

WORLD TRADE ORGANIZATION

RESTRICTED

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**General Council
19 February 1998**

MINUTES OF MEETING

Held in the Centre William Rappard
on 19 February 1998

Chairman: Mr. C. Lafer (Brazil)

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Prior to adoption of the agenda, the General Council heard statements by the representative of the Staff Council and by the Director-General regarding conditions of service of WTO staff.

Also prior to adoption of the agenda, the General Council agreed to a proposal by the Chairman that the meeting of 14 November 1997, held to examine the question of conditions of service of WTO staff and subsequently suspended to allow for further consultations on the matter, be considered closed, and that the question of conditions of service be taken up at a future meeting of the General Council as and when it became ready for consideration.

1. Cape Verde - Request for observer status (WT/L/258)

The Chairman drew attention to the communication from Cape Verde requesting observer status in the General Council and its subsidiary bodies (WT/L/258), in which Cape Verde had indicated its intention to apply for accession to the WTO Agreement and had provided a brief description of its economy and foreign trade regime, in accordance with the guidelines for observer status for governments in the WTO (WT/L/161, Annex 2). He proposed that Cape Verde's request be granted.

The General Council so agreed.

2. Accession of Laos

- Communication from Laos (WT/ACC/LAO/1)

The Chairman drew attention to the communication from Laos requesting accession to the WTO Agreement (WT/ACC/LAO/1).

The representative of Laos, speaking as an observer, said that his country's application to the WTO was important not only to promote Laos's foreign trade but also for the general development of its economy. His Government was willing to provide all the information required and, if admitted to the WTO, was prepared to carry out its responsibilities under the charter of the Organization. Since 1986, Laos had decided to follow a market economy orientation in its general policy of liberalization. The gradual liberalization of state enterprises to the benefit of the private sector had had encouraging results. The country's domestic trade, transport and exchange rates were now under market competition. Its national currency, the Kip, was still floating and had suffered considerably from the financial crisis that had struck Asia. With the assistance of the IMF representative in Vientiane, the Government had taken a series of measures designed to limit the damages. These measures were beginning to bear fruit and inflation had gone from 30 per cent to 16 per cent and economic growth from 6 per cent to 7 per cent between 1996 and 1997. The per capita income of US\$370 was expected to increase to US\$540 by the year 2000. The Government intended to hold firmly to the objectives set in its long-term economic and social development strategy. Laos had become a member of ASEAN in July 1997 and was at present preparing its admission to the Asean Free Trade Area. The

Government had signed a cooperation agreement with the European Union that covered a number of social and economic development sectors designed in particular to develop the remote rural areas of Laos.

The representatives of Brunei on behalf of the ASEAN Members and Australia expressed support for Laos's request.

The representatives of Brunei on behalf of the ASEAN Members and Japan supported the establishment of a working party to examine Laos's request.

The representative of Brunei, speaking on behalf of the ASEAN Members, said that the ASEAN countries had had long and good relations with Laos and that its accession would be beneficial to the organization and further enhance trade in the region.

The representative of Japan said that his country had a close relationship with Laos and welcomed the latter's efforts in its preparations for accession to the WTO Agreement.

The representative of Australia said that his country had a comprehensive and substantial economic relationship with Laos, and his delegation intended to work closely with Laos to ensure that its accession took place as expeditiously as possible.

The Chairman proposed that the General Council take note of the statements and agree to establish a working party with the following terms of reference and composition:

Terms of reference:

"To examine the application of the Government of Laos to accede to the WTO Agreement under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession."

Membership:

Membership would be open to all WTO Members indicating their wish to serve on the Working Party.

Chairmanship:

The General Council would authorize its Chairman to designate the Chairman of the Working Party in consultation with representatives of Members and with the representative of Laos.

The General Council so agreed.

The Chairman invited the representative of Laos to consult with the Secretariat as to further procedures, in particular regarding the basic documentation to be considered by the Working Party. He also invited Laos, on behalf of the General Council, to attend meetings of the General Council and, as appropriate, meetings of other WTO bodies as an observer during the period in which the Working Party was carrying out its work.

3. Committee on Balance-of-Payments Restrictions

- (a) Consultation with Pakistan (WT/BOP/R/39)
- (b) Consultation with the Slovak Republic (WT/BOP/R/40)
- (a) Consultation with Pakistan (WT/BOP/R/39)

Mr. Jenkins (United Kingdom), Chairman of the Committee on Balance-of-Payments Restrictions, said that at the resumed consultation with Pakistan on 10 November 1997, Committee members had welcomed the fact that Pakistan had clearly identified the items restricted for balance-of-payments (BOP) reasons and that the number of such items had been considerably reduced. Members had recognized Pakistan's continuing BOP difficulties, and had commended it for its wide array of reform efforts. Some Members had believed that Pakistan should be deemed in compliance with its obligations. Others had expressed concern regarding the WTO conformity of the measures, and an unreadiness to conclude the consultations in the absence of a time-schedule for their removal, which could be modified as appropriate. The Committee had agreed that the consultations would be deemed to be concluded provided Pakistan publicly announced, within twelve months, a schedule, taking account of macroeconomic developments and the interests of trading partners, for the removal of the measures within a reasonable period of time.

The General Council took note of the statement and adopted the report in WT/BOP/R/39.

- (b) Consultation with the Slovak Republic (WT/BOP/R/40)

Mr. Jenkins (United Kingdom), Chairman of the Committee on Balance-of-Payments Restrictions, said that at the consultation with the Slovak Republic on 9 October and 17 December, the Committee had recognized that the Slovak Republic was facing balance-of-payments (BOP) difficulties, with a low level of reserves, as noted by the IMF. The Committee had welcomed the prompt notification of the import surcharge and the accompanying schedule for its phase-out. Members had also welcomed that the measure was price-based and generally applied. Some Members had questioned whether the measure was an appropriate response to the BOP problem confronting the Slovak Republic, and had suggested that structural reform and macroeconomic adjustment were more likely to bring lasting relief. They had called for fiscal tightening and an acceleration of the phase-out plan. After a short suspension of the consultation, the Slovak Republic had reported that its Parliament had adopted a budget for 1998 which provided for a reduction in the fiscal deficit. Also, the bankruptcy law had been amended, and a modification to the phase-out plan which would result in the elimination of the measure by 1 October 1998 would be notified formally. On that basis, the Committee had agreed to recommend that, pursuant to paragraph 13 of the BOP Understanding, the Slovak Republic should be deemed in compliance with its obligations under GATT 1994, provided it adhered to its modified time-schedule. It had been understood that any departure from the time-schedule would be notified promptly so that the Committee could meet.

The General Council took note of the statement and adopted the report in WT/BOP/R/40.

4. Preparations for the 1998 Ministerial Conference and the commemoration of the 50th Anniversary of the multilateral trading system
 - (a) Organizational matters
 - (b) Attendance of non-governmental organizations
- (a) Organizational matters

The Chairman said that at an informal meeting of the General Council on 16 February, Members had had a discussion on a paper by the Chairman containing points on which consensus appeared to be emerging and matters on which further discussion was required. The paper had been slightly amended in the light of the discussion and was available in the Room. He read the points out for the record, as follows:

"A. Points on which consensus appears to be emerging

1. In accordance with the decision already taken by the General Council on 22 October 1997, the Ministerial Conference will begin on the morning of 18 May and will last through the afternoon of 19 May, followed by the commemoration of the 50th Anniversary on 20 May with the participation of Heads of State or Governments. It is understood that these are two distinct events.
2. The substantive agenda for the Ministerial Conference will consist of two broad areas for discussion: implementation of the WTO work programme and future activities of the WTO.
3. There will be a short formal opening of the Conference on the morning of 18 May, followed by two sessions for discussions among Ministers. The first session would cover issues relating to implementation of the work programme; a second session would cover future activities of the WTO. Discussions would begin on the morning of 18 May and continue through the afternoon of that day and the morning of 19 May.
4. The formal closing session of the Conference would be held in the afternoon of 19 May where the relevant decisions would be taken, including election of officers, venue and date of the next Ministerial Conference.
5. Ministers so wishing could provide a general statement to the Secretariat for distribution to other delegations and to the press. These statements would cover two items: implementation and future activities.
6. The commemoration of the 50th Anniversary to be held on 20 May would be open to the participation of all Members of the WTO.

Matters on which further discussion is required

1. Whether discussion by Ministers on the two substantive items of the agenda should be recorded in minutes of the Conference or should be totally informal, and the amount of time and the priorities to be attributed to the discussions in these two areas.
2. The nature of any action by Ministers concerning these discussions, i.e. the preparation of a Chairman's summing-up, or of a short declaration, and/or of a decision on preparations for the next Ministerial Conference.
3. The scenario for the commemoration of the 50th Anniversary with the participation of Heads of State or Government."

He proposed that delegations take note of the statement on the understanding that the second set of points would be subject to further informal consultations.

The representative of Egypt said there was some confusion as to what the agenda item concerning future activities might include, particularly as regards the possibility of introducing new topics or to accelerate dealing with the built-in agenda earlier than the previously agreed time-frames, which Egypt could not agree to. Implementation should be the main focus of discussion at the Ministerial Conference, and in particular the shortcomings in the areas of agriculture, textiles, anti-dumping, and special and differential treatment for developing countries, especially the least-developed. A decision at the Ministerial Conference to overcome these shortcomings was of utmost importance. Regarding the matters on which further discussion was required, Egypt believed it was important for Ministers to engage in a constructive dialogue, which should be recorded in the minutes of the meetings. Furthermore, a document reflecting the results of the two-day meeting was essential, and all delegations should be allowed to participate in its drafting to facilitate its adoption. On the 50th Anniversary, the Heads of State or Government that expressed the wish to participate would be welcome, but delegations headed by Ministers should also be allowed to address the occasion. The format of the event would undoubtedly depend on the number of Heads of State or Government that would actually participate.

The representative of Pakistan said his delegation noted that on some points a certain degree of convergence had developed. However, Members were at an early stage of the consultations, and it was his understanding that whatever convergence appeared would become part of the overall consensus once consensus had been reached on all the issues. There were a number of sub-issues that required further discussion and agreement. On the agenda, for example, there was a need to clarify what would be the specific nature of the discussion, the time allotted, and the mode of the discussion. Thereafter, the possible outcome would have to be agreed, and Pakistan believed that the three possibilities mentioned by the Chairman were not necessarily mutually exclusive. The session of the Ministerial Conference would be a formal event, and the decisions it adopted, particularly with regard to follow-up action, the work to be done before the next Ministerial Conference, and the dates and venue of the next meeting, would all have to be formal decisions, appropriately negotiated before their adoption. The modality for negotiating these matters prior to their approval would have to be found. Regarding the 50th Anniversary, Members had to consult on what its theme should be and how a balanced participation could be ensured. Consideration also had to be given to whether the 50th Anniversary commemoration event should have an outcome, and if so, the modality by which a declaration or document be drawn up and adopted.

The representative of Korea said that his delegation was satisfied with the Chairman's statement and that its views had been adequately reflected therein.

The representative of Jamaica said that the views expressed by her delegation at the General Council meeting in December 1997 had been revised in the light of the ongoing consultations among delegations. Jamaica understood that under the Rules of Procedure (WT/L/161), the Director-General was required to draw up the agenda for the Ministerial Conference in consultation with delegations. In a revised proposal for an agenda, Jamaica had added some further ideas as to the likely organization of work that the Ministerial Conference might pursue. Jamaica would prefer firm decisions to be taken at the present meeting regarding the Ministerial Conference and the 50th Anniversary commemoration.

The representative of Nigeria urged Members to consider a non-paper that had been presented by Pakistan at a recent meeting of the informal group of developing countries, as well as Jamaica's proposal, which were both useful and could facilitate consensus on the points raised by the Chairman. Nigeria believed that discussions on the proposed agenda items of implementation and future work should be properly reflected and recorded, so as to guide negotiators in Geneva ahead of the third

Ministerial Conference. Participation of Ministers was always meant to reinforce the political momentum in the WTO's activities. However, with a meeting of Heads of State or Government also envisaged, it might be desirable to use it to send a higher political message. This would raise the WTO's profile in the domestic policy agendas of many countries and strengthen initiatives regarding the future work programme.

The representative of India said that there should be a meaningful and effective discussion at the Ministerial Conference under the agenda item regarding implementation, and that the details on how to achieve this could be worked out in informal consultations. As regards future activities of the WTO, he appreciated that there were differing perceptions on this, and that the item had been framed in a broad and general way to give scope for different views. However, India would expect the discussion on future activities to arise from two broad themes: the inequities in some of the WTO Agreements and in their implementation that would be identified in the discussion to be held on implementation, and the built-in agenda. Regarding the outcome of the Ministerial Conference, whether it was a declaration, communiqué or Chairman's summing-up, India believed that it should be based on consensus.

The representative of Bangladesh said that while his delegation supported the proposal that the Ministerial Conference's agenda should be based on the twin issues of implementation and future activities, it believed implementation should receive priority. Bangladesh also preferred the issuance of a formal declaration at the conclusion of the meeting. Although informal discussions might be held, they should lead to a recorded document. Furthermore, the momentum built on LDC issues should be carried forward at this Ministerial Conference. Much remained to be done in the area of implementation of the decisions taken at Singapore and at the High-Level Meeting on LDCs held in Geneva in October 1997. Bangladesh asked for meaningful and tangible progress towards substantive results without delay. Finally, the Ministerial Conference and the 50th Anniversary were distinct events, and therefore deserving of separate observance. However, while many would have reasons to cheer, the fact that the majority of the world's population still remained in poverty and outside the scope of the benefits of the trading system, and that the recent financial crisis had affected the lives of millions more, should give all cause for pensive pause and sober reflection.

The representative of Madagascar said that, given the importance of the Ministerial Conference, his delegation would have preferred formal discussions on the two proposed agenda items. Admittedly, however, it would not be possible to organize formal discussions on these matters over a day and a half. As regards the outcome of the Ministerial Conference, Madagascar would prefer this to be formal and contained in the official records.

The representative of Brunei, speaking on behalf of the ASEAN Members, reiterated their wish that the Ministerial Conference focus on stocktaking and on developments and directions from the present to the year 2000. They wished also to see a successful outcome to the Ministerial Conference, and emphasized the importance of a balanced approach in addressing the two agenda items. On implementation, the ASEAN Members wished to see a comprehensive review of the Uruguay Round Agreements, in particular the status of implementation of the built-in agenda and the work programme agreed at Singapore. The timely and successful implementation of the built-in agenda was the key to bringing about a strengthened multilateral trading system and moving the trade liberalization process forward. To facilitate the discussion on implementation, the ASEAN Members proposed that the Secretariat prepare a factual report on the status of implementation of all items in the built-in agenda and the work programme agreed in Singapore. The ASEAN Members were open to discussing and analysing informally the future activities of the WTO, bearing in mind the work already in place under the built-in agenda. As all were aware, some negotiations were envisaged under the built-in agenda, such as in agriculture and services. The Ministerial Conference in May could task the General Council to carry out this work. The ASEAN Members wished the General

Council also to address the issues of scope and modalities and the balance and benefits that could be derived from the multilateral trading system. As regards the informal discussion on the future work and activities of the WTO, it should not prejudge the decision to be made at the third Ministerial Conference. Regarding the outcome of the discussions on both agenda items, the ASEAN Members stressed that any formal conclusion or decision should be negotiated and adopted by consensus.

The General Council took note of the statements¹ and that the points raised by delegations would be discussed further in informal consultations.

(b) Attendance of non-governmental organizations

The Chairman recalled that, in preparing for the 1996 Ministerial Conference, the General Council had agreed on the following procedures regarding the attendance of NGOs: (i) NGOs would be allowed to attend only the Plenary Sessions of the Conference (without the right to speak); (ii) applications from NGOs to be registered would be accepted on the basis of Article V, paragraph 2 of the WTO Agreement, i.e. such NGOs "concerned with matters related to those of the WTO"; and (iii) a deadline would be established for the registration of NGOs that wished to attend the Conference. In order to proceed with the requests from NGOs wishing to attend the next Ministerial Conference in May, and the 50th Anniversary commemoration, he proposed that the same criteria as used for the Singapore Ministerial Conference be applied. In order to allow for the processing of the list of the NGOs having requested registration and its circulation for the information of the Members, the deadline for registration would be 31 March 1998. Confirmation of registration would then be sent subsequently to the NGOs.

The representative of Egypt said that if a debate were opened on this issue, it would not be easy to reach an agreement. His delegation therefore agreed to maintaining the process followed at Singapore in this regard.

The representative of Nigeria said that the WTO could not afford to be one of the least understood organizations in a world made more complex by globalization and the marginalization of the majority. The participation of NGOs would contribute to a better understanding of the WTO's functions, and its vital role in facilitating trade in goods and services. The number of NGOs invited should not be so unwieldy, however, to turn the two events into a dialogue between governments and NGOs.

The General Council took note of the statements and agreed to apply the criteria enumerated by the Chairman regarding the attendance of NGOs.

5. Global electronic commerce

- Proposal by the United States (WT/GC/W/78)

The Chairman drew attention to the communication from the United States in WT/GC/W/78.

The representative of the United States said her delegation wished to discuss the idea that the Information Age was upon all and that electronic commerce would continue to dramatically affect the way all lived and conducted business. The United States proposed that Members respond to the Information Age by agreeing in the WTO to continue the current practice of each Member concerning customs duty treatment of electronic transmissions. No Member at present considered electronic transmissions to be importations for customs purposes, and no Member therefore imposed customs

¹The Chairman's statement was subsequently circulated as WT/GC/11.

duties on electronic transmissions. The United States' proposal was to codify this practice in the WTO. A careful look at the proposal in WT/GC/W/78 would reveal that it was straightforward, simple and direct. The WTO could welcome, and be a part of, these events. Members should discuss how electronic commerce should relate to the WTO system. Clearly, electronic commerce covered a wide range of issues. However, the United States was not discussing tax policies of any country. It was not suggesting that Members discuss or take decisions on any measure that would affect the way in which their tax authorities treated electronic transmissions; its proposal was solely focused on customs duties. Second, the United States was not discussing reducing tariffs on goods imported through normal commercial channels. Third, the United States was not discussing how one defined what an electronic transmission was, i.e., whether it was a good, a service, or something in between; it was proposing a debate at the present time on the nature of electronic transmissions. There should be WTO work in this area, and the United States wished to work with others on ideas. The United States proposed that Members send a message that they intended to maintain the current practice under which no country considered electronic transmissions to be importations for customs duty purposes. Such transmissions could not even be given a tariff classification in the Harmonized Tariff Schedule. Not a single Member imposed customs duties on electronic transmissions. Furthermore, there were no customs duties on telephone calls across borders, on fax messages, and when computers accessed data bases. Telephone calls, faxes and computers shared a common element: they relied on electronic transmissions that might travel across borders. The growth of this environment had brought all into the Information Age; part of this environment had been that these electronic transmissions were not considered as importations for customs duty purposes.

Her delegation had often been asked how the WTO could take the proposed decision to declare a continuation of Members' current practices not to impose duties on electronic transmissions. How the consensus was recorded was a matter that could be discussed. The United States was not asking the General Council to decide anything at the present meeting. Rather, it was asking the General Council to begin exploring the issue and to focus first on the concept. One could then focus on how to formalize the agreement. Some said that it was premature to discuss the United States' idea of codifying existing practice for electronic transmissions because too little was known about the intersection between the WTO and global electronic commerce, and that there were too many bigger issues related to electronic commerce and the WTO including its impact on the General Agreement on Trade in Services (GATS). The United States, like many of its trading partners, was studying those issues. However, it did not agree that its suggested approach was premature in the context of the WTO. It was important and timely for Members to discuss this proposal at the present time. First, electronic commerce would only increase in importance in the next few years and certainly in the next century. One could start agreeing on points that did not require any particular concession by any country. Preserving current practice was the best place to begin. Agreeing on this under the WTO would send the right message to the business community -- that the WTO wanted to promote the expansion of electronic commerce. Second, an agreement regarding Members' customs duty practices did not set a precedent for their practices in other areas in this sector, such as taxes or regulation. Third, this was but a first and important step of what would be an important journey for the WTO. An agreement on duty-free electronic transmissions did not prevent Members from studying, analysing, and reviewing all of the other aspects of electronic commerce. Indeed, the Secretariat's Research and Analysis Division would be issuing a report in the coming weeks that all would want to study carefully. She reiterated that the idea being proposed was simple, namely to agree to maintain Members' current practices whereby no country considered electronic transmissions as importations for customs duty purposes. The United States proposal did not require a sacrifice or concession from any Member. Agreement on this narrow approach would allow Members to place the WTO boldly in the forefront of work on global electronic commerce and squarely facing the demands of the next century.

The representative of Egypt said that his Government recognized the importance of electronic commerce, and that one had to respond to the Information Age. For this reason, Egypt had raised this issue in the Committee on Trade and Development in November 1997. His delegation had

also requested that an item regarding electronic commerce in goods and services be placed on the agenda of the forthcoming meeting of the Committee, at which it would present a paper on this subject. Electronic commerce was not only a new area, but was also complicated. The US proposal was ambitious in its reach, and was based on the assumption that no WTO Member considered electronic transmissions as importations for customs duty purposes, and that no Member imposed customs duties on them. His delegation did not believe this to be entirely logical or valid. If, for example, someone reported to the customs authorities in his place of residence that he had imported some goods and services electronically, and assuming that some of these items were subject to customs duties, would the customs authorities say that since they were delivered electronically they were exempt from customs duty? In Egypt, at least, customs duties were not dependent on the means of delivery of a good or service. Customs duties remained the same, whether a product arrived by air, land or sea. Customs duties on electronic commerce should be guided by the principle of neutrality, and transactions should be dealt with equally regardless of the means of delivery. The US proposal argued that electronic delivery should be treated differently. He asked how the US customs authorities would react if someone in the US reported the electronic import of products and services that were subject to customs duty? If customs duties were not collected in this case, what would be the legal basis for this decision?

The US proposal raised a fundamental question: should one artificially give an advantage to electronic commerce over comparable traditional commerce? If this were to be the case, an importer faced with choosing among supply sources would prefer electronic commerce if customs duties were levied only on traditional trade. Furthermore, since the concentration of the capability to conduct electronic commerce was in the developed countries, this approach might be biased against and to the detriment of developing countries which did not have similar electronic export capability. Electronic commerce might ultimately become the preferred choice of trade. However, this should be achieved through the expected high efficiency of electronic commerce and not because it had a customs preference. Egypt was conscious of the benefits that developing countries might reap from electronic commerce when they would be in a position to do so, and if they followed the right approach. For this reason, it had proposed addressing this issue in the WTO. Egypt's objective was not to unduly restrict electronic commerce, but to deepen the understanding of this complex issue and deal with it in a coherent and balanced manner, bearing in mind developing countries' interests. Moreover, financial, technological, technical and other forms of assistance in addition to the developing countries' infrastructure needs should be provided to enable them to participate effectively in electronic commerce. Otherwise, one might witness the further marginalization of developing countries in the multilateral trading system. If customs authorities were not to impose a duty on products or services imported electronically, a person or a firm importing the same products or services through traditional means would nonetheless have to pay duty. He asked if this would not be discriminatory. It would also most likely give an advantage and a competitive edge to firms not paying customs duties because they imported goods electronically, and would create a problem of discrimination against those who were not able, for whatever reason, to obtain a product electronically. These, he believed, would mainly be the poor. The problem was much more pronounced in developing countries where numerous problems associated with access to electronic commerce existed. Moreover, those who could afford access to electronic commerce in developing countries were usually the rich, while those without access were the poorer members in society. An obligation not to collect customs duties from electronic commerce might result in a price discrimination to the advantage of the rich, and could even be considered a subsidy to the rich. He was confident that this would not be the social message that his government would condone. Furthermore, one had also to examine whether this could be considered discrimination against like products. It was worth mentioning that the Agreement on Customs Valuation gave Members the option to tax the value of the carrier media only or to include the value of the content in the customs valuation.

The US proposal addressed electronic commerce from a single perspective, namely, introducing an obligation not to impose any restrictions on electronic commerce. However, this was

an extremely narrow approach to a very complicated issue. It implicitly assumed a level playing field in electronic commerce and that not imposing restrictions would be equally beneficial to all Members. These issues needed to be studied and analyzed carefully, which would not be easy on an issue that had yet to unleash its true potential and whose scope and implications were yet to be determined. Egypt was aware that owing to the digital nature of the content involved, it was relatively easy to circumvent many controls. However, this did not mean that the US proposal was the solution to this complicated issue. Egypt believed that consultations should be held to clarify further the *raison d'être* and the implications of the US proposal, taking into consideration the development perspective.

The representative of Japan said that, like Egypt, Japan wished to have further clarification and study on this question. Japan did not impose any customs duties on electronic transmissions at present, and agreed that in order to promote electronic commerce globally it would be desirable that no WTO Members imposed duties in this area, and maintained their current practice in this regard as suggested by the United States. In order to proceed further, Japan looked forward to receiving more detailed information on the US proposal. It would be important, for example, to elaborate the legal definitions and the scope of the terms used in this exercise. Japan understood that the US proposal envisaged the future formulation of legally-binding multilateral disciplines in the WTO, and was prepared to participate in a joint undertaking on this proposal.

The representative of Australia said he understood the US proposal to refer to goods ordered and delivered electronically, and that in this respect it was consistent with Australia's stated policy. In 1997, Australia's Prime Minister had announced that in order to boost electronic commerce and provide greater certainty to the industries involved, the Government would ensure that goods ordered and delivered electronically, such as books, music and software, would continue to enter duty free. At the same time, Australia believed there was a need to examine all the issues arising from the emergence of electronic commerce, and not just a narrow sub-set. For example, consideration should be given to whether there was a need to develop modified or new rules to deal with the impact of electronic commerce on trade. Australia therefore wished to see further work undertaken on electronic commerce in relevant WTO bodies.

The representative of the European Communities welcomed the US initiative to address electronic commerce issues in the WTO. The emergence of the information society and, in particular, the increasing use of global information networks required a predictable framework for the future development of electronic commerce. Various international fora were currently considering different aspects of electronic commerce. In order to coordinate and strengthen these activities, the European Commission had recently proposed the establishment of an international charter on global communications. Given that electronic commerce embraced international trade, the WTO should play a significant role in providing this framework, and might become the leading forum to address barriers to electronic trading in a global way. The Community had noted the specific US proposal regarding import duties, and looked forward to pursuing discussions. There were, however, various aspects related to electronic commerce that needed to be addressed in the WTO. These included intellectual property rights, government procurement, import duties on information technology products, financial services, telecommunications and other services areas. These different aspects suggested a need to reflect on the appropriate forum or fora for WTO's further work in this area. The Community looked forward to discussing these matters with others as soon as possible, and intended to present an initiative of its own at a future date.

The representative of Canada said that electronic commerce had the potential to become perhaps the single most important factor in expanding trade in the next century. There was clearly a need for Members to reflect on the WTO's role in the development of electronic commerce. The US statement, as well as those of others at the present meeting, contained a number of ideas which should be the subject of further reflection and discussion. Canada looked forward to participating in these discussions.

The representative of New Zealand said that electronic commerce clearly had great implications for New Zealand and for others. A recent survey in New Zealand, for example, had indicated that nearly one-third of its largest businesses expected to generate up to 10 per cent of their annual revenues over the next two years from Internet-based electronic commerce. It was therefore timely to address this issue, and New Zealand welcomed the opportunity for the WTO to do so. The US proposal was interesting and had practical appeal. The use of electronic commerce did raise significant international trade policy and trade facilitation considerations, and might also offer significant benefits to a wide range of countries. While it would appear virtually impossible to levy customs duties on electronic commerce, New Zealand welcomed the opportunity to work through the implications of the US proposal, and looked forward to participating actively in future discussions.

The representative of Nigeria said that his delegation had noted the statements by the United States and others, and welcomed and supported Egypt's statements. A number of issues needed to be clarified regarding the US proposal, in particular its ultimate objective and purpose, the potential benefits for countries still grappling with the task of implementing the provisions of the Final Act, its implementation given that the Internet was yet to be established on a solid footing in many Member countries, and the reason for the haste on the eve of the Ministerial Conference, when the WTO could adequately address this matter in the context of the on-going discussion on trade facilitation. In the course of the Uruguay Round, despite their concerns regarding inadequate and weak provisions on special and differential treatment, developing countries had been told that there had to be a single undertaking and no more an "à la carte" approach. However, one was presently facing a refined "à la carte" approach to multilateral negotiations and discussions, and had to ask if this approach was justified. Further consultations were needed on this subject after the 1998 Ministerial Conference without prejudging their outcome. Nigeria believed it was important to proceed cautiously and in a balanced manner taking into account the interests and concerns of all. In voicing its concerns, Nigeria was in no way belittling the proposal or doubting its significance.

The representative of Hong Kong, China said that his delegation would study the US statement carefully. Electronic commerce had the potential to revolutionize business and trade, and Hong Kong, China had a strong interest in many of the areas in which electronic commerce was likely to have a significant impact. It was therefore very interested in electronic commerce and in the rules that governed it. Hong Kong, China therefore firmly supported the WTO beginning exploratory work to prepare Members for more in-depth discussion on the subject, and looked forward to reading the Secretariat's information paper on this subject.

The representative of Switzerland said that his delegation agreed with the general approach proposed by the United States, although a number of elements would need to be clarified. Switzerland had noted from the US statement that the intention was to codify an existing practice in regard to customs duties, that the proposal was limited to electronic commerce and not physical trade, and that issues such as domestic taxes and intellectual property rights were not involved. In the work to be undertaken, trade facilitation aspects of electronic transmissions would need to be taken into account. Switzerland would participate positively in any work that was begun on the US proposal.

The representative of India said that his delegation shared the questions and concerns raised by Egypt. The United States appeared to be making certain assumptions about its proposal that caused India some concern. The United States was assuming, for example, that all knew what "electronic commerce" meant. He believed, however, that there was no clear and universal definition of the term at present, and that "electronic commerce" and "electronic transmissions" might not be exactly identical terms. The second assumption behind the United States proposal seemed to be that it was a simple one. However, as some delegations had indicated, there were many interfaces between this proposal and other issues, and this assumption was perhaps incorrect. Regarding the third assumption, that the proposal tracked with current practice, he said that the current practice in India

did not distinguish tariffs based on the mode of delivery, and that electronic delivery was not an important mode of delivery in India. His customs authorities defined importation so broadly that it would cover goods delivered electronically. Thus, the assumption that no nation was currently levying any customs duty on this type of importation was questionable. The fact that a country like India might not at present levy duties on electronically imported goods was based on the limited means of doing so, and did not mean that, in a legal sense, goods so delivered were not dutiable. The fourth assumption, that no concessions would be required of Members because it was simply a matter of binding current practice, was not correct, as binding a current practice in the WTO involved making a concession. The last assumption, that there was a level playing field in this area and that not imposing duties on electronic commerce would benefit all Members equally, had to be tested. Therefore, India wished to study further the US proposal, along with the forthcoming paper by the Secretariat. This was a complex area of trade which required careful study and should be phased-in slowly.

The representative of Pakistan expressed appreciation for the US initiative. Cyberspace was clearly the future direction of trade, and countries would have to grapple with the issues of electronic commerce sooner or later. However, it was important to be clear about the parameters within which this issue would be addressed. The first of these had to be that, at present, there was insufficient knowledge of the implications of the issues involved, and that much more study and knowledge was required in order to understand all the aspects of these issues. Work was under way on these issues in the WTO, UNCTAD and other institutions, and this information had to be studied before conclusive decisions could be reached. Secondly, it had to be made clear that for the present, Members were not embarking on a formal or structural negotiation or discussion of a new issue, but rather were beginning a process of analysis and study informally amongst themselves. Until the stage had been reached where Members' knowledge and understanding was sufficient to enable them to develop considered governmental positions and thereafter to decide how to deal with these issues, no formal work should be pursued. He suggested that Members agree to take note of the proposal, to hold informal consultations, and to receive as much information as possible from the WTO and other sources on the issues involved.

The representative of Brunei Darussalam, speaking on behalf of the ASEAN Members, said that with the rapid advances in the Internet industry in the last few years, electronic commerce was becoming critical to modernization and economic development. Electronic commerce was known to reduce costs, foster competitiveness and provide solutions that required speed, accuracy and business intelligence. It was a tool that was expected to re-engineer business practices to make them more attuned to the demands of the next millennium. From any viewpoint, electronic commerce would become a strategic necessity for both the government and private sectors in both developed and developing countries. The Internet had become an important tool in commercial transactions and had profound effects on almost all aspects of economic and social life. There was no doubt that one was at the beginning of a new era of communication and trade. Electronic trade was unique in that it had no physical and geographical boundaries and negated differences in distance and time. The accessibility it had spawned had generated a new global marketplace with a greater number of suppliers and buyers. The Internet had brought developing countries, including ASEAN countries, to new frontiers of technology. However, these countries were still lagging behind many advanced countries that were presently taking the lead in developing and commercializing the necessary technology. Developing countries were still in the process of learning and trying to keep pace with this fast-growing technology. There was a need to establish guiding principles to elucidate the role of the private vis-à-vis public sector, to recognize the opportunities of the Internet and to reach a consensus on issues such as customs, taxation and electronic payments systems. Related issues included intellectual property protection, privacy and security and market issues pertaining to information infrastructure and content development as well as the need to define technical standards. The US proposal regarding duty-free electronic transmission needed clarification on legal, technical and economic issues related to multimedia technology. The proposal had an impact on legal issues

such as contracts, payments, jurisdiction in the enforceability of decisions and consumer protection. There were a myriad other legal issues coupled with the relevant acts governing multi-media, frauds, computer misuse, etc. Since electronic commerce cut across borders, a common ground approach should be sought and a legal framework formulated to address these issues. Furthermore, due to the different levels of information technology development in the ASEAN region, electronic commerce development was still in the learning process and required a lot of study and research before a policy or regulatory framework could be formulated. The ASEAN Members believed there was a need to broaden the understanding about this mode of transaction and trade and its implications on economic and social life before contemplating the next move, and that this matter should be examined comprehensively.

The representative of Norway said his delegation welcomed the US initiative because it addressed the fact that electronic commerce was a reality of present-day life. If the WTO wished to stay relevant to present-day realities, it should find ways to tackle this issue through consultations. Norway would participate actively in this process.

The representative of Turkey welcomed the US proposal. Turkey believed that the WTO was the relevant body to discuss all the aspects of this issue, and it would participate actively in and contribute to any discussions.

The representative of Hungary welcomed the US initiative, the main merit of which was to call attention to a specific category of trade which had tremendous potential for the future. Hungary was convinced that the WTO, as the main rule-making body in the field of trade, had an important role to play in this field. He wished to assure the United States that his authorities would examine the US proposal objectively.

The representative of the United States expressed appreciation to delegations for their comments on the US proposal. She believed that the present discussion was the first of many that would be had on this subject, and that a lot of knowledge and insight would be gained from the paper that the Secretariat would issue and from further discussions. This issue was very important to all Members, and further discussion and study would be needed on a lot of the issues that had been raised at the present meeting. A lot of the issues that had been raised, however, were issues that the United States had not intended to address, and its own proposal had intended to be very narrow, relating only to duty-free treatment of electronic commerce. The United States looked forward to further discussion and dialogue with others on this issue, and hoped that Members would be able to achieve something under the WTO in this area that would be acceptable to all.

The Chairman said he believed that Members had had a substantive initial analysis of a complex and at the same time critical issue.

The General Council took note of the statements.

6. Ecuador - Commitments under the Protocol of Accession
- Communication from the United States (WT/GC/W/76)

The Chairman drew attention to the communication from the United States in WT/GC/W/76.

The representative of the United States said that although her delegation did not typically bring to the General Council's attention instances of a Member's failure to meet its WTO obligations, in the case of Ecuador there appeared to be a pattern of failure to meet a number of the obligations it had undertaken upon accession. One of Ecuador's commitments was to report each January on progress in meeting its commitments. While the United States had not seen Ecuador's report for 1998,

it had conducted its own assessment, which had been laid out in WT/GC/W/76. As mentioned in that document, Ecuador's commitment to apply the TRIPS Agreement provisions had not been fulfilled. Furthermore, it had not eliminated the discriminatory application of the Special Consumption Tax to certain products, had failed to implement tariff quotas on certain agricultural products, and had yet to eliminate import bans on used tyres, clothing and automobiles. Moreover, Ecuador's standards regime, "prior authorization" system for certain agricultural imports, and preshipment inspection practices all appeared to be WTO inconsistent. There also remained discrimination under the "Dealers' Act" against foreign companies. A measure the United States had not listed in its communication because it had been removed at the end of 1997 was a tariff surcharge designed to raise revenue which violated a number of Ecuador's tariff bindings. However, the United States had since learned that Ecuador had reinstated the tariff surcharges due to a budget shortfall. The United States welcomed having Ecuador as a Member, but believed that it would undermine the WTO if any Member were to enjoy all the benefits of membership while so significantly failing to fulfil the obligations that came with such membership. The United States encouraged Ecuador to show substantial progress in eliminating these deficiencies, and called on other Members to join in sending such a message as well.

The representative of Ecuador presented Ecuador's second annual report on its accession commitments, providing details of the progress made by Ecuador in the implementation of the commitments referred to in paragraphs 9, 19, 34, 48, 59, 75, 77 and 78 of the report of the Working Party on its accession (WT/L/77 and Corr.1, Add.1, Add.1/Corr.1 and Add.2).² On its exchange policy commitment in paragraph 9 of the report, he said that Ecuador's exchange policy remained entirely consistent with GATT Article XV. Regarding its commitment in respect of the Special Consumption Tax (paragraph 19 of the report), Ecuador had made further reforms in its domestic tax system concerning the application of this tax. Regarding the commitment to administer imports of used clothing, tyres and automobiles in accordance with the relevant WTO provisions (paragraph 34 of the report), Ecuador was continuing to make efforts to supplement the regime for imports of used automobiles set out in decisions taken in 1997. As regards the imports of used goods, Ecuador hoped to obtain the necessary technical assistance from the Secretariat in order to define non-restrictive controls so as to establish an import regime consistent with WTO rules that at the same time fulfilled Ecuador's interests in protecting consumer health and safety. Regarding the commitment in paragraph 48, Ecuador had terminated the application of the Tariff Adjustment Mechanism or national price band for agricultural products. Ecuador had already fulfilled the commitments regarding export subsidies and TRIMS as set-out in paragraphs 59 and 75 of the report. On the TRIPS commitments (paragraphs 77 and 78 of the report), he recalled that in June 1997, Ecuador had informed the TRIPS Council that the TRIPS Agreement had been published in the Official Register in June 1996 and that the legal provisions were therefore in force. In order to ensure the full implementation of the TRIPS Agreement, his Government had submitted a new intellectual property law for approval by the Congress in December 1997. The law was currently under consideration and, when approved, would update Ecuador's legislation in a manner fully consistent with its WTO obligations. With regard to the other concerns expressed by the United States, he informed the General Council that Ecuador had not opened tariff-rate quotas because it had applied the general tariff levels for imports of certain agricultural products, which had been more advantageous than the tariff rates established for quotas, and that its legislation on preshipment inspection was in conformity with the multilateral rules of the agreement governing the subject. Ecuador would continue to publish promptly all the laws and regulations applicable to preshipment activities and would also notify them to the WTO so that Members received the appropriate information. Ecuador, furthermore, did not apply a standards regime or an import licensing system as erroneously suggested by exporters. Finally, the legal instruments termed the "Dealers' Act" by the United States had been revoked by a Congressional Decision dated 11 September 1997. This instrument came into force upon publication in the Official Register, and as a specific law took precedence over any conflicting general or special legal provision.

²The full text of Ecuador's statement was subsequently circulated as WT/GC/COM/4.

In Ecuador, the principle of non-retroactivity of law applied, and it was therefore impossible to follow up suggestions to apply the new law to exclusivity contracts with Ecuadorian agents signed prior to the enactment of the new law.

The representative of the European Communities expressed concern regarding the delays incurred by Ecuador in implementing a number of its WTO commitments. The Community had a particular concern regarding the TRIPS Agreement. However, he understood from Ecuador's statement that since December 1997 its Congress had been considering a new law on intellectual property, and suggested that Ecuador inform the TRIPS Council of the latest state of play as soon as possible.

The General Council took note of the statements.

7. Transparency and derestriction

- Communication from the United States (WT/GC/W/76)

The Chairman drew attention to the communication from the United States in WT/GC/W/77.

The representative of the United States said that her Government was committed to pursuing greater transparency and openness in the operation of the WTO. It believed that the General Council would need to focus on this matter, and that a logical place to begin was with respect to the question of derestriction. The United States believed that the time had come to evaluate the General Council's decision of July 1996 regarding procedures for the circulation and derestriction of WTO documents (WT/L/160/Rev.1). Under the terms of paragraph 7 of that Decision, the General Council should review and possibly modify these procedures not later than July 1998. It was not too early to start thinking about some possible modifications to the Decision in the light of Members' collective practical experience. Too many documents were still being treated as restricted. The July 1996 Decision called for working papers to be treated as restricted unless delegations specifically requested that particular submissions be treated as unrestricted. Thus far, however, all of the national submissions made in the Singapore working groups had been restricted. The United States believed this should not be the case. To take the working group on trade and competition policy as an example, the United States saw no reason why the dozens of interesting and useful submissions should be restricted. Currently, minutes of WTO meetings remained restricted for six months after circulation of the documents. He asked why this should be the case when both the Secretariat and delegations routinely -- but selectively-- spoke to the press after all significant meetings. The United States saw no reason to keep these minutes restricted. The current procedures in respect of restriction of documents addressing protocol issues in working parties on accession had seriously complicated the United States' ability to consult on accession developments with members of the private sector, and it wished to revisit this rule. There were also other areas, notably in connection with dispute settlement, where the United States believed current rules on restriction of documents might be improved. In order to permit the General Council to effectively carry out its responsibilities in relation to the required review of the July 1996 Decision, the United States proposed that the General Council agree to organize informal open-ended consultations amongst interested delegations with the aim of considering possible modifications to these procedures.

The representative of Canada said his delegation welcomed the United States' suggestion of open-ended informal meetings to review the WTO's current derestriction policy. As his delegation had noted at the General Council meeting in December 1997, the importance of an informed audience to generating domestic support for further liberalization and rule-making was critical. Canada believed that the current derestriction policy was untenable, given the reality that most WTO material reached the public through newspaper and other outlets well before the formal derestriction date. Trade policy was public policy. What Members were doing in Geneva was of increased interest to a wide range of civil society. Many Members had developed extensive consultative processes to meet

this interest, and a more liberal derestriction policy would facilitate obtaining input, at the national level, and thus facilitate domestic deliberations of Members. Canada had suggested in December that a first step would be to issue proposed agendas as derestricted documents. In order for civil society to provide input, they needed to know what was to be discussed. Canada had also made similar suggestions in several WTO bodies. It also found merit in a number of the suggestions made by the United States. Canada had issued a number of its national submissions to various WTO bodies as unrestricted and wished to encourage other delegations to consider likewise. The Secretariat, rather than assuming a national submission was restricted, should check with the delegation concerned to remind delegations that they had a choice. Canada also supported earlier derestriction of minutes of WTO bodies. Six months after circulation was clearly excessive, given the degree to which dissemination was already occurring. Delegations already had the opportunity to review draft minutes prior to circulation and thus derestriction after a month or so appeared to be a more reasonable approach. Canada was also willing to look at any other proposals with respect to derestriction of other documents. Its aim was not derestriction for derestriction's sake but rather to ensure that domestic constituencies were better informed about the WTO's activities and thus supportive of Members' collective efforts to secure and enhance market access for all.

The representative of the European Communities said that his delegation was in favour of working with others to promote greater transparency in the WTO's work. The Community had noted the General Council's obligation to review the document derestriction procedures as set out in the July 1996 Decision. The Community supported the proposal for informal open-ended consultations to be carried out under the auspices of the General Council.

The representative of Mexico said that the question of whether documents should be restricted or not was somewhat sensitive in that it could have an effect on the contractual nature of Members' work. Mexico could not see, for example, why draft agendas for meetings should be circulated unrestricted. The WTO dealt with relations among Member governments, not the relationship between Member governments and civil society. To provide information to the public was the task of individual governments themselves. Mexico recognized that under the July 1996 Decision the General Council was to undertake a review of the procedures for circulation and derestriction of documents two years after their adoption and, if necessary, modify the procedures. While Mexico accepted that Members should carry out this commitment, they should not prejudge in any way the actual outcome and whether it would result in increased transparency.

The representative of Norway said that in keeping with his delegation's oft-stated views regarding transparency and derestriction, it supported the US proposal, which it hoped would help to get the WTO's activities more widely known. As Nigeria had stated under item 4(b) of the agenda, the WTO could not afford to be one of the least understood international organizations.

The representative of India said that his delegation's views were similar to those of Mexico. India wished to be associated with the consultations proposed by the United States, without any commitment to any position at the present time.

The representative of Egypt said that his delegation was not against any further procedures for ensuring transparency and openness in the WTO's work. He associated his delegation with Mexico's statement, in particular that this work should be undertaken carefully in accordance with current procedures and rules, and without prejudging the results of the consultations. The issue of openness and transparency should be examined in accordance with the documentation that Members would wish to derestrict.

The Chairman proposed that the General Council take note of the statements and agree that its Chairman consider ways and means to advance the proposal by the United States that the General

Council organize informal open-ended consultations to consider possible modifications to the procedures for circulation and derestriction of WTO documents agreed in July 1996.

The representative of Mexico said he was not clear as to whether the General Council Chairman was to hold consultations on the proposal by the United States or to undertake the process of the review itself that was called for in paragraph 7 of the July 1996 Decision.

The Chairman, responding to Mexico's query, said that many delegations had expressed their views on the US proposal and that he had accordingly proposed in his earlier statement that the next General Council Chairman take up this matter and examine with Members how to proceed on it.

The General Council took note of the statements and agreed to the Chairman's proposal.

8. Notification obligations and procedures

- Communication from the Chairman (WT/GC/W/75)

The Chairman drew attention to his communication in document WT/GC/W/75 and to the two recommendations therein regarding notification obligations and procedures, which had been made to the General Council by the Council for Trade in Goods in November 1996 (G/L/134, Section II). He proposed that the General Council take action on this matter along the lines suggested in his communication, as follows: (i) that, on the basis of discussions held by the former Chairman of the Working Group on Notification Obligations and Procedures, the recommendation of the Council for Trade in Goods in sub-paragraph (b) be kept under review, and reverted to at a future date as appropriate; and (ii) that, in pursuance of the recommendation in sub-paragraph (a), the General Council adopt the draft decision in the Annex to WT/GC/W/75 in order to eliminate the notification obligations relating to import licensing procedures in the relevant Decision of the CONTRACTING PARTIES to the GATT 1947.

The representative of the United States said that transparency was a fundamental part of this organization and of the world trading system, and that notifications were vital to transparency. The United States agreed that consideration of further work by WTO Members in this area, specifically in undertaking a further comprehensive review of notification obligations and procedures throughout the WTO Agreement, would be more appropriate at a later date. That said, her delegation believed that some steps could be taken at the present, with the Secretariat's assistance, to add to transparency in the system and to help WTO Members keep better track of notifications in the organization.

The General Council took note of the statements and agreed to the Chairman's proposals.

9. Appointment of officers to WTO bodies

The Chairman said that in accordance with the guidelines for appointment of officers to WTO bodies approved by the General Council in January 1995 (WT/L/31), he had held informal consultations on this matter. On the basis of these consultations, he considered that there was a consensus on the following slate of names:

General Council
Dispute Settlement Body
Trade Policy Review Body
Council for Trade in Goods
Council for TRIPS

Mr. John Weekes (Canada)
Mr. Kamel Morjane (Tunisia)
Mr. Ali Said Mchumo (Tanzania)
Mr. Ronald Saborio Soto (Costa Rica)
Mr. Istvan Major (Hungary)

Council for Trade in Services
Committee on Trade and Environment
Committee on Trade and Development

Mr. Nobutoshi Akao (Japan)
Mr. Chak Mun See (Singapore)
Mr. Iftekhar Ahmed Chowdhury
(Bangladesh)
Mr. Wilhelm Meier (Switzerland)
Mr. Peter R. Jenkins (United Kingdom)
Mr. Jean-Marie Noirfalisse (Belgium)
Mr. Krirk-Krai Jirapaet (Thailand)

Committee on Budget, Finance and Administration
Committee on Balance-of-Payments Restrictions
Committee on Regional Trade Agreements
Working Group on the Relationship between
Trade and Investment
Working Group on the Interaction between
Trade and Competition Policy
Working Group on Transparency in
Government Procurement

Mr. Frédéric Jenny (France)

Mr. Werner Corrales Leal (Venezuela)

The representative of Norway said that although his delegation did not have any objection to any of the names read out by the Chairman, and therefore joined in the consensus, it would have been pleased if Members had not deviated from the principle of rotation between developed and developing countries, as they had done in the case of the Trade Policy Review Body. The TPRB was one of the three major bodies of the WTO, and the principle of rotation was of paramount importance for it.

The General Council took note of the statements and of the consensus on the above slate of names.

10. Outcome of the major review of the implementation of the Agreement on Textiles and Clothing

Mr. Johannessen (Norway), Chairman of the Council for Trade in Goods, speaking under "Other Business", recalled that he had informed the General Council in December 1997 that the Goods Council had conducted the major review of the implementation of the Agreement on Textiles and Clothing in six meetings from October to December, and that in spite of determined efforts by many, it had not been possible to arrive at sufficient common ground on the summary of the discussions and on a set of conclusions to the review that would attract consensus. In January 1998, consultations had been held with a number of delegations since it was apparent that many Members felt that the progress achieved had certain positive elements to it, and that the matter should not remain without a positive conclusion. As a result of the spirit of compromise and flexibility shown by the Members that had participated actively in the subsequent informal consultations, it had been possible to reach substantive agreement on a text containing a detailed summary of the discussions and conclusions. This text had been adopted by the Goods Council on 16 February, and circulated as document G/L/224.

The General Council took note of the statement.

11. Comments being directed to individual cases brought before the dispute settlement system

The Director-General, speaking under "Other Business", said that he had noted with concern over the past few months a number of comments that had been directed to individual cases brought before the dispute settlement system. While these comments had no doubt been made in good faith, it would be remiss of him not to point out that in some cases they had not been made on the basis of all the relevant facts. The dispute settlement procedure was complex and, as had been agreed by all Members, the facts considered by any panel were not made public until it had completed its work. This was also the reason why the Secretariat was not in a position to make available factual material which could provide balance in public debate until the entire procedure was completed. It was important to recall that findings under the dispute settlement system were based on the existing rules

of the WTO -- rules that had been negotiated and agreed by all Members and ratified by all of their Parliaments. Moreover, these rules were trade rules, because this was the World Trade Organization. It was not in the WTO's power to make determinations on policy issues that fell outside its responsibility. It was his duty to point out that comments based on a less than complete knowledge of a particular case, or made while it was still in progress, were an unfair challenge to the integrity of the dispute settlement process, to the WTO's rule-based procedures, and to the multilateral trading system. He wished to increase the awareness of this problem among all Members, and he would call it to the attention of the appropriate WTO bodies in the context of the review of the dispute settlement system that had to be undertaken before the end of 1998.

The General Council took note of the statement.

12. Accreditation of Permanent Representatives to the WTO

The Chairman, speaking under "Other Business", recalled that draft procedures for the accreditation of Permanent Representatives to the WTO had been discussed in informal consultations over the past year, and at the formal meetings of the General Council in July and October. In October, the General Council had agreed to revert to this matter at a future meeting, and had taken note that the Secretariat had been requested to circulate a note on the existing accreditation practices with regard to international organizations. The note by the Secretariat had subsequently been circulated on 4 December as document WT/GC/W/72. He had been very encouraged to note that a number of Members had adjusted their WTO accreditation practices to the international practice in respect of accreditation of representation to international organizations -- outlined in the note by the Secretariat -- and hoped that more Members would begin to move in this direction.

The General Council took note of the statement.

13. Observer status for international intergovernmental organizations

The Chairman, speaking under "Other Business", recalled that at the General Council meeting in December 1997, he had reported that consultations had recently been held on the pending requests from international organizations for observer status in the General Council, and that further consultations would need to be held early in 1998. He urged delegations to give further thought to this matter so that it could be settled rapidly.

The General Council took note of the statement.

14. Election of Chairperson

As the outgoing presiding officer of the General Council, the Chairman made a statement (WT/GC(98)/ST/1).

The General Council then unanimously elected Mr. J. Weekes (Canada) to the Chair.
