
**Committee on Subsidies
and Countervailing Measures**

**MINUTES OF THE SPECIAL MEETING HELD ON
19 SEPTEMBER AND 31 OCTOBER 2002**

Chairman: H.E. Mr. Milan Hovorka (Czech Republic)

1. The Committee on Subsidies and Countervailing Measures (the "Committee") held a special meeting on 19 September and 31 October 2002.

2. The proposed agenda for this meeting was circulated to Members in document WTO/AIR/1883 and Corr. 1. The Committee adopted the following agenda:

- A. CONTINUATION OF THE COMMITTEE'S CONSIDERATION OF ARTICLE 27.4 REQUESTS, AND RESERVATIONS OF RIGHTS OF CERTAIN MEMBERS LISTED IN ANNEX VII(B) 1
- B. APPROVAL OF QUALIFYING REQUESTS TO EXTEND THE TRANSITION PERIOD FOR EXPORT SUBSIDIES PROVIDED BY CERTAIN DEVELOPING COUNTRIES PURSUANT TO G/SCM/39 – ITEM REQUESTED BY THE UNITED STATES 7
- C. OTHER BUSINESS..... 16

- A. CONTINUATION OF THE COMMITTEE'S CONSIDERATION OF ARTICLE 27.4 REQUESTS, AND RESERVATIONS OF RIGHTS OF CERTAIN MEMBERS LISTED IN ANNEX VII(B)

3. The Chairman proposed that the Committee first take up those requests for which new documentation had been received since the Committee's last meeting. After that, he stated that he intended to open the floor for any comments or questions in respect of requests or reservations of rights for which no new documentation had been received.

4. The Committee turned first to the request of Colombia, and, in particular, to the new documentation received in respect of that request since the Committee's July meeting. In addition to document G/SCM/Q3/COL/15, which contained a request from the United States for the relevant legislation pertaining to the programmes covered by Colombia's request, he understood that Colombia's oral statement from the Committee's last meeting had been circulated in document G/SCM/Q3/COL/16. In addition, he stated that Colombia had provided the legislation requested by the United States, which was contained in document G/SCM/Q3/COL/17, although the English and French paper copy translations were not yet available.

5. The delegate of the United States expressed the United States' appreciation to Colombia for providing its legislation. The United States had not yet had an opportunity to review the legislation but was most appreciative of Colombia's response. He also expressed the United States' appreciation to Papua New Guinea, Saint Lucia and Thailand for the responses that they had provided to the United States' questions. The United States would not have any follow-up questions for them at this time.

6. The delegate of Peru thanked Colombia for the replies which had been supplied in answer to Peru's question put in document G/SCM/Q3/COL/9 and thanked Members for their interesting comments made in this transparency exercise. Peru re-iterated some of the details and concerns concerning the request made by Colombia, concerning the extension of its export subsidies. Peru hoped to be able to evaluate, in a constructive manner, with Colombia and with the other Member countries, the aspects still pending which were of particular interest and concern to Peru. He stated that a detailed assessment of the implications of the request for extensions presented by Colombia was all the more important since that was a country which was going to be analyzed on the basis of its special situation because its level of share of trade in exports of goods was above 0.10 per cent and its GDP for 2000 was higher than US\$20 billion.

7. The delegate of Peru stated that the WTO Secretariat had carried out a study on the competitiveness of Colombian exports pursuant to paragraphs 5 and 6 of Article 27 of the Agreement on Subsidies and Countervailing Measures, for which Peru was grateful. On the basis of that study, Peru had identified, on a preliminary basis, that there were certain products which had reached -- and in some cases, in fact, gone beyond -- the level of competitiveness of 3.25 per cent of trade as stipulated in the Agreement. This determined the need for a more detailed analysis of Colombia's request. In this regard, Peru would be grateful to Colombia if Colombia could provide a full list identifying all those products which would be covered by the export subsidy programme and for which Colombia was requesting an extension.

8. He stated that Peru associated itself with the questions raised by Ecuador, contained in document G/SCM/Q3/COL/14, in requesting Colombia to clarify further whether there were agricultural products, as covered by the Agreement on Agriculture, which would also benefit from this programme. Peru would be grateful to Colombia if Colombia could give Peru detailed information with regard to these products and how the export subsidy programme was applied to these products for which an extension is requested.

9. In posing these questions and making these comments, Peru wished to highlight the fact that this was a very sensitive issue, given the very close relations that Peru had with Colombia. However, at the same time, Peru had to watch out for its own interests and be sure that Peru avoided any injurious effects on investment and trade which the granting of the extension might have. Peru reiterated its wish to continue bilateral consultations with Colombia in order to reach a mutually acceptable solution. Peru was convinced that the Government of Colombia, and the Committee, would bear in mind these concerns, which Peru raised in a constructive spirit in the framework of the exercise, and the transparency, within the Committee. Peru reserved its right to put new questions and ask for further clarifications.

10. The delegate of Ecuador stated that he would link his intervention to the proposals that had been given to his delegation on 19 September. Ecuador's comments at this stage were preliminary; his delegation might make additional comments under item B of the agenda. Concerning the adoption of the extension requests submitted for consideration by the Committee, his delegation considered, as it had already expressed, that each request should be adopted separately because they were submitted separately and the consultations had taken place separately. With respect to the list of requests on which the concerns aired had already been resolved, a document had been circulated at the beginning of the Committee's meeting. Ecuador had never been consulted on it. It was essential to carry out a detailed consultation with the capital so as to be able to take a decision on the document. He stated that the conversations that had taken place between the Colombian and Ecuadorian Governments only covered the SIEX programme. Other programmes had not been covered. He stated that, as the document just mentioned by Ecuador referred to the three programmes of Colombia, it was quite clear that there were still some issues which needed to be resolved with Colombia.

11. The delegate of Bolivia thanked the Colombian delegation for the information and the documentation which had been submitted by Colombia. These documents were being closely analyzed. The delegate stated that the Bolivian delegation also would be interested in knowing more about the information requested by the delegate of Peru.

12. The delegate of Colombia thanked the United States for its questions. Colombia also thanked the Secretariat because Colombia fully realized the enormous work that had gone into the publication of the Colombian legislation which governed Colombia's programmes. The delegate stated that Colombia had always wanted to facilitate and give support to this process, which had been a complex one and which had been a process that sturdily reflected the very legitimate aspirations of a very great number of countries. This was the reason why Colombia had always attempted to take part in these meetings and to take part in all the consultations which had taken place on this matter and Colombia had tried to be as constructive as possible. Colombia had done this and would continue to do this. The delegate stressed what had been said by the delegates of Peru and Ecuador, *i.e.* that Colombia, Peru and Ecuador were carrying out intensive bilateral exchanges which would make it possible to resolve some of the concerns of these countries. Most of the questions raised by the delegate of Peru had already been submitted to this Committee; however Colombia would provide responses again, so that Peru would be able to study them.

13. The Chairman stated that he was touched by all the indications of readiness to intensify new efforts. He encouraged all those delegations which had spoken to redouble their efforts with a view to a solution, which at the end of the day would be acceptable, not only to them, but also to other Members of the Committee.

14. The Committee next turned to the request of Papua New Guinea. With regard to that request, since the Committee's last meeting, Papua New Guinea's replies to questions posed by Australia, the European Communities, Switzerland, and the United States had been circulated, in document G/SCM/Q3/PNG/5.

15. The Chairman believed that there was no representative from Papua New Guinea attending this Committee meeting, but he nevertheless invited delegations to take the floor to make any comments or raise any follow-up questions for the record concerning this request. He stated that he had asked the Secretariat to remain in contact with the authorities in Papua New Guinea's capital, and to convey Members' questions and comments to those authorities directly, to try to ensure that any necessary answers were provided as quickly as possible.

16. The delegate of the European Communities thanked Papua New Guinea for its replies and confirmed that the questions posed by the European Communities had been answered exhaustively and to their satisfaction. The European Communities would not have any further follow-up questions.

17. No other delegation made comments or raised questions with respect to this request.

18. With respect to the request of Saint Lucia, since the Committee's last meeting, Saint Lucia had submitted replies to questions posed by the United States. The questions can be found in document G/SCM/Q3/LCA/6, and the replies in G/SCM/Q3/LCA/7. No Member commented or posed follow-up questions.

19. With regard to the request of Thailand, the Chairman stated that, since the Committee's last meeting, Thailand's replies to questions posed by Ecuador and the United States had been circulated, in document G/SCM/Q3/THA/15. The questions can be found in documents G/SCM/Q3/THA/13 and 14. The Chairman stated that the Secretariat and himself had received, on 18 September, a request jointly from Ecuador and Peru for an Article 27.6 export competitiveness calculation in respect of products benefitting from the programmes covered by Thailand's extension request. The Secretariat

had noted this request and had already begun the necessary work, which it would complete as soon as possible.

20. The delegate of Peru thanked the Government of Thailand for the answers given to the questions posed by Peru. These answers had made it possible to better analyze Thailand's request. Peru was still substantially concerned by the timeframe of the subsidy programmes applied by Thailand for which an extension was requested. In document G/SCM/Q3/THA/11, Thailand had said that the incentives for promotion of investments would have a phase-out period of up to thirteen years and that Thailand hoped to do away with this mechanism by the year 2013. Therefore, Thailand had highlighted that, in the administration of the Industrial Estate Authority of Thailand, the modification of the law would be concluded over an approximate period of ten years. The lack of definition of the period during which such export subsidy mechanisms would be applied, and the very extensive period that had been provided, took foreseeability away from any extension and would not be consistent with the period provided for in paragraph 2(b) of Article 27 of the Agreement on Subsidies and Countervailing Measures. Another concern related to the scope of products which would benefit from such subsidies, because this was not something that had been clarified in the answers given by Thailand to date. Peru requested the Government of Thailand to give a full list of the products which currently benefited from the measure and which could benefit from all the mechanisms for which the extension had been requested. Finally, the delegate of Peru stated that, according to para. (b) of paragraph 6 of the Article 27 of the Agreement, on 18 September, Peru and Ecuador had requested -- through the Chairman -- that the Secretariat prepare an export competitiveness analysis of the exports of all Thai products implicated in these programmes so as to be able to ensure the implementation of paragraphs 5 and 6 of Article 27 of the Agreement. A similar study had been carried out in respect of Colombia's request and it had been extremely useful in allowing Members to be able to measure, in an objective manner, the levels of competitiveness of the exports and guarantee the implementation of the basic requirement provided in the Agreement for this type of extension. Peru wished to express its will to continue taking part in this transparency exercise so as to really ensure a better understanding of the extension requests submitted by Thailand. Peru would, if necessary, put further questions in the future.

21. The delegate of Ecuador thanked Thailand for the replies given to Ecuador's questions. He stated that the replies had made it possible to contribute to the transparency process, and had helped the consultation process. Ecuador considered it appropriate, given the current circumstances, to make new comments and to pose questions on the Thai request for extension. According to what was stated in footnote 1 of its request, contained in document G/SCM/N/74/THA, and in its reply to Question 1, contained in page 3 of document G/SCM/Q3/THA/15, the Credit Refinancing Scheme, the Merchant Marine Financing programme and the Machinery Upgrading Finance programme were "not considered to be export subsidies" and were "not relevant to the issue at stake". If Thailand did not consider such programmes to be export subsidies, they should be excluded from the extension request made because Article 27.4 of the Agreement only covered export subsidies.

22. The delegate of Ecuador stated that Question 3 contained in document G/SCM/Q3/THA/13 had not been fully answered by Thailand in page 3 of document G/SCM/Q3/THA/15. Ecuador thanked Thailand for its reply that the Investment Promotion Incentives, the Credit Refinancing Schemes and the Export Market Diversification Promotion, Machinery Upgrading Financing and the Industrial Estate Authority programmes were specific to the operators and not specific to the products. That was not, however, the information that had been requested by Ecuador in that question. Ecuador wished to know what products benefited from the subsidy programmes. Therefore, under Article 25.8 of the Agreement, and in order to ensure transparency in the consultation procedure, Ecuador asked, for a second time, that Thailand give a detailed list of all the products which did benefit, or could benefit, from all export subsidy programmes notified by Thailand in documents G/SCM/N/71/THA, G/SCM/N/74/THA and G/SCM/N/71/THA/Suppl.1. Independently from this, Ecuador had made a request, along with Peru, under Article 27.6 (b) of the Agreement for the WTO Secretariat to calculate

the export competitiveness of Thai products that enjoyed export subsidies. In its reply to Question 3 of Mexico contained the document G/SCM/Q3/THA/10 on the Investment Promotion Incentive programmes, Thailand had indicated that "some agro-industrial activities have benefited from the subsidy programme". The delegate stated that Ecuador would be grateful if Thailand could answer the following questions: First, could Thailand indicate all agro-industrial activities which benefit or could benefit from this programme? Secondly, were agricultural products, as defined by the Agreement on Agriculture, in the export subsidy programmes for which an extension had been requested under the scope of Article 27.4 of the Agreement? If this was the case, why had such products been included in the request for extension of the period? Thirdly, would Thailand not consider that the extension request for its subsidy programmes could constitute a way of re-introducing, extending the coverage, or extending export subsidies of agricultural products through the Agreement on Subsidies and Countervailing Measures, which would not be in line with Thailand's obligation not to use export subsidies under the Agreement on Agriculture? Ecuador requested that Thailand explain the reasons for the written answer it had given to the question to which he had referred.

23. Finally, Ecuador considered that the subsidies that were granted by Thailand under the Investment Promotion Incentives programme and the Industrial Estate Authority programme should not be extended beyond the last period authorized in Article 27.2(b) of the Agreement. Therefore, for the reasons which had been given, the extension of such programmes to ten and thirteen years, respectively, was in violation of Article 27.4 of the Agreement (the provision under which such an extension has been requested by Thailand). In this regard, Ecuador referred to the statement in paragraph 1 of page 3 of Thailand's request for an extension contained in document G/SCM/N/74/THA; to the replies to Questions 1 and 3 of the European Communities and Questions 1 and 2 of the United States contained in document G/SCM/Q3/THA/10; and, more recently, the replies to the question put by Switzerland contained in document G/SCM/Q3/THA/12 and answer 3 to the question put by Peru contained in document G/SCM/Q3/THA/11.

24. The Chairman invited the delegation of Thailand to react, or provide some preliminary answers, to the questions raised by other delegations.

25. The delegate of Thailand stated that many questions had been posed to Thailand both from Peru and Ecuador.

26. The Chairman recalled to those delegations who had raised additional or follow-up questions during the Committee meeting the need to put them in writing.

27. The Chairman stated that the request of Fiji had not been specifically referred to in the Airgram convening the meeting, as the new documentation had been received after circulation of the Airgram. The Chairman stated that the United States had submitted a request for Fiji's legislation concerning the programmes included in Fiji's request, and Fiji had provided some of the requested legislation, and had indicated that the remaining legislation was being compiled and would be forwarded in the near future. The United States request was contained in document G/SCM/Q3/FJI/6 and Fiji's legislation would be circulated in document G/SCM/Q3/FJI/7. The Chairman noted that the delegation of Fiji was not represented in this meeting.

28. The delegate of the United States noted, for the record, that the United States was most appreciative of the legislation that Fiji had provided, particularly in the light of the fact that the United States' request had actually not been circulated until 13 September. The United States had obviously not had a chance to review the legislation that had been provided and the United States would wait until it had all the legislation in order to determine whether or not there would be any follow-up questioning.

29. The Chairman thanked the United States for its statement and for the efforts the authorities in Fiji had made to respond to the request.

30. The final request for which new documentation had been received since the Committee's last meeting was that of Suriname. This request was not listed in the Airgram as the new documentation - in particular replies to questions posed by Australia, Japan and the United States - had been received after the Airgram was circulated. Suriname's replies were contained in document G/SCM/Q3/SUR/7. The Chairman stated that Suriname had not been able to send a representative to the Committee meeting, and invited Members to comment or pose follow-up questions in respect of Suriname's request.

31. The delegate of the United States stated that the United States was most appreciative of the efforts made by Suriname and was particularly mindful that Suriname did not have a delegation in Geneva. The United States had had the opportunity to review the response that had been given. Members would note that, as the United States had stated in its written questions to Suriname, it was unclear whether the programmes for which extensions were being requested qualified for the special procedures in G/SCM/39. It was recalled that this document stated that the extensions were only for certain export subsidies. In the explanation provided in Suriname's most recent submission for the three laws under which exemptions were given - the Tariff Import Duty Laws, Investment Law and Raw Material Law - there was no indication that any of the exemptions were contingent on export. In fact, in Suriname's January submission, it had stated that it had no export subsidies. The United States also noted that, in an earlier submission, Suriname had stated that it had no export subsidy legislation. The delegate of the United States said that the United States was in a bit of a quandary in terms of how, or if, the Committee should deal with this request. The United States would certainly need to reflect on it further, but the United States intended to provide additional questions to Suriname concerning this, and other, issues in writing in the near future.

32. No further comments were made, or questions posed, in respect of Suriname's request.

33. The Chairman asked the United States to proceed with those follow-up questions. He stated that he would ask the Secretariat to be in touch with the Surinamese authorities with a view to clarifying the situation and responding to any follow-up questions the Committee might receive.

34. The Chairman then asked whether any delegation wished to raise any oral follow-up questions in respect of any of the other Article 27.4 extension requests, or any of the reservations of rights by Annex VII(b) Members, that were before the Committee.

35. The delegate of the United States stated that his delegation did not have any other questions at this meeting with respect to Article 27.4 requests. However, with respect to the Annex VII countries, he recalled that the United States had requested legislation in Article 25 notifications from the Annex VII countries that were seeking to reserve their rights. The United States had been pleased with the responses that had been received from some of these countries, most notably Honduras, which had been quite transparent and forthcoming in responding to the United States' requests. The United States had not yet received certain additional information, but the United States was also mindful that the Article 25 notification, in particular, was an item that should be taken up in the October Working Party meeting. Rather than discussing any Annex VII items in the course of this meeting, the delegate of the United States stated that the Committee could deal with this item when the Article 25 notification, and hopefully the legislation, was received, as well in the October meeting of the Committee.

36. The Chairman thanked all delegations for their constructive participation in the exchange of views, and particularly for the written questions and answers that had been exchanged.

37. The Committee took note of the statements made.

B. APPROVAL OF QUALIFYING REQUESTS TO EXTEND THE TRANSITION PERIOD FOR EXPORT SUBSIDIES PROVIDED BY CERTAIN DEVELOPING COUNTRIES PURSUANT TO G/SCM/39 – ITEM REQUESTED BY THE UNITED STATES

38. The Chairman stated that the inclusion of this item had been requested by the United States and invited that delegation to take the floor.

39. The delegate of the United States stated that it was correct that this agenda item had been placed on the agenda pursuant to a request by the United States. As foreshadowed in the July meeting of the Committee, there had been an initiative on the part of not only the United States, but also the European Communities, Canada, Japan, Australia and Switzerland (which he would refer to as 'the Members sponsoring these proposals' or 'the sponsors'). The intention had been to request this agenda item on behalf of those six Members. As noted by the Chairman at the outset of the meeting, four non-papers were available in the room.¹ These documents reflected the thoughts of the sponsors with respect to taking a decision to extend certain export subsidy programmes for certain developing countries under the special procedures agreed at the Doha Ministerial Conference. It was regrettable that these documents had not been available until the morning of the meeting. The sponsors were not to be blamed for this. The sponsors had wanted all Members attending this meeting to have had the opportunity to review those documents and send them back to their capitals prior to this meeting. Due to the summer break, however, the Members sponsoring these proposals had not had sufficient time to put them together. In that sense, the sponsors understood that Members would need time to examine the documents and to reflect upon them and consult with their capitals before acting on the decision. The delegations that had put this item on this agenda were certainly satisfied with it and were prepared to approve the programmes that were contained in the non-paper by using the draft decisions that all Members had received at the beginning of the meeting. The sponsors, however, could understand the problems of other Members. In earlier interventions, the sponsors had noted that, for at least a few of the programmes that were listed, other Members did have open substantive questions, so those decisions on those programmes would most probably not be appropriate for adoption at this meeting. However, the sponsors were heartened by the positive statements that had been expressed by other Members with respect to the work in which they were engaging bilaterally to resolve outstanding items. Given that the draft decision documents had just been made available, other Members would not have instructions in any way to be able to comment on them, but preliminary comments and questions could be raised at this time. It had been the intention of the delegation of the United States to go through the draft decisions and explain each paragraph, but the delegation considered that the decision itself was quite short and pretty self-evident. Members would recognize that almost every word in the draft decisions was taken either from document G/SCM/39 or from the Ministerial Decision on Implementation-Related Issues and Concerns itself. The sponsors had tried to be quite concise in the drafting and careful not to impose additional obligations on Members within the confines of this Committee's specific terms of reference. If Members did have some preliminary comments regarding the draft, the sponsors certainly wished to take the opportunity to provide some responses to them. The list of programmes that was available reflected a list of programmes on which there was an agreement by the sponsors to have an "early harvest". This did not mean that programmes that were not on the list would not be approved; the sponsors were talking here merely about an "early harvest".

40. Individual Members that were within the group sponsoring these proposals were prepared to accept early harvest programmes that were not included on the list. In order to simplify the process and to move forward as quickly as possible in developing the list of programmes, the Members

¹ The proposed draft decision texts submitted by the sponsors were subsequently circulated in document G/SCM/W/521.

sponsoring these proposals had followed a "greatest common dominator" approach. Basically, the sponsors had put forward all programmes on which there was agreement among those Members. If there were reservations or the need for additional information with respect to certain programmes, the Members sponsoring these proposals had not "negotiated" amongst themselves. Rather, the sponsors had just not put them forward at this time as it was felt that this was an "early harvest" process, and not in any way a sort of determination of the end of the game. The sponsors would come back to all programmes that the Members sponsoring these proposals were not successful on "early harvesting" and would work through them. The list included only those countries and programmes that, from the sponsors' prospective, had no remaining issues at this time. It did not reflect whether or not remaining issues were outstanding with respect to other Members. The list, while it appeared as a list of countries and programmes, should not be seen as an approval of a list. The approval of the extension should be adopted separately and a decision clearly taken separately with respect to each of the programmes. The listing of the programmes in the non-paper form was for ease of presentation, so that Members would have the list in front of them. The delegate of the United States requested that the list of programmes that were included in that non-paper, as put forward by the sponsors, be reflected in the minutes of this meeting. This list, as clarified during the meeting, was as follows:

LIST OF PROPOSED ARTICLE 27.4 "EARLY HARVEST" PROGRAMMES

Antigua & Barbuda

- Fiscal Incentive Act
- Free Trade/Processing Zones

Barbados

- Fiscal Incentive Programme
- Export Allowance
- Research & Development Allowance
- International Business Incentives
- Societies With Restricted Liability

Belize

- Fiscal Incentives Act
- Export Processing Zone Act
- Commercial Free Zone Act
- Conditional Duty Exemptions Facility under Treaty of Chaguaramas

Colombia

- Free Zone Regime
- Special Import-Export System for Capital Goods & Spare Parts (SIEX)

Costa Rica

- Duty Free Zone Regime
- Inward Processing Regime

Dominica

- Fiscal Incentives Programme

Dominican Republic

- Free Trade Zones

El Salvador

- Export Processing Zones and Marketing Act

Grenada

- Fiscal Incentives Act

Guatemala

- Exemption from Company Tax, Customs Duties and Other Import Taxes for Companies under Special Customs Regimes

- Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process Relating to Activities of Managers and Users of Free Zones
- Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process of Commercial and Industrial Enterprises Operating in the Industrial and free Trade Zone

Jamaica

- Export Industry Encouragement Act
- Jamaica Export Free Zone Act
- Foreign Sales Corporation Act

Jordan

- Income Tax Law No. 57 – Exemption from Income Tax

Mauritius

- Export Enterprise Scheme
- Pioneer Status Enterprise Scheme
- Export Promotion
- Freeport Scheme

Panama

- Export Processing Zone
- Official Industry Register

Papua New Guinea

- Section 45 of the Income Tax

St. Kitts & Nevis

- Fiscal Incentives Act No. 17 of 1974

St. Lucia

- Fiscal Incentives Act No. 15 of 1975
- Free Zone Act

St. Vincent & Grenadines

- Fiscal Incentives Act No. 5 of 1982

Uruguay

- Automotive Industry Export Promotion Regime

41. The delegate of the United States noted that there had been some feverish activity in terms of developing the list of programmes, as documentation had been surfacing and questions had been answered over the course of the last week. The sponsors regretted any confusion that may have resulted. At this juncture, the Members sponsoring these proposals did not expect a decision to actually be taken on this, although they certainly welcomed one if it was possible. However, they understood the situation that all other Members of this Committee were in. The sponsors welcomed preliminary comments and hoped that the Committee would be able to move on this list of programmes at its next meeting.

42. The Chairman stated that he took note of the comments made by the United States on the placement of item B of the agenda. He thanked the delegations of the United States, Australia, Canada, the European Communities, Japan, and Switzerland for their proposals. He stated that this was a very positive and encouraging sign that the Committee was making concrete progress in its work in pursuance of the decision of Ministers at Doha concerning Article 27.4 extensions. At the same time, he admitted that the proposals made available at the beginning of the Committee meeting were very detailed. He could understand that delegations might not have had time to look at them and give them careful consideration. He opened the floor for the discussion so that the Committee could have some preliminary reactions, both on the draft decision texts and on the list of programmes put forward by the sponsors.

43. The delegate of the European Communities associated his delegation with the statements made by the United States, which equally reflected in the European Communities' thinking on this point. The European Communities also shared the view that WTO Members might need additional time to reflect on the proposals. The European Communities had been impressed by the spirit of cooperation and constructive engagement that had been present in this exercise. A lot of work had been put into this and had been done in a highly technical area. The European Communities wished to acknowledge this effort on the part of the proponents of Article 27.4 requests. Many of them were in a situation with serious capacity constraints, so this was highly appreciated. The European Communities considered that the work on the list of programmes that was indicated in the room document was completed. The European Communities had no further questions to ask and thought that their mandate on the Doha implementation decision on those programmes had been fulfilled.

44. The delegate of Japan stated that his delegation and the delegations of the United States, Canada, the European Communities, Australia and Switzerland had had a substantial series of exchanges of information relating to the extension requests in connection with the G/SCM/39 procedures. He appreciated the tremendous efforts made by Members requesting these extensions to describe and clarify the programmes during the review by the Committee. He stated that, thanks to these efforts, and to the intense review pursued within the Committee, the degree of transparency had increased substantially during this period. The sponsors had worked to come up with a list of programmes. The sponsors thought that the time was right for the Committee to approve some of these programmes, those for which questions had been exhausted and which were eligible for an extension under document G/SCM/39. Japan wished to join the other Members sponsoring these proposals in proposing decisions to grant extensions under this procedure for the export subsidies contained in the list. He extended Japan's wish to Member countries for a positive spirit with which the Committee should make concrete progress wherever and whenever it was possible. He encouraged other Members to reflect this positive spirit in the discussions of the Committee.

45. The delegate of Australia expressed her delegation's support for the advance copy of the draft decisions and the "early harvest" candidate list as presented by the delegation of the United States. Australia saw both documents as constructive tools in the process of granting extensions under the procedures found in document G/SCM/39. Australia wished to take this opportunity to express its appreciation for the efforts of the requesting countries during this process.

46. The delegate of Switzerland confirmed his delegation's agreement with the statement made by the delegate of the United States. Switzerland associated itself to the position of the delegations of the United States, Japan, the European Communities and Australia.

47. The delegate of Canada expressed Canada's hope that this list would lead to discussion which would hopefully aid progress towards an "early harvest". Although Canada understood that there were still questions on some of the programmes on the list, Canada was pleased to hear that there were continued bilateral discussions. Canada hoped that these discussions would be fruitful.

48. The delegate of Ecuador thanked the sponsors for the draft decisions and the list of "early harvest" programmes. He stated that the documents received constituted an important initiative. Ecuador appreciated all the efforts made and work done by Members in order to move this process forward. Ecuador understood that these were very important issues for developing countries; this was why Ecuador gave a great deal of importance to this process. This initiative was a very positive one. The delegate of Ecuador noted that the documents had not been available until the beginning of the Committee meeting. Ecuador felt that these documents should be examined at length before Ecuador could take a clear decision and make constructive contributions to the draft decisions. He stated that, even though some important progress had been made with regard to some requests, there were still some which were still open and pending. For this reason, it was impossible to decide on the granting of the extensions in the course of this meeting.

49. As stated by the delegate of the United States, Ecuador understood that some programmes should not have been on the list. Ecuador was concerned that some programmes were not on the list, or that programmes were included but not taken on board by Ecuador. For instance, Ecuador realized that the CERT, a Colombian programme, was not included in the request for extension because this programme had been repealed. Ecuador considered it appropriate that, in the future, Members would consider other programmes of other countries which had not initially been on this "early harvest" list. Ecuador made an appeal for draft decisions to be circulated before-hand so that the delegations involved in the process could be more constructive and take a more active part in the debate and so that delegations could take an active part in this procedure.

50. The delegate of Malaysia thanked the sponsors for this very constructive move in the direction of what had been agreed in Doha, which Malaysia appreciated. He had some questions to the sponsors. First, did the proposals cover all of the Members that qualified for extensions under the Doha Decision or just some of them? Secondly, were the programmes for which extension was requested by any given country listed in the non-paper or were only those programmes which, in the view of the sponsors, should be granted the extension listed? For instance, in the case of Antigua and Barbuda, two programmes were listed in the non-paper. Were these all the programmes for which Antigua and Barbuda had requested an extension? Or, were there other programmes for which Antigua and Barbuda had requested an extension, but which, in the view of the sponsors, did not qualify for an extension? He stated that Malaysia would appreciate it if the sponsors could inform his delegation of the basis on which they had selected the programmes that were contained in the non-paper. Thirdly, what would happen with the other Members that had also requested an extension? Was there any chance for their requests to be considered? If so, when? Malaysia also wished very much to see all Members that applied for an extension to be given an equal chance and similar treatment in the WTO.

51. Finally, the delegate of Malaysia stated that his delegation welcomed the approval of the requests for an extension, a position which Malaysia already expressed in the run up to Doha. He stated that the granting of the extensions should, however, not have the effect of creating a new sub-category of WTO Members. In addition, Malaysia reiterated that it should not set a precedent in other WTO fora.

52. The delegate of the Dominican Republic thanked the sponsors for their efforts in order to make progress on this issue. The granting of the requested extension was of vital importance for the Dominican Republic. Her delegation had just been given the draft submitted by the delegation of the United States and wished to thank the United States for its draft decision because it was a positive contribution to move this process forward. In a preliminary fashion, her delegation thought that the draft was correct overall. She was concerned, however, by the sentence in paragraph 8, a paragraph which started "hereby grants an extension...", where it indicated that the extension would be granted "until December 31, 2003, for the elimination of those export subsidies...". Even if it was true that the Agreement foresaw the elimination of those subsidies, it was also true that, according to the procedures laid down in document G/SCM/39, the Dominican Republic had until 2007 to do so. Furthermore, paragraph 1 of document G/SCM/39 repeated the right under Article 27.4 to request that the extension be pursued for the programmes in question. The Dominican Republic hoped that Members of the Committee would take on board this concern so that this decision could be approved as soon as possible.

53. The delegate of El Salvador thanked the delegations of the United States, Japan, the European Communities, Canada, Australia and Switzerland for submitting a draft decision and a list of "early harvest" programmes according to the mechanism approved in Doha. On a preliminary basis, he stated that El Salvador thought that this draft was acceptable. El Salvador was aware of its obligations under Article 27.4 and of the procedure adopted in Doha. This was why, like the Dominican Republic, the delegation of El Salvador was concerned with the sentence "for the

elimination of those export subsidies" in the first paragraph of the substantive part of the draft decision. El Salvador wished to have greater clarity on the scope of such a sentence, as the document G/SCM/39 adopted in Doha established the right to an extension until 2007.

54. The delegate of Panama thanked the delegations of the United States, Japan, the European Communities, Canada, Australia and Switzerland for submitting the draft documents. Panama had not had sufficient time to consult on these draft documents with its capital. The delegation wished to reserve the right to come back to these draft decisions at the next Committee meeting. In principle, Panama shared the position expressed by the Dominican Republic with reference to document G/SCM/39. It was quite obvious that the consideration as far as the period adopted should also be taken up in these draft decisions.

55. The delegate of Uruguay stated that he had two comments to make in this meeting and one question to pose. Firstly, his delegation wished to thank the delegations of the United States, the European Communities, Japan, Australia, Canada and Switzerland for the work they had put into drafting these draft decisions. He also thanked them for the support given to the request by Uruguay amongst the other requests made. Uruguay, as one of the Members which had submitted a request for an extension of the transition period, hoped that its request would be approved as soon as possible. Uruguay asked how the Chairman intended to proceed on this issue. Uruguay thought that it was important that Members had a clear picture of what the next stage would be in this procedure.

56. The Chairman thanked the delegation of Uruguay and stated that he would come back to that question at a later stage.

57. The delegate of Mauritius thanked the United States and other delegations for putting forward these draft decisions. Like the Dominican Republic, Mauritius also wished to seek clarification from the United States on the sentence concerning the elimination of those export subsidies mentioned in paragraph 8 of the draft decision.

58. The delegate of Jordan stated that his delegation was very much appreciative for the efforts of the United States, Australia, the European Communities, Japan, Canada and Switzerland for putting the draft documents in front of the Committee. He stated that these programmes were very important for the development of the Members that requested those extensions. Jordan had just received the draft decisions and wanted clarification of paragraph 8 on the elimination of export subsidies programmes.

59. The delegate of Brazil thanked the drafters of the draft text. Brazil believed that this was a very positive move. His delegation would send the document to its capital in order to examine the language, especially in light of some of the issues that had been raised in the course of the debate, i.e. the apparent inclusion of agricultural products in some of the programmes for which extensions were being requested. In any case, like Malaysia, Brazil wished to reiterate the Brazilian position that the Committee could not create a new category of Members within the WTO and, therefore, the list of countries that would benefit from the decision should not be used as a precedent for future cases.

60. The delegate of Costa Rica thanked the delegation of the United States and the other delegations for the proposals submitted. Costa Rica considered that this was a very valuable development and helped Members to move forward with this process through the "early harvest" of these programmes. The delegate thought that delegations needed some time to be able to examine the document back in their capitals and that some delegations would have consultations in the near future to try and solve some pending issues. His delegation believed that, at the next Committee meeting, Members would be able to adopt these draft decisions. On the comments by some delegations relating to paragraph 8 of the draft decision where mention of 31 December 2003 was made, Costa Rica understood that it was written in that way because paragraph 1 of document G/SCM/39 said that

an "extension will be granted for 2003 for those programmes notified pursuant to these procedures" upon fulfilment of some requirements. The delegate of Costa Rica said that, in order to make paragraph 8 clearer, the contents of paragraph 1(e) of document G/SCM/39 could be mentioned.

61. The delegate of Colombia thanked the United States, the European Communities, Japan, Australia, Canada and Switzerland -- who had submitted this draft decision -- for all the work they had done, and, of course, for the very precious contribution to this process which was of great importance for developing countries. Given that Colombia's delegation had obtained the documents at the beginning of the meeting and the importance of the subject, Colombia considered it important to have sufficient time so as to be able to carry out consultations and to discuss the text with capital. Colombia also considered it necessary to have sufficient time to carry out some bilateral processes which would enable Colombia to be more enlightened on the position of all countries on the subject.

62. Given that Colombia attributed a lot of importance to this procedure, which aimed at achieving an "early harvest", and that Colombia wished to contribute in a positive manner to the process, Colombia was in the Chairman's hands as far as the way the Committee would move forward was concerned. Colombia was convinced that, under the Chairman's leadership, the Committee would be able to take on board the interests of all delegations and that the Committee would be able to maintain the momentum for the early adoption of decisions on this issue. As a first preliminary reaction, Colombia wished to highlight the last paragraphs of the draft decision because they clarified that obligations of a country under the Agreement on Subsidies and Countervailing Measures, or under any other WTO Agreement, were not to be affected as a result of this decision. Colombia believed that issues such as those raised by Brazil or other delegations should be reflected in the decision so that all delegations were clear on the scope of such a decision and were clear on the obligations of all Members.

63. The delegate of Thailand stated that the documents presented by the sponsors were very important and that more time was needed to consult with the capital. Regarding the list proposed by the sponsors, he associated his delegation with the statement made by the Malaysian and Brazilian delegations.

64. The delegate of New Zealand expressed his delegation's appreciation to those Members that had provided the information necessary to begin to make decisions on programmes eligible for extension to the transition period. His delegation agreed that it was time to start to consider approving qualifying programmes. His delegation's first impression of the decision and the list of programmes that had been circulated at the beginning of this Committee meeting was that they provided a very good basis to start to make decisions in this area as soon as possible.

65. The delegate of the United States expressed the US' appreciation for the statements and preliminary comments that the United States knew had to have been composed on-the-spot by Members. He stated that he had been remiss in his initial statement not to express his delegation's appreciation to all the proponents, and to the delegations that had requested the extensions, for the extensive amount of work that had been done in order to arrive at this stage. However, he thought that the United States had made statements to that effect for the record in the past. He said that he would try to give some responses to the preliminary questions that had been raised, but was mindful that these answers were preliminary in nature.

66. The delegate of the United States stated that the questions had come in two groups. The first were questions posed by the delegate of Malaysia, and also raised by some of the other delegations, with respect to something along the lines of selection criteria that the sponsors had used and what this meant for other programmes. He had tried to make it clear in his opening statement that this was just an "early harvest" process; decisions that were taken in this meeting were not the end of the line. The sponsors were continuing to work on the remaining programmes. The programmes that the sponsors

had put forward in the document presented at the beginning of the Committee meeting merely reflected those in respect of which the sponsors were already satisfied with the information that had been provided, and with respect to which the sponsors had no intention to provide any further questions. The programmes were limited solely to requests made pursuant to either paragraph 10.6 of the Decision on Implementation, or to the mechanism under document G/SCM/39. For example, the delegate of Malaysia had referred to a request from Antigua and Barbuda. In fact, the list of programmes ready for an "early harvest" included the two programmes for which Antigua and Barbuda had requested an extension. In the case of Barbados, however, the delegate of the United States noted that extension requests for some programmes had been made under document G/SCM/39, while others came under the Article 27.4 procedure. The only real "early harvest" items were just those requests that were under G/SCM/39 or the Implementation Decision itself. So, basically, these other programmes were not set aside, but this would perhaps explain why some programmes were in and some were not. The delegate of Malaysia had asked if these programmes reflected the entire range of programmes. The answer again was "no". The sponsors were continuing to work on all that had been requested. The sponsors had until the end of the year to complete their work.

67. With regard to the question about what would happen with the remaining Members, the delegate of the United States stated that the sponsors were covering all the 27.4 requests. The distinction to which the delegate of Malaysia had alluded with respect to Members that had applied basically represented the manner in which they had applied for the extension. The documents presented at the beginning of the Committee meeting dealt with the requests for extension requested by Members under the scope of the document G/SCM/39 and the Implementation Decision. That is, Members whose share of world merchandise export trade was not greater than 0.1 per cent and whose total GNP for the year 2000 as published by the World Bank was at or below \$20,000, or else otherwise satisfying the decision in the Implementation text. It was the obligation of the Committee, and it was within its terms of reference, to deal with the requests for extension of other Members. However, the delegate of the United States stated that the sponsors were not prepared, at this point, to include them in a list for "early harvest".

68. Several delegations had raised questions regarding the paragraph relating to the period of the extension for the transition period. The delegate of the United States stated that, in his intervention, the delegate of Costa Rica had probably hit upon the reason that this particular paragraph had been drafted as it was. The delegate of the United States recalled that paragraph 1(c) of the G/SCM/39 document directed the Committee to grant extensions for the calendar year 2003 before the end of this year. The sponsors had drafted the documents presented at the beginning of the meeting to respond to the mandate that had been given to the Committee pursuant to this document. This did not in any way mean that the mechanism for future extensions would not take the form provided elsewhere in the G/SCM/39 document, such as in paragraphs 1(d) and 1(e). That was not a decision to be taken this year, but rather that defined the mechanism that the Committee would use to take the decisions in subsequent years along the same lines. Perhaps, reference could be made to those extension provisions elsewhere within the decision, something which went along the lines of what the delegate of Panama could perhaps have been suggesting.

69. Responding to the item raised by the delegate of Brazil, the delegate of the United States stated that he thought that the delegate of Colombia had basically hit upon the point. The United States understood that there could be other WTO Agreements that could be involved with respect to certain export subsidy programmes. He stated that the sponsors were not aware that it was within the competence of the Committee necessarily to act upon them. Moreover, he stated that the sponsors would not, in any way, want to upset the balance of legal rights and obligations that could be involved under those other Agreements. This was precisely why the sponsors believed that the final sentence of the draft addressed exactly that point.

70. The delegate of the United States stated that he hoped he had given a response to all of the questions raised and welcomed the opportunity to speak to them.

71. The Chairman thanked the delegate of the United States for these replies, which were extremely useful in terms of better understanding the rationale for the proposal and the list of programmes put forward by the sponsors.

72. The delegate of El Salvador stated that he was grateful for the comments and explanations given by the representative of the United States. He said that perhaps he had not been clear in his first statement. El Salvador and the Dominican Republic were aware of the fact that the extension was for one year, until 2003. El Salvador and the Dominican Republic had doubts about what the draft decision said about the programmes that would be eliminated. The confusion was that the requirement was drawn from G/SCM/39 for the purposes of standstill and transparency, but did not refer to the elimination of the subsidy programmes.

73. The delegate of Ecuador wished to give his delegation's firm support for the statement made by Malaysia, which was supported by Brazil, Thailand and other delegations, to the effect that it was essential that the draft decision or decisions include a paragraph along the lines outlined by those delegations. This was something included in decisions when they were drafted and Ecuador thought that, over and above what was said in the last two paragraphs of both decisions before the Committee, it was essential to make it quite clear that these decisions did not set a precedent nor create a separate category, or a special category, of countries on the basis of which certain rights might be claimed. This was not the actual drafting that Ecuador was suggesting. However, Ecuador reiterated its firm support for those delegations that had flagged this particular aspect.

74. The delegate of Chile stated that the questions and answers by different Members, as well as the proposals for the "early harvest" programme, constituted a very positive contribution. Chile would send the draft decisions to the authorities in the capital in order to analyze how Chile could also include the elements raised, for example, by Brazil. This was a point that Chile had also raised in the course of the process, i.e. that no new categories of Members should be created. Chile would also examine certain other elements which were contained in the G/SCM/39 document and which were not reflected in the draft decisions. Chile would be coming back for further comments on this issue.

75. The delegate of Turkey stated that her delegation agreed with Malaysia and Brazil and others that this decision did not create any new categories among developing countries.

76. The Chairman stated that the Committee had had an extremely useful exchange of views on the proposal made by the sponsors, and that it was his belief that those exchanges went a considerable way towards clarifying and better understanding the draft decisions and the list of programmes put forward by Australia, Canada, the European Communities, Japan, Switzerland and the United States. At the same time, those exchanges testified to the seriousness all Members of the Committee attach to the process of examination of all Article 27.4 requests and reservations of rights.

77. The Chairman stated that he clearly detected that there was good will to consider the proposal made by the sponsors with a view to finding a satisfactory solution in terms of applicable procedures. Many, if not all, of those who had spoken appreciated the initiative taken by the sponsors. Some Members had given support in principle for the proposal but, at the same time, had indicated that they would need more time to review both the text and the list that followed. Many delegations had raised specific questions and concerns and had made suggestions on the text proposed by the United States on behalf of the sponsors. He thought that the Committee was moving in the right direction. He believed that the discussion was evidence that the procedures, to which Members had agreed, had been working extremely well. The Committee had made great progress, but it was obvious at the same time that much remained to be done. With respect to the question posed by one delegation on

how to proceed further, his sense of the discussion was that Members had created a momentum and that Members had to keep that momentum and build on all those achievements that had been attained. The Chairman refrained from commenting on specific concerns raised by certain delegations. He stated that the Committee would have the opportunity to deal with those comments once Members were engaged in consultations. The same applied to those specific concerns regarding the creation of a new category in the WTO. He reminded delegations of a specific provision which was contained in document G/SCM/39, paragraph 7(c), according to which:

"The criteria set forth in these procedures are solely and strictly for the purpose of determining whether Members are eligible to invoke these procedures. Members of the Committee agree that these criteria have no precedential value or relevance, direct or indirect, for any other purpose."

78. The Chairman suggested not to bring this meeting to an end, but to simply suspend it. The Chairman would conduct some further consultations on how to proceed. In these consultations, he would scrupulously take care of the interests of all Members of the Committee. The Chairman suggested that Members suspend on this agenda item and that the Committee come back as soon as possible and when circumstances warranted the resumption. In the meantime, the Chairman would conduct consultations with all Members in various formats with a view to finding a solution which was acceptable to all.

79. The Committee took note of the statements made. The Committee was suspended on this specific item.

80. At the Committee's special meeting of 31 October 2002, the Chairman recalled that the Committee meeting of 19 September had been suspended on item 2(b). The Chairman recalled that this item dealt with the proposal by certain delegations for approval of qualifying requests to extend the transition period for export subsidies provided by certain developing countries provided to the "fast track" procedures in document G/SCM/39. He stated that his intention at the time was to reconvene that meeting as soon as possible in respect of the proposal, after informal consultations to try to resolve the issues identified in the discussion. He stated that, although he had been holding extensive informal consultations since then concerning the Article 27.4 process, and although in those consultations considerable progress had been made, he had not been able to reconvene the 19 September meeting. He stated that under item 2(c)(ii) of the agenda for the special meeting of 31 October 2002, the Committee would, in any case, revert to the 19 September proposal. Given this, the Chairman stated that the most appropriate way to proceed was simply to formally close the 19 September meeting, before opening the Committee's special meeting of 31 October 2002.

81. The Committee took note of the statements made and agreed to proceed accordingly.

C. OTHER BUSINESS

1. Subsidy notification seminar – Statement by the Chairman

82. The Chairman recalled that the subsidies notification seminar was scheduled to take place on 29 and 30 October 2002, just prior to the regular fall meeting of the Committee. The Chairman informed Members that logistical and substantive preparations for the seminar were progressing well, and that Members were heading for a constructive, frank and open exchange of ideas concerning subsidies notifications among capital-based officials from Members and Observers. As Members knew, all Members and Observers were encouraged to participate in the seminar. He stated that there were approximately 50 confirmed funded participants. He wished to encourage all Members that had indicated a desire to receive funding to ensure that they had confirmed with the WTO Technical Cooperation Division the relevant capital-based official that would be attending the seminar. In

addition, he asked all other Members and Observers who were intending to send a capital-based official to the seminar to kindly inform the Secretary of the Committee of the name of the capital-based official that would attend. This would aid in the smooth organization of the seminar. In any event, Members would be receiving shortly more specific information concerning the scheduling and content of the substantive sessions of the seminar.

83. The Committee took note of the Chairman's statement.

84. The meeting was adjourned.
