technical assistance should be implemented in a manner that would effectively achieve the previously agreed objectives. An increasing share of technical assistance should be financed through the regular budget. In this regard, the objective should be to meet the current level of technical assistance requirements through the regular budget in a phased manner by equal amounts, and the African Group believed that this should be achieved within a period of three years. Furthermore, any surplus in the WTO budget should be allocated to technical assistance activities. Finally, Members should undertake an annual examination of technical assistance activities in the General Council. This examination should be based on the consideration of reports and recommendations from subsidiary bodies, in particular the Committee on Trade and Development and the Budget Committee, on their consideration of issues related to technical assistance activities. The Secretariat should also be requested to prepare a comprehensive report on technical assistance activities that would include the difficulties encountered and possible ways and means of addressing them. The African Group believed that this would contribute to the achievement of a more coherent approach to WTO technical assistance. This would also contribute to ensuring that technical assistance was better matched to the needs of developing countries. This examination might consider, *inter alia*: (i) planning technical assistance activities; (ii) financing technical assistance; (iii) improving monitoring and evaluation methods; and (iv) the coordination of technical assistance with other organizations, and in particular sub-regional organizations. Turning to the proposal on the interaction between trade and competition policy (WT/GC/W/300), he said that the African Group had long recognized the significant potential development dividends that could accrue from the reform process underway in African countries, including in trade policy, with the application, *inter alia* of competition policy. For this reason, it had given its support to the decision by the General Council in December 1998 on the continuation of the work of the Working Group on this subject, including focussed discussion on: (i) the relevance of fundamental WTO principles of national and most-favoured-nation treatment, and transparency in competition policy; (ii) approaches to promoting cooperation and communication among Members, including in the field of technical cooperation; (iii) the contribution of competition policy to achieving the objectives of the WTO, including the promotion of international trade; and (iv) issues raised by Members relating to the interaction between trade and competition policy. In this regard, the African Group proposed that Ministers mandate the following: (a) continuation of the educative, exploratory and analytical work of the Working Group; (b) assistance to developing countries, in particular African countries, to participate more effectively in the work of the Group; (c) establishment of a special competition technical assistance programme in collaboration with UNCTAD and the World Bank, adequately and sufficiently funded, and especially designed to meet the individual needs of developing countries, in particular African countries, in the area of work related to competition policy; (d) strengthening and assisting Members with existing legislation and agencies which requested such assistance; (e) elaboration of practical approaches to institution and capacity-building that would economise on costs; and (f) promotion of coherence between competition policy and related laws, policies and WTO disciplines in the context of international coherence initiatives.

12. In connection with the implementation of the Agreement on Customs Valuation, he said that 53 developing countries, including 22 African countries, had invoked the special provisions set out in Article 20:1 in order to delay application of the Agreement for a transitional period of five years. However, it appeared difficult for the African countries to implement the Agreement by the scheduled date of the year 2000, owing to their lack of institutional and human resources. With the exception of the technical assistance supplied by the WTO Secretariat with its limited means, the developed countries had not lived up to their commitment set out in Article 20:3 of the Agreement concerning special and differential treatment. This paragraph provided for drawing up programmes of technical assistance relating to the training of personnel, the preparation of implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of the Agreement. In its proposal (WT/GC/W/301), the African Group had stated that, given the non-implementation of Article 20:3, the majority of African countries considered that the transition period granted them was insufficient and they would be obliged to request an appropriate

extension, in accordance with the relevant provisions of the Agreement, in particular Annex III, in order to enable them to acquire the necessary technical assistance and expertise to implement the Agreement without affecting their comparative advantage. Finally, the African Group's proposal on the TRIPS Agreement (WT/GC/W/302) set out some of the key issues of interest to the Group, highlighted some of the difficulties being faced and made suggestions as to how these difficulties should be addressed. The issues addressed in the submission related to Article 64:3 on non-violation complaints; Article 66:2 covering incentives for transfer of technology to LDCs; Article 27:3(b) concerning protection of plant varieties, on which the African Group shared the views expressed by Venezuela on behalf of some other members at the present meeting; and Article 23:4 on the establishment of a multilateral system of notification and registration of geographical indications.

13. The representative of the United States said that her delegation shared with others the responsibility to ensure that the Ministerial Conference highlighted the role of trade in world development and prosperity, and resulted in an agenda that opened an era of accomplishment for the trading system. Over the previous months, her Government had held a series of intense consultations domestically and with other trading partners to help develop consensus on such an agenda. The proposals submitted by the United States reflected many of the ideas developed through these sessions, which had indicated a broadly shared agreement that the work ahead should give special focus to the built-in agenda, expanding market access, implementation of existing commitments and ensuring that Members' actions reinforced the shared commitment to further integrate countries into the system. At the present meeting, her delegation was submitting a number of additional proposals relating to technical assistance and capacity building, transparency in government procurement, agriculture (export competition, market access, domestic support and biotechnology products), and trade facilitation.<sup>4</sup> Regarding the implementation of existing commitments, she said this was critical to confidence in the system and the credibility of new negotiations. Blanket extensions and exceptions to key disciplines would unravel the balance of concessions that allowed completion of the Uruguay Round Agreements. The United States was prepared, however, to look at issues and problems on a case-by-case basis, and where there were legitimate problems, find ways to address them. Many developing countries had asked that the WTO be active in assisting with implementation. The proposals submitted by the United States were aimed at addressing many of the concerns raised, focusing on specific problems, methods to address them, and ways to make technical assistance programs more effective in promoting full integration into the world economy. Two examples included an action agenda that would adapt, improve and expand the existing Integrated Framework, and new work on trade facilitation linked directly to technical assistance. Next, a negotiating agenda should be developed that met the major priorities of WTO Members. Once consensus on the agenda was achieved, the appropriate structure for negotiations could then be adopted. It was clear that any final package should be broad enough to create a political consensus by addressing the market access priorities of all Members. While much consultation remained ahead, the discussions so far had indicated a broad view that the core of the agenda should be market access concerns and issues, complemented, amplified and balanced by a work programme to address areas in which consensus did not yet exist for negotiations, and by measures to improve the functioning of the WTO. Market access negotiations should cover the built-in agenda of agriculture and services, and should also extend to non-agricultural goods. In agriculture, objectives would include completely eliminating all remaining export subsidies, substantially reducing trade-distorting support while preserving criteria-based "green box" policies, lowering and binding tariffs and improving administration of tariff-rate quotas, strengthening disciplines on the operation of state trading enterprises, improving market access through a variety of means to the benefit of least-developed Members, and addressing disciplines to ensure that trade in agricultural biotechnology products was based on transparent, predictable and timely processes. In services, the United States was looking to liberalize restrictions in a broad range of services sectors, ensure that GATS rules anticipated the development of new technologies, prevented discrimination against particular modes of delivering services, such as

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<sup>4</sup> Subsequently circulated as WT/GC/W/254, 276, and 286-290.



electronic commerce or rights of establishment, and developed disciplines to ensure transparency and good governance in the regulation of services. In the area of non-agricultural goods, the United States sought to engage in a broad market access negotiation in the next round, building upon APEC's Accelerated Tariff Liberalization initiative, with objectives including reducing tariff disparities, providing recognition for bound tariff reductions made as part of recent autonomous liberalization measures or other WTO measures, ensuring use of applied rates as the basis for negotiation, and incorporating procedures to address non-tariff measures and other measures affecting conditions for imports, and, as in the case of agriculture, improving market access for least-developed Members through a variety of means. Clearly, some Members had interests beyond this set of core issues, and others had raised concerns about the difficulty of fulfilling existing commitments. This suggested that certain issues would be appropriate for a forward work programme that would help Members, including the United States, better understand the implications of newer topics and build consensus for the future. One especially important area was the relationship between trade and core labour standards. While the Singapore Declaration had been an important first step, more attention to the intersection of trade and core labour standards was warranted as governments and industries wrestled with the complex issues of globalization and adjustment. As her delegation had stated in January, the United States believed a recommendation should be forwarded to Ministers for the establishment of a forward work programme in the WTO to address trade issues relating to labour standards and where WTO Members would benefit from further information and analysis on this relationship and developments in the ILO. The United States further urged consideration of specific institutional links between the ILO and the WTO to help facilitate a common agenda on issues of concern to both organizations.

14. In addition, the past five years of experience in the WTO had revealed areas in which the institution could be further strengthened, including institutional reforms that could strengthen transparency, ensure citizen access and build public support for the WTO and its work. Here, objectives would include improving means for stakeholder contacts with delegations and the WTO, and enhancing transparency in procedures to the maximum extent possible. Capacity building was an exceptionally important issue which could help Members implement commitments, use dispute settlement effectively and take maximum advantage of market access opportunities. Specific objectives would include improving cooperation among international organizations, bilateral donors and NGOs, building upon and expanding the Integrated Framework concept, ensuring the most effective use of resources in technical assistance, strengthening capacity building efforts on regulatory and other infrastructure needs, and exploring a development partner program for the least-developed nations. The United States had been consulting with others on these ideas, and looked forward to continuing to develop a joint effort in this area. Improved trade facilitation could help ensure that less developed economies and small businesses could take full advantage of a more open world economy. Here, objectives would include clarifying and strengthening the transparency requirements of WTO agreements, and improving customs and other trade-related procedures. Finally, as Members embarked on a new round, they should be guided by their shared commitment to sustainable development. This would include focus on institutional reforms, pursuing trade liberalization in a way that was supportive of high environmental standards, and pursuing areas of trade liberalization with particular promise for direct environmental benefits, such as elimination of tariffs on environmental goods, liberalization of trade in environmental services, and elimination of fishery subsidies that contributed to overcapacity. Members could work together to find additional areas as well. To help accomplish these objectives, the United States was submitting a number of proposals<sup>5</sup>, including the use of the Committee on Trade and Environment as a forum to identify and discuss the environmental implications of issues under negotiation.

15. Altogether, these actions would create broader market access opportunities, ensure that they were shared across developed and developing countries, create opportunities to develop and benefit

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<sup>5</sup> Subsequently circulated as WT/GC/W/304.

from new technologies, strengthen the WTO, and build public support for the institution in the years ahead. In the months leading up to the Ministerial Conference, Members had several opportunities to reach concrete results that would help build a foundation for this work. First was the accession of new WTO Members, on commercially meaningful grounds. Since 1995, seven new Members had joined, with one more to follow shortly. With 31 accession applicants, the United States looked forward to further accessions in the coming months, applauded those that had completed the process and had made progress on accession, and believed their work should be recognized at Seattle. Clearly, however, not all the applicants would complete their accession processes by the opening of the new round. In these cases, as had been the case in the Uruguay Round, Members would need to find a formula under which these economies could be involved in the new negotiations while moving ahead with their accession processes. Second, a strong and credible dispute settlement system was essential to the credibility of the WTO system as a whole. These goals had informed the participation of the United States in the dispute settlement review, focusing on transparency and ensuring timely implementation of panel findings. The United States was particularly interested in providing for earlier circulation of panel reports, making parties' submissions to panels public, allowing for submission of amicus briefs and opening hearings to observers from the public. Ministers should be in a position to ratify the results of the review by the Ministerial Conference. Third, one of the most exciting commercial developments of recent years had been the adaptation of new technologies to trade. This had especially important implications for developing regions, which would only be realized if electronic commerce continued to develop unfettered. As a first step, Members should extend, at the Seattle Ministerial Conference, the May 1998 multilateral declaration not to assess customs duties on electronic transmissions. Furthermore, Members should work toward agreement on clarifying the applicability of existing WTO rules to electronic commerce, and agreement on modalities for integrating electronic commerce into the work after the Ministerial. Fourth, many Members were committed to achieving agreements to expand market access on a range of goods of interest to countries at all levels of development, such as the ITA II, and the Accelerated Tariff Liberalization initiative. Fifth, trade policy had important potential to support broader policy objectives, and Members should build consensus on improving the WTO's ability to collaborate with international institutions in these areas, through reciprocal observer status, joint research when appropriate, and other methods to ensure that issues with implications for trade and other policy objectives were addressed as effectively as possible. Sixth, Members should agree upon specific measures to improve transparency throughout the system, including ensuring maximum understanding and access to WTO meetings and procedures, consistent with the government-to-government nature of the institution. Dispute settlement was a special focus for this work, as already outlined. In addition, the WTO could help promote transparency and good governance world-wide, through an early agreement on transparency in government procurement. Finally, it was clear that interest in the WTO and its work on the part of civil society organizations, including businesses, labour organizations, agricultural producers, environmental groups, academic associations and others, was growing. Delegations and WTO staff would also benefit from hearing a broad range of opinions and views on the development of trade policy. Before the Ministerial Conference, the United States was looking for agreement upon methods for such stakeholder organizations to observe meetings as appropriate, and share views as delegations developed policy. In summary, the coming months and years offered Members a remarkable opportunity. The founders of the GATT, those who had developed the system in the succeeding decades, and the negotiators of the Uruguay Round had left a world economy more productive and prosperous than ever before. With a successful round, Members could do the same for the next generation, raising living standards and creating new opportunities for billions of people. As host and chair of the Ministerial Conference in Seattle, the United States felt a keen responsibility to help build the consensus that would allow Members to realize this vision.

16. The representative of Singapore, introducing his Government's joint proposal with Indonesia on electronic commerce (WT/GC/W/247), said that with the advent of electronic commerce, there was a need to examine its impact on existing WTO rules, as the interpretation of these rules was clearly being impacted, and a clear and predictable approach was required. Electronic commerce involved

cross-cutting issues that straddled GATT, GATS and TRIPS commitments and, in this context, an overarching guide in the form of an understanding on the interpretation and application of e-commerce in relation to existing WTO commitments might be useful and necessary. This was to ensure that electronic transmissions could be easily and unambiguously classified as either goods subject to GATT, services subject to GATS or as intellectual property subject to the TRIPS Agreement. The understanding proposed in the submission set out the manner in which the existing framework of WTO rules could be applied to electronic commerce. Singapore and Indonesia suggested that the framework address the following three key elements: (i) an appropriate legal framework; (ii) market access; and (iii) issues relating to technical assistance and capacity building for developing countries. With regard to an appropriate legal framework, clear criteria would need to be established to classify digitized products, and it was paramount that the criteria for classification should provide legal certainty as to how the digitized product, whether a good, service or intellectual property, was treated. On market access, Singapore and Indonesia believed it was necessary to examine whether existing services commitments covered the whole range of electronic commerce activities, and whether additional commitments or clarification of existing commitments would support the growth of electronic commerce. In this respect, the proposal highlighted the need to consider international access and network services, and addressed the problems and complications related to the imposition of customs duties on digitised goods delivered electronically. A solution would be to extend temporarily the current practice of not imposing customs duties on these goods. Finally, on capacity building and technical assistance, the WTO could play a role, not just in terms of providing technical assistance programmes and building infrastructure capabilities, but also in terms of access to the requisite technology for developing countries. Singapore and Indonesia looked forward to hearing the views of others on whether the proposal provided a basis for further work before Seattle and thereafter.

17. The representative of Panama said that her delegation supported the Chairman's proposal on the organization of work on the drafting of the Ministerial Declaration, and believed that due account should be taken of the suggestion by India at the informal meeting held earlier with respect to holding informal consultations to ensure balance in the Declaration, and also of the suggestions by Switzerland and Singapore. Her delegation also supported suggestions that the Secretariat prepare a document summarizing the proposals submitted thus far, which would allow identification of the areas of convergence and divergence. However, it would perhaps be preferable not to attempt to summarize the proposals but rather to include the full texts, so as to avoid misinterpretations. With regard to the second phase of the preparatory process, Panama welcomed the various submissions by Members and shared, for the most part, the concerns expressed by the developing countries. Panama reserved its right to submit proposals after the summer break. Panama's preliminary views on the future negotiations were that there was a need to achieve real and balanced market access for goods and services, in particular in the sectors of agriculture and tropical products, light industries, and labour-intensive services. In implementation, Panama's concerns were in the areas of non-tariff measures, high tariff peaks, the use of subsidies for protectionist purposes, the need for more efficient application of special and differential treatment for developing countries, and the need for technical assistance with a more efficient focus to strengthen institutional capacity. Since its accession to WTO in September 1997, Panama's economy had absorbed much structural change and her Government continued to implement its Uruguay Round commitments with the aim of optimizing the country's comparative advantage and to take full advantage of the multilateral trading system. In this regard, Panama called on all its trading partners to participate in developing future negotiations on the basis of transparency, fairness and full implementation of commitments.

18. The representative of Korea supported the proposals on trade and investment submitted by Japan, the European Communities, Switzerland and Hong Kong, China. Korea's own proposal in this area (WT/GC/W/267) was along lines similar to those suggested in these proposals. His delegation also welcomed the proposals by Poland and Costa Rica. Korea believed that a stable, transparent and predictable environment for investment was a prerequisite for facilitating freer flows of investment,

which contributed to expanding global welfare. The existing network of bilateral and regional investment arrangements was effective to some degree in creating a favorable climate for foreign investment but had fundamental limitations. The discrepancies in the disciplines of these arrangements might make the world investment environment more complicated and distort investment flows, and multilateral rules on investment offered a solution to this problem. Considering the ever closer interface between trade and investment, investment was an issue that deserved a rightful place in the WTO. The rule-based multilateral trading system could be further strengthened with the establishment of WTO rules on investment. Korea's proposal did not attempt to cover all the specific issues relevant to the interaction between trade and investment, but was aimed at offering a possible WTO approach to a multilateral framework on investment in the light of diverse views among Members. First, Korea believed that negotiations on a WTO agreement on investment should aim at facilitating investment flows through enhanced transparency and predictability. Such a goal, however, should be reconciled with the need to provide flexibility for host countries in formulating their own policies, in particular development policies of developing countries. WTO rules on investment should reflect the different realities faced by each Member so as to represent an overall balance of interests among Members. Second, any agreement should focus on foreign direct investment, and Korea did not believe that the WTO was an appropriate forum for tackling the issue of short-term capital flows. Similarly, caution should be applied in dealing with portfolio investment in the light of its implications for financial security. Third, the fundamental WTO principles of most-favoured-nation and national treatment should be adopted as guiding principles of the agreement. At the pre-establishment phase, however, a bottom-up approach as in the GATS appeared to be an appropriate model to follow. The agreement should also establish a reasonably high standard of investment protection by consolidating key elements of protection included in a variety of existing bilateral and regional arrangements. The agreement should, however, preserve the host country's right to regulate according to its unique economic situation as long as the regulations were compatible with the agreement. Fourth, a set of rules on transparency should be included as a core component of the agreement. Given the limited capacity of many developing countries, the agreement should also include provisions for technical assistance to countries desiring to enhance the overall level of transparency of their investment regime. Fifth, the agreement should address the concerns about performance requirements and investment incentives with a view to minimizing their distortive effects, while recognizing their potential value as domestic policy tools. Sixth, the existing WTO dispute settlement procedures should be applied to the agreement, and in the light of the inter-governmental nature of the WTO system, the agreement should focus on disputes between WTO Members, to the exclusion of state-investor disputes. Finally, and most importantly, the agreement should reflect the interests of developing countries, and the development dimension should be an integral part. Korea believed that some of these concepts and ideas might require further examination, and all the issues involved should be identified and solutions sought during the negotiations.

19. The representative of the European Communities said that the second phase had given rise to a very ambitious range of proposals for future work, which the Community welcomed. The proposals presented in the previous three months demonstrated a genuine desire to strengthen multilateral rules and to continue to liberalize trade, and explicitly or implicitly, represented an overwhelming vote for further, substantive negotiations. Not only did the Community see a collective wish to improve the multilateral trading system further, it believed that there was the beginning of convergence amongst Members on how to do so. Surveying the list of proposals for negotiations, one was struck by the range of countries that had come forward with ideas, developing, developed, and countries in transition alike. The large proportion of proposals from developing countries aimed at rule-making. As to the range of issues on which changes or improvements to the WTO were sought, there was a fairly even balance between the negotiations on the built-in agenda, the Singapore work programme, and other issues such as market access or the revision of existing rules. There was also a widespread desire to ensure full and timely implementation of existing Agreements. Thus, the call by Ministers in 1998 for a broad-based and balanced agenda had certainly been followed both in letter and spirit. On the basis of the proposals made, and the common elements between them, the Community believed

that the objectives of the next round could already be identified. These objectives were at least fourfold. First, to bring about further liberalization to the benefit of all. Second, to strengthen the WTO and improve the multilateral system through the review of existing rules or establishment of additional multilateral rules. Third, to increase WTO's responsiveness to the developing international economic environment, including through greater coherence between trade policy making and other multilaterally determined economic policies. A key objective of the new round should be development, and this should not remain rhetorical. Development could best be served by improving market access for developing countries and by adopting rules that reflected their needs. A broad agenda offered the best chance of doing so. The outcome of the Seattle Conference should ensure this in the following ways. The WTO should first and foremost help halt the marginalization of least-developed countries. The Community would give duty-free access to essentially all products exported by LDCs and believed it was time for others to do the same. Developed Members should therefore commit themselves by Seattle to offer duty-free market access to products from these countries by 2003. It was simply unacceptable that the commitments entered into at the 1997 high-level meeting remained unfulfilled. Apart from the launch of the round itself, this was the other important objective for the Seattle meeting. The new round should also include measures to build capacity in developing countries so that they could take advantage of trade liberalization. Furthermore, the implementation of the results of the Uruguay Round remained an issue of concern to many developing countries and needed serious attention. At the same time, it was necessary to distinguish between genuine implementation issues, some of which could be resolved in the short-term, and those issues that, although labelled implementation, required the renegotiation of existing Agreements and could only be accomplished in the context of a round. Intensive informal consultations should be started, with the help of the Chairman and the Director-General, to identify issues that could be resolved in the short-term and those that could be taken up in the new round. The Seattle Ministerial Conference should agree on the action to be taken to resolve immediate problems and identify issues for negotiation. While it did not necessarily share their assessment, the Community welcomed the suggestions by Egypt, Kenya, Zambia, and others aimed at ensuring the successful implementation of the Uruguay Round agreements. These submissions could help to identify what could be done in the short term and what could not. The Community also welcomed the submissions by India aimed at redressing perceived shortcomings or imbalances in the Uruguay Round results.

20. The Community believed that the following issues should fall within the core agenda for the round. Starting with agriculture, there was a common basis for the negotiations in Article 20 of the Agriculture Agreement, and the Community welcomed the proposals by the Cairns Group, Japan, Korea, Switzerland, the US and by a broad range of developing countries. Similarly, in services, Article XIX of GATS gave clear guidance. Most of the submissions, including those submitted by Japan, Hong Kong China, Switzerland, India, Pakistan and the Community, proposed the scope of the negotiations. The Community would look positively in the negotiations at proposals by developing countries regarding further liberalization of movement of personnel, and the possibility of granting credit for autonomous liberalization carried out by developing countries, where this was bound in the GATS. This credit was also a more general question addressed in the Community's recent paper on coherence and capacity building. Turning to investment, the Community welcomed the proposals by Switzerland, Hong Kong China, Korea and others, many of which showed a remarkable degree of convergence on the aims of the negotiations. Many Members clearly shared the aim of creating a more stable and predictable climate for foreign direct investment, through a multilateral framework of rules. Most proposals were also clear about what the investment rules in WTO should not contain. The rules should not seek to replicate the failed MAI instrument of the OECD, require host countries to open up all sectors to investors, or cover short term capital movements. The focus should be exclusively on foreign direct investment. Furthermore, the rules should exclude investor-state dispute settlement, and should not call into question the right of countries to regulate investments on their territory. As regards trade facilitation, the Community welcomed the proposals by Switzerland, the United States, Japan, Turkey, Kenya and Norway. There appeared to be agreement on the benefits of trade facilitation and that the WTO had a role to play. There was also significant convergence on how

to address this in a new round. These proposals, including the Community's, aimed at negotiations to establish a framework of rules to simplify trade procedures, including import, export and customs procedures. As regards trade and competition policy, this was of particular interest not only to the Community but also to many developing and developed countries that were keenly conscious of the need to promote a competitive domestic environment in an era of growing globalization, and the Community noted in particular the submission by Turkey. Negotiations on trade and competition should aim at establishing a multilateral framework of basic rules on the application of core principles of competition law and policy.

21. In the area of market access for non-agricultural products, many delegations had submitted proposals to negotiate further in this area, from which a number of common features could be distilled for inclusion in a Seattle negotiating mandate. First, the idea of comprehensiveness. Negotiations should cover all non-agricultural products, without any a priori exceptions, with the objective of achieving substantial improvement in market access for all countries. Some proposals pointed also towards greater tariff harmonization, elimination of peaks, reduced tariff escalation, and work to bind all tariffs. The interests of developing Members should be fully reflected in the tariff negotiations, and only a comprehensive approach would ensure the coverage of their legitimate export interests. The approach should also be sufficiently flexible to allow developing-country Members to subscribe. Trade and environment was also of importance for the next trade round, and any discussion and negotiation of trade and environment issues should meet all Members' interests, including those of developing countries. In this respect, the Community welcomed Norway's proposal to clarify the relationship between the WTO and Multilateral Environmental Agreements, and the question of the WTO compatibility of eco-labelling schemes. The Community would add to this the need to address the question of the manner in which the precautionary principle was addressed in WTO.

22. The above were a number of important areas that for the Community were a *sine qua non* for the new round. But there were many other issues of importance both to the Community and to other Members that should be taken up in the round, and he wished to identify some of them. The TRIPS area was one on which many proposals had been submitted. Countries at different levels of development had proposed to further clarify and expand the TRIPS Agreement. The Community had noted the proposals by Egypt, India, Japan, Pakistan, Indonesia, some central American countries and a number of African countries. Extension of protection under geographical indications had been suggested, and some proposals had also raised the relationship between the TRIPS Agreement and the Convention on Biological Diversity, which showed that the Community was not alone in seeking to clarify the relationship between the WTO and multilateral environmental agreements. There had been similar interest in strengthening and clarifying the Agreement on Technical Barriers to Trade in proposals submitted by India, Kenya and Japan, and the recently circulated proposal by the Community. Another area where many Members were seeking to clarify and strengthen existing WTO rules was in the area of trade defence. The Community was not seeking negotiations in this area but had noted the desire of many other delegations to take up the Anti-Dumping and Subsidies Agreements in the new round, and the Community was open to discussing such proposals in the context of a comprehensive round. Finally, there was interest among some Members, including the Community, to work towards the gradual multilateral liberalization of government procurement of goods and services. These were the issues that could be addressed in future negotiations, subject to a single undertaking. In parallel to the negotiations however, the WTO should be ready to address a range of institutional questions. The Community had recently circulated a proposal on capacity building and coherence in international economic policy-making (WT/GC/W/297), in which it suggested a new approach to capacity building and technical assistance, and argued for a large and highly overdue qualitative leap in practical cooperation in support of trade liberalization and rule-making between the WTO and the Bretton Woods institutions, in particular. The aim was to promote complementary action between these organisations in support of much greater coherence, and the Community suggested that a concrete work programme be launched at the Seattle Ministerial Conference to that effect.

23. Turning to the structure and organization of the future negotiations, the Community welcomed particularly the submissions by Australia on behalf of several Members, the CEFTA countries and Latvia, Turkey and Switzerland. Among the different proposals, there was general agreement that the negotiations should be conducted and concluded as a single undertaking. Only a single undertaking offered the guarantee of a balance of benefits. The Ministerial Declaration should also set the date for the formal conclusion of the negotiations within three years. Integral to the concept of the single undertaking was the premise that all issues should be treated equally in terms of process. The Community would not accept the establishment of priorities between the different issues for negotiation in the new round, nor did it believe that Members would be helped in their task by the establishment of false distinctions between market access and rule-making. Multilateral rule-making was certainly as important as further trade liberalization. This was not going to be just a classical market access round, but a round in which liberalization and the development of the rules-based system proceeded hand-in-hand. The ability of Members, collectively and individually, to demonstrate to their respective societies that the WTO was an effective instrument to manage globalization and promote equitable growth and development crucially depended on this. The Seattle Declaration should reflect the concept of a single undertaking in the structure of the negotiations. First, there was a need for a Trade Negotiations Committee under the chairmanship of the Director-General to conduct the negotiations, provide political authority and ensure that the single undertaking was maintained. Second, there was also a need for individual negotiating groups to carry out the negotiations of the different subjects, and, on the basis of the possible agenda, the Community believed seven or eight groups would suffice. Third, these groups should report to the TNC which would have the overall authority to monitor and direct their work, and the negotiations should remain independent from the regular work of the WTO. Fourth, each negotiating group should determine its own schedule of work and individual negotiating plans subject to any direction provided by the TNC. To ensure that Members respected the commitment to undertake and conclude the negotiations in three years, the Community believed that such schedules and negotiating plans should be submitted to the TNC for approval early in 2000. Fifth, also with the objective of ensuring an effective and early start to the negotiations, and to encourage an early end, Members should make initial proposals in all areas early in the process, and a date for this should be agreed. Finally, the Community believed that the Committees on Trade and Development, and Trade and the Environment had a key role to play, and that they should monitor the negotiations as a whole to ensure that sustainable development was reflected in the relevant negotiating groups, and report to the TNC. In conclusion, the close of the second phase of work left Members with a much clearer understanding of the issues that could form the agenda for the new round, as well as issues that could be dealt with outside the negotiations. The discussions had enabled identification of many areas of convergence on which the Community believed it was possible to begin building the Seattle Declaration. The time had come to start formulating in a concrete way the elements of that Declaration, and this should be a top priority for all Members after the summer break. The Community was pleased to note that Switzerland had already submitted concrete proposals in this regard. This was very timely. The Community expected the Chairman to act as a facilitator in consulting with Members, ensuring convergence and consensus in the process, and the necessary transparency. Finally, the Community supported the Chairman's proposed schedule of meetings.

24. The representative of India recalled that India had, from the outset, highlighted the importance of addressing implementational issues and concerns in the preparatory process. India believed that if Members did not address these issues then the basic credibility of the organization would be affected. India had submitted specific proposals in the context of its implementational concerns, and hoped to submit some additional proposals early in September. It would be evident from India's submissions that the issue of special and differential treatment for developing countries was of crucial importance. The S&D provisions in the existing agreements had not been properly implemented, either because of lack of clarity in the provisions or because of their best-endeavour nature. These provisions had been designed to take into account the constraints inherent in the international trade relations of developing countries occasioned by the peculiar structural features

characterizing their economies, their low level of industrialization, their inability to access advanced technologies, and the non-availability of adequate infrastructure. It was therefore important that these special and differential implementational concerns and the other implementational issues raised were adequately addressed in the preparatory process. Unfortunately, developing countries were being advised that implementational concerns could only be met if they agreed to what was being termed as a "comprehensive new round", since it would appear that only this would provide an opportunity for Members to look at specific agreements. India did not agree with this, and strongly reiterated the need to address the concerns about implementational issues, especially those relating to special and differential provisions, which had to be addressed up-front and without any linkage to any future negotiations. At the same time, some delegations were trying to downplay implementation issues and concerns raised by developing countries by arguing that such issues could be resolved through increased technical assistance. India wished to state clearly that these issues and concerns were of a serious nature and it would be unrealistic for any delegation to imagine that they could be resolved through technical assistance alone. Implementational issues and concerns obviously required handling with a certain amount of political sensitivity especially in the light of the current perception about the multilateral trading system. His delegation hoped that Members would realize this and suitably respond in an endeavour to find meaningful conclusions to these problems and concerns. On issues under paragraph 9(a)(ii), he reiterated India's view that the mandated negotiations in agriculture and services were both extremely important. Article 20 of the Agriculture Agreement provided the basic guidelines for the new round of agriculture negotiations, and the most important aspect was that these negotiations should address the concerns and shortcomings which Members, particularly developing-country Members, had faced in implementation of the Agreement since its adoption. He noted that a large number of developing countries had predominantly agrarian economies, where a large percentage of the population was dependent on agriculture for its livelihood. The main concern of these countries had been to ensure the continued provision of livelihood to these large rural populations and to improve their income levels. It was in this perspective that he wished to emphasize that, for India, the most important aspects of the forthcoming negotiations would be issues related to food security and the maintenance of rural employment. 70 per cent of India's population of nearly one billion was dependent on agriculture for its livelihood, and ensuring the availability of food to this large rural population and preserving the viability of rural employment would therefore be of paramount concern to India. With regard to services, he emphasized that the concept of progressive liberalization, already built into the GATS, was extremely important to India, and reiterated the importance of mode 4, or the movement of natural persons, in which even the existing commitments by developed countries had been rather meagre and had not been properly implemented because of barriers such as the economic needs test and visa and residency requirements.

25. Turning to issues under paragraph 9(a)(iii), he reiterated the importance of the reviews and examinations provided for in a number of Agreements. Such review provisions had been built into various agreements during the Uruguay Round negotiations, mainly because of the strong feeling in the minds of almost all delegations at that time that these agreements provided for substantial commitments in many areas and their apprehension as to the effect that implementation of these provisions might have, especially on developing countries. He wished to reaffirm that India was totally committed to the mandated reviews; as it was to the mandated negotiations. With regard to paragraph 9(b), concerning the four Singapore issues, his delegation had repeatedly stated that redressal of implementational concerns referred to in paragraph 9(a)(i), mandated negotiations referred to in paragraph 9(a)(ii), mandated reviews referred to in paragraph 9(a)(iii), and issues relating to least-developed countries referred to in paragraph 9(c) already constituted a fairly big agenda for the next round, and India did not want the WTO agenda to be overloaded with the issues referred to in paragraph 9(b) or other new issues under paragraph 9(d). India had agreed with great difficulty to a study process in the WTO on these four subjects. His delegation was actively participating in the educational work that was currently under way, and believed that the study process should continue to enable the Members to understand these subjects clearly. India believed that there was still a long way to go to the point where it could be in a position to gauge the necessity for multilateral rules,



which had been proposed by some Members. The terms of reference of the two working groups on trade and investment and trade and competition policy had made clear that the work to be undertaken should not prejudge whether negotiations would be initiated in the future. The process was to be an educative one, based on an information sharing exercise. It was therefore unfortunate that an attempt was being made to preempt these discussions by proposing multilateral rules, particularly since the development dimension was only now gradually percolating into the discussions in the working groups. It would be unfortunate if this educative and exploratory process on the Singapore issues was brought to an abrupt end by prematurely emphasizing the need to develop multilateral rules.

26. With regard to issues raised under paragraph 9(d), such as proposals for industrial tariff negotiations, initiatives in the trade and environment area, greater transparency in the functioning of WTO through, *inter alia*, greater involvement of "stakeholders", India believed these were premature. India was still in the process of implementing the last round of tariff negotiations, for example, and would need time to assess the impact of these reductions before launching into any new commitments in this area. Overloading the WTO agenda would not be productive, and this was not the time to talk about any comprehensive new round of negotiations, as suggested by some. India was also opposed to attempts to introduce non-trade issues such as labour standards into the WTO agenda. Implementation problems and the built-in agenda should be addressed first. It was important to ensure that trade became an instrument for promoting development, as envisioned by the Uruguay Round negotiators. One should bear in mind the limitations of developing and least-developed countries and their inability to undertake more and more commitments and to discharge a growing number of obligations in diverse sectors. The thrust towards global free trade would be far more fruitful if the realities prevailing in the world economy were fully understood and the needs and problems of developing countries taken on board.

27. Turning to the organization of future work and issues under paragraph 10, India believed that the second phase of the preparatory process had been extremely useful. This phase of work needed to be extended to the middle of September, to provide Members a final opportunity to submit additional proposals. The third phase of the process would be extremely important as delegations would need to start drafting the Ministerial Declaration on the basis of the proposals made by Members, and India believed that this drafting exercise would be best started once all the proposals had been tabled. During the preparatory phases of both the Singapore and Geneva Ministerial Conferences the drafting exercise had been initiated by the Chairman of the General Council and carried forward through a process of intensive interactive discussions. India believed that the same procedure should be adopted for the third Ministerial Conference, with the Chairman and/or a senior official of the Secretariat, acting on behalf of the Chairman, initiating the drafting exercise. With regard to the structure and time-frame of the negotiations, these would obviously depend on the scope of the negotiations, something on which there was still no consensus. A clear view on the nature of the undertaking, single or otherwise, could perhaps be better taken once there was greater clarity on the parameters of the decisions that were to emerge from Seattle. India's position on this issue would to a large extent be dependent on what the Ministers finally mandated, but it believed that the existing WTO bodies should be able to deal with all such issues, that is the built-in agenda, and it might not be necessary to create separate negotiating bodies for this purpose. It might also be difficult to take a priori decisions on the time-frame for the negotiations at this stage, and this would depend on the needs of the negotiating process. India agreed that the negotiations should not be as long as the Uruguay Round. However, while specifying a time-frame had certain advantages, it might inhibit flexibility, which was an important ingredient of any such negotiations. Many developing countries had small delegations, and an over-compressed time-frame could generate undue pressure on them. It might therefore perhaps be best to have only an indicative time-frame of three years for completing the negotiations.

28. The representative of Norway, introducing a proposal on the financing of technical assistance also on behalf of Bangladesh, Canada, Denmark, Netherlands, Sweden and Switzerland (WT/GC/W/259 and Add.1), said that technical cooperation was a systemic issue of fundamental

importance, as reflected in the relevant provisions of the WTO agreements and confirmed by Ministers in past Ministerial Conferences. Technical assistance was provided in order to build institutional and human capacity and to enhance the ability of Members, developing countries and LDCs in particular, to meet their rights and obligations, and was an integral WTO activity. The proposal sought to remedy the fact that a large part, perhaps 80 to 90 per cent, of the technical assistance provided by the WTO Secretariat had, up to the present, been based on voluntary, extra-budgetary contributions by some Members. This situation was unsatisfactory, as it made planning even short-term technical cooperation activities difficult for the Secretariat. Furthermore, it made long-term planning virtually impossible since there was a high degree of uncertainty and volatility in the availability of funds. In the light of this, their countries suggested that a decision be taken at the Seattle Ministerial Conference to the effect that technical assistance, in principle, should be financed through the regular WTO budget. The necessary increase in the budget to meet at least the current annual demand for technical assistance, which was around Sw F 10 million, would be phased in over a three-year period with equal rate increases each year. It was clear that this proposal did not exclude further extra-budgetary contributions, and a Global Trust Fund for technical assistance had been established in July 1999 for this purpose. Their countries fully recognized that, while technical assistance remained an important element in securing compliance with WTO agreements, it was by no means a panacea for dealing with all aspects of implementation. His delegation also welcomed the main thrust of the proposal submitted by the United States on technical assistance (WT/GC/W/276), which was to strengthen the Integrated Framework, and believed this proposal to be complementary to the one he had introduced.

29. The representative of Hungary, speaking on behalf of the CEFTA countries, said that their countries appreciated the many proposals tabled thus far in the process by a significant number of Members, developed and developing alike. The second phase had really been Member- and proposal-driven, clearly demonstrating the commitment of Members towards the goals set out in the Geneva Ministerial Declaration. The CEFTA countries, collectively and individually, had participated actively in the second phase and had tabled several proposals on different issues with a view to helping to shape the possible scope of the future negotiations. They hoped that any further proposals would be tabled by early September at the latest, to allow the General Council to have a full menu by that time. The primary task in the third phase, from the beginning of September, would be to produce a draft Ministerial Declaration, and the CEFTA countries believed that there were enough elements already on the table to begin the consideration of such a draft. This did not exclude the possibility of further discussions on specific proposals in parallel at the very beginning of the third phase. There had been different views expressed as to how the work could be best organized, and the CEFTA countries did not believe that it would be useful to engage in further long discussions on the groupings of different individual proposals. If work was begun at an early stage on drafting the Ministerial Declaration, such groupings of issues might not be so important. Further detailed negotiations on specific issues before Seattle was also unnecessary, as that would be the task of the negotiations to be conducted after the Ministerial Conference. On the other hand, at the beginning of September, a clear, objective, synoptic table from the Secretariat showing the converging and diverging elements of the individual proposals on the different subjects would be useful to Members, and the Chairman's draft outline of a Ministerial Declaration would be an important contribution. The CEFTA countries believed, like Switzerland, that it would be useful to contribute to the start of the third phase and had thus decided to present a non-paper on a proposal for a draft Ministerial Declaration on a new round of WTO trade negotiations (Job(99)/4552). This proposal aimed to take into account the wide range of views expressed thus far or tabled in different documents, but was by no means to be considered exhaustive. It was aimed at serving as a possible basis for further focused discussion in the preparatory process, and therefore did not necessarily reflect the views and positions of the CEFTA countries in certain cases, and was without prejudice to these delegations' individual views on certain specific issues, such as some market access issues, and the organization and structure of future negotiations. He also wished to emphasize that the CEFTA countries had, from the start, considered the issue of implementation to be very important, and had actively contributed to the discussions on it.

They continued to believe that it would be desirable to accomplish as much progress in this area as possible in the lead up to Seattle, and were also sympathetically considering some of the proposals by developing countries on the eventual continuation of the consideration of these issues beyond the Ministerial Conference. In their draft Declaration they had dealt with those aspects of the implementation issues which by their nature could be part of the single undertaking. The CEFTA countries hoped that their proposal would help the deliberation of the last, most critical stage of the preparatory process.

30. The representative of Canada said that his delegation had hoped to table a number of proposals for future multilateral negotiations by the end of July. Canada had tabled one proposal with respect to TRIPS (WT/GC/W/256) and co-sponsored the proposal introduced by Norway on technical assistance (WT/GC/W/259), and hoped that additional proposals would be reviewed by Canadian Ministers later in the summer and tabled shortly thereafter. This timetable reflected the extensive consultation process that his Government had undertaken to identify Canadian interests and priorities for future negotiations in the WTO, a process involving a wide range of interested stakeholders, Parliamentary Committees, provincial governments, industry representatives and broader elements of civil society. While Canada had not submitted many proposals to date, it had been involved actively on a range of issues that would help lead to a successful Ministerial Conference and the launch of new negotiations. Canada's non-paper on the implementation clauses of the Dispute Settlement Understanding had provided a concrete focus for discussions in the DSU Review and enhanced prospects for a successful resolution of this matter. Canada had co-sponsored, with the United States, a proposal on transparency and the derestriction of documents, and as a member of the Cairns Group, had participated fully in the development of various statements during the second phase, based on the earlier Vision Statement. Moreover, Canada's positions were well known on a range of issues including further reducing industrial tariffs and eliminating non-tariff barriers; curbing the abuse of trade remedy measures; developing new disciplines, where appropriate, in such areas as electronic commerce, investment, and competition policy; enhancing trade facilitation; extending the coverage of rules on trade in services, including professional services; addressing public concerns about the social dimensions of trade; and achieving greater coherence between the WTO and other international institutions engaged in addressing the challenges of the global economy.

31. Referring to a topic that Canada had raised in recent international meetings involving Trade Ministers and Ministers responsible for culture, namely the treatment of cultural goods and services in international trade and investment agreements, he said that this had been the subject of much discussion in Canada. Earlier that year, Canadian cultural industries (publishing, film and video production, sound recording, broadcasting and multi-media) had produced a report entitled "New Strategies for Culture and Trade". The report had outlined the challenges and opportunities facing these industries and had surveyed what Canada and other governments were doing in support of the creation, production and distribution of cultural goods and services. The report had concluded by recommending that Canada, and other governments, should negotiate a new international instrument that would specifically acknowledge the importance of cultural diversity and address the cultural policies designed to promote that diversity. The report had been circulated to other delegations in Geneva for information. In Canada, the report had been the subject of hearings in the spring conducted by the Parliamentary Committee on Foreign Affairs and International Trade on Canadian priorities for future trade negotiations, and had been considered by the Standing Committee on Canadian Heritage. Outside Canada, Canadian Ministers had expressed the view that any future negotiations that had an impact on cultural goods and services should take into account the role these products played in promoting cultural diversity and identity. Canada believed that an increasing number of WTO Members would come to identify their individual and collective interests in this emerging debate. Some of the observations of the cultural industries' report had underlined the following commonality of interests: (i) most WTO Members had cultural policies to support the creation, production and distribution of cultural goods and services; (ii) cultural goods and services were to some extent already covered in, or affected by, WTO agreements and Members had attempted

to address their unique aspects through scheduled commitments, with certain restrictions, or by excluding entire cultural sectors; and (iii) technological developments were creating new opportunities for trade and investment but were also raising legitimate concerns about how governments could promote cultural diversity and identity while negotiating new rights and obligations in trade agreements. Canada believed that the issues raised in this report were ones that the governments of most WTO Members would want to examine. Canada had been examining these issues and hoped to come forward with some specific ideas in the coming weeks.

32. The representative of Venezuela, introducing a proposal on special and differential treatment and the spaces for policies in the WTO as elements of the development dimension (WT/GC/W/279), said that the forthcoming negotiations should take place in two dimensions, which complemented each other: one that could be termed "trade per se", or "the trade dimension in restricted sense", in which the aims were to liberalize trade, widen the possibilities of market access and facilitate international flows of goods and services, and another dimension that could be termed "the spaces for policies", which included a range of policy instruments that could be used to promote not only the growth of traditional trade flows of developing countries, which were to a large extent based on commodities, but also the structural transformation of their economies and the increase in their level of competitiveness. Regarding the first dimension, or trade in restricted sense, WTO Members seemed to agree upon the basic postulates and objectives of liberalization and, in the light of this, the efforts made thus far in this dimension could converge. However, the situation was not the same with regard to some issues in the negotiations that were particularly relevant for developing countries, such as those included in the TRIMs, TRIPS and Subsidies Agreements and the GATS, and in areas such as those related to foreign investment, government procurement, transfer of technology and competition rules. These matters were development-policy issues and part of the "space for policies". The usefulness of policy instruments in the implementation of market-oriented development strategies had become a reality. In the recent past some of these mechanisms had been applied with success by developing countries, to overcome failures in coordination, and external and technological problems, to obtain progressive improvements in their competitiveness and productivity, to promote technical progress and to foster domestic economic dynamism. There were two other goals in the area of the development of competitiveness in which the usefulness of this type of policy was clear: the development of technological innovation capacities and the construction and exploitation of business networks. It was recognized by both developed and developing countries that these goals were not an automatic result of trade liberalization, nor were they reached through transition periods and technical cooperation as already established under the principle of special and differential treatment. To reach these goals, there was a need for market-oriented supply policies, focused on specific development objectives. If the multilateral trading system legitimized spaces for these kinds of policies, as well as for policies on the demand side, a wide range of policy instruments could be implemented by developing countries in order to reach their development objectives within the framework of a market economy, and to allow implementation in a manner consistent with their multilateral commitments.

33. In this regard, Venezuela proposed two concrete actions in connection with the forthcoming negotiations and the future work programme. First, in order to ensure that the development dimension, i.e. the S&D provisions and the "spaces for policies", was properly addressed, it was proposed to include it as a general mandate at the third Ministerial Conference through the following specific actions: (i) in reviewing the implementation of existing agreements, as well as in the negotiations foreseen under the built-in agenda, it was necessary to identify and recognize the market-oriented policy instruments already existing in the agreements or that could be introduced in them, under the condition that they were consistent with the general WTO principles. This exercise would not prejudice the need to improve the S&D provisions as conceived at the present time; and (ii) in any negotiations on new issues under paragraphs 9(b) and 9(d) of the Geneva Ministerial Declaration, the necessity of identifying and recognizing the market-oriented policy instruments that could be placed in the resulting agreements, under the condition that they were consistent with already existing WTO commitments. Second, with regard to the future WTO work programme and paragraph 10 of the

Geneva Ministerial Declaration, a Working Group should be established with the following specific objectives: (i) to follow-up on the steps taken to fulfil the above-mentioned mandate; (ii) to develop the idea that the development dimension in the multilateral trading system should cover the following two sets of instruments that would run through various agreements: special and differential treatment, and spaces for development policies; and (iii) to identify and analyse policy instruments within those two categories that could be considered to be consistent with multilateral trade rules, and that should be recognized as being of legitimate benefit to developing countries.

34. The representative of Mauritius said that his delegation had noted the Chairman's proposal for the organization of future work, including his clarifications on certain aspects, and believed that the General Council needed to focus its work in the third phase. Mauritius supported the suggestion that the Secretariat should prepare a more functional checklist of the proposals submitted, which would be of help to small delegations such as his. As to the objectives of any negotiations, his delegation believed that Members needed to reflect further on the suggestion made regarding setting-up a taskforce or a group of friends to deal with functional issues.

35. The representative of Australia said that the second phase of the preparatory process had done what it had set out to do, namely to produce a menu of proposals from which recommendations to Ministers at Seattle would have to be selected and elaborated. While his delegation expected that more proposals would be submitted elaborating on areas already covered by existing proposals, it was working on the assumption that the elements of the menu were complete, and that there would be no major surprises. In terms of substance, the second phase had shown that there was convergence in some areas and divergence in others. The proposals on services, for example, were similar in many respects, although Australia and others wished to see an explicit focus on improved market access in the next round of services negotiations. The proposals on agriculture on the other hand, showed that Members' positions were as yet far apart, and intensive work would be needed to bridge the different views that had been expressed thus far. Australia had also noted that the proposals on non-agricultural tariffs were broadly similar, but that a small although diminishing number of WTO delegations had yet to agree to the principle of holding such negotiations. Australia was also pleased at what seemed to be the growing acceptance of the idea of a short multilateral round conducted as a single undertaking. The conclusion that Australia drew from these proposals was that the best way forward for the WTO was to agree at Seattle on a market access round that would focus on services, agriculture, industrials and the rules that underpinned market access in these areas and that would deliver balanced gains for all Members in a short time-frame. Australia believed that such a round would achieve the best balance between realism and ambition. Australia did not reject negotiations in other areas, whether described as implementation issues or new issues, but would be concerned if likely gains in market access that would be of immediate benefit to all Members were held hostage to potentially longer negotiations in other areas. If Members were to achieve real and balanced gains in a short negotiation, it would be crucial for negotiators to be given as much and as clear guidance by Ministers at Seattle as possible. That meant that the decisions to be taken by Ministers should be detailed and should, wherever possible, set negotiators realistic goals. Ministers should also agree on negotiating plans, as it would be crucial that scarce negotiating time not be wasted discussing issues that could be decided beforehand. Australia understood that some Members were concerned to avoid what they described as pre-negotiation, and accepted this. But one had to be realistic, and accept that there was no clear dividing line between detailed guidance on the one hand and pre-negotiation on the other, and thus Members should be governed by the pragmatic consideration of what must be done to get the negotiations off to a good start. If decisions at Seattle were to be detailed and ambitious, work on drafting needed to start as soon as possible. The task would not be easy, and certain elements would be crucial. First, the General Council would need to start drafting a Seattle Ministerial Declaration straight after the summer break and a first draft by the Secretariat would be useful, together with Members contributing their own inputs. Second, work on the Declaration would need to proceed in parallel with intensive work on specific issues, since it would not be possible to leave work on the Declaration as a whole until there was agreement on individual areas. Third, delegations

would have to be flexible about the nature of their work, and the requirements of transparency would have to be balanced with those of efficiency. Not all areas proposed for Seattle would be of the same level of interest to all delegations, and the initial stage of intensive work would perhaps best be done in open-ended inclusive informal meetings. General Council meetings would, of course, be crucial for transparency. Fourth, both the Chairman of the General Council and the Director-General would have to play active and important roles in the work. For its part, Australia was committed to playing an active and constructive role in the final phase of the preparatory work which, it hoped, would lead to the launch of a new round of trade negotiations with ambitious but realistic goals.

36. The representative of Peru, referring to the proposal presented by Venezuela on behalf of a group of Members on the protection of intellectual property rights on traditional knowledge in local and indigenous communities, said that her delegation agreed on the necessity to grant adequate protection to traditional knowledge through a new ad hoc system of intellectual property rights or through an existing system. A contradictory situation existed in the area of intellectual property at the present time, where consideration was being given to increasing intellectual property rights, but at the same time no protection existed for the ancestral knowledge of local and indigenous communities. Peru believed that recognition should be given to the legitimate rights of these communities to promote economic and social development, and in this regard, the Ministerial Conference should adopt a decision to undertake a study on the most suitable manner to protect these rights with the aim of establishing multilateral rules in this area.

37. The representative of Mexico said that it was important to start exchanging ideas on possible elements for the Seattle Ministerial Declaration, and welcomed the proposal on a draft Ministerial Declaration introduced by Hungary on behalf of the CEFTA countries (Job(99)/4552), as well as that by Switzerland (WT/GC/W/260). Although Mexico might not agree with some of the elements in the CEFTA proposal, it agreed with the structure. As regards suggestions for a work programme on labour standards to be established at Seattle, Mexico supported the statement by India that non-trade concerns should not be part of the future work programme of WTO.

38. The representative of Uganda said that his delegation, as a member of the African Group, fully endorsed the proposals introduced by Kenya on behalf of the Group. The discussion at the present meeting had clearly shown levels of ambition and areas of convergence, and his delegation would be considering possible outlines of a Declaration and the programme of work. His delegation supported the Chairman's proposal on the organization of work, subject to the clarifications he had made, and agreed on the usefulness of a synopsis of the proposals in discussing the outline. Time was not on the side of delegations, and Uganda welcomed the proposals by the CEFTA countries and Switzerland as useful inputs for the Declaration. He reiterated his delegation's support for the statements by various LDCs on their expectations, in particular the statement on implementation by Zambia on a previous occasion. For Uganda, implementation was the most critical aspect of the future work. His delegation also supported the position of the LDCs regarding labour standards, namely that this matter should not find its way into WTO discussions.

39. The representative of Hong Kong, China noted that when Ministers met for the third Session of the Ministerial Conference in Seattle, they would pursue an evaluation of the implementation of individual agreements, and the realization of their objectives pursuant to paragraph 8 of the Geneva Ministerial Declaration. In this regard, he introduced a paper<sup>6</sup> submitted by members of the ITCB that were also Members and Observers of the WTO concerning the evaluation of the implementation of the Agreement on Textiles and Clothing, which was intended as an input for Ministers' deliberations. The paper noted the significance of trade in textiles and clothing for developing countries, a sector which accounted for some 19 per cent of developing-country exports of manufactures in 1997, and a higher share for some countries, especially the least-developed. The paper recalled that the central

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<sup>6</sup> Subsequently circulated as document WT/GC/W/283.

objective of the ATC was progressively to phase out the quota restrictions carried over from the Multi-Fibre Arrangement and thereby to contribute to the liberalization of trade in the sector. The paper went on to analyse, article by article, the extent to which concrete progress had been made towards achieving the realization of this objective given that almost half of the ten year transition period for full implementation had elapsed. It had been noted that, since integration programmes for the first two stages of the implementation process had already been put in place covering a period of seven years, these programmes in fact covered 70 per cent of the transition period. The conclusion of the analysis in the paper was that the implementation of the Agreement on Textiles and Clothing during the first five years of the transition period had failed to come up to developing countries' expectations, and that the committed liberalization had yet to materialize. Although 33 per cent of trade might have been integrated by the restraining countries in a narrow legal sense, only a few quota restrictions had actually been liberalized. For example, in the United States, out of a total of 750 quotas, only 13 quotas had been eliminated thus far, representing 1.7 per cent. In the European Union, only 14 quotas, or 6.4 per cent, of a total of 219 had been eliminated. Such additional access as there had been had not resulted in any lessening in the restrictive nature of quotas. For example, the ITCB had estimated that in the previous year 171 quotas, or 27 per cent of the total, had exceeded the respective quota ceilings in the United States, compared with only 23 per cent in 1997, which indicated that the quotas were biting even more. Developing countries, including small suppliers and least-developed countries, had not received any meaningful increases in their access possibilities. In this regard, the additional annual access for small suppliers under stage 2 of the integration programme was only 1.17 per cent in the United States and 3.54 per cent in the European Union. Ironically, these figures were well below the 6 per cent notional annual growth rate that had been considered the norm before the ATC era. Thus, despite solemn commitments, the process of liberalization had failed to be progressive in character, and had not allowed developing countries to benefit from strong consumer demand. The restraining Members had made few efforts to facilitate increased competition in their markets. On the contrary, attempts had continuously been made to condition the implementation of already-agreed commitments on additional reciprocal and sectoral access by developing countries. A large number of actions for new restrictions had been invoked by a major developed restraining Member, affecting over a billion dollars worth of additional trade. Significantly, a large majority of these actions had been found to be inconsistent with the provisions of the ATC. Many of these cases had involved exports from small suppliers for whom the Agreement, in fact, envisaged more favorable treatment, not less favourable. Changes in rules of origin and tightening of customs and administrative procedures had created substantial disruptive effects for trade and impeded the full utilization of access under the Agreement. Another major WTO Member entity had invoked many anti-dumping actions targeted particularly at products that were already under quota restrictions. The conclusion of the paper, which was supported throughout by argument and fact, was that the balance of advantages for developing countries had been impaired, and that there was a necessity for immediate corrective measures by the developed-country restraining Members, without any further concessions by developing countries. The Members submitting the paper were considering the formulation of a number of suggestions for such corrective action which would address some of the concerns outlined in the paper.

40. The representative of Chile said that, with regard to the organization of future work, her delegation supported the Chairman's proposal for the schedule of meetings from September to November, and saw no inconvenience in working in parallel to allow discussion of proposals to continue, some of which had not yet been submitted, in the third phase. In this phase, work would have to intensify and focus on what would be the outcome of the Seattle Ministerial Conference. It would be necessary to structure a draft Ministerial Declaration on the basis of the proposals submitted during the second phase and those yet to come. Her delegation supported the suggestions that the Secretariat prepare a synoptic table of all proposals submitted to date, clustered around the substantive issues. In September, it would be necessary to start consideration of a draft structure for the Ministerial Declaration, to allow all the elements to be taken into account, and in this regard her delegation welcomed the Chairman's proposal to circulate a draft outline which, taken together with

the proposals by Switzerland, Singapore and the CEFTA countries, would constitute a good point of departure for starting the discussion in the third phase. Chile believed that the Ministerial Declaration should start with a political statement on the importance of the multilateral trading system, the rejection of protectionism, the importance of timely implementation of the Marrakesh agreements, the need to deepen efforts for trade liberalization, and any other element of the multilateral trading system which needed to be highlighted. Next, the Declaration should refer to the future work programme, distinguishing between the issues which would be subject to negotiation and those which would be treated alongside the negotiations, such as implementation which contained issues where there would be no need for negotiations, the follow-up to the high-level meeting on LDCs, and the issues contained in the Singapore Ministerial Declaration if not included in the negotiations. The work programme for issues requiring negotiation should contain details on the launch, objectives and principles of the negotiations, the substantive issues identified in the most clear manner possible, the organization of the negotiations in terms of structure, calendar and modalities, and participation in the negotiations. With regard to possible immediate actions, or deliverables, at Seattle, these should form part of one or several separate decisions, and any future work on these issues should continue within the existing bodies of the WTO. Chile was ready to participate in the development of deliverables, but these should be for agreement at Seattle. There did not seem to be consensus at the present time on possible subjects for consideration as deliverables, and to be able to make progress in this area, it was essential that any subject reflect an adequate balance of interest of all Members. In this regard, Members would have to put to one side the domestic agendas of a few important trading partners, as it was important to avoid deliverables being interpreted as down-payment for agreement on a new round. Considering the small amount of time until the Ministerial Conference and the complexity of the issues to be agreed in the area of future negotiations, Chile believed that the General Council should concentrate on defining the negotiating mandate, which would be a concrete, realistic and significant deliverable.

41. The representative of Uruguay supported the Chairman's proposal on the organization of future work, and believed that the third phase should start in September with consideration of a draft Ministerial Declaration in parallel with further discussion of proposals. Uruguay supported the proposals on agriculture submitted by Australia on the basis of the Cairns Group Vision Statement (WT/GC/W/156), in which Uruguay had participated. The Vision Statement had expressed the objectives which the Group hoped to develop in the future negotiations, and subsequent proposals had taken up specific issues. On previous occasions, his delegation had supported these proposals and emphasized its own areas of interest. His delegation also shared the concerns expressed in many of the proposals by developing countries, in particular those by Pakistan (WT/GC/W/161) and Cuba on behalf of a number of countries (WT/GC/W/163). However, some of the other proposals caused his delegation great concern, in particular those by Korea (WT/GC/W/170), Japan (WT/GC/W/220) and Norway (WT/GC/W/238). His delegation was concerned that the countries whose development, progress and wealth had come from the benefits obtained from liberalization, the expansion of trade, and from a strengthened multilateral trading system, were those that were suggesting the exclusion of the rules and principles of the multilateral trading system from an entire economic sector on a permanent basis. He referred in this regard to the last sentence of paragraph 8 of Norway's proposal (WT/GC/W/238) which suggested that "agriculture, also in the future, will have to be treated separately within the multilateral trading system". Uruguay could not accept such a permanent discrimination for agriculture *vis-à-vis* other goods and sectors. If such discrimination were allowed, the consequence would only be an increase in protection. His delegation would not accept agriculture being continually sidelined in negotiations. Uruguay believed that proposals of this sort could have important consequences for the multilateral trading system, which all Members said they wished to preserve and strengthen. While no government was protectionist for the sake of being so, when it started to bow to pressure from domestic groups or sectors, and when this pressure became more important than its international commitments, such as those set out in Article 20 of the Agriculture Agreement, producers in other countries which also felt harmed or discriminated against would also appeal to their governments to adopt similar permanent measures. In the end, all would be harmed. He



wondered what would happen if these arguments for maintaining protectionist measures in the agricultural sector with the aim of achieving specific objectives, some of which might be legitimate and valid, were also applied in the industrial sector, or in services. If the proposed solution for each sector in which sensitivities or problems existed was to exclude it from multilateral disciplines, he wondered what would be left to negotiate and what would be left of the multilateral trading system. Uruguay was a developing country, with a small and vulnerable economy which, in line with the principles of free trade, had recently undergone a costly process of adjustment and significant restructuring of its productive sectors with the associated economic, social and political consequences. Previously protected sectors which had not been able to compete, nationally or internationally, had been obliged to adjust to new realities, to recycle and modernize. Uruguay was thus well placed to talk about this matter, as it had assumed its responsibilities towards other more competitive and efficient countries. It could not accept that efficient agricultural producers, such as itself, would be penalized because developed countries with inefficient agricultural sectors did not want to assume their responsibilities in turn. While Uruguay did not deny that there were valid non-trade concerns in these countries, it noted that similar concerns also existed in other countries, and especially in other sectors, not just in agriculture. The arguments advanced by developed countries on food security had nothing to do with the problems of the developing countries in this area. The developed countries had the financial resources necessary to achieve food security for their populations and, in reality, it was more a question of not wanting to accept the political price which would have to be paid for changes to irrational, inefficient, and distortive policies of self-sufficiency. Uruguay was also concerned by the manner in which Japan had interpreted the objectives of the future negotiations, ignoring the objectives clearly set out in Article 20, and proposing that "the objectives for the next agricultural negotiations are to establish a set of rules and disciplines that are genuinely fair and equitable for both food importing and exporting countries, as well as for developed and developing countries, and which allow a coexistence of the various types of agriculture among Members" (WT/GC/W/220, paragraph 1). For Uruguay, this concept of coexistence appeared to be confused and incoherent. More surprising was that, in paragraph 3(b) of its proposal, Japan indicated that a review of the Agriculture Agreement should facilitate a reform process for market-oriented approaches in agricultural policies undertaken by Members. His delegation would be interested in hearing Japan's explanation of the manner in which the two concepts could be reconciled, especially as it was preferable that market-oriented adjustments be undertaken by one's own producers, and this seemed to be the case in the dispositions of the agricultural law recently adopted in Japan by the Diet. Further, in paragraph 9, Japan had suggested that the next agricultural negotiations should be conducted in a manner to ensure in particular the three objectives of multifunctionality, food security, and redressing the imbalance between exporting and importing countries. Uruguay wondered how these objectives could possibly match the objectives laid out in Article 20 that the next negotiations should be conducted to ensure substantial progressive reductions in support and protection. Uruguay did not agree with these interpretations of the objectives of Article 20.

42. Finally, on the concept of multifunctionality in agriculture, it should be clear was that there was no difference between this concept, as presented in several of the proposals, and the concept and origin of protectionism itself. At different times in history, governments had erected different levels of protectionist barriers, and this had generally been to support or defend a sector or a social group, to preserve the environment, to maintain an aspect of traditional life, to provide production incentives in a particular sector or activity, or to safeguard employment. This applied not only to agriculture but to many other sectors and activities. Article 20 of the Agriculture Agreement established that non-trade concerns should be taken into account in the negotiations on agriculture. However, these proposals meant that the agreed negotiations on agriculture taking into account non-trade concerns would be transformed into negotiations on multifunctionality taking into account agriculture. It would be useful to consider the horizontal aspects of this new concept in different areas so as to see more clearly the applicability of the concept to other sectors in future negotiations. Some developed countries claimed that the adoption and acceptance of the concept of multifunctionality would be the most appropriate solution to the problems faced by developing countries. Uruguay believed that this was only a pretext

for continuing protectionist and distortive policies, and developing countries would never be able to compete against the treasuries of the industrialized countries. This type of competition was neither right nor legitimate and would not lead to a positive outcome. There were indeed some important non-trade concerns, such as food security in developing countries and LDCs, and special and differential treatment in this respect should be an integral element of the future negotiations. The most important aspect of food security was that net food-importing countries needed some form of income to be able to buy the necessary food when their harvests failed, and this was not a question of food aid, which had nothing to do with the Agriculture Agreement. To obtain this income these countries had to be exporters. The solution suggested by some developed countries appeared to be to close the markets and increase the use of subsidies so that prices would fall. However, what should in fact take place was that markets should be further opened so that income would be generated and food could be bought if necessary. Uruguay firmly believed that market access for developing countries was a major element of the concept of food security. Uruguay had always supported and defended the multilateral trading system, and the objective of promoting a freer, rules-based system, aimed at reducing market distortions. In recent years, one had seen unprecedented openness and growth in international trade in goods and services. Some sectors, however, had long been left behind. Many developed countries continued to protect excessively sectors which were vital for developing countries, such as agriculture, where the effects of global liberalization were still minimal. Continuing this situation prevented developing countries from expanding activities in which they had a comparative advantage.

43. Although the continuation of agricultural negotiations had been mandated at Marrakesh, Uruguay had long been calling for a new round of negotiations, taking into account the interests of all Members, as the most suitable and pragmatic way to obtain significant results in all sectors. For this reason, Uruguay had shown flexibility when considering new issues for future negotiations, on the understanding that additional liberalization and reform in the agricultural sector, given its situation compared to other sectors, would be of a high priority. However, Uruguay had been disappointed by the proposals submitted by some industrialized countries. It believed that its own suggestions were reasonable, aimed at putting agriculture on the same footing as trade in other goods, and it was ready to discuss these suggestions with other Members with the aim of persuading them of the merits and benefits for the whole international community. Uruguay and the Cairns Group were working towards the adoption at Seattle of a clear and detailed mandate for the agriculture negotiations, and it should be made absolutely clear that if due attention was not accorded to agriculture in the future negotiations, the Seattle Ministerial Conference would be a failure.

44. The representative of Cuba thanked the Chairman for his efforts to push forward the work in the preparatory process. His delegation agreed with Pakistan and India that the second phase of the preparatory process had not yet been completed. It was very important to be able to receive all the proposals in the process, and to analyse them thoroughly before proceeding further. Cuba believed that the evaluation of the implementation of individual agreements as required under paragraph 8 of the Geneva Ministerial Declaration was also an important exercise, which would help to determine recommendations to Ministers aimed at correcting the imbalances in the existing WTO agreements that had been perceived in the course of implementation. Cuba agreed with other delegations that it was premature to start work on a draft declaration at this stage. Work on a draft declaration should be the result of intense reflection, and the conditions for this did not yet exist. Issues had not yet become sufficiently mature for them to be considered for inclusion in a draft text. His delegation also agreed with others who had suggested that the Secretariat prepare a synoptic table of all the proposals made thus far in the process, which would help delegations to take decisions.

45. The representative of Bolivia welcomed the Chairman's proposal to circulate a draft outline of a declaration in the first week of September, and believed that it would be helpful in the work on elaborating a Ministerial Declaration. Her delegation also agreed on the need for flexibility in the scheduling of informal meetings on phase 3 of the preparatory process, but believed, like other

Members, that it was important to ensure that all proposals were translated into Spanish and French before these meetings to permit delegations to consult with capitals. Bolivia considered useful the suggestion by some delegations, both at an earlier informal meeting and at the present meeting, that the Secretariat prepare a synoptic table summarizing the texts of the proposals submitted thus far. However, her delegation also realized the burden of work that such summaries would involve for the Secretariat, and suggested therefore that delegations themselves undertake to provide summaries of their proposals to the Secretariat which could then assemble them into a synoptic document.

46. The representative of Japan said that, with regard to the organization of work in the third phase, the time available from September would be very short and this should be kept in mind. There was a heavy workload ahead, so work on the draft Ministerial Declaration should start immediately in September and his delegation fully supported the Chairman's draft schedule of meetings. There was also work remaining from the second phase and some proposals were yet to be submitted, so parallel work would be necessary, as suggested by some delegations. It was feasible to continue discussion of the proposals while drafting the Declaration, as it would be necessary to look at the proposals during this work. There was not, therefore, any need to finish the discussion on proposals before starting work on drafting the Declaration, and in any case time would be too short to allow this.

47. The Chairman said that he had noted all the points of view concerning his proposals for further work in the preparatory process. In the light of the discussion, he confirmed his intention to circulate, on his own responsibility, a draft outline of a Ministerial text or texts in the first week of September. He assured delegations that he would consult further in the course of preparing this text. In line with what he had stated earlier about the multi-layer process in phase 3, there seemed to be wide agreement that the third phase should also include provision for the further examination of proposals, including those yet to be submitted which he hoped would be submitted sooner rather than later. On the understanding that the process in phase 3 should be structured with maximum flexibility, he intended to circulate to delegations shortly an indicative schedule of meetings for phase 3, beginning in early September. The suggested focus for each meeting would be communicated to delegations at a later date. He noted that in the discussions, both at an earlier informal meeting and at the present meeting, there had been some suggestions for the Secretariat to compile summaries of the proposals submitted thus far. He recalled that on earlier occasions, reservations had been expressed about requesting the Secretariat to make such summaries particularly since not all submissions were in the form of concrete proposals. Taking into account other suggestions as to how this work might be accomplished, he suggested that the Secretariat circulate an initial compilation of proposals which would reproduce fully the text of the specific proposals presented in the submissions by Members, as well as the full texts of submissions not in the form of specific proposals. Delegations would then be invited to indicate to the Secretariat how the full submissions might be included in summary form in a revised version of this initial document. The compilation would be regularly updated in the light of further proposals.

48. The General Council took note of the statements and agreed to the Chairman's suggestions for the organization of further work in the preparatory process.

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