

**General Council
1, 2 and 6 December 2005**

MINUTES OF MEETING

Held in the Centre William Rappard
on 1, 2 and 6 December 2005

Chairman: Ms Amina Mohamed (Kenya)

Prior to the close of the meeting on 1 December, HE Mrs Latoundji Lauriano, Minister of Industry, Trade and Employment Promotion of Benin, addressed the General Council. Her statement is reproduced in Annex II.

Also, prior to the start of the meeting on 2 December, Mr. John Tsang, Secretary for Commerce, Industry and Technology of Hong Kong, China, and Chairman of the Hong Kong Ministerial Conference, addressed the General Council. The full text of Secretary Tsang's statement, which was circulated subsequently in document JOB(05)/317, is reproduced in Annex III.

<u>Subjects discussed:</u>	<u>Page</u>
1. China – Transitional Review Under Section 18.2 of the Protocol of Accession to the WTO Agreement.....	3
2. Implementation of paragraph 11 of the Decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.....	8
3. Non-recognition of rights under Article XXIV:6 and Article XXVIII of the GATT 1994 – Communication from Honduras and Guatemala – Statement by the Chairman.....	12
4. Enlargement of the European Union – Communication from the European Communities.....	19
5. Review of the exemption provided under paragraph 3 of GATT 1994	21
6. Waivers under Article IX of the WTO Agreement.....	24
(a) Introduction of Harmonized System 2002 changes into WTO Schedules of tariff concessions – Draft Decision.....	24
(b) Introduction of Harmonized System 1996 changes into WTO schedules of tariff concessions – Request for waiver by Israel	24
(c) Review of waivers pursuant to Article IX:4 of the WTO Agreement	25
(i) <i>United States – Caribbean Basin Economic Recovery Act, granted on 15 November 1995 until 31 December 2005</i>	<i>25</i>
(ii) <i>Canada – Caribcan, granted on 14 October 1996 until 31 December 2006.....</i>	<i>25</i>

(iii)	<i>United States – Former Trust Territory of the Pacific Islands, granted on 14 October 1996 until 31 December 2006.....</i>	25
(iv)	<i>EC – Autonomous preferential treatment to the countries of the Western Balkans, granted on 8 December 2000 until 31 December 2006.....</i>	25
(v)	<i>EC – Transitional regime for the EC autonomous tariff rate quotas on imports of bananas, granted on 14 November 2001 until 31 December 2005.....</i>	25
(vi)	<i>EC – The ACP-EC Partnership Agreement, granted on 14 November 2001 until 31 December 2007.....</i>	25
(vii)	<i>Cuba – Article XV:6 of GATT 1994, Granted on 20 December 2001 until 31 December 2006.....</i>	25
7.	Review under Paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Report of the Council for TRIPS	26
8.	Committee on Budget, Finance and Administration	26
(a)	Report of the Committee on its meeting of 29 September 2005.....	26
(b)	Recommendations of the Committee following its meetings of October and November 2005.....	27
9.	WTO Pension Plan.....	28
(a)	Annual report of the Management Board for 2004.....	28
(b)	Amendments to the Regulations and Administrative Rules of the Pension Plan	28
10.	Appointment of Officers to WTO bodies – Announcement by the Chairman pursuant to paragraph 7.1(a) of the Guidelines	29
11.	Review of WTO activities.....	30
12.	Preparations for the Sixth Session of the Ministerial Conference.....	31
(a)	Request for Observer Status by the PLO on behalf of the Palestinian Authority	31
(b)	Requests for Observer Status by International Intergovernmental Organizations:	32
(i)	<i>Technical Centre for Agricultural and Rural Cooperation ACP-EC (CTA)</i>	32
(ii)	<i>Basel Convention</i>	32
(iii)	<i>Council of Europe Development Bank.....</i>	32
(iv)	<i>African Development Bank</i>	32
(v)	<i>Andean development Corporation</i>	32
(c)	Administrative arrangements – Statement by the Chairman	33
(d)	Reports.....	35
(i)	<i>Work Programme on Small Economies - Report by the Chairman of the Dedicated Session of the Committee on Trade and Development.....</i>	35
(ii)	<i>Work Programme on Special and Differential Treatment.....</i>	38
(iii)	<i>Work Programme on Electronic Commerce – State of play and reports by the Chairpersons of the Committee on Trade and Development and the Dedicated Discussions on cross-cutting issues under the auspices of the General Council.....</i>	44

(iv)	<i>Follow-up to the July 2004 General Council Decision on the Doha Work Programme – Report by the Director-General on the development assistance aspects of cotton.....</i>	<i>47</i>
(v)	<i>Report by the Chairman of the Trade Negotiations Committee.....</i>	<i>50</i>
(vi)	<i>Draft Ministerial Text – Statement by the Chairman.....</i>	<i>50</i>
13.	Chairmanship of the Working Party on the Accession of Afghanistan	80

1. China – Transitional Review Under Section 18.2 of the Protocol of Accession to the WTO Agreement (WT/GC/99, G/L/764, S/C/25, IP/C/39, WT/BOP/R/80)

1. The Chairman recalled that Section 18.2 of the Protocol of Accession of China to the WTO Agreement provided that: "The General Council shall, within one year after accession, and in accordance with paragraph 4 of Section 18, review the implementation by China of the WTO Agreement and the provisions of this Protocol." Section 18.2 also provided that "[t]he General Council shall conduct such review in accordance with the framework set out in Annex 1B and in light of the results of any reviews held pursuant to paragraph 1. China can also raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in this Protocol. The General Council may make recommendations to China and to other Members in these respects." The General Council's first review had been conducted in December 2002. Paragraph 4 of Section 18 further provided that this review should take place subsequently in each of the eight years following the first review, with a final review in the tenth year, or at an earlier date decided by the General Council.

2. The following issues were to be addressed by the General Council at the present meeting in accordance with Annex 1B of China's Protocol of Accession: First, reports of subsidiary bodies on China's implementation of the WTO Agreement and of the related provisions of the Protocol; second, development of China's trade with WTO Members and other trading partners; and finally, recent developments and cross-sectoral issues regarding China's trade régime. She proposed that, in addressing this agenda item, China as well as other delegations address all three of these points in a single intervention. In connection with this review, she drew attention to a communication from China recently circulated in WT/GC/99, which provided information required under Sections I and III of Annex 1A of the Protocol of Accession. The reports of the subsidiary bodies on their respective reviews of China's implementation of the WTO Agreement and of the related provisions of the Protocol of Accession were contained in documents WT/GC/99, G/L/764, S/C/25, IP/C/39 and WT/BOP/R/80.

3. The representative of China said that from 19 September 2005, China had undergone transitional reviews by 17 WTO bodies within the latter's mandates. His Government had devoted its personnel, time and various resources on an enormous scale to this process. Roughly 30 governmental institutions had been involved, and dozens of experts from capital had come to Geneva to participate in the reviews. With a proactive and cooperative attitude, China had provided information before the review meetings, as required by paragraph 18 of its Accession Protocol, and had engaged in constructive dialogue with Members in various WTO bodies. He was grateful to his colleagues from capital for their serious attitude towards this work. During the four years since China's accession, his country had faithfully fulfilled its commitments. China had phased out all its non-tariff measures. Its average tariff had been reduced to 9.9 per cent, of which the average tariff on industrial products had been reduced to 9 per cent and that on agricultural products to 15.3 per cent. Controls on trading rights had been removed completely. Implementation periods enjoyed by sectors such as banking, insurance and distribution would come to an end gradually. The remaining restrictions on some service sectors would continue to be lifted in accordance with China's accession commitments. Domestic laws and regulations had been improved in conformity with WTO rules.

China's economic and trade policies now enjoyed a high level of transparency to the public and outside world. By continuously carrying forward its reform policy and expanding its domestic demand, China had become an important driving force for the sustainable and sound development of the world economy, which had been recognized by the United Nations, the World Bank, the WTO and many other international organizations. China, as a new WTO Member, had substantially increased its imports of goods and services over the past few years. Since its accession to the WTO, China's imports had been increasing rapidly, which had provided the world with enormous export and job opportunities. The facts had proved that China's economic development not only benefited the Chinese people, but also provided the whole world with an ever bigger market and more investment opportunities. Since joining the WTO, China had altogether provided additional annual market access of more than US\$100 billion for four consecutive years. According to some experts' prediction, by the year 2010, China's annual total imports would exceed US\$1 trillion. He wondered whether any Member in WTO history had ever opened its market on such a scale. China would certainly make even greater contributions in real terms to world trade in the future.

4. While China was working very hard to meet the challenges and enormous task of domestic adjustment to fulfil its WTO accession obligations, what had happened in textile trade in 2005 had unfortunately not been helpful to the process. It had made very difficult his Government's job of explaining to its constituencies why the fundamental principles of WTO were applied in a totally different manner, why some of the founding Members of the multilateral trading organization – who had always been the cheerleaders for trade liberalization and globalization – should do exactly the opposite when they themselves faced challenges of domestic adjustment in certain sectors, and why they had re-imposed quotas on China's textiles at a time when China was trying very hard to open its own market. These were some of the unanswered questions, and his Government did not know where to find the proper answers. China hoped that the founding Members of the GATT and the WTO would set good examples for all other Members – including the newly acceded ones – to follow, so as to maintain the credibility of the WTO and the multilateral trading system it represented, and make it easier for the Chinese Government to convince the general public in China to maintain a high level of support and enthusiasm for this organization and the trading system. China attached great importance to, and had been constructively engaged in, the ongoing Doha round negotiations. It was committed to making constant efforts with other Members for a successful Ministerial Conference in Hong Kong and an early conclusion of the Round, hopefully by the end of 2006, for the benefit of strengthening the multilateral trading system and the orderly development of the world economy, and particularly developing-country economies. The 2005 transitional review was drawing to an end. He wished to thank Members for their cooperation and to express his delegation's appreciation to the General Council Chair and the chairpersons of all the relevant WTO bodies, as well as the staff of the Secretariat, for the work they had done in the review.

5. The representative of the United States said that as Members concluded work under China's 2005 Transitional Review Mechanism (TRM), his delegation wished to share its observations on how this review had gone, both from a procedural and a substantive standpoint. First, however, he wished to thank the representative of China and the many Chinese officials in Beijing who had worked hard to provide responses to the numerous questions raised by Members. The United States recognized the enormous amount of time and effort the TRM required, particularly on the part of China's Ministry of Commerce, which oversaw China's efforts. Regarding the continuing usefulness of the TRM, he recalled that it had been created largely because China had been admitted to the WTO before it had revised all of its trade-related laws and regulations to make them WTO-compatible, and because China had been allowed a variety of transition periods before taking on certain WTO obligations. As 2005 had shown, the TRM remained an important and useful mechanism, serving the interests of both China and other WTO Members. The TRM continued to provide Members with the opportunity to seek clarifications regarding China's policies and practices. It also provided a forum for Members to convey to China their views, expectations and concerns regarding China's efforts to comply with its

WTO obligations. China, in turn, had the opportunity to clarify its approaches and actions, with the goal of preventing misunderstandings that could lead to trade frictions.

6. Looking back on the transitional reviews conducted by the various committees and councils in 2005, it was the United States' view that many important questions had been raised, and that many of the reviews had generated productive exchanges. China had clearly put a lot of time and effort in Beijing in reviewing and considering Members' questions and in preparing responses. However, there were still areas in which China could improve. As in prior years, the exchanges had been especially useful in some committees, while the results had been uneven in others. It would also be helpful if China could bring experts from capital to more of the reviews. In some cases, the absence of experts from capital had prevented productive exchanges either during or in the margins of the reviews. As it looked ahead to 2006, his delegation looked forward to working with China and other delegations to improve this important exercise. Since its accession to the WTO in 2001, China had worked very hard to implement the specific commitments in the schedule set forth in its Protocol of Accession. Indeed, China had made significant efforts to reform its economy in order to comply not only with those specific commitments, but also to adhere to the every-day obligations of a WTO Member. Over the past year, China had smoothly implemented its important trading rights commitment. It had continued to pursue an extensive action plan intended to ensure that it developed and implemented an effective system for intellectual property rights enforcement, as required by the TRIPS Agreement. China had also agreed to dialogues to address concerns that had arisen in the insurance and telecommunications sectors. Nevertheless, at present China's implementation work was still incomplete. While China had taken many steps to implement its phased-in commitments over the past four years, there were still problems with China's implementation efforts in some areas, including important ones like distribution rights. In addition, enforcement of intellectual property rights (IPR) in China continued to be ineffective. Members had had a full discussion of this issue at the TRIPS Council TRM meeting. He would not repeat those concerns now, except to say that the problems were enormous and required the serious attention of China and other Members. The United States welcomed the steps China had been taking to address the many problems in this area over the past two years, but much more work needed to be done. Progress would not be achieved until one began to see significant reductions in IPR infringement levels in China, and that had not yet happened.

7. Finally, government agencies continued to intervene selectively in the market in ways that could undermine WTO implementation. As had been seen in 2005, opportunities for selective intervention by Chinese Government officials in the market were still readily available. Examples included the following: the issuance of regulations on auto parts tariffs that aimed to prolong prohibited local content requirements for motor vehicles; the telecommunications regulator's continuing interference in commercial negotiations over royalty payments to IPR holders in the area of 3G standard; the Government's continuing pursuit of unique national standards in many areas of high technology; a new steel industrial policy that called for the state's management of nearly every major aspect of China's steel industry; China's continuing use of quotas to control the export of coking coal, a key steel input; the issuance of measures that made it more difficult for foreign construction and engineering firms to provide services in China; the ongoing use of unnecessary quarantine inspection permit procedures that could delay or limit the size of shipments of agricultural products into China; and finally, extensive government subsidization that benefited a range of domestic industries in China. The United States understood that further progress toward market mechanisms, fairness, transparency and predictability was sometimes difficult for China in the face of substantial continuing challenges, including the need to confront a host of dislocations inherent in its transition from a planned economy to a more market-oriented economy. It also recognized the important contribution China's economic progress was making to global growth and development. However, as the United States had made clear on prior occasions, the true measure of China's progress as a WTO Member had to focus on the extent to which China's trade regime had institutionalized market reforms and made improvements in transparency, fairness and predictability. Complying with all of its WTO notification obligations, particularly with respect to subsidies, would be an important

step in that direction. As his delegation looked ahead to 2006, it appreciated the efforts China had made in participating in the current year's TRM, and looked forward to an improved TRM in 2006. It also looked forward to substantial improvements in China's trade regime. The United States was committed to working with China and other Members in these important undertakings, both in 2006 and beyond.

8. The representative of European Communities said he had listened carefully to the statement by China and wished to thank the Chinese delegation, both its capital-based and Geneva-based members, for participating actively in this TRM exercise. His delegation realized that this was a time-consuming and burdensome process, and wished to stress that it too attached great importance to the TRM process. Regarding the current year's TRM exercise, he wished first to stress that transparency was an essential element of WTO membership. It applied to all Members. While the TRM was a specific provision in China's Protocol of Accession, it was no different in nature to the trade policy reviews to which every Member was subject. As such, it should not be seen as a discriminatory exercise. China was now a major trading partner for all and had a key stake in the proper functioning of the institution. It had reaped enormous benefits from its access to the liberal and transparent trade environment provided by the WTO. In the Community's view, China should show leadership in setting an example of providing detailed answers to Members' legitimate concerns. This could only reinforce its credibility as a trading partner, and would contribute to mutual trust and dispel concerns about, for example, the enactment of industrial policies that appeared to feature elements that were not compatible with WTO commitments. To ensure maximum effectiveness of the current exercise, the EC had focused its submissions on a limited number of priorities and had raised only issues already discussed a number of times in the respective WTO committees or in bilateral meetings and therefore well-known to China. The EC's objective was to have, in each committee or council, a focused discussion and to obtain detailed replies from China, thus avoiding general statements to the maximum extent possible. However, the EC's assessment of the 2005 TRM exercise was rather mixed. Although there had been some useful clarifications on several matters of concern, the overall impression was that China's replies still lacked specificity in most cases. This was paradoxical, since it did not allow China to properly publicize its overall positive efforts in implementing its WTO commitments, and tended to create a perception of a lack of commitment to the proper functioning of WTO mechanisms.

9. In the area of more specific comments – and while the EC wished to stress that it believed China had made substantial overall progress in implementing its WTO commitments, which his delegation welcomed – the EC still had serious concerns. These had been described in detail in its written submissions to the various committees and councils involved in the TRM. He would not repeat them, but wished to point to at least four of these specific concerns. First, the setting up of industrial policies in some areas had a negative impact on the activity of foreign firms. For example, in the automobile sector, despite the EC repeatedly raising its strong concerns about new, potentially damaging legislation on the tariff reclassification of automobile parts, the legislation had come into force in April 2005. Several WTO Members had stressed similar concerns in the current year's TRM. Such a policy raised serious doubts about compliance with WTO rules, and China would consolidate its standing in WTO by seriously addressing such an issue without further delay. Second, the EC was concerned about the introduction of restrictions not foreseen under China's Protocol of Accession and which limited the access of foreign companies to a number of key sectors. This was notably the case in the services sector, where banking, telecommunications, and construction sectors were of major importance to the EC. Third, export restrictions on raw materials should be brought into line with WTO rules or abolished. Fourth, on horizontal issues such as IPR enforcement, the EC recognized the importance of the effort to be undertaken to achieve effective results. However, it wished to maintain and stress that despite those efforts, it still had serious concerns. In conclusion, he stressed that the list of WTO implementation issues raised by the EC during the 2005 TRM exercise were priority issues for EC industry. The EC would continue to pursue them throughout 2006, both in the context of the regular activities of the WTO and in the

bilateral meetings with Chinese authorities, and looked forward to substantial improvement and an improved TRM in 2006.

10. The representative of Djibouti thanked the representative of China for his statement and the Chinese delegation from capital for having come to Geneva to explain China's implementation of WTO rules. WTO Members were part of a family, and in a family, the youngest member was given time to be able to stand on his own two feet. Any country acceding to the WTO needed to be given time to adapt to the multilateral rules, which was a complicated and difficult process for all. Time was needed to adapt to and understand the rules, as this was a new system for the acceding country. All Members were doing all they could to understand and adapt to this system, particularly newly-acceded ones. One could not tell the latter that they had to apply all the rules immediately. Time had to be allowed for this. Every year new countries were acceding to the WTO, which showed their desire to understand the rules. China was a very great nation, and one the WTO needed. Members would need to be able to count on China, who – by the presence and the size of the Chinese delegation – was here to make itself heard. Not just China, but other newly-acceded Members had to be assisted and helped to understand the rules, and given the necessary time to adjust.

11. The representative of Japan said his delegation appreciated China's enormous efforts in the 2005 TRM. Japan recognized that China's TRM was an important process in promoting mutual understanding on the implementation of China's commitments since its accession, and on how China was addressing the current trade-related problems and difficulties. Japan had submitted a number of written questions to China in each of the relevant WTO councils and committees. He would not touch on the details, but wished to say that some of China's answers had been insufficient or lacking in specificity and relevant explanations regarding the implementation of its commitments. Most of the issues raised in Japan's questions were concerns shared by other Members. Japan appreciated China's endeavours and devotion for the TRM and sincerely hoped that China would continue to be cooperative in this process, including regarding the submission of written answers and clear information. As from 2006, the TRM review would enter into the latter part of the period covered by this mechanism. In this period, Japan hoped that China would further endeavour to promote legislation and to strengthen transparency and the coherence of laws and regulations in accordance with its WTO accession commitments.

12. The representative of Chile congratulated China for the whole process of its accession to the WTO and for the work it had done under the transitional review. This review was very similar to the WTO's trade policy reviews, but there was more depth to the review under the TRM, and more specific features. In fact, every major market country in the WTO should be subject to this type of review. China's TRM review was very specific, and there was no similar case in the WTO's history, given China's size, the far-reaching nature of its obligations and the speed of its implementation efforts. One could always see a glass as being half empty or half full. Chile saw it as half full, and felt that in general China had tended to comply with all of its WTO commitments. While there were some reservations in some areas, the glass was more full than empty. China was not only complying with WTO rules and disciplines, but was also continuing with its market-opening process, proof of which was that two weeks earlier, Chile and China had signed a comprehensive free-trade agreement that included all the disciplines of the multilateral system and even more exacting disciplines at the bilateral level. Chile would notify this agreement to the WTO at the proper time in conformity with Article XXIV.

13. The representative of China thanked the Members who had spoken. Some of the comments made were very constructive, and his delegation had taken note of the concerns raised, which would be conveyed to his capital. China too looked forward to more bilateral exchanges with interested Members in the future.

14. The General Council took note of the statements and of the reports submitted by the subsidiary bodies on the conduct of their respective reviews, and agreed that the fourth review by the General Council of China's implementation of the WTO Agreement and the provisions of its Protocol of Accession had been concluded.

2. Implementation of paragraph 11 of the Decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1, IP/C/41, JOB(05)/319 and Corr.1, JOB(05)/320)

15. The Chairman said that in connection with Members' discussion of this item, and as one coming from a continent that had been most affected by, and continued to suffer from, the HIV/AIDS epidemic, she wished to note that this was World Aids Day. She thought it fitting that Members were meeting in the General Council on this occasion to consider a permanent response that would allow so many countries in the developing world to take advantage with greater certainty of the flexibilities provided under the TRIPS Agreement and allow them to alleviate more effectively the enormous suffering that hundreds of thousands of people affected by this disease faced each day. She hoped that, on this important day, all Members could come together again, as they had done in August 2003, and agree to reinforce their ongoing efforts and reach an agreement as soon as possible on an amendment to the TRIPS Agreement, as a gesture of solidarity with those who were less fortunate and had been robbed by this disease of what most people took for granted – human dignity.

16. She recalled that in August 2003, the General Council had adopted a Decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Paragraph 11 of that Decision provided that the Decision, including the waivers granted in it, shall terminate for each Member on the date on which an amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The Decision instructed the TRIPS Council to initiate, by the end of 2003, work on the preparation of such an amendment with a view to its adoption within six months, on the understanding that the amendment would be based, where appropriate, on that Decision, and on the further understanding that it would not be part of the negotiations referred to in paragraph 45 of the Doha Ministerial Declaration. The Chairman of the TRIPS Council had periodically reported on the status of this work. She then invited the Chairman of the TRIPS Council to report further on developments in the TRIPS Council's work in this regard.

17. Mr. Choi (Korea), Chairman of the TRIPS Council, recalled that he had most recently updated the General Council on this matter at its meeting on 19 October, indicating that the TRIPS Council would revert to it at its meeting on 25-26 October. At the latter meeting, the TRIPS Council had decided to suspend the meeting on this agenda item so as to allow more time for consultations. At the TRIPS Council's reconvened meeting on 29 November, he had reported that there had recently been some developments that would justify further efforts being made over the coming days. The TRIPS Council had decided once more to suspend its meeting so as to permit further consultations on this matter. A series of consultations were taking place that day, and it continued to be his hope and aim that progress would be made before delegations left for the Hong Kong Ministerial Conference. A further update on this item would be made to the General Council very soon.

18. The Chairman proposed that, in view of the ongoing consultations on this matter, Members revert to this item after the TRIPS Council Chair had completed his consultations.

19. The General Council took note of the statements and so agreed.

20. The following day, the Chairman said that as delegations were aware, the TRIPS Council Chair had convened a meeting at Heads-of-Delegation level for 5 p.m. that day, or immediately following the meeting of the General Council, in order to discuss an approach on an amendment to the TRIPS Agreement to replace the provisions of the August 2003 Decision. She therefore proposed that

the General Council suspend its consideration of this item and be ready to reconvene at short notice with a view to taking action on the basis of any recommendations that might be forthcoming from the TRIPS Council regarding such an amendment. She would reconvene the General Council to reconsider this item not later than on 5 December. However, she would do this only if the TRIPS Council Chair reported to her that there was progress that would enable the General Council to take the necessary action. It would be understood that if the General Council was not reconvened by 5 December, the discussion on this Agenda item at the present meeting would be considered closed.

21. The General Council took note of the statement and so agreed.

22. At the reconvened meeting of the General Council on 6 December, the Chairman recalled that on 2 December, the General Council had agreed to suspend consideration of this item and to reconvene at short notice in the light of advice from the TRIPS Council Chair, but in any event not later than 5 December, with a view to taking action on the basis of recommendations that might be forthcoming from the TRIPS Council regarding an amendment to replace the August 2003 Decision on TRIPS and Public Health. In light of requests from delegations for more time to obtain approval from capitals for the proposal that was under consideration, delegations had agreed in informal consultations that the General Council be reconvened a day later than originally planned.

23. She said she was very pleased that, as a result of the further consultations held by the Chairman of the TRIPS Council, and the cooperation, goodwill and hard work over the past few days by all involved, the TRIPS Council had just agreed by consensus to forward to the General Council a proposal for a Decision on an amendment to the TRIPS Agreement to implement paragraph 11 of the General Council Decision of 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The TRIPS Council had also agreed to forward two statements to be read out by the General Council Chair prior to the adoption of the draft Decision by the General Council. She drew attention to the proposed draft Decision, which had been circulated in document IP/C/41, and invited the Chairman of the TRIPS Council to introduce the Council's proposal.

24. Mr. Choi (Korea), Chairman of the TRIPS Council, said he was pleased to inform Members that, following an intensive process of consultations, the Council for TRIPS had approved the proposal for a Decision on an amendment to the TRIPS Agreement contained in document IP/C/41, and had agreed to forward, along with it, to the General Council the text of a statement, contained in document JOB(05)/319 and Corr.1, to be read out by the Chairman of the General Council prior to the adoption of the Decision by the General Council, as well as another statement, concerning paragraph 4 of Article 31*bis* of the proposed amendment to the TRIPS Agreement, also to be read out by the Chairman of the General Council prior to the adoption of the Decision, and contained in document JOB(05)/320. Furthermore, a number of delegations had informed him that it was their intention to make statements in regard to paragraph 1(b) of the proposed Annex to the TRIPS Agreement. Finally, some delegations had asked him to state that, while they supported the amendment, they had concerns about the scope for their countries to take advantage of paragraph 3 of Article 31*bis* of the proposed amendment. If requested by these delegations, the Council for TRIPS would discuss this matter. He wished to take this opportunity to express his deep appreciation for the constructive and cooperative spirit shown by all delegations, the leadership role played by the Chairman of the General Council and for all the hard work by the Secretariat which had enabled him to be in a position to put this proposal to the General Council on behalf of the Council for TRIPS.

25. The Chairman said that she wished, on behalf of all Members, to pay tribute to the Chairman of the TRIPS Council for his leadership and efforts over the past few days to ensure that Members were able to come to the conclusion they were about to endorse. In accordance with the understanding reached on the procedure to be followed at the present meeting with regard to the adoption of the Decision on the amendment to the TRIPS Agreement, she invited those Members

wishing to make statements in regard to paragraph 1(b) of the proposed Annex to the TRIPS Agreement to do so.

26. In response to a procedural clarification requested from the floor, she said there was a clear understanding on how Members should proceed regarding the content of the statements to be made by the Members concerned in regard to paragraph 1(b) of the proposed Annex, and that the minutes of the present meeting would reflect only the statements regarding the opt-out that those Members would be reasserting, and nothing else.

27. The representatives of Mexico; Korea; Turkey; Singapore; Macao, China; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Israel; and Hong Kong, China, reaffirming their positions on this matter as expressed at the meeting of the General Council on 30 August 2003 (WT/GC/M/82, item 3), reiterated that they would use the system set out in the Amendment as an importer only in situations of national emergency or other circumstances of extreme urgency.

28. The Chairman then made the following statement for the record, which had been forwarded to her by the TRIPS Council in document JOB(05)/320: "It is understood that paragraph 4 of Article 31*bis* in the proposed amendment is without prejudice to the overall question of the applicability of subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 to the TRIPS Agreement and to the different positions of Members on this subject."

29. She then read out for the record the Chairman's Statement forwarded to her by the TRIPS Council in document JOB(05)/319 and Corr.1:

"Pursuant to paragraph 11 of the General Council Decision of 30 August 2003, the General Council has been presented with a draft Decision containing a proposed amendment to the TRIPS Agreement to implement paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. This amendment is part of the wider national and international action to address problems as recognized in paragraph 1 of the Declaration. Before adopting this Decision, I would like to place on the record this Statement which represents several key shared understandings of Members regarding the amendment to be submitted for acceptance and the way in which it will be interpreted and implemented. I would like to emphasize that this Statement is limited in its implications to paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

"First, Members recognize that the system that will be established by the amendment should be used in good faith to protect public health and, without prejudice to paragraph 3 of the Article 31*bis* of the amendment, not be an instrument to pursue industrial or commercial policy objectives.

"Second, Members recognize that the purpose of the amendment would be defeated if products supplied under this amendment are diverted from the markets for which they are intended. Therefore, all reasonable measures should be taken to prevent such diversion in accordance with the relevant paragraphs of the amendment. In this regard, the provisions of paragraph 2(b)(ii) of the Annex to the TRIPS Agreement in the amendment apply not only to formulated pharmaceuticals produced and supplied under the system but also to active ingredients produced and supplied under the system and to finished products produced using such active ingredients. It is the understanding of Members that in general special packaging and/or special colouring or shaping should not have a significant impact on the price of pharmaceuticals.

"In the past, companies have developed procedures to prevent diversion of products that are, for example, provided through donor programmes. "Best practices" guidelines that draw upon the experiences of companies are attached to this statement for illustrative purposes.¹ Members and producers are encouraged to draw from and use these practices, and to share information on their experiences in preventing diversion.

"Third, it is important that Members seek to resolve any issues arising from the use and implementation of the amendment expeditiously and amicably:

- "To promote transparency and avoid controversy, notifications under paragraph 2(a)(ii) of the Annex to the TRIPS Agreement in the amendment would include information on how the Member in question had established, in accordance with the Appendix to the Annex to the TRIPS Agreement in the amendment, that it has insufficient or no manufacturing capacities in the pharmaceutical sector.
- "In accordance with the normal practice of the TRIPS Council, notifications made under the system shall be brought to the attention of its next meeting.
- "Any Member may bring any matter related to the interpretation or implementation of the amendment, including issues related to diversion, to the TRIPS Council for expeditious review, with a view to taking appropriate action.
- "If any Member has concerns that the terms of the amendment have not been fully complied with, the Member may also utilize the good offices of the Director-General or Chair of the TRIPS Council, with a view to finding a mutually acceptable solution.

"Fourth, all information gathered on the implementation of the amendment shall be brought to the attention of the TRIPS Council in its annual review as set out in paragraph 7 of the Annex to the TRIPS Agreement in the amendment.

"In addition, as stated in footnote 3 to paragraph 1(b) of the Annex to the TRIPS Agreement in the amendment, the following Members have agreed to opt out of using the system as importers: Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland and the United States.

"As we have heard today, and as the Secretariat has been informed in certain communications, some other Members have agreed that they would only use the system as importers in situations of national emergency or other circumstances of extreme urgency. These are the following: Hong Kong, China; Israel; Korea; Kuwait; Macao, China; Mexico; Qatar; Singapore; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey and the United Arab Emirates."

30. The Chairman drew the attention of the General Council to certain corrections in respect of footnote 3 on page 6 of document IP/C/41 in the French version of the text.²

¹ Reproduced as Annex I.

² Issued as IP/C/41/Corr.1 (in French only).

31. The Chairman then proposed that the General Council take note of the statements and, in the light of the Chairman's Statement just read out, adopt the draft Decision contained in document IP/C/41.

32. The General Council so agreed.³

33. The Chairman then said that Members had asked her to state, on their behalf, that they reaffirmed the statements they had made after the adoption of the General Council Decision of 30 August 2003. She proposed that the General Council consider this done.

34. The General Council so agreed.

3. Non-recognition of rights under Article XXIV:6 and Article XXVIII of the GATT 1994 – Communication from Honduras and Guatemala (WT/GC/85, WT/GC/90 and Corr.1, WT/GC/100) – Statement by the Chairman

35. The Chairman recalled that this matter had first been raised by the delegations of Honduras and Guatemala at the Council meeting in December 2004, and had again been considered by the General Council at its meetings in February, May, July and October. In the light of the views expressed at these meetings, and the requests for consultations made by Honduras and Guatemala, her predecessor and she had both held consultations on this matter in order to assist in finding a way forward. At the October Council meeting, she had encouraged further discussion among the interested parties with a view to reaching a mutually satisfactory resolution of the concerns that had been referred to the General Council, and had urged all Members to continue to reflect on how they might move this matter forward. In view of the views expressed at that meeting, she had proposed that she hold further consultations on this matter before the present meeting. Accordingly, on 29 November she had held further consultations to provide another opportunity for the Members concerned to seek clarifications, to the extent possible, and to see if she, as Chair, could facilitate a satisfactory resolution to the concerns that had been expressed regarding this matter. She had invited to those consultations all the delegations who had spoken on this issue at previous meetings of the Council, and had made clear that the consultations were without prejudice to any Member's rights under the WTO.

36. The consultations had shown that although the discussions since December 2004 had helped to clarify the issues and the positions taken by the delegations concerned, there was no meeting of minds as yet on the claims of substantial interest submitted by Honduras and Guatemala in connection with the EC's enlargement negotiations as well as the modification of its Schedule under Article XXVIII as regards bananas. Honduras and Guatemala believed they had provided valid claims of substantial interest. Beyond the large trade interests involved for their economies, they believed there was also an important systemic issue, touching in this particular case on the non-recognition of rights and interests of smaller, vulnerable economies under existing WTO rules and guidelines, which had been made more difficult, in their view, through insufficient discussion and consultation aimed at finding a solution acceptable to all interested parties. Several delegations had also emphasized, once again, that the claims by Guatemala and Honduras were related to their rights to participate in the Article XXIV process following EC enlargement, and not to the establishment of the single tariff on bananas. They reiterated that these were two entirely separate processes, although there had been some confusion because both matters involved bananas. In this context, some delegations had reiterated concerns about the unsatisfactory operation of their own Article XXIV:6 and Article XXVIII processes with the Community – including the question of compensatory adjustment – which they believed were relevant to the overall question of non-recognition of rights raised by Honduras and Guatemala under this item. One delegation had urged all parties to negotiate

³ The Decision was subsequently circulated in document WT/L/641.

on the substantive issues, and believed that this, and not unilateral decisions by parties, would be the best way to arrive at a satisfactory solution. Two delegations also indicated that in the absence of a satisfactory solution, they would explore recourse to other WTO provisions.

37. The EC, for its part, continued to believe it had acted in keeping with agreed rules and longstanding practice in accepting and rejecting claims of interest in this case. The EC had also indicated at the consultations that it had submitted to the Secretariat for circulation a communication (WT/GC/100) responding to Honduras's justification of its supplying interest claim in relation to bananas. Regarding the Article XXIV:6 negotiations with other delegations, the EC had indicated that while there was still clearly much work to be done, it was pursuing this matter and hoped to continue to make progress in the near future. Finally, the EC said it viewed the question of rights under Articles XXIV and XXVIII for small exporting Members with a high dependency on specific products as an important systemic question that deserved serious discussion, but believed this had to be addressed in the appropriate forum, and not in an ad hoc manner. Both the EC and the other interested delegations had also indicated that there had been some informal contacts among them the previous week. All sides remained keen to find a satisfactory resolution soon, ideally before Hong Kong, although time was now very short. She was counting on the goodwill of all Members to help resolve this matter satisfactorily as early as possible.

38. The representative of Honduras expressed his delegation's appreciation for the Chairman's efforts to seek a solution to this matter, which now had been before the Council for a year. As his delegation had reiterated at each meeting of the Council in 2005, Honduras reserved its rights under Articles XXIV:6 and XXVIII, since it had already demonstrated that it had such rights. His delegation had taken note of the communication from the EC in WT/GC/100. Honduras welcomed the fact that all had had the opportunity to see that document, since its content illustrated and proved, unequivocally and conclusively, that the EC was continuing to fail to observe WTO rules. Although Honduras was not obliged at this point to respond to that document, he nevertheless wished to refer to certain arguments in it. First, under Article XXVIII of the GATT 1994, the figures for the period 2000-2002 quoted by the EC with regard to Honduras' share of the EC market had no legal relevance, since (i) the EC knew well that during that period there were MFN and ACP quantitative restrictions; and (ii) although the restrictions in force between 2000 and 2002 were slightly different from the EC's quantitative restrictions that had been condemned in the third dispute settlement case on bananas, they were also incompatible with the provisions of Article XIII of the GATT 1994 and had been declared to be so in the proceedings that had taken place under Articles 21.5 and 22 of the DSU in 1999 and 2000. As had been clearly stated in Article XXVIII of GATT 1994, substantial interest should be calculated on the basis of the levels of trade that would have existed in a market free of discriminatory quantitative restrictions.

39. The EC had raised the question as to why Honduras had chosen the years 1989-1991 to calculate its market share. These reasons should be obvious. It was the 1993 regime that had extended discrimination to the whole of the EC. In the third banana case, the years 1989-1991 had been used as the previous representative period, in order to show that discrimination was present in the EC market since 1993. Honduras had simply used the period before 1993 which that dispute settlement panel had selected. The EC had also asked why Honduras had not used the volumes of the EC-12 in its calculations. Honduras's explanation was that it had not used them for the simple reason that the EC no longer had only 12 members. It was obvious that the information relating to 12 countries of the EC would not represent the market share the EC would represent at the present time if discrimination did not exist. Honduras had used the most representative information available with regard to the EC for the period 1989-1991, i.e. the statistics published by Eurostat for the EC of 15 member States. Unfortunately, information on the imports of the ten countries that had recently joined the EC was not publicly available for the period in question.

40. The point the EC was apparently making when it asserted that Honduras could not be regarded as a "substantial supplier" on the grounds that in the reference period 1989-1991, its market share had varied from 10.3 per cent to 7 per cent, was totally unfounded, and Honduras rejected it for the following reason. According to Article XXVIII, a period of three years was generally used to calculate market share, precisely because market volumes and shares differed from year to year, particularly in the case of a highly perishable agricultural product such as bananas. In any case, according to the third banana case, for a country to be considered to be a substantial supplier, it was not necessary for it to have a market share of 10 per cent, especially when the exporting Member was a small developing country that was highly dependant on exports of the product in question. This applied exactly to Honduras, which was a small developing country that depended on its exports of bananas. Furthermore, in the two disputes on bananas considered under the GATT 1994, it had been clearly stated that during those years, Honduras had indeed been one of the major banana suppliers. If the dispute settlement panels involved had been convinced that this was the case, the EC should not call it into question.

41. For the time being, his delegation had nothing more to say regarding the document circulated by the EC, but wished to emphasize that Honduras had always defended its rights, and it could not be assumed that merely because it was a small developing country – and, furthermore, because it set out its arguments in a way that was respectful, moderate and reasonable – his country was willing to remain silent and abandon the defence of its interests. It was for these reasons – and because Honduras was convinced that one could not negotiate or discuss with oneself – that as long as Honduras was unable to prevent this issue from going around in circles, which only caused more time to be lost, it had requested that part of this agenda item be discussed at the Hong Kong Ministerial. In that way, the vicious cycle would be broken and this matter could be raised before the eyes of the whole world, so that all could witness the fact that the EC was refusing to fulfil its WTO commitments. The voice of Honduras, a small developing country, would be heard in Hong Kong, and if the EC continued to refuse to recognize Honduras's rights, it would have to bear the historic burden of continuing to call into question the credibility of the multilateral trading system at a time when Members were carrying on negotiations in a Round that had been called the "Development Round". With this new appeal to the EC, Honduras was asking that delegation to enter into real and genuine negotiations that would finally allow for these differences to be settled. He hoped that his words and the information he had provided in the course of the past months – including the information provided in the present statement – would lead to a change of heart on the part of the EC, and that without delay it would take the decision to recognize the rights of Honduras.

42. The representative of Guatemala said his delegation had initially intended to make a brief statement, since it seemed that Guatemala's complaint had already been sufficiently substantiated to the Council and since his country believed that all that was required to settle this matter was a generous dose of good faith on the part of the European Communities. However, after examining the EC's written response to Honduras, Guatemala felt obliged to provide a preliminary response to various aspects that affected its interests. Guatemala was aware that the EC's response was intended to reply to specific claims by Honduras. However, there were two aspects that concerned his delegation. First, in paragraph 7 of its response in WT/GC/100, the EC noted that the banana import regime which had been found to be inconsistent with Article XIII of GATT 1994 was not in place during the reference period 2000-2002. On this basis, the EC asserted that paragraph 7 of the Interpretative Note to Article XXVIII:1 was not applicable to the present case. Guatemala, like Honduras, had based its legal claims on this rule, and the EC's interpretation of this paragraph was unacceptable to Guatemala. While it might be the case that the regime declared incompatible *per se* was not in force during the period 2000-2002, this did not conceal the fact that the banana import regime during that period did, in fact, contain quantitative restrictions and discriminatory elements. In addition, those elements still existed. Furthermore, paragraph 7 did not require – nor did it impose the requirement – that a regime had to be declared incompatible by the WTO in order for that paragraph to be applicable. Paragraph 7 was conditional on the mere existence of quantitative restrictions.

Thus, the mere existence of quantitative and discriminatory restrictions in the European banana import regime warranted the application of paragraph 7 of the Interpretative Note. In addition, it was important to note that during that period the EC had requested a waiver from Article XIII, which showed that those measures were intrinsically discriminatory. All of this also led Guatemala to the view that negotiating rights could not be determined on the basis of a period when quantitative restrictions were in force, nor was it possible to use as the basis, as stated in paragraph 3 of the Understanding on the Interpretation of Article XXIV, trade that was not on an MFN basis.

43. The second aspect which concerned his delegation was the penultimate paragraph of the EC's response, which was contradictory. The EC began by stressing the importance it attached to the small economies and, paradoxically, concluded the paragraph by obstructing the opportunities available to those countries. In that paragraph the EC expressed its full willingness to address the difficulties faced by a small country such as Honduras, but then sought refuge in legal niceties in order, finally, not to address that situation. The EC refused to recognize the right of Honduras to participate in these negotiations, asserting that Honduras was not claiming a principal supplier interest on the basis of paragraph 1 of the Understanding on the Interpretation of Article XXVIII.

44. This made his delegation wonder what it had been doing during the whole of the past year. For over a year, Honduras and Guatemala had been at pains to state and to demonstrate the importance bananas represented for their exports. In so doing, they had demonstrated – beyond any reasonable doubt – that they qualified as principal suppliers. Almost the entire WTO membership, with the exception of the EC, shared this view. He asked whether these objective factors were not sufficient to induce the Community to recognize these countries' negotiating rights. The rules on which Honduras and Guatemala based their case were designed to guarantee a redistribution of negotiating rights in favour of small exporting countries. These rules provided excellent opportunities and were windows that the WTO agreements opened for small countries. The European Communities had to allow these countries to enter by this window. In so doing, the EC would in no way be deviating from the multilateral rules. Rather, it would be doing the very opposite, as it would be truly complying with the letter and spirit of the WTO rules. In addition, it would be acting in a manner consistent with the political willingness, to which it made claims, to address the specific problems of small economies. Contrary to what the EC had previously asserted, these were not special solutions to benefit two countries. Article XXVIII by its very nature and renegotiations by their very essence implied, by definition, that the recognition of rights should be addressed and dealt with on a case-by-case basis. In concluding, he said that these countries were not asking for rules to be invented or special procedures to be designed for them. They were simply asking that the rules contained in the WTO agreements be applied for the purpose for which they had been created – to secure an appropriate redistribution of negotiating rights in favour of small exporting countries.

45. The representative of Brazil thanked the Chairman for her report on the steps she had taken to find a satisfactory solution to this longstanding issue on the Council's agenda. He also wished to thank the EC for finally coming up with some figures to substantiate the assertions it had made over the past few months. He did not wish to discuss those figures, but merely to highlight a number of points in the EC's document. In the third-to-last paragraph, the EC pointed out that the market share of Ecuador, which had not participated in the Bananas Framework Agreement, had increased after 1994. This was somewhat misleading, because the issue was what Guatemala's and Honduras's share of the market would have been in the absence of the framework agreement. The implication in this statement seemed to be that the framework agreement did not impede or did not affect the distribution of market share in the EC market, an objective that would certainly have run counter to everything that had been done. In fact, the purpose of the banana framework agreement was to affect market share distribution. This statement provided information only about Ecuador. It did not say anything about what would have happened to the share of the market of Honduras and Guatemala in the absence of the restrictions which had been in force for over ten years.

46. In the penultimate paragraph of the document, the EC also stated that Honduras was not claiming a principal supplier interest on the basis of paragraph 1 of the Understanding on the Interpretation of Article XXVIII, i.e. that it had the highest ratio of exports affected by the concession to its total exports. This argument begged the question. It assumed the conclusion, in order to prove the conclusion itself. This went back to the issue of what Honduras's and Guatemala's share of the market would have been in the absence of the restrictions. Since one did not know exactly what that would have been, it would seem to be unfair to expect Honduras and Guatemala to prove that they had a principal supplying interest on this basis. Finally, in the last paragraph, the EC again expressed its readiness to discuss the matter further with Honduras, which was a positive element. However, Brazil had no doubt about the EC's generosity and its continued willingness to cooperate and to look into the problems of Honduras and Guatemala, as it had always done in the past. The problem was that this issue could not depend just on the unilateral generosity of the EC. Article XXVIII involved the principle of proportionality – proportionality between the harm, or the loss of advantage, that was accruing to exporters, and the compensation that should be provided in that regard. Regarding the horizontal issue the EC had raised, one might have to look again into Article XXVIII and its provisions. The EC had excellent legal experts, and Brazil was sure they could find a way to transform a simple unilateral manifestation of goodwill, which had happened in the past but which had not often materialized in concrete terms, in order to find a solution in the shortest possible time to the legitimate claims of Honduras and Guatemala.

47. The representative of Uruguay expressed his country's interest in a speedy solution to this controversy which seriously affected the foreign trade of two Latin American countries whose exports of this product had special significance to their exporting profile and their overall exports. Uruguay's interest in this matter was based not just on solidarity, but on the proper functioning of the system. His delegation was therefore grateful to the Chairman for her efforts and hoped for a speedy solution to this problem.

48. The representative of Nicaragua said the rights claimed by Honduras and Guatemala pointed to systemic aspects that were of essential interest to small developing countries. In addition to this systemic interest, which had been clearly stated by Brazil, Nicaragua had specific interests in bananas, as it was a banana-producing country with significant exports to the EC in the period prior to the establishment of the present regime, and therefore found itself in a situation very similar to that described by Honduras. In endorsing the statements by Guatemala and Honduras, Nicaragua formally asked to be associated with the consultations to be held on this item prior to the Hong Kong Ministerial.

49. The representative of Panama said his delegation wished again to endorse the statements by Guatemala and Honduras on this important matter. Panama had been recognized by the EC as a principal supplier of bananas. However, it found itself in a situation similar to that of Honduras and Guatemala, because it had not been able to obtain a compensatory adjustment that was appropriate, given the changes introduced by the EC. In the final analysis, the result was the same, whether or not Panama's right to assistance as a developing-country Member was recognized. There had been no real negotiation, or any real desire to do so. Panama had invited the EC to discussions in Brussels and in Geneva. It had invited the EC to negotiate on this matter the way Members negotiated in the WTO, i.e. not imposing measures and notifying them, but rather on the basis of a real intention to negotiate. His delegation again appealed to the EC on this vitally important matter, on which there was still time to achieve satisfactory results.

50. The representative of Ecuador endorsed the statements by Honduras and Guatemala, as his delegation had done on several previous occasions, asking the EC to grant these countries their rights under the relevant GATT Articles. As regards the reference to Ecuador in the third-to-last paragraph of the EC's communication in WT/GC/100, Ecuador wished to point out that there was a faulty interpretation of the data contained therein. As stated by Brazil – a statement which his delegation

also endorsed – the issue was what Guatemala's and Honduras's share of the market would have been in the absence of the framework agreement. Ecuador also wished to express, as it had on many previous occasions, that the request by Honduras and Guatemala should not be linked to the arbitration process involving Ecuador and other Latin American countries.

51. The representative of El Salvador said that, as his delegation had stated on previous occasions, it hoped for a speedy solution to the systemic issue raised by Honduras and Guatemala. If a solution to this issue was not found, it might set a negative precedent for the organization. El Salvador wished to pay tribute to the Chair's efforts in this matter and trusted that the process of consultations would continue with a view to finding a speedy solution.

52. The representative of Paraguay thanked the Chairman for her efforts to resolve this longstanding dispute. Paraguay reiterated its support for the legitimate claims of Honduras and Guatemala, and appealed to the EC to recognize the validity of the arguments expressed by these countries and, in addition, to recognize the systemic importance of a solution to this dispute, in order to avoid setting a bad precedent that might provoke similar situations in the future. Paraguay encouraged the EC to be consistent *vis-à-vis* the interests of the weaker and the smaller Members, which frequently went unrecognized.

53. The representative of Colombia thanked the Chairman for her efforts to find a solution to this issue, and deplored the fact that it had not been resolved yet. It wished also to thank the EC for the response it had finally given to the claims that Honduras had made more than a year earlier. The EC's communication in WT/GC/100 would not only be questioned orally, but would certainly give rise to written responses, given that Honduras – as well as Guatemala, Brazil, Ecuador and others – had found that they were not totally in agreement with the EC's description of the economic realities of the complainants, either in the figures presented or the arguments made. Colombia's attention was particularly drawn to the penultimate paragraph in WT/GC/100, suggesting that Honduras was being offered, as a possible solution to its future and not its past problems, the negotiations taking place in regard to small and vulnerable economies in the WTO. Colombia was concerned at this, because any such offer had to come from the WTO membership, and not from the EC. Her delegation would have difficulty with the solution of a small economy's problem in this way, as it had said on several occasions. The subject of the recognition of rights of Honduras and Guatemala was of concern to Colombia, and on prior occasions her delegation had raised its systemic concerns, because this matter had to do with the difficulty of access to the markets of the European Union, which was an extremely important player in the multilateral sphere. However, Colombia had also stated its position that the banana dispute, or any discussion about bananas that had to do with the entry into force of the single tariff, was not the same as issues relating to EU enlargement. The latter would be taken up as the next item on the present meeting's Agenda, and her delegation would address it then as it was not the same as the single tariff issue. As to the present item, Colombia was concerned because it did not consider the EC's answer in WT/GC/100 to be satisfactory.

54. The representative of Costa Rica said his delegation again wished to endorse the requests by Honduras and Guatemala that had been the subject of consultations under the auspices of the General Council. Costa Rica thanked the Chairman for her efforts in this regard and was confident that this effort and the goodwill of delegations would enable Members to reach a speedy solution. The European Communities had once again answered "no" to the well-founded requests by these two countries. This was extremely serious. These two delegations were only trying to obtain the recognition and application of their rights. When the EC's banana import regime had been extended to the ten new member States, the prior regime had been condemned by a dispute settlement panel. The current regime had also been condemned by another panel. Recently, the proposed new regime which would enter into force on 1 January 2006 had been considered by two WTO arbitration processes and found incompatible with the EC's WTO commitments. This was extremely serious and

very symptomatic of what was occurring in the area of bananas, as demonstrated by the claims of the two delegations concerned at the present meeting.

55. The fundamental basis of this difficult situation was a profoundly discriminatory regime for MFN banana exporters *vis-à-vis* banana exporters under the Cotonou Agreement. This situation seemed to have special significance at the present time, when Members had read in the morning papers that the EU would not accept tariff reductions that would limit the current preferential access for the Caribbean and Africa. This was extremely serious, at a time when Members were trying to reach a consensus – and were engaged in a round of negotiations – to limit trade distortions, the most serious of which were exceptions to the MFN principle. This announcement by the EU would greatly impede progress in the negotiations. He drew attention to the significance of the fact that two developing countries – Honduras and Guatemala – were once again claiming their rights under the WTO, and the European Union was once again saying "no", and these were Latin American countries with levels of development comparable to some ACP countries. Honduras had a per capita income that was much lower than some countries receiving preferential treatment from the EC. For this reason, his delegation considered that more effort should be made to resolve this issue and respond to these two countries' requests, and thus save a situation that was high risk, not only for the normal functioning of the General Council, but also for the current round of negotiations.

56. The representative of European Communities said that, as it had already stated at the General Council meeting in July 2005 and on previous occasions, the EC continued to contend that it had based itself on WTO law and well-established practice when recognizing and rejecting claims for negotiation rights. It had examined closely the paper circulated by Honduras prior to the May 2005 General Council meeting (WT/GC/90). It had provided a reaction in writing to the points made by Honduras, and had circulated the communication in document WT/GC/100. In doing so, it wished to share with a wider group some of the basic information and elements of reasoning that had underpinned its decision not to recognize the claims by Honduras, since Honduras had already shared some of its own perspectives on this matter. While it might be unfortunate, it was certainly the case that the information provided to the EC by Honduras did not allow his delegation to conclude that Honduras had a "substantial supplying interest" under Article XXVIII of the GATT 1994. The reasons for this had been set out in detail in the EC's communication, and he would not repeat them.

57. The EC had also given further explanations to Guatemala regarding the examination of its claims and had shared further detailed information bilaterally with Guatemala on the precise tariff lines where Guatemala considered it did have negotiating rights. The EC remained ready to discuss this issue further with Honduras and Guatemala and to examine any additional documentation they might wish to present in support of their claims. He recalled that the EC had indicated its continued readiness to seek a mutually agreed solution on the EC banana import regime with all interested parties, including Honduras and Guatemala and others who might not have negotiating rights in a formal sense, after the introduction of the new EC import regime on 1 January 2006. On the more systemic issue of the treatment of small suppliers, the EC continued to consider that it could not unilaterally change or add to the longstanding multilateral rules and practices that had been agreed in the GATT and the WTO for establishing and according supplying rights. The EC had nonetheless always given due consideration in negotiations to the situation of small and vulnerable economies and smaller suppliers – for example, according rights to a developing-country Member where the largest share of its exports was affected. The Community had said before in the Council, and was happy to repeat it again, that it would be ready to engage in a collective exercise in the appropriate WTO forum to review the relevant GATT/WTO rules and procedures and to discuss any changes and improvements that should be made. His delegation wished to thank the Chairman for her assistance in trying to resolve this matter through consultations.

58. The representative of Honduras said that his delegation would respond to the EC's recent communication in WT/GC/100 and that this response would support the consideration of this item at the Hong Kong Ministerial.

59. The General Council took note of the statements and agreed to revert to this matter at its next meeting, and that the Chair would hold further consultations in the meantime with the aim of moving this matter forward.

4. Enlargement of the European Union – Communication from the European Communities (WT/GC/98)

60. The Chairman drew attention to the communication from the EC in WT/GC/98, which concerned the accession to the European Union on 1 May 2004 of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia. In that communication, the EC had indicated that it would not assert that Members who had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurred later than six months after the EC's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than 27 months after the EC's modification of concessions.

61. She recalled that the General Council had on three earlier occasions, on the basis of similar communications from the EC, extended the deadline for withdrawal of concessions referred to in Article XXVIII:3 of GATT 1994, namely, at its meetings in October 2004, and March and June 2005. Under the provisions of Article XXVIII:3 – and following the most recent extension of the deadline as agreed at the June meeting of the General Council – Members could withdraw substantially equivalent concessions no later than 21 months after the EC's withdrawal and modification of concessions, in other words, no later than 1 February 2006. Furthermore, these Members had to provide at least 30 days' notification of their intent to withdraw substantially equivalent concessions – in other words, no later than 1 January 2006. In the light of these impending deadlines under Article XXVIII:3, and the ongoing negotiations under Article XXIV:6, the EC had proposed that this deadline be extended a further six months for a total of 27 months following the EC's modification of concessions, in other words until 1 August 2006. If this extension were agreed, Members would had to provide notification of intention to withdraw substantially equivalent concessions by no later than 2 July 2006.

62. The representative of the European Communities said that, as the Chairman had noted, this was not the first time the Community had been in the situation it was faced with at present. The current timetable for negotiations and for the possibility for trading partners to withdraw concessions ran until 1 February 2006. This meant that negotiating partners who wished to withdraw concessions would have to announce their intentions at the end of 2005. Unfortunately, the EC would not have concluded the negotiating process or the subsequent ratification and approval processes by then. Thus, it felt it was appropriate to extend the period further for another six months beyond February through to 1 August 2006, and the communication it had submitted explained this situation and the EC's intention that, in the light of this situation, it would not assert that Members were precluded from withdrawing concessions until a further six months after the period currently foreseen. This situation was consequent to the situation Members were in in the negotiations, and the EC would of course continue to work actively to bring those negotiations to an end on a mutually satisfactory basis with the partners it was engaged with.

63. The representative of the United States thanked the Chairman and the Members for the opportunity to review this matter. As Members were aware, the EC had notified in January 2004 its intention to modify concessions in connection with the accession to the European Union of the 10 new member States on 1 May 2004. The United States had rights, pursuant to Articles XXIV:6

and XXVIII, in many of the tariff lines subject to modification. Therefore, like a number of other Members, the United States had been working with the EC to reach an adequate compensation agreement. In a communication dated 21 November 2005, the EC had notified the General Council that it agreed to an extension, for an additional six months, of the deadline for Members with a claim for compensation pursuant to Articles XXIV:6 and XXVIII to withdraw substantially equivalent concessions. His delegation welcomed the EC's notification and proposed that the General Council take note of it and agree to the extension of the Article XXVIII deadline by an additional six months. This time was necessary so that compensation negotiations could be concluded, approval could be secured of the bilateral agreements in Member countries and in the European Union, and these agreements could be implemented. The United States had very recently concluded its tariff negotiations and was in the process of initialling an exchange of letters. This package, however, would require approval by the European Council, a process that could take several months. Therefore, full implementation of the compensation concessions might not occur until several months after the expiration of the previous extension.

64. The representative of Japan said that under the circumstances where the compensation negotiations had not yet been completed, it welcomed the EC's decision to extend further the period for Members to withdraw their concessions in accordance with Article XXVIII. However, Japan wished to stress that this negotiation under Article XXIV:6 should have been completed before the enlargement of the European Union on 1 May 2005. His delegation understood that the European Union would undergo a further enlargement with Bulgaria and Romania in January 2007. The current long delay in the negotiation should not be repeated. Japan therefore requested that the EC make further efforts so that negotiations with the Members concerned would be finished in a mutually satisfactory manner before the next enlargement.

65. The representative of Colombia said her delegation first wished to ask why this item had been placed on the General Council's agenda. She recalled that the last time this matter had been considered in the General Council in June, the Chairman had encouraged all Members – and the United States, Canada and Colombia in particular – to take greater account of the decision-making competencies of the different WTO bodies as provided in the WTO Agreement, and had noted that the Council for Trade in Goods had responsibility for overseeing the functioning of the Multilateral Trade Agreements on trade in goods in Annex 1A of the WTO Agreement and not the General Council. This did not appear to be terribly coherent or in line with the inclusion of this item on the present agenda. That being said, Colombia would join in any consensus on the EC's request. However, it was doing so with a feeling of frustration. The EC had had 21 months to negotiate compensation with the Members who had declared an interest as principal suppliers. However, with respect to Colombia, whose rights as a principal supplier had been recognized, the Community had shown no desire to negotiate. The EC had recognized that the withdrawal of concessions following its enlargement by 10 new member States had caused injury to Colombia. However, despite the fact that Colombia had repeatedly requested, in writing and orally, compensation for the injury caused, the EC had shown no interest in this matter.

66. At the same time, and as the Chairman had noted under the preceding agenda item, Colombia wished to repeat that the process of re-binding the banana tariff was different and independent from the negotiations on the European Union's enlargement. In the case of bananas, Colombia had gone from being able to export freely to the markets of the 10 new member States to having to follow a regime of restrictions and a substantive increase in the tariff for bananas in those 10 new member States. Since the EC was one of the most influential Members in the organization, Colombia believed it had a greater responsibility in meeting its commitments. Non-respect of commitments or dilution of commitments by using procedural manoeuvres detracted from the credibility of the organization and showed a lack of respect for the current round of negotiations.

67. The Chairman said she believed that as General Council Chair it was her duty, as she had done at the Council meeting in June, to encourage delegations to do their best to respect the decision-making competencies of the different WTO bodies as provided in the WTO Agreement. However, under Rule 3 of the General Council's Rules of Procedure (WT/L/161), it was the right of any Member to suggest items for inclusion in the General Council's agenda, and she had no option but to place such items on the agenda.

68. The representative of Ecuador said that his delegation had not been prepared for the inclusion of this item on the General Council's agenda, as it felt that this should be dealt with in the Council for Trade in Goods. Ecuador had examined the EC's request for the new extension and shared the frustration expressed by Colombia regarding the EC's respect for WTO rules. Ecuador had held negotiations with respect to the enlargement that had finished a year earlier. Basically, the Community had offered no compensation and no recognition of the fact that Ecuador was affected by the enlargement by 10 new member States. His delegation continued to hope that the Community would carry out further consultations under this new extension. Ecuador had been recognized as an affected country. He noted that the EC had negotiated with the United States and Japan. However, it would appear there was a lack of respect for smaller countries, particularly with respect to those products where there had been a repeated condemnation of the EC by the WTO. Ecuador did not object *per se* to an extension of the negotiation period, but asked that the EC examine the need to take account of the interests and economies of all countries that had been affected by the enlargement. Ecuador also shared the view that negotiations under Articles XXVIII and XXIV:6 were separate. The Community could not claim that it could deal with two entirely different situations, which had entirely different effects, under one sole item.

69. The representative of Costa Rica expressed his delegation's hope that during this new extended period, it would be able to conclude negotiations and reach an agreement with the European Communities on compensation. This had not been done thus far.

70. The representative of Panama said his delegation wished to join the appeal for true negotiations. Panama had been affected by the EC's enlargement and had not received suitable compensation for this. Like Ecuador, Panama noted that while there were negotiations and processes under way with other Members, it appeared that for small delegations such as Panama there was no possibility of negotiating, and no possibility of engaging in a dialogue on the trade situation that had resulted from this enlargement. However, as his delegation had said under the previous agenda item, it once again invited the European Communities to start negotiations, as was done every day in the WTO, not by taking or imposing decisions, but rather by entering into a process of dialogue that would lead to a result for all parties involved.

71. The General Council took note of the statements and of the communication from the EC in WT/GC/98, and agreed on the extension of the deadline for the withdrawal of concessions referred to in Article XXVIII.3 of GATT 1994 from six months to 27 months, i.e. until 1 August 2006.

5. Review of the exemption provided under paragraph 3 of GATT 1994 (WT/L/600, WT/GC/W/558)

72. The Chairman recalled that paragraph 3(a) of GATT 1994 provided an exemption from Part II of GATT 1994 for measures under specific mandatory legislation – enacted by a Member before it became a contracting party to GATT 1947 – which prohibited the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. On 20 December 1994, the United States had invoked the provisions of paragraph 3(a) with respect to specific legislation that met the requirements of that paragraph. Paragraph 3(b) of GATT 1994 called for a review of this exemption five years after the date of entry into force of the WTO Agreement, and thereafter every two years for as long as the exemption was in

force, in order to examine whether the conditions which had created the need for the exemption still prevailed.

73. The General Council had last considered this matter at its meeting in February 2005, at which time it had been agreed that for the purposes of the conduct of the review in 2005, Members would proceed in a manner similar to that in 2003, when the last review under the two-yearly cycle had been taken up. Accordingly, at the February Council, the Chair had invited all interested delegations to speak for the record with regard to the review under the current cycle. He had also invited interested delegations to submit comments and questions to the United States regarding the operation of the legislation under the exemption, to which the US had been invited to respond. It was agreed that these statements, questions and responses, together with the annual report provided by the US under paragraph 3(c) of GATT 1994 (WT/L/600), would form the basis for the current year's review. It was further agreed that for the purposes of the review, this matter would be on the Agenda of subsequent General Council meetings in the course of 2005 as the Chairman deemed appropriate, or at the request of any Member. The General Council had also agreed that it would consider this matter again at its last meeting of the year, at which it would take note of the discussions held in the course of the review until then, and take any other action it might agree on. The Council would also take note that the subsequent review would normally be held in 2007. She invited Members to note that, as provided in paragraph 3(e) of GATT 1994, the exemption was without prejudice to solutions concerning specific aspects of the legislation covered by the exemption negotiated in sectoral agreements or in other fora. She also drew attention to a questionnaire submitted to the United States by Japan regarding the exemption (WT/GC/W/558), and invited delegations wishing to address this item to take the floor.

74. The representative of the United States said his delegation welcomed the opportunity to participate in a review of the exemption under paragraph 3 of GATT 1994. This was the fourth review of that exemption. The United States had continued to provide Members with annual statistical reports pursuant to the requirements of paragraph 3(c) of the exemption, including the most recent one that was before Members at the present meeting (WT/L/600). These reports provided detailed annual reporting of vessel orders and deliveries from US shipyards as required by paragraph 3(c) of GATT 1994. Recognizing that there were differing views on the nature of this review, his delegation wished to inform the Council that the United States had held informal consultations in September, at which time interested delegations had asked questions and had participated in a discussion of the issues, without prejudice to their national positions. All Members who had expressed an interest in this issue had been invited, and the discussion had been lively and useful. The United States had also responded to questions that had been put to it on a more formal basis. It had just received questions from Japan, and took note of them.

75. The representative of Japan said his delegation appreciated the submission by the United States in February of the annual statistical report pursuant to paragraph 3(c) of GATT 1994 (WT/L/600), and also appreciated the US initiative in providing interested Members with information and explanations by experts in the informal consultation held in September 2005. However, the United States' explanation basically highlighted the point that there were no changes in the situation surrounding the Jones Act. Such a factual explanation was insufficient in addressing Members' concerns, particularly as to the necessity of the exemption. Japan was of the view that relevant and substantial explanation was needed from the United States on issues such as the annual sales date of relevant vessels, which was required in paragraph 3(c) GATT 1994, and clarification of the concrete linkage between the US industry's capability of producing ships and national security. Japan had therefore decided to submit a questionnaire again in order to seek further clarification. Japan believed that a proper response from the US would contribute to the substantial review of this exemption.

76. The representative of Norway said this was an important issue for Norway, as the exemption in essence made it impossible to sell ships to the United States. His delegation had therefore participated actively in the review of the exemption and intended to continue to do so. Norway had

reviewed the statistical report in WT/L/600 and had participated in the consultations that had taken place the past autumn. However, it wished to note that a number of questions had been posed by Members in 2005 as well as in previous years to the United States, concerning both the previous notifications and the effects of the legislation. The answers provided had not been satisfactory, in particular regarding the continued need for the waiver. The review should focus on the salient point of paragraph 3(b), which was examination of whether the conditions that had created the need for the exemption still prevailed. Members needed to move beyond discussing only statistical information submitted under paragraph 3(c) and address also the conditions for the exemption. Depending on the content of the next submission by the United States in 2006, Norway reserved its right to present further questions to the United States and to consult, as appropriate, in the General Council or elsewhere. Regarding the next practical steps in this process, Norway could go along with the procedure suggested by the Chairman.

77. The representative of Australia thanked the United States for its statement. Nevertheless, as Members came to the final stages of this fourth review, many of the concerns raised over many years in this process remained largely unanswered. Continuing different perceptions of the nature of the review were at the heart of this problem. He reiterated Australia's firmly held view that what was required was a substantive review of the need for the exemption provided for the Jones Act legislation. His delegation appreciated the US efforts to meet informally on this issue and to bring experts to Geneva for informal discussions. Technical exchanges could always be helpful, but given the fundamentally different views Members had about the purpose of the review process, they would need to reflect further on whether the current format being used to review the Jones Act was the best one to follow. Australia's primary driving force in this matter, as his delegation had said many times, was commercial in nature. All access of vessels for commercial operations was effectively constrained through Jones Act restrictions on merchandise and passenger transport vessels as well as restrictions on documentation. These effectively limited imports to personal vessels, while the areas where Australia had significant commercial interests, such as cruise vessels and fast ferries, were effectively excluded. Australia maintained a strong interest in this issue and hoped that the concerns it had expressed at the present meeting would be taken fully into account in the next review process.

78. The representative of the European Communities thanked the United States for the information it had circulated in the context of the review and for providing opportunities for informal consultations on this subject. However, the factual information provided by the United States did not answer the EC's questions. In fact, the EC had put specific questions to the United States on paper, both on shipbuilding and services associated with maritime transport. However, so far it had not received precise and complete answers to those questions. In this situation, the EC did not have sufficient information to convince it that a substantive basis for the US exemption still existed. Thus, as far as the goods aspect was concerned, the EC needed to continue the same review that had been going on for years, in order to examine whether the conditions that justified the maintenance of the exemption still prevailed. On services, the EC called on the United States to initiate the procedures necessary to obtain the waivers it needed to put the US services aspects of the Jones Act into WTO conformity.

79. The representative of Hong Kong, China said his delegation's interest in this matter stemmed from its recognition of the exemption as a major derogation from fundamental WTO principles. The continuation of the exemption ten years after the establishment of the WTO remained a systemic concern to Hong Kong, China. As in the past, his delegation had participated actively in the current year's review. It appreciated the presence of experts from Washington and recognized that the questions Hong Kong, China and other delegations had put forward had been addressed, although more fully in some instances than in others. Overall, however, his delegation felt that the review should have moved considerably more substantially into addressing whether the legislation covered by the exemption still served the objectives originally intended, and whether the conditions for the retention of the measures still prevailed. As in the past, his delegation continued to look forward to a

meaningful and substantive review of this matter in the future, which *inter alia* would hopefully also address seriously the issue he had mentioned.

80. The representative of Korea said his delegation shared the concerns expressed by the previous speakers, and wished to register its interest in continuing to participate in consultations under the review in future.

81. The General Council took note of the statements made in the course of the review in 2005, and also that the subsequent review under the two-yearly cycle provided in paragraph 3(b) of GATT 1994 would normally be held in 2007.

6. Waivers under Article IX of the WTO Agreement

(a) Introduction of Harmonized System 2002 changes into WTO Schedules of tariff concessions – Draft Decision (G/C/W/533)

82. The Chairman drew attention to the draft Decision in document G/C/W/533 which provided for a waiver from the provisions of Article II of GATT 1994 until 31 December 2006 for a number of Members to enable them to implement the HS 2002 changes into their Schedules of Concessions, subject to certain conditions.

83. Mr. Himanen (Finland), Chairman of the Council for Trade in Goods, said that at its meeting on 10 November 2005, the Council for Trade in Goods had approved the draft Decision in G/C/W/533 which had been made in connection with the introduction of HS2002 changes into WTO schedules of tariff concessions, and had agreed to forward the draft Decision to the General Council for adoption.

84. The Chairman proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt the draft decision in G/C/W/533.

85. The General Council took note of the statement and so agreed.⁴

(b) Introduction of Harmonized System 1996 changes into WTO schedules of tariff concessions – Request for waiver by Israel (G/L/744, G/C/W/528)

86. The Chairman drew attention to the request for a waiver from Israel in G/L/744 and to the draft Decision in G/C/W/528, which proposed a waiver from the provisions of Article II of GATT 1994 until 31 October 2006 to enable Israel to implement the HS 1996 changes into its Schedule of concessions, subject to certain conditions.

87. Mr. Himanen (Finland), Chairman of the Council for Trade in Goods, said that at its meeting on 10 November 2005, the Council for Trade in Goods had approved the draft Decision in G/C/W/528, which concerned Israel's request for a waiver in connection with the introduction of HS96 changes into its WTO schedule, and had agreed to forward the draft Decision to the General Council for adoption.

88. The Chairman proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt the draft Decision in G/C/W/528.

⁴ The Decision was subsequently circulated in document WT/L/638.

89. The General Council took note of the statement and so agreed.⁵
- (c) Review of waivers pursuant to Article IX:4 of the WTO Agreement
- (i) *United States – Caribbean Basin Economic Recovery Act, granted on 15 November 1995 until 31 December 2005 (WT/L/104, WT/L/633)*
- (ii) *Canada – Caribcan, granted on 14 October 1996 until 31 December 2006 (WT/L/185, WT/L/634)*
- (iii) *United States – Former Trust Territory of the Pacific Islands, granted on 14 October 1996 until 31 December 2006 (WT/L/183, WT/L/632)*
- (iv) *EC – Autonomous preferential treatment to the countries of the Western Balkans, granted on 8 December 2000 until 31 December 2006 (WT/L/380, WT/L/635)*
- (v) *EC – Transitional regime for the EC autonomous tariff rate quotas on imports of bananas, granted on 14 November 2001 until 31 December 2005 (WT/L/437)*
- (vi) *EC – The ACP-EC Partnership Agreement, granted on 14 November 2001 until 31 December 2007 (WT/L/436, WT/L/636)*
- (vii) *Cuba – Article XV:6 of GATT 1994, Granted on 20 December 2001 until 31 December 2006 (WT/L/440, WT/L/630)*

90. The Chairman recalled that, in accordance with paragraph 4 of Article IX of the WTO Agreement, "[a]ny waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it was granted, and thereafter annually until the waiver terminates." Seven waivers were before the General Council for review. The Decisions on the waivers for Canada, Cuba and the United States, and on two of the waivers for the EC, provided that an annual report should be submitted by these Members on the operation or implementation of the respective waivers, with a view to facilitating their annual review by the General Council under paragraph 4 of Article IX. The reports from these Members on the relevant waivers had been circulated in documents WT/L/630 and WT/L/632 through 636.

91. The representative of Cuba said her delegation wished to present the report in WT/L/630 so as to facilitate the annual review provided for in Article IX:4 of the WTO Agreement. Given that this report had been circulated on 21 November 2005, Cuba merely wished to point out some of the aspects it felt were relevant to the review of the waiver. Cuba considered that the exceptional circumstances that justified the waiver and the need to prolong it still existed. It was well known that the Cuban economy had been seriously affected for 45 years by the unfair economic financial and trade blockage imposed by the United States. In 2004 the US Government had adopted a package of measures that had even further increased its hostile policy against Cuba. These measures strengthened restrictions already imposed on tourism and investment in Cuba and further impeded financial flows and scientific and cultural exchanges with the objective of creating conditions that would favour a change in Cuba's political and economic systems as a consequence of these actions and to counter the negative impact of these measures. Cuba had had to take diverse measures in the financial area, which had not had any negative impact on any Member – which had been fully demonstrated by the understanding shown by Cuba's principal economic and social partners. There had been no complaints so far by investors in Cuba, which showed there was no contradiction with the principles of GATT 1994. Cuba continued to solve strategic problems in its development, which

⁵ The Decision was subsequently circulated in document WT/L/639.

the report referred to. Cuba had demonstrated that it respected its commitment to respect the objectives of the GATT and not to undermine the rights of other Members, and would continue to comply with this commitment in the future.

92. The General Council took note of the statement and of the reports in documents WT/L/630 and WT/L/632 through 636.

7. Review under Paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1) – Report of the Council for TRIPS (IP/C/37)

93. The Chairman recalled that on 30 August 2003 the General Council had adopted a Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Paragraph 8 of the Council Decision provided that the TRIPS Council shall review annually the functioning of the system set out in the Decision with a view to ensuring its effective operation, and shall annually report on its operation to the General Council. The Decision also provided that the review by the TRIPS Council shall be deemed to fulfil the review requirements of Article IX.4 of the WTO Agreement. The report by the TRIPS Council on its review under paragraph 8 of the General Council Decision was before Members in IP/C/37.

94. Mr. Choi (Korea), Chairman of the TRIPS Council, said that at its meeting of 25-26 October 2005, the TRIPS Council had taken up the annual review pursuant to paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The TRIPS Council's report to the General Council had been circulated in IP/C/37, the cover note of which set out factual information regarding the implementation of the Decision and the work pursuant to its paragraph 11 on the amendment to the TRIPS Agreement. The record of the discussion that had taken place under that agenda item was attached to IP/C/37.

95. The General Council took note of the report of the TRIPS Council and of the statement.

8. Committee on Budget, Finance and Administration

(a) Report of the Committee on its meeting of 29 September 2005 (WT/BFA/80)

96. The Chairman drew attention to the report of the Budget Committee in WT/BFA/80.

97. Mr. Postma (Netherlands), Chairman of the Committee on Budget, Finance and Administration, said that at its meeting, the Committee had been presented with the usual administrative updates with respect to the cash situation, outstanding contributions from Members and Observers, human resources, the Security Enhancement Programme as well as the new WTO Annex. The Committee had also examined the Director General's Budgetary and Financial Report for 2004 and Report of the External Auditor thereon and Report on Extra-Budgetary Funds for 2004. The Committee had taken note of these reports, and had recommended to the General Council the transfers between budgetary sections as outlined in paragraphs 37 and 41 of WT/BFA/W/128. The Committee had further recommended that the General Council approve the audited accounts for 2002 and convey to the external auditor its thanks for the valuable assistance provided in the audit of these accounts. With regard to the Director General's Conditions of Service, the Committee had taken note of the current package of the Director-General and had recommended to the General Council that the base salary be adjusted annually on 1 September based on the increase, if any, in the Geneva Consumer Price Index for the year preceding the adjustment. The Committee had further recommended that this annual adjustment function until a new Director-General was named.

98. The General Council took note of the statement, approved the specific recommendations in paragraphs 16 and 18 of the Committee's report in WT/BFA/80, and adopted the report.

(b) Recommendations of the Committee following its meetings of October and November 2005 (WT/BFA/82)

99. The Chairman drew attention to the recommendations of the Budget Committee in WT/BFA/82.

100. Mr. Postma (Netherlands), Chairman of the Committee, said that the matters taken up at the October and November meetings of the Committee were contained in WTO/AIR//2691. The Committee had made the following recommendations to the General Council: Regarding the Global Trust Fund, pursuant to paragraph 40 of the Doha Ministerial Declaration, the Committee had set the target level of resources for the Doha Development Agenda Global Trust Fund at 24 million Swiss francs for 2006. Following the accession of Saudi Arabia, the Committee had recommended that a pro rata contribution to the 2005 budget amounting to Sw F 68,961 be assessed on the Kingdom of Saudi Arabia. Furthermore, on the basis of the level of the Working Capital Fund of Sw F 9,189,223, the Committee had recommended to the General Council to assess an amount of Sw F 65,795 on Saudi Arabia as an advance to the Fund.

101. After examining the budget proposals of the International Trade Centre UNCTAD/WTO for the biennium 2006-2007, the Committee had formulated the recommendations in paragraphs 6 and 7 of WT/BFA/82. The Committee had examined the Director-General's budget proposals for the biennium 2006-2007 (WT/BFA/SPEC/134) and, in formulating its recommendation to the General Council on the revised proposals, noted in particular the following: (a) that the Director-General would undertake a critical review of the structure of the Secretariat in 2006 with the aim of streamlining its structure; (b) that the restructuring plan to be implemented in the course of the biennium was expected to result in future savings, but that in the short term, financial resources were expected to be needed to bridge a liquidity gap; (c) that for that purpose, a specific allotment of Sw F 500,000 would be included in the 2006 budget, followed by an additional allotment of Sw F 500,000 in the 2007 budget; (d) that the Committee would be regularly consulted on all aspects concerning the formulation and implementation of the restructuring plan; (e) that the Committee would similarly be kept regularly informed of developments concerning the formulation and implementation of the human resources reform programme; (f) that for the training and media facility, additional human resources would not be requested; and (g) that the consolidation of long-term positions funded from the temporary assistance budget marked the final stage in the implementation of the new policy with respect to the management of temporary assistance, and that the procedures that had thus been put in place ensure there would be no recurrence of the problems that had given rise to the need to review the practice in that regard. The Committee submitted to the General Council for consideration and approval the draft resolution on page 4 of WT/BFA/82 on the expenditure of the WTO in 2006 and the ways and means to meet such expenditure. Regarding the 2007 budget, the Committee, bearing in mind the guidelines on biennial budgeting approved by the General Council (WT/BFA/W/105/Rev.1), including the reference to revisions to the second year of the biennium, recommended to the General Council for consideration and approval the draft resolution on page 5 of document WT/BFA/82 on the expenditure of the WTO in 2007 and the ways and means to meet such expenditure.

102. With regard to Item D of the Committee's agenda for its meetings in October and November, concerning Members in arrears, he recalled that he had reported to the General Council on 26 May 2005 that the Committee had agreed that as Chairman of the Committee on Budget, Finance and Administration, he would undertake bilateral contacts with Members in Category IV of the administrative measures, with a view to encouraging payment of arrears. His contacts had brought some results in the form of payments, but there were still Members with outstanding – and in some

cases long outstanding – contributions. The Committee had noted that he would continue his efforts in this regard and, in this context, would examine the administrative measures in 2006 and assess whether they were adequate to address the problem of Members in arrears, or whether some further measures might be considered. He recalled that the WTO Financial Regulations stated that "In accordance with Article VII:4 of the Marrakesh Agreement Establishing the World Trade Organization, Members have the obligation to contribute promptly to the WTO their share in the expenses of the WTO."

103. On behalf of the Committee, he wished to recall that Members under any category of the administrative measures were precluded from being nominated to preside over WTO bodies. This was particularly important for both the process of selecting chairpersons of WTO bodies in 2006, as well as for the upcoming Ministerial Conference, where a Vice-Chair was from a Member falling under these administrative measures. He urged the General Council, through the Chairman, to ensure that this rule of the WTO was respected.

104. The General Council took note of the statement and approved the Budget Committee's specific recommendations contained in paragraphs 1, 2, 6, 7, 9 and 10 of document WT/BFA/82, including the draft Resolutions referred to in paragraphs 9 and 10. The General Council then adopted the draft Resolutions on the Revised Expenditures of the WTO in 2006 and 2007, and the Ways and Means to Meet Such Expenditures, contained in paragraphs 9 and 10 of document WT/BFA/82.

105. On 6 December, Mr. Deelen (Netherlands), on the request and behalf of the Chairman of the Committee on Budget Finance and Administration, said that further to the Committee Chairman's statement on 1 December (in paragraph 103 above), he was pleased to confirm that the Member that had been nominated to serve as Vice-Chair at the upcoming Ministerial Conference, and which thus far had been ineligible under the terms of the administrative measures, had now fully paid its arrears and was no longer precluded from taking up that position.

106. The Chairman thanked Mr. Deelen for his statement updating Members on the situation of Members in arrears. She also wished to thank Nigeria for the successful efforts it had made internally within its Government to resolve its WTO arrears situation, and hoped this would be a good example for others to follow in the new year.

107. The General Council took note of the statements.

9. WTO Pension Plan

- (a) Annual report of the Management Board for 2004 (WT/L/628)
- (b) Amendments to the Regulations and Administrative Rules of the Pension Plan (WT/GC/W/552)

108. The Chairman drew attention to the Annual Report of the Management Board for 2004 contained in WT/L/628, which was submitted to the General Council in accordance with Article 5(d) of the Regulations of the Pension Plan. This was the sixth report of the Management Board since the establishment of the Pension Plan on 1 January 1999. With regard to the Regulations and Administrative Rules of the WTO Pension Plan, she recalled that these had been adopted by the General Council in October 1998. The Management Board of the Pension Plan had recently completed a review of the procedures governing the treatment of requests for determination of total and partial disability, on the basis of which it had made certain recommendations for amendments to the Regulations and Administrative Rules of the Pension Plan. These amendments were set out in Annexes 1 and 2, respectively, of WT/GC/W/522.

109. Mr. Niggli (Switzerland), on behalf of the Chairman of the Management Board of the WTO Pension Plan, noted that the Pension Plan was now in its seventh year, and 2004 had seen a further growth in participants, beneficiaries and assets. The value of the assets stood at approximately Sw F 223 million at the end of 2004, and the real rate of return on investments over the year had been just over 3 per cent. He was pleased to report that the upward trend in investment performance in 2004 had continued in 2005. The Management Board had devoted much of its time during the year to the review and modification of the Plan's investment strategy. A number of changes had been made, including the introduction of new asset classes, namely, emerging market equities and real estate, and the selection of new fund managers. The new strategy was now fully in place. As noted by the Management Board Chair in the preface to the Annual Report, the Board was confident that the Plan had a robust investment strategy to protect the assets of the Plan in the future. In 2004, the Management Board had also revised the transfer agreement with the United Nations Joint Staff Pension Fund, and the new agreement had come into effect on 1 January 2005.

110. The procedure for consideration of disability cases had been referred to a working group of Board members in 2004, and the group's recommendations had subsequently been approved by the Board in the course of 2005. As a consequence of that review, certain amendments had been made to the Administrative Rules of the Plan, as set out in WT/GC/W/552, together with an amendment to Article 28 of the Plan Regulations, which was being submitted to the General Council for approval. The purpose of the amendment was to provide for the case where a partially disabled participant in the Plan might be assigned to part-time work as a result of the disability. Hitherto, the Regulations had provided only for assignment to work at a lower grade.

111. The General Council took note of the statement and of the Annual Report of the Management Board for 2004 in WT/L/628. The General Council then adopted the draft amendments to the Pension Plan Regulations and took note of the amendments to the Administrative Rules, as set out in Annexes 1 and 2 of WT/GC/W/552.

10. Appointment of Officers to WTO bodies – Announcement by the Chairman pursuant to paragraph 7.1(a) of the Guidelines (WT/L/510)

112. The Chairman recalled that Guidelines for the Appointment of Officers to WTO bodies (WT/L/510) provided that the outgoing Chair of the General Council would conduct consultations on the appointment of chairpersons to the WTO bodies outlined in Groups 1, 2, 4 and 5 of the Annex to the Guidelines. The Guidelines also provided, in paragraph 7.1(a), that in order to promote transparency, the selection process should be started with an announcement by the Chairman at the General Council meeting held in December each year. Accordingly, she wished to inform the General Council that she would be starting the selection process for the appointment of chairpersons to the bodies outlined in Groups 1, 2, 4 and 5 of the Annex to the Guidelines. In accordance with paragraph 7.1(b) of the Guidelines, she would be assisted in the selection process by the serving Chairman of the Dispute Settlement Body, Mr. Glenne (Norway). In keeping with paragraph 7.1(d), Mr. Glenne and she would communicate, as early as possible, a specified time-period in which they would be available to hear the views and suggestions, if any, of Members, individually and/or in groups. Further, as provided for in paragraph 7.1(c) of the Guidelines, she requested the Secretariat to distribute to delegations in the meeting Room a list of past Chairs of major bodies, in order to provide some structure for Members' subsequent deliberations on the possible distribution of chairs based on past practice and the need for balance. Finally, she noted that, in accordance with paragraph 2.1 of the Guidelines, representatives of Members in financial arrears for over one full year could not be considered for appointment.

113. Before concluding, she wished also to raise the question of Chairmanships of the bodies under the TNC. At its first meeting in 2002, the TNC had established a number of bodies to undertake work on the various elements of the DDA under its supervision. The TNC had also endorsed certain

principles and practices to guide its work, including that the Chairman of the General Council would consult on the chairmanships of the bodies, and that the Chairs of these bodies would be appointed to serve up to the Fifth Ministerial Conference, at which time all the appointments would be reviewed. Chairpersons to these bodies had subsequently been appointed by the General Council at its meeting in February 2002, following consultations undertaken by the Council Chairman. In August 2003, just prior to the Fifth Ministerial Conference, the General Council had agreed that although these appointments were to be reviewed at the time of that Ministerial Conference, given the heavy workload in connection with the Conference, Members would be better placed to conduct this review after the Conference. In October 2003, the General Council had agreed to revert to the review of these Chairmanships in February 2004, once the outcome of follow-up work from the Cancún Conference was clear. The question of these appointments had subsequently been taken up by the General Council Chairman as part of consultations concerning the appointment of officers to WTO bodies for 2004.

114. At the February 2004 Council meeting, on the basis of these consultations, Members had taken note of a consensus on a slate of names for these appointments and had invited the Chairs to serve until the Sixth Session of the Ministerial Conference. A similar term of office had been agreed for the Chair of the Negotiating Group on Trade Facilitation established in the August 2004 Decision of the General Council. Since the term of office of these Chairpersons would come to an end after the Hong Kong Ministerial, she proposed that Mr. Glenne and she also take up the question of these appointments in their consultations prior to the February 2006 General Council. In the meantime, and keeping in mind the need for maintaining continuity in the process, she proposed that the Chairpersons of these bodies be requested to continue in office until the February General Council meeting.

115. The General Council took note of the statement.

11. Review of WTO activities

Reports of:

- (a) General Council (WT/GC/W/554), Dispute Settlement Body (WT/COMTD/39 and Add.1), Trade Policy Review Body (WT/TPR/173)
- (b) Sectoral Councils (G/L/763, S/C/24 and IP/C/38 and Add.1)
- (c) Committees on Trade and Development (WT/COMTD/55), Trade and Environment (WT/CTE/12), Balance-of-Payments Restrictions (WT/BOP/R/81), Budget, Finance and Administration (WT/BFA/81), and Regional Trade Agreements (WT/REG/15)
- (d) Working Groups on Trade, Debt and Finance (WT/WGTDF/4), and Trade and Transfer of Technology (WT/WGTTT/7)
- (e) Committees under the Plurilateral Trade Agreements (GPA/85, WT/L/629)

116. The Chairman recalled that the reports from the WTO bodies concerned under this Agenda item had been drawn up in pursuance of the Decision concerning procedures for an annual overview of WTO activities and for reporting under the WTO (WT/L/105). On a number of these reports, delegations had already had a substantive discussion in the respective bodies. She therefore suggested that delegations not repeat those discussions in the General Council, and that they take the floor only if they felt they had to draw particular attention to any aspect of the work reported on, to add to a previously expressed position, or to seek specific clarification. In addition, many of the reports from the various committees and councils had a bearing on the elements of the draft Ministerial text which

the Director-General and she had submitted for consideration on 26 November. This being so, she suggested that delegations reserve their comments on the elements of the draft Ministerial text covered by each report until they considered that draft text as a whole under Item 12(d) of the meeting's Agenda. She hoped that, in the interests of maintaining the efficiency of their work, delegations would keep these thoughts in mind in requesting to speak under the reports they would be considering.

117. All reports from the respective bodies and from the Director-General would be forwarded to the Ministerial Conference and would be available for the consideration of Ministers. In the interests of moving the meeting along in a smooth and efficient way, she proposed that the Chairs of the various bodies not introduce their respective reports at the present meeting. She would, of course, invite any Chairpersons who wished to draw particular attention to some aspect of the work carried out in their bodies or to add anything to their reports to take the floor.

118. The representative of India noted that the TRIPS Council had circulated an addendum to its report in IP/C/38 the previous day, which the General Council should also take note of.

119. The General Council took note of the statement, adopted the report of the Committee on Trade and Development (WT/COMTD/55), and took note of the reports of the other WTO bodies, including the reports of the Committees under the Plurilateral Trade Agreements, as follows: Dispute Settlement Body (WT/COMTD/39 and Add.1), Trade Policy Review Body (WT/TPR/173), Council for Trade in Goods (G/L/763), Council for Trade in Services (S/C/24), Council for TRIPS (IP/C/38 and Add.1), Committee on Trade and Environment (WT/CTE/12), Committee on Balance-of-Payments Restrictions (WT/BOP/R/81), Committee on Budget, Finance and Administration (WT/BFA/81), and Committee on Regional Trade Agreements (WT/REG/15), Working Group on Trade, Debt and Finance (WT/WGTDF/4), Working Group on Trade and Transfer of Technology (WT/WGTTT/7), Committee on Government Procurement (GPA/85), and Committee on Trade in Civil Aircraft (WT/L/629). The General Council also took note that these reports would be forwarded to the Ministerial Conference.

120. The General Council then adopted the draft report of the General Council contained in WT/GC/W/554, on the understanding that the Secretariat would make the necessary adjustments to that draft report so as to include matters that had been considered at the present meeting, and took note that this report would also be forwarded to the Ministerial Conference.⁶

12. Preparations for the Sixth Session of the Ministerial Conference

(a) Request for Observer Status by the PLO on behalf of the Palestinian Authority (WT/L/631)

121. The Chairman drew attention to the request from the PLO on behalf of the Palestinian Authority for observer status at the Sixth Ministerial Conference (WT/L/631). As indicated in that communication, the Palestinian Authority had submitted its request with a view to having an opportunity to be exposed to the dynamics of the multilateral trading system and as a contribution to its ongoing efforts in formulating a comprehensive trade policy for Palestine. She proposed that the General Council agree to grant this request.

122. The General Council so agreed.

⁶ The annual report of the General Council was subsequently circulated in document WT/GC/101 and forwarded to the Ministerial Conference.

(b) Requests for Observer Status by International Intergovernmental Organizations:

(i) *Technical Centre for Agricultural and Rural Cooperation ACP-EC (CTA)*

(ii) *Basel Convention*

(iii) *Council of Europe Development Bank*

(iv) *African Development Bank*

(v) *Andean development Corporation*

123. The Chairman said that before taking up the requests under this sub-item, she wished to inform delegations that following the statement by Egypt on behalf of the Arab Group at the October Council meeting (WT/GC/M/98, Item 2(c)), she had held consultations on 31 October regarding the overall question of observership for IGOs in WTO bodies. She had invited to those consultations all delegations that had spoken in previous Council discussions on this matter. She had noted that notwithstanding the Guidelines for granting observer status to IGOs contained in Annex 3 of the General Council's Rules of Procedure (WT/L/161) – which provided for a case-by-case consideration by each WTO body to which a request was addressed, on the basis of certain criteria – Members had been blocked for some time in their efforts to agree to many pending observership requests. This had arisen mainly because certain regional organizations applying for observer status were considered by some Members to be more political than economic in nature. Also, linkages had arisen between approval of different organizations' requests. This longstanding impasse on IGO observer status in the General Council and other bodies merited greater reflection and political consideration among Members. At the consultations, she had urged delegations, as a start, to try to reach an accommodation regarding pending requests for observer status at Ministerial Conferences, and had expressed the hope this could be done by the time of the present meeting. For her part, she remained willing to continue to assist delegations in finding a way forward, although it was clear that unless there was a change in current positions, and the linkages that had arisen between approval of different organizations' requests, further consultations would not help to unblock the overall observership issue.

124. With regard to the requests received from the Technical Centre for Agricultural and Rural Cooperation ACP-EC (CTA), Basel Convention, Council of Europe Development Bank, African Development Bank and the Andean Development Corporation (CAF), she recalled that at the October Council meeting she had informed Members of these requests and had invited those wishing to consult the communications sent by these organizations to contact the External Relations Division of the Secretariat. She had proposed that in regard to these requests, the General Council proceed in exactly the same way it had in the past with regard to requests from IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she had proposed that unless any objection was received by the Secretariat from any Member by 5 November, these four organizations be granted observer status. She had also indicated that, as in the past, she would inform the General Council at its next meeting of the situation with regard to these requests, and that delegations would have an opportunity at that meeting to engage in a discussion on these requests if any objection had been received. She informed delegations that a reservation on behalf of a group of Members had been received by the Secretariat within the proposed deadline, and there was therefore no consensus at the present stage to grant the requests from these four organizations. In the interests of transparency of the process, she requested the delegations that had expressed reservations on these requests to indicate this to the membership.

125. The representative of Egypt said that for the sake of transparency, he wished to confirm that the Arab Group was not in a position to consider these requests at the present stage.

126. The General Council took note of the statements.

127. The Chairman then informed delegations that since the most recent Council meeting, the Secretariat had received a request for observer status at the Hong Kong Ministerial Conference from the Andean Development Corporation (CAF), which currently did not have observer status in any WTO body. Members wishing to consult the communication received from this organization were invited to contact the External Relations Division of the Secretariat. She proposed, in regard to this request, that Members proceed in exactly the same way as they had in the past with regard to requests from other IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she proposed that, unless an objection was received by the Secretariat from any Member by 7 December, this organization be granted observer status at the Hong Kong Ministerial. This was an expedited deadline, and she trusted delegations would understand the need to have an early response in view of the closeness of the Ministerial Conference. Regrettably, Members would not have had an occasion to revert to this request in the General Council prior to the Ministerial, so she would inform delegations in a written communication as to the situation regarding this request after the deadline of 7 December.⁷

128. The General Council so agreed.

(c) Administrative arrangements – Statement by the Chairman

129. The Chairman said that since this was the last meeting of the General Council before the Ministerial Conference, she wished to advise delegations about arrangements for the meetings at the Conference as they were known at the present stage. She knew that this would be useful to all delegations in briefing their Ministers as well as other members of their delegations in preparation for the Conference. Her statement⁸, together with the statement made by Secretary Tsang just prior to the consideration of this Agenda item⁹, as well as the Proposed Order of Business for the formal Plenary meetings at Hong Kong circulated the previous day (WT/MIN(05)/3), would give delegations an overall view of the organization of work at Hong Kong, both in the formal meetings and the informal consultative process that would be chaired by Secretary Tsang.

130. Regarding arrangements for plenary meetings, she noted that the Proposed Order of Business for the formal Plenary meetings at Hong Kong – circulated the previous day in WT/MIN(05)/3 – provided delegations with an outline of how work in the plenary meetings was proposed to be organized. The Ministerial Conference would begin on the afternoon of 13 December with an inaugural session at the Hong Kong Convention Centre that would last from 3 p.m. to approximately 5 p.m. The Chief Executive of the Hong Kong Special Administrative Region, the Honourable Donald Tsang, would be the first speaker to address Ministers at this inaugural session. He would be followed by the Chairman of the Ministerial Conference, the WTO Director-General, herself as General Council Chair, and the Secretary-General of the United Nations or his representative. The Ministerial Conference would then move to the opening of the business session of the Conference, where it would adopt its agenda and agree on the organization of work.

131. The Ministerial Conference would then resume on the morning of 14 December at 10 a.m. to hear general statements by Ministers under Item 1 of the Agenda, namely, the Overview of WTO Activities. In accordance with the practice at previous Ministerial Conferences, statements by

⁷ On 7 December 2005, the Chairman informed Members in document WT/GC/104 that a reservation having been received by the Secretariat from a group of Members, there was therefore no consensus at that stage to grant this request.

⁸ The full text of the statement by the Chairman was subsequently circulated in document JOB(05)/313.

⁹ The full text of Secretary Tsang's statement, which was circulated in document JOB(05)/317, is reproduced in Annex III.

Ministers were expected to be limited to not more than five minutes – which corresponded to two typed pages in single spacing. Facilities would be available for circulating longer presentations in writing. An Information Note regarding the delivery of statements and the distribution of the texts of statements had been circulated by the Secretariat in WT/MIN(05)/INF/11. Plenary meetings of the Ministerial Conference to hear general statements under Item 1 of the Agenda would be organized from 14 to 18 December on a schedule as follows: morning meetings from 10 a.m. to 1 p.m. and afternoon meetings from 3 p.m. to 6 p.m. This schedule was based on a speaking time-limit of five minutes for each speaker. In the evening of 14 December starting at 8 p.m., the Ministerial Conference would take up Item 2 of its Agenda, where it would first consider the Sectoral Initiative in Favour of Cotton that had been proposed by Benin on behalf of the four co-proponents of this Initiative. This would be followed by the item on EC Compliance with all MFN Rights and Interests on Bananas proposed by Honduras. In the evening of 15 December starting at 6.10 p.m., the Ministerial Conference would meet in plenary session to take up Item 3 of its Agenda, under which Ministers would conclude formally the accession process of Tonga, as well as review ongoing accession processes and welcome others that had recently been completed. Finally, the afternoon of 18 December would be devoted to the remaining items on the Agenda, which would include taking action on a Ministerial text. This information was contained in document WT/MIN(05)/3.

132. Regarding arrangements for informal consultative meetings, as Members knew, informal consultations might be organized as necessary throughout the conference by the Chairman of the Ministerial Conference. Secretary Tsang had already advised delegations at the present meeting regarding the designation of a number of Ministers to assist him as Facilitators in the conduct of the substantive proceedings, and their areas of responsibility.¹⁰ He had indicated to her his intention to advise all delegations about the overall organization of the informal process as early as possible. However, in broad terms, she could inform delegations now that the informal consultative process at Hong Kong would mirror the Geneva preparatory process – in order to ensure both transparency and a sense of continuity – and would be centred on open-ended informal meetings of all Heads-of-Delegations. She knew that Secretary Tsang was fully briefed about Members' continuing commitment to ensuring the fullest possible transparency and inclusiveness in their decision-making processes, and the practices they had developed over the past several years, including those endorsed at the first meeting of the Trade Negotiations Committee in January 2002.

133. The informal process at Hong Kong would proceed in parallel with the formal plenary sessions, and would be open to all WTO Members and other participants in the negotiations. The principal objective of this process would be to facilitate consensus-building in a fully transparent and inclusive manner, while maintaining the flexibility built in to the Geneva process. The informal HODs meetings would be chaired by Secretary Tsang and would be convened as necessary, but at least once each day. Delegations would be kept informed of these meetings through every means possible at the Conference centre. Secretary Tsang had indicated that, as in the Geneva process, he would be calling on other Ministers to assist him as Facilitators with consultations on specific issues and to report back to the HODs meetings on their progress. All Facilitators would also keep transparency in their work uppermost in their minds, and would set aside times to allow all delegations an opportunity to make their views known. Clearly, all understood that decisions could only be taken by the membership as a whole, and this was the purpose of the open-ended HODs meetings. A final informal HODs meeting would be organized just prior to the concluding plenary session of the Conference, in order that delegations might collectively review the results of work in all areas. Building on the practice at the Doha and Cancún Ministerials, on each day of the Conference an hour in the morning and an hour in the afternoon would be set aside during which no informal meetings would be scheduled. The purpose of this was to allow delegations the time they required to consult among themselves and in regional groupings as necessary. As she had said earlier, Secretary

¹⁰ See Annex III.

Tsang would provide greater details subsequently on the scheduling and organization of all meetings in this informal process.

134. She did not intend to invite a discussion on her statement, since the documents on the organization of the plenary meetings had been circulated by the Secretariat (WT/MIN(05)/INF/11, WT/MIN(05)/3) and since further, more specific information on the organization of the informal meetings would subsequently be announced by Secretary Tsang.

135. The General Council took note of the statement.

(d) Reports

(i) *Work Programme on Small Economies - Report by the Chairman of the Dedicated Session of the Committee on Trade and Development (WT/COMTD/SE/4)*

136. The Chairman recalled that at its meeting in February and March 2002, the General Council had taken note of a framework and procedures for the conduct of the Work Programme on Small Economies, under which this Work Programme shall be a standing item on the General Council's agenda. The framework and procedures also provided that the Committee on Trade and Development shall report regularly to the General Council on the progress of work in its Dedicated Sessions on this subject.

137. Mr. Senadhira (Sri Lanka), Chairman of the Dedicated Session of the Committee on Trade and Development, said that the CTD Dedicated Session had held its thirteenth meeting on 16 November 2005. This meeting had benefited from the attendance of participants from 27 of the 31 Members and Observers without missions in Geneva who were participating in the eleventh "Geneva Week" event. He was very pleased to report that this meeting had adopted the report before the General Council in WT/COMTD/SE/4. This report contained a summary of work done by the Dedicated Session since its last written report to the General Council in July 2003. Most importantly, the report set out the future work of the Dedicated Session and contained proposals to the General Council for recommendations to be adopted at the Sixth Ministerial Conference. The report asked that Ministers instruct the CTD to continue its work in Dedicated Sessions in accordance with the mandate in the Doha Declaration, the 1 August 2004 Decision and the framework and procedures of the Work Programme on Small Economies. The report also recommended that Ministers instruct the Dedicated Session to consider past and future proposals and then make recommendations to the General Council, with the latter referring any proposal, as appropriate, to the relevant negotiating and other WTO bodies to frame responses for urgent action, and reporting back through the Dedicated Session. It was recommended that the Dedicated Session monitor this work and ensure that responses were found in the negotiating and other bodies to address the trade-related issues identified for the fuller integration of SVEs into the multilateral trading system. During the discussions on the report and on the paragraph for the draft Ministerial text, it had become clear that, although some differences remained, there was a certain degree of convergence among Members on how to address the mandate of the Dedicated Session and find solutions to the trade-related problems of SVEs. This gave him renewed hope that the Dedicated Session would be able to achieve its mandate.

138. The representative of Barbados, on behalf of the small, vulnerable economies, thanked the Chairman of the CTD Dedicated Session for his report and for the dedicated and fair manner in which he had continued to approach his chairmanship. The small and vulnerable economies (SVEs) wished to mention specifically his navigation of the difficult waters of preparing and delivering an agreed text to the General Council and for providing agreed language on SVEs for the Ministerial text. His report was a reasonable reflection of the fact that progress had indeed been achieved over the past two years, due to a number of factors. Much of this progress could be attributed to the increasing recognition by the majority of Members of the special structural characteristics and problems of SVEs and the shared

view that paragraph 35 of the Doha Declaration had to be respected. The deliberations in the CTD Dedicated Session, as reflected in the report and in the draft Ministerial text, had shown the importance of SVEs' involvement in the different negotiating processes. There was now a deeper understanding that a two-track process would be the most practical and progressive manner in which to obtain effective results. This two-track process entailed maintaining the mandate of the CTD Dedicated Session as a forum to discuss and make recommendations on issues of an administrative and general nature and reinforcing its monitoring role, on the one hand, and on the other, the submission by proponents of specific proposals in the negotiating and other bodies. Given that understanding, some SVEs had tabled negotiating proposals in NAMA, agriculture and rules. The reports of the Chairs of the Agriculture Special Session and the NAMA Negotiating Group had reflected small-economy issues to some extent.

139. The SVEs would have preferred to see further progress in the negotiating groups, but recognized that the Chairs' factual reports had sought a balance with regard to the state of play of the negotiations that he considered fair. The report of the Chair of the Special Session of the Services Council also reflected language introduced in the Special Session by SVEs and modified in negotiating sessions. The small-economy proponents were very concerned that as Members engaged in the process of identifying issues on which the SVEs hoped Ministers would take decisions at Hong Kong, Members should also ensure that any eventual decisions did not foreclose related proposals that were of key developmental interest to SVEs. Small economies, with their insignificant share of world trade – who were yet willing to make a contribution to the Round – could achieve some benefit only if flexibilities appropriate to their situation were built into the calibration in 2006 following the recalibration in 2005. It was the expectation of the small-economy proponents that the road map formulated by Ministers to direct deliberations on all negotiations in the post-Hong Kong phase would include clear instructions that Members address the specific needs of SVEs in the negotiating bodies, in order to advance the Work Programme and deliver meaningful results by the end of the Round.

140. The representatives of El Salvador, Guatemala, Dominican Republic, Honduras, Nicaragua, Paraguay, Jamaica, Antigua and Barbuda also for Dominica, Grenada, St. Kitts and Nevis, and St. Vincent and the Grenadines, Trinidad and Tobago thanked the Chair of the CTD Dedicated Session for his report and for the work carried out under the Work Programme on Small Economies, and supported the statement by Barbados on behalf of the SVEs .

141. The representative of El Salvador said his delegation wished to reiterate the importance El Salvador attached to the Work Programme as a means of stimulating development through the search for concrete solutions that would allow greater integration into the multilateral trading system. As Members approached the Sixth Ministerial Conference, El Salvador also wished to express its satisfaction at the consensus reached in the drafting of the Ministerial text on small economies, which provided a boost for these countries' work in the subsequent phase by setting out two lines of approach: first, through the submission of concrete proposals in the various negotiating groups; and second, through the monitoring work of the CTD in Dedicated Session. El Salvador reiterated its full determination to continue working hard and constructively in order to advance the Work Programme, with a view to promoting development in small economies such as El Salvador, as mandated by the Ministerial Conference in Doha.

142. The representative of Guatemala said that, as shown in the report, Members had achieved much progress that would lead to finding solutions for the problems that plagued SVEs. The two-track approach for the continuation of this work – a role for the CTD and a role for the negotiating and other regular WTO bodies – was the correct one, because it would allow SVEs to obtain results from the initiatives and proposals they had presented. A small economy such as Guatemala had high expectations regarding the benefits that might emerge from these negotiations, and therefore believed that the Doha Development Round had to establish and implement measures geared to increasing

SVEs' participation in international trade. As had been pointed out, the small economies had introduced important proposals in the various negotiating groups, in respect of which they would do their utmost to ensure that Ministers in Hong Kong charted a clear course towards concrete and positive results in the current negotiations.

143. The representative of Dominican Republic supported the statements by El Salvador and Guatemala. The report of the Chair of the CTD Dedicated Session reflected the intensive work Members had been carrying out to find concrete solutions to the trade-related problems of SVEs. As Barbados had said, the best way of continuing this work was the two-track approach. She drew attention to the different proposals already tabled in the Negotiating Groups on Agriculture, NAMA and Rules, particularly regarding fisheries subsidies. Her delegation hoped that in Hong Kong, Ministers would provide the necessary impetus to enable Members to continue this work in such a way as to achieve concrete results as soon as possible.

144. The representative of Honduras said that in the context of future work in the CTD Dedicated Session and in the various negotiating groups, Honduras hoped to pursue its efforts to ensure that the future negotiating modalities took into account the difficulties and problems Honduras and other delegations had been raising throughout this process.

145. The representative of Nicaragua said that his delegation echoed the points made by previous speakers, in particular Barbados, regarding the implementation of paragraph 35 of the Doha Declaration. Nicaragua would join its efforts with those of other countries in seeking special treatment for small economies.

146. The representative of Paraguay highlighted the importance of the measures to be adopted for SVEs such as Paraguay, which was a small land-locked country depending on cotton production and other basic commodities. Paraguay's main interest was to ensure market access and trade facilitation measures to alleviate its lack of access to the sea. It therefore hoped to work after Hong Kong on identifying measures that would ensure a better integration of its economy into the world trading system.

147. The representative of Jamaica thanked the Chair of the CTD Dedicated Session for his report. Jamaica shared the latter's assessment that progress had been achieved over the past two years on the issue of small economies, and wished to underscore the fact that this was due in no small measure to the energy and dedication the Chair of the CTD Dedicated Session had brought to pursuing the interests of all small economies. His delegation would have further comments to make on this issue in the context of consideration of the draft Ministerial text.

148. The representative of Antigua and Barbuda, speaking also on behalf of Dominica, Grenada, St. Kitts and Nevis, and St. Vincent and the Grenadines, said that the two-track approach was the way ahead for them, and they saw Hong Kong as a launching pad for SVEs to have their issues addressed in a more operational way during 2006.

149. The representative of Trinidad and Tobago underscored the importance his country attached to the work being done in the CTD Dedicated Session.

150. The representative of the European Communities said that the Community too welcomed the progress that had been made on the issue of SVEs. All knew from his delegation's statements on previous occasions the position the EC had taken. Indeed, earlier in 2005 his delegation had offered a definition of such economies in order to help take this issue forward. He was glad this work had been done, and that it now had the correct focus.

151. The General Council took note of the statements and of the report in WT/COMTD/SE/4, which would be forwarded to the Ministerial Conference.

(ii) *Work Programme on Special and Differential Treatment*

- Report by the Chairman of the Special Session of the Committee on Trade and Development
- Reports by Chairpersons of other WTO bodies to which special and differential treatment proposals have been referred

152. The Chairman recalled that in Section 1(d) of its Decision of July 2004 on the Doha Work Programme (WT/L/579), the General Council had instructed the Special Session of the Committee on Trade and Development to expeditiously complete the review of all the outstanding Agreement-specific proposals on S&D treatment and to report to the General Council, with clear recommendations for a decision, by July 2005. The General Council had also instructed all WTO bodies to which S&D treatment proposals had been referred in 2003 – the so-called Category II proposals – to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. At its meeting in July 2005, the General Council, in considering the report of the CTD in Special Session, had agreed to the action proposed by the Chair of the Special Session regarding future work, namely that the Special Session would need to: (i) continue work on the remaining Agreement-specific proposals and report to the General Council with clear recommendations for a decision by the Hong Kong Ministerial; (ii) continue to monitor and coordinate its efforts with that of the negotiating groups and other WTO bodies to which Category II proposals had been referred; and (iii) continue, within the parameters of the Doha mandate, to address all other outstanding work and report, as appropriate, to the General Council. With regard to the Category II proposals, at the General Council meeting in July, following the reports from the Chairs of these bodies, she had noted that, as part of its future work, the CTD in Special Session would need to continue to monitor and coordinate the efforts of the Special Session with that of the negotiating groups and other WTO bodies to which these proposals had been referred.

153. She proposed first to invite the Chairman of the Special Session of the CTD to make his report, followed by the Chairs of the negotiating groups and other bodies to which S&D treatment proposals had been referred in 2003. In order to assist delegations in their work, the statements made by the Chairs under this Agenda item would be circulated as a General Council document and, as with other reports on the Agenda, forwarded to the Ministerial Conference.¹¹

154. Mr. Ismail (South Africa), Chairman of the Special Session of the Committee on Trade and Development, said that as Members were aware, he had already submitted his detailed report on the work of the Special Session since July to the TNC at its meeting on 30 November. However, for the benefit of Members not present at that meeting, he wished to briefly highlight the main points. His report in TN/CTD/14 highlighted the work carried out in the Special Session since July 2005. During this period, the Special Session had focused mainly on the five remaining LDC Agreement-specific proposals, and while Members had been able to make some progress on narrowing their differences on these proposals, divergences still remained on certain key areas. These divergences were now reflected in the draft Ministerial text (Annex F of JOB(05)/298/Rev.1). It remained his hope that these remaining differences could be resolved in Hong Kong. He also wished to mention that some developing-country Members had continued to raise concerns about the lack of progress on the Category II proposals which had been referred to other WTO bodies and negotiating groups. As a

¹¹ The statements by the Chairpersons under this Agenda item were subsequently circulated in document WT/GC/102, and forwarded to the Ministerial Conference.

result, he had convened a meeting with the various Chairpersons of these bodies on 24 October, in order to obtain feedback on the current status of the work on the proposals and how that work could be expedited. He had reported in detail to Members in the CTD Special Session on the reports he had received from the Chairpersons of the various bodies to which the Category II proposals had been sent. He wished to thank Members for their active participation in the negotiations, and in particular, the Secretariat team who had worked tirelessly with him to advance these negotiations. As he handed over this responsibility, he wished to record his view that a successful resolution of these five LDC proposals had to remain one of Members' priorities in Hong Kong, as it was a crucial component of the development content of the Round.

155. Mr. Falconer (New Zealand), Chairman of the Special Session of the Committee on Agriculture, said that the relevant proposals were contained in a document circulated by the African Group on 17 July 2002 (TN/CTD/W/3/Rev.2). As Members were aware, a progress report on the discussion on these proposals had been made at the July 2005 meeting of the General Council, which he would not repeat. Since then, he had held a number of consultations in formal and informal mode with Members – and also with smaller representative groups – on those proposals and on the matters covered by them. Many of those consultations had been devoted to or included the subject of S&D treatment, including the specific matters covered in the proposals from the African Group. Some specific elements of those proposals had been addressed or clarified by the 1 August 2004 Decision of the General Council (WT/L/579). On the other elements, since July 2004 there had been some degree of convergence on some of them, but clearly, full convergence and agreement had eluded Members. He drew attention to a number of proposals that were concretely on the table, such as the proposals from the G-33 on Special Products and the Special Safeguard Mechanism which – among other things Members had before them – did address fairly directly the concerns that underlay a number of the original proposals from the African Group. These proposals of course remained on the table as part of Members' work. His own report to the TNC on the situation of the agriculture negotiations (TN/AG/21) was the best he could do to lay out in detail his current understanding of the state-of-play. He would not repeat now the elements related to S&D treatment issues in that report. He would say, briefly, that he saw some real movement, although by no means sufficient, certainly not comprehensive and in no way conclusive. It was fairly clear that Members had a lot of work to do on these as well as other issues, and this was the only way Members could effectively resolve the proposals before them and the context in which they had been placed.

156. Mr. Haeberli (Switzerland), Chairman of the Committee on Agriculture, said that his report as Chairman of the regular meetings of the Committee on Agriculture related to the Committee's consideration of a proposal by the African Group in the context of the implementation of the Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. The Committee's discussion had focussed on the proposal to establish a Revolving Fund in the framework of the Marrakesh Decision. That submission also contained certain food aid-related proposals. However, as some Members considered that food aid issues should be addressed in the agriculture negotiations or by the Food Aid Convention, these aspects had not been further pursued. The Revolving Fund proposal, which had originally been submitted by a group of Net Food-Importing Developing Countries, had been the subject of discussions since 2001. He recalled that at the Doha Ministerial Conference, it had been agreed that a panel of experts would be established to examine the proposal. Experts from the IMF, World Bank, FAO, UNCTAD and the International Grains Council had submitted their report with recommendations in 2002 (G/AG/13). The sponsors of the proposal had subsequently tabled a modified version of the Revolving Fund proposal, which had been discussed in a roundtable with the participation of Members. However, in the end, this proposal had not attracted consensus among Members. The proposal by the African Group had been on the agenda of each meeting of the Committee on Agriculture since June 2003. The Committee's deliberations on the proposal were set out more fully in the report submitted by his predecessor in July 2005 (G/AG/20). The general conclusion remained that the discussion of the African Group proposal as it currently

stood had reached an impasse, and that the African Group might wish to consider revising it. Indeed, a member of the African Group had indicated earlier in 2005 that a follow-up proposal was under preparation. In response, a number of donor Members had signalled their readiness to engage in discussions once the proposal was submitted. As Chairman, he could confirm that the Committee on Agriculture stood ready to examine expeditiously any follow-up proposal that might be tabled by the African Group.

157. Mr. Valles Galmés (Uruguay), Chairman of the Negotiating Group on Rules, said that, as indicated in his July 2005 report (TN/RL/14), the proposals referred to the Rules Negotiating Group related to Article 15 of the Agreement on Anti-Dumping and Articles 3 and 27 of the Agreement on Subsidies and Countervailing Measures. He recalled that, as he had reported earlier, these proposals had figured on the agenda of a number of meetings of the Negotiating Group in 2003 and 2004, but that except in respect of one of the proposals, the sponsors had been unable to attend these meetings or had not been in a position to introduce the proposals. Since his report in July 2005, the Negotiating Group had held three series of meetings, during the weeks of 26 September, 24 October and the current week, and no participant had sought to pursue any of these proposals during these meetings. He had had a series of contacts with, and provided briefings to, the sponsors of these proposals – the African Group and the LDC Group – and, as always, remained available for further dialogue. More generally, developing-country Members remained very actively involved in all aspects of the rules mandate, including in respect of S&D issues.

158. Mr. de Mateo (Mexico), Chairman of the Special Session of the Council for Trade in Services, said that as indicated in his report in July 2005 (TN/S/21), the consideration of GATS-specific proposals on S&D treatment had been on the agenda of the Special Session of the Council for Trade in Services since its last meeting in 2004. In February 2005, the proponents of the S&D proposals had indicated they were preparing a written submission on which they would pursue further discussions. Subsequent consultations had given delegations the opportunity to pose questions and seek clarifications, in particular on two proposals put forward by the African Group. Although the consultations on these proposals had initially remained at a general and exploratory level, the African Group had since then informed the Special Session that text-based discussions had taken place in small groups. He understood there had been some measured progress in these small group meetings and that the proponents would be willing to avail themselves of his good offices to pursue these discussions. As Chair, he assured Members that the Special Session of the CTS would make every effort to fulfil the mandate the General Council had given it in Section 1(d) of its Decision of 1 August 2004 (WT/L/579).

159. Mr. Choi (Korea), Chairman of the Council for TRIPS, said that since his most recent report on this matter to the General Council, the TRIPS Council had taken up the Category II proposals referred to it at its meeting in October. The TRIPS Council had authorized him to report that the situation remained as described in his written report to the General Council's July 2005 meeting (IP/C/36). As indicated in that report, at its July meeting the TRIPS Council had agreed to authorize him to report to the General Council that it reiterated its recommendation concerning a text it had forwarded in August 2003 to the General Council Chair for appropriate action. This text reflected an agreement among participants on a solution to a proposal by the African Group concerning exclusive marketing rights. The aforementioned report had also provided a brief factual report on what had happened with regard to the other proposals referred to the TRIPS Council. It continued to be the case that, since the General Council Decision of 1 August 2004 (WT/L/579), no delegation had taken up these other proposals.

160. Mrs. Novik (Chile), Chairman of the Committee on Safeguards, recalled that in July 2003, the Safeguards Committee had reported in detail to the General Council concerning the proposals referred to it (G/SG/64). The report's conclusion had been that informal consultations indicated there was no consensus in the Committee on these proposals. In November 2004, the Safeguards Committee had

held a meeting dedicated to further discussions on the proposals, but the meeting had been very short, with Members confirming that the situation remained unchanged. Thus, the Committee had not been able to suggest a course of action on this issue due to lack of consensus. This report had been presented to the General Council in G/SG/78. More recently, in late October 2005, she had personally contacted the proponents of the proposals. However, nothing new had evolved as a result of this contact.

161. Mr. Badral (Mongolia), Chairman of the Committee on TRIMS, said that two S&D proposals in Category II had been referred to the TRIMS Committee by the General Council. Both proposals had been submitted by the African Group, and related to Articles 4 and 5.3 of the TRIMS Agreement, respectively. Pursuant to the Decision adopted by the General Council on 1 August 2004 (WT/L/579), under the Chairmanship of his predecessor, the TRIMs Committee had held a number of formal meetings and informal consultations to consider these proposals. In May 2005, the Committee had discussed a revised version of the proposals submitted by Kenya, on behalf of the African Group, which sought to address more specifically the concerns of this particular group of countries. Notwithstanding the efforts made to reconcile divergent positions, the Committee had been unable to arrive at a solution that would enable it to agree on the proposals. Certain fundamental questions remained unresolved with respect to the country scope and time horizon for the application of these proposals. This situation had been reflected in the report of his predecessor to the General Council in July 2005 (G/L/742). On 10 October he had convened a formal meeting of the TRIMS Committee to consider *inter alia* the S&D proposals. No new developments in Members' positions had been registered at that meeting. He stood ready to continue work in the TRIMS Committee on the S&D proposals should the General Council, and subsequently Ministers in Hong Kong, deem it useful.

162. The Chairman, in the absence of the Chairperson of the DSB Special Session and on the latter's request and behalf, read out his statement as follows: "In my last written report to the General Council, dated 26 July 2005 (TN/DS/13), I indicated that further work would be required in respect of the nine Category II proposals referred to the Special Session of the DSB. Since then, the Category II proposals referred to the DSB Special Session were placed on the agenda of our last meeting on 24 October. At the request of the proponents, it was agreed that these proposals would be reverted to later. I therefore expect that these issues would be considered further after the Hong Kong Ministerial Conference."

163. With regard to the Committee on SPS Measures, whose Chair was unable to attend the present meeting, she noted that a report had been circulated in G/SPS/39.

164. She expressed her gratitude to all the Chairs for their reports. As she had said earlier, in order to assist delegations in their work, the statements made by the Chairpersons under this Agenda item would be circulated as a General Council document and, as with other reports on the Agenda, forwarded to the Ministerial Conference.¹²

165. The representative of Tanzania thanked the Chairman of the CTD Special Session and the Chairs of the other bodies that had been dealing with Category II proposals. His delegation looked forward to receiving the written reports for more detailed study. He wished, in particular, to reflect on the statement by the Chair of the CTD Special Session that had been dealing with the LDC Agreement-specific proposals. He had taken note of that Chair's report that some progress had been made, but that divergences still remained, and of that Chair's hope that the divergences might be resolved by Ministers in Hong Kong. His delegation shared that optimism, but also hoped Members would have a realistic estimate of the extent to which Ministers in Hong Kong could engage substantively on those proposals, so that the outcome would be balanced and one which the LDCs would feel happy to associate with. He understood Members would be coming back to this issue

¹² See previous footnote.

under Agenda item 12(d)(vi), in the context of examining the draft Ministerial text, and would revert to this matter then, in order to make more specific comments.

166. The representative of Kenya thanked the various Chairs for their reports on Category II S&D proposals. As had been said, in some reports it was clear there was no consensus, while in others, efforts were still being made to fulfil the mandate. Kenya hoped these efforts would be translated into something concrete soon. On other proposals, issues were being negotiated in the relevant negotiating groups. On these, his delegation was surprised that some of the issues were being referred to proposals that had been made in the current negotiations. Looking at the mandate on S&D, one saw that the two issues were different, because that mandate was to address existing provisions, not what was likely to come up in the future. Thus, Kenya hoped that at some point there would be clarification of this in those negotiating groups, so that these groups could separate the two issues. In other reports, Members had heard that the situation was as it had been in July 2005, and that there was not much hope. This reminded his delegation of what it had said in July 2005 – that it, and especially the African Group, had problems stretching themselves to attend meetings of all those groups in order to follow-up on the deliberations in those bodies. These delegations had sought assistance, so that this work could return to the CTD in Special Session, but this had not been something other Members were willing to entertain.

167. Thus, the question was whether Members continued with the current situation – in which they knew that when they met, probably in February or March, the same report would be made, and the relevant Chairs would say that as they had reported in December 2005, the situation had not changed and that consensus had not been possible, in spite of their having made every effort. However, this was the Doha Round, and Members were supposed to have completed this work in July 2002. Perhaps the time had come when Members should seek further guidance from Ministers, because his delegation saw these S&D issues taking the same route as implementation issues, for which Members had taken the same kind of approach but did not seem to be getting any results. Kenya wished to register its disappointment, and hoped that when Members started to address the draft Ministerial text, its disappointment could be registered in that draft text so that this, along with the reports, could be forwarded to Hong Kong for Ministers' perusal.

168. The Chairman said she wished to assure the delegation of Kenya that consultations on the proposal made at the July General Council meeting that all Category II proposals should be brought back to the CTD Special Session were ongoing.

169. The representative of Cuba said her delegation viewed with much concern the current deadlock on these issues which should be at the centre of the negotiations. It was even more concerned about the absence of a clear, forward-looking approach to resolving this situation in the reports presented. To reaffirm the mandates without any criticism by Ministers of the present deadlock and without setting an early deadline for concluding the review of the 88 proposals submitted by the developing countries, would only cast further doubt on the objectives of this Round in the eyes of the international community and would lead to a repeat of this situation after Hong Kong. Cuba therefore welcomed the drafting suggestion for the draft Ministerial text submitted by the African Group on 23 November 2005 (JOB(05)/305) and, in particular, the initiative to bring the Category II proposals before the CTD in Special Session, given that there had been no progress in the subsidiary bodies to which they had been referred. This was the only way the proposals would receive the attention and political priority necessary to ensure that progress was made on these issues. Cuba would revert to this matter later in the meeting.

170. The representative of Zambia, speaking on behalf of the LDCs, thanked the Chairman, the Director-General and the Chairs of the negotiating groups and the Secretariat for the revised draft Ministerial text. The efforts being made by all of the latter to address Members' concerns were a true reflection of their commitment to making the Hong Kong Ministerial a success. He asked that the

statement made by Nepal on behalf of the LDCs at the TNC meeting on 30 November be included in the records of the present meeting.¹³ However, he wished to add to that statement, by briefly highlighting issues pertaining to S&D treatment, and in particular the five LDC Agreement-specific proposals contained in Annex F of the draft Ministerial text that would be presented to Ministers in Hong Kong. The LDCs appreciated the efforts that were being made by all Members to ensure that the most vulnerable among the membership drew maximum benefits from this Round, in order for them to be meaningfully and effectively integrated into the multilateral trading system and to reduce their further marginalization. The LDCs were certainly cognizant that other developing countries had interests as well that needed to be safeguarded, and concerns that needed to be addressed. However, the LDCs were equally convinced that some Members had greater needs than others. In this context, the LDCs wished to highlight the importance of an enhanced Integrated Framework that would help them deal with the many obstacles they were faced with. The LDCs had also taken positive note of the Aid for Trade Concept and expected more precision and commitment to operationalize this initiative. Regarding the five proposals, with additional efforts by all, Members could continue to engage constructively. Needless to say, both the developed and developing-country Members had worked with the LDCs throughout the informal consultative process under the able leadership of the Chairman of the CTD Special Session, who had worked tirelessly to try to make these five proposals precise, effective and operative, as mandated by the Doha Declaration. He wished to pay tribute to the latter for his dedication to his work, which had not been easy. At the heart of the discussions had been the need for duty-free, quota-free market access for all LDCs, for all products and for this duty-free and quota-free market access to be bound so that it was secure, predictable and sustainable. The LDCs had noted the concerns raised by some developed and developing countries and had made attempts to take some of these aspects on board in alternate proposals. However, this had also not been accepted. There was no doubt that the development dimension of this Round would be gauged by the degree of integration of the weaker Members into the multilateral trading system, and one yard-stick was arriving at a positive and meaningful solution to the LDC proposals. This would definitely reflect a new momentum from Members, in terms of demonstrating real commitment to the Doha Development Round.

171. The representative of Djibouti said his delegation fully subscribed to the statement by Zambia on behalf of the LDCs. Trade facilitation, for example, was an important area for Djibouti, but it would have preferred that instead of all the aid it had thus far received, and all the aid foreseen for 2006, the objectives of integrating LDCs into world trade had been realized. There had been various types of aid for development, but Djibouti would have preferred to have further clarification regarding the package that was being offered the LDCs. He asked what the future held. One had to foresee the future. This was a matter of great concern. LDCs were told that the outcome of work on S&D treatment would be linked to the outcome in all areas, but that was not possible. One had to be honest. One had to move step by step, taking one subject after another, and draw up a list of priorities in the negotiations, taking up two or three subjects at a time rather than tabling everything in one negotiation and trying to find solutions for all of them. The reports by the various Chairs on S&D issues would be submitted to Ministers in Hong Kong, but Ministers were not going to agree to talk about everything at once. He reiterated that Members should move stage by stage, step by step, priority by priority, and should look at a few areas that were priority areas, taking two or three issues of importance within the framework of the negotiations. This would enable Members to move forward.

¹³ The statement by Nepal on behalf of the LDCs at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 133), is incorporated by reference into the present records.

172. The General Council took note of the statements and that the statements by the Chairpersons under this item would be circulated as a General Council document and forwarded to the Ministerial Conference.¹⁴

(iii) *Work Programme on Electronic Commerce – State of play and reports by the Chairpersons of the Committee on Trade and Development and the Dedicated Discussions on cross-cutting issues under the auspices of the General Council (WT/GC/W/555)*

173. The Chairman recalled that in paragraph 34 of the Doha Ministerial Declaration, Ministers had agreed to continue the Work Programme on Electronic Commerce, and had instructed the General Council to consider the most appropriate institutional arrangements for handling the Work Programme and to report on further progress to the Fifth Session. Ministers had also declared that Members would maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session. At its meeting in October 2002, the General Council had agreed to maintain, for the duration of the work until the Fifth Session, the current institutional arrangements for handling the Work Programme, i.e. that the Councils for Trade in Services, Trade in Goods and TRIPS, and the Committee on Trade and Development would examine and report on aspects of electronic commerce relevant to their respective areas of competence, and that the General Council would play a central role in the entire process, would keep the Work Programme under continuous review and would consider any trade-related issue of a cross-cutting nature. Subsequently, in its July 2004 Decision, the General Council had agreed that it and other relevant bodies would report in line with their Doha mandates to the Sixth Session of the Ministerial Conference.

174. She wished to note that pursuant to the institutional arrangements agreed in 2002, the General Council's examination of cross-cutting issues under the Work Programme had been carried out in Dedicated Discussions held under the auspices of the General Council for this purpose. Before she requested the Chairs of the Committee on Trade and Development and of the Dedicated Discussions on cross-cutting issues under the auspices of the General Council, she wished to give a brief overview of the state of play of the e-commerce discussions in the three sectoral Councils, namely, the Councils for Goods, Services and TRIPS.

175. The chairpersons of these bodies had indicated to her that since the Cancún Ministerial Conference, there had been no requests from any Members that the Work Programme on Electronic Commerce be included on the agenda of the meetings of these bodies. She understood that these bodies stood ready to revert to discussion of issues relating to the Work Programme at the request of any Member. It was also her understanding that, with regard to the state of play of the discussions in these bodies, the progress reports submitted by them in documents G/L/635, S/L/74 and IP/C/29, respectively, remained an accurate reflection of the thinking of the Members in the areas of work concerned.

176. Mr. Senadhira (Sri Lanka), Chairman of the Committee on Trade and Development, said he wished to present the work on electronic commerce that had taken place in the CTD since July 2003. He noted that a report of the work on electronic commerce in the CTD from the time of the Doha Ministerial Conference until the 45th Session of the CTD in June 2003 was contained in WT/COMTD/47. Even though electronic commerce had been a standing item on the CTD's agenda at its 46th and 47th Sessions held in 2003 after the Cancún Ministerial Conference, Members had made no interventions on this item. At the 48th Session of the CTD in February 2004, Members had discussed at some length how they wished to continue with this item. At the 49th Session in May 2004, Pakistan had made a lengthy statement and had outlined some possible points for discussion by the Committee. The latter had raised a number of questions on various e-commerce related issues, including those relating to global governance, control of the Internet, access to

¹⁴ See footnote 11.

technology, taxation, classification issues, issues relating to policy flexibility and capacity building and the role of SMEs. Pakistan believed that these were issues on which Members needed to reflect further.

177. Based on a suggestion by Tunisia, the Committee at its 50th Session in September 2004 had decided to invite the Secretariat of the International Telecommunications Union (ITU) to brief the CTD on the latest developments in the preparation of the second phase of the World Summit of the Information Society that was to take place in Tunisia in November 2005. The expert from the ITU had been unavailable for the 51st and 52nd Sessions of the CTD, but had been able to make his presentation, which explored the role of information and communications technologies in development, at the 53rd Session held in May 2005. The Committee had taken note of the presentation. It had been agreed to revert to this agenda item in future only if requested to do so by Members.

178. Mr. Singh, Deputy Director-General, said that the sixth Dedicated Discussion on cross-cutting issues under the auspices of the General Council on the Work Programme on Electronic Commerce had been held on 7 and 21 November. Under the agenda for this meeting, participants had discussed a written submission from the United States entitled "Preparations for the 2005 Ministerial Conference – Work Programme on Electronic Commerce" (WT/GC/W/551) and also two informal papers from that delegation supporting this submission. Members had also considered and approved the report of the Dedicated Discussion to the General Council in WT/GC/W/555 and, on the basis of paragraph 14 of that report, had agreed on a text to be forwarded to the General Council Chair as the input on e-commerce to the draft Ministerial text for Hong Kong.

179. All delegations had agreed that work under the Work Programme, including the development aspects, should be reinvigorated in 2006. Generally, Members had supported extending the moratorium on the imposition of customs duties on electronic transmissions until the next Session and were willing to discuss further in 2006 the proposal to make the moratorium permanent and binding. However, one delegation had not been in favour of this extension, and another had said there were systemic concerns regarding the extension of the moratorium, and that it was not, at the time, in a position to agree to it. The other issue related to trade treatment of software. Participants had recognized the importance of software trade for development and economic performance, and the positive impact of liberalized trade in software. There had been support for initial discussions, under the Work Programme in 2006, on the issue raised by the United States, without linkage to negotiating areas and without prejudice to Members' positions in other areas. It had also been stated that any approach to the liberalization of the treatment of software had to incorporate the development dimension, fully respect non-discrimination, and that any consideration of software should not prejudice any Member's position on whether electronic deliverables were a good or a service. Further, some Members had stated that the discussion should cover not only software, but all IT goods and services facilitating e-commerce. Lastly, on the issue of recommendations for consideration by the General Council, participants had discussed this matter at some length but had been unable to reach a consensus, mainly in view of the differences he had just mentioned. As a result, the entirety of the text relating to recommendations in paragraph 14 of the report remained in square brackets.

180. The Chairman said that, in order to assist delegations in their work, the statements made by the Chairpersons under this Agenda item would be circulated as a General Council document and, as with other reports on the Agenda, forwarded to the Ministerial Conference.¹⁵

181. The representative of Cuba said Cuba supported the decision to reinvigorate discussions on all components of the Work Programme on Electronic Commerce as proposed by the Dedicated

¹⁵ The statements by the Chairpersons under this Agenda item were subsequently circulated in document WT/GC/103, and forwarded to the Ministerial Conference.

Discussion under the auspices of the General Council, bearing in mind the work being undertaken in other international fora, such as WIPO, UNCTAD, UNCITRAL, OECD and ITU. Her delegation noted that since the Cancún Ministerial Conference, no progress had been made in technical discussions on any of the topics contained in the Work Programme, including development-related topics. Cuba therefore opposed having Ministers adopt decisions at the Sixth Ministerial Conference that prejudged Members' positions on either the topics agreed under the Work Programme or their interests in new topics, in the absence of a consensus-based decision. Cuba was aware that all Members were entitled to have their interests taken into account and discussed, and that decisions taken in this organization had to be in the interests of all. Cuba therefore wished to be actively involved in discussions on the relevance of incorporating the issue of extension of the moratorium on customs duties on electronic transmissions into the Work Programme on Electronic Commerce at a later stage, after Hong Kong. No substantive work had as yet been undertaken that would support such a decision, and it had not been possible to determine the economic implications of such a moratorium, in particular for those developing countries that depended the most on tariff revenues.

182. Cuba wished to recall that in the Ministerial Declaration on Electronic Commerce adopted in May 1998, the decision to continue the practice of not imposing customs duties on electronic transmissions was taken "without prejudice to the outcome of the work programme or the rights and obligations of Members under the WTO Agreements." The sovereign right of States to regulate was essential for them to be able to implement their development policies and develop their domestic industries that were based on the deployment of information and communication-technology services and products. Therefore, developing countries had to have the flexibility and the room to establish tax policies they deemed appropriate for electronic transmissions in general. Cuba was aware of the potential of electronic commerce in terms of opportunities and encouraging the participation of industries in the international market. However, for developing countries, the liberalization of electronic commerce did not automatically equate with greater use of such technology or to greater benefits, because of the obstacles they faced – limitations with respect to internet access and the necessary infrastructure – such as fax, telephones, computer programmes and computers – low telecommunications capacity, concentration of technological resources in a few international firms, monopoly of payment systems, the problems of human resources training, the high cost of technologies for electronic payment and delivery of products. Future work on electronic commerce should not appear to stand apart from the general objectives of the Doha Development Agenda, and the development dimension had to be a cross-cutting objective of the work on electronic commerce in the WTO. Consequently, future discussions had to focus on the implications any decision would have for developing-country Members, and take into account the obstacles preventing them from taking full advantage of the potential opportunities of electronic commerce. Cuba reiterated the importance of eliminating, on an equal footing, all forms of trade restrictions and technological restrictions imposed for various non-trade reasons, including restrictions affecting the acquisition and free use of codification technology and equipment available on the market, which limited the development of global electronic commerce and the full incorporation of all developing countries. This was an indispensable condition for achieving a multinational agreement or decision on unimpeded electronic commerce within the WTO framework.

183. The General Council took note of the statements and of the report in document WT/GC/W/555, which would be forwarded to the Ministerial Conference. The General Council also took note that the statements by the Chairpersons under this item would be circulated as a General Council document and also forwarded to the Ministerial Conference.¹⁶

¹⁶ See previous footnote.

- (iv) *Follow-up to the July 2004 General Council Decision on the Doha Work Programme – Report by the Director-General on the development assistance aspects of cotton (WT/GC/97 and Add.1)*

184. The Chairman recalled that in Paragraph 1.b of its 1 August 2004 Decision on the Doha Work Programme (WT/L/579), the General Council, *inter alia*, had taken note of the bilateral, multilateral, and regional efforts to make progress on the development assistance aspects of the Cotton Initiative, and had instructed the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments. The Council had also instructed the Director-General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre, to direct effectively existing programmes and any additional resources towards development of the economies where cotton had vital importance. A report on this matter under the July 2004 General Council Decision had been submitted by the Director-General in December 2004, and a further report had recently been submitted in document WT/GC/97 and Add.1.

185. The Director-General said that the cotton dossier in the Doha Development Agenda had two main pillars. First, the trade negotiations pillar, where cotton was being "specifically" addressed within the context of the agriculture negotiations, and where Members had agreed to address it "ambitiously" and "expeditiously." Second, the development assistance pillar, where the July 2004 Framework had instructed the Secretariat to work with the development community on cotton; had instructed the Director General to consult relevant organizations, including the Bretton Woods institutions, the FAO and the ITC; and had instructed Members to work on development issues multilaterally and bilaterally. The July 2004 Framework had also asked all Members to engage. With respect to the first pillar, Members of course knew that all trade-distorting policies in the cotton sector had to be addressed, whether they had to do with export subsidies, domestic support or market access. It was imperative that Members kept their level of ambition high in these negotiations and maintained the specificity of cotton. A successful outcome on the cotton dossier would be one of the indisputable steps towards fulfilling the development objectives of the Doha Round.

186. With respect to the second pillar – which was the pillar on which his report focused – he believed there was good news to report. Resources at the international and bilateral levels had certainly been mobilized to address the problems which many low-income countries had been experiencing as a result of the fall of world cotton prices. At present, the total value of development assistance commitments made to 14 beneficiary African countries on cotton stood at US\$976 million. Commitments on cotton development assistance focusing on the "Cotton 4" – Benin, Burkina Faso, Chad and Mali – now stood at US\$437 million, while commitments for the individual Cotton 4 countries were now in the double-digits. He was also pleased that a number of international organizations had announced the launch of new programmes in favour of cotton. He had presented these programmes in his report and had urged the development community to assist all those countries in need. He was not a specialist on development aid, but knew enough to measure the distance between commitments and disbursements, the weight of various conditionalities and the difficulty of translating development money into reform and poverty alleviation. This development assistance would of course need to be used judiciously by its recipients, in order to ensure that it did contribute to genuine poverty alleviation and to long-term cotton sector reform. He encouraged the donor community to continue to coordinate its development assistance efforts, in order to avoid any harmful duplication or waste of resources.

187. Similarly, he urged the donor community to step-up the overall level of assistance provided. He also encouraged greater transparency in reporting. Timely reporting of the assistance that was provided would enable both donors and recipients to plan better. He wished to mention, in this context, the Joint WTO/OECD Trade Capacity Building Database, which now contained a Cotton Box. For that Cotton Box to be effective, donors would need to supply information faster and more

accurately. Finally, he said he would be remiss not to mention the importance of fully implementing the results of recent Panel and Appellate Body rulings in the cotton dispute. These rulings were an important component of the overall contribution the WTO, as a rules-based system, could make to improving the situation of cotton-dependent developing and least-developed countries. He stood ready to keep spending some of the capital of trust Members had lent him on this issue, as he had already done on several occasions.

188. All representatives who spoke thanked the Director-General for his report and for his efforts on this matter.

189. The representative of Benin, on behalf of the 33 African countries that were net exporting and producing countries of cotton, and in particular on behalf of the four proponents of the Cotton Initiative, thanked the Director-General for his initiative on this matter since taking up his post in the WTO. The latter had taken up his shepherd's hook in order to ensure that all the assistance, technical and financial, was forthcoming in order to assist these cotton-producing countries. All Members no doubt recognized that since the adoption of the July 2004 framework, all had received a mandate to deal with the cotton issue in an ambitious, specific and rapid manner. This was because, since Cancún in 2003, countries expected that this issue would be resolved, but in fact nothing had happened. In the field, the situation had simply deteriorated further, and this was why now, a few days before the Hong Kong Ministerial, the cotton-producing countries no longer wished to be held hostage by the major powers, and asked that whatever the results reached concerning agriculture, the cotton issue be dealt with definitively in Hong Kong – independent of the results achieved elsewhere at that Ministerial. The July 2004 package mandated dealing with and settling this issue definitively. This had to do with the trade aspect. Regarding the development aspect, as the Director-General of the WTO had just said, many pledges had been made, but up to about a month earlier, the reports from the receiving countries regarding assistance provided indicated that nothing had happened in concrete terms. No doubt, all of the aid that had been announced was still in the pipeline. He was not speaking merely about the C-4 countries, but the 33 cotton producing and net exporting countries affected by the current situation. All of these countries should be taken into consideration, because whatever multilateral or bilateral aid was being provided, the losses in these countries were greater, resulting in a net deficit. Therefore, whatever the assistance or aid that might be forthcoming, the solution lay on the trade side. These countries did not want merely a social solution, they wanted the elimination of subsidies. This was the only true solution to achieve a definitive settlement of this issue. He reiterated that these countries expected political will to be demonstrated at Hong Kong and called on their partners to ensure this was the case. He again thanked the Director-General for everything he had done, and congratulated all delegations that had provided their support in this matter. This issue had entered a critical phase in which cotton farmers who were dying of hunger called on all Members to give their full support to ensure that the cotton issue was successfully resolved in Hong Kong.

190. The representative of the United States said that under this agenda item, Members were dealing with the development assistance aspect of cotton, but as the trade aspect had been mentioned, he wished to say that the United States remained committed to addressing this issue in full conformity with the DDA and the understandings reached in the July 2004 framework. Regarding the development aspects, his delegation appreciated the Director-General's report and the efforts of the Secretariat to pull this information together. The United States had made extensive efforts in this area, some of which were reflected in the report, while others were more recent. The Director-General had noted that he felt there was some good news in terms of the assistance that had been committed. The news was perhaps even better. Since reporting for the Director-General's report, Burkina Faso had on 10 November 2005 joined 11 other sub-Saharan African countries – including fellow West African cotton producers, Benin, Mali and Senegal – as eligible for assistance through the US Millennium Challenge Corporation (MCC). Benin's current MCC proposal stood at nearly US\$300 million in grant aid. Mali and Senegal were working with the MCC on similarly large

proposals for MCC assistance. This was a wonderful opportunity for Burkina Faso to address the cotton issue if it so chose. He noted that it was up to the recipients of these funds to choose their priorities for its use. The United States also wished to announce the launch of the West African Cotton Improvement Programme aimed at the cotton sectors of Benin, Burkina Faso, Chad, Mali and Senegal. This was another step, along with its numerous other initiatives outlined in the Secretariat's report, in the United States' work with these countries. The US Trade Representative and Secretary of Agriculture had had a very constructive visit to Burkina Faso to meet with their West African counterparts and to see conditions on the ground. The United States looked forward to continuing to work constructively with its African colleagues in the coming weeks on the trade and development aspects of cotton.

191. The representative of Paraguay supported the statement by Benin. Paraguay was a cotton-producing country. Its rural communities depended on this export, although Paraguay also produced soya and beef. As far as the agriculture sector was concerned, cotton was the main source of revenue for rural families, and was therefore an extremely important aspect of the welfare of the population. Therefore, everything should be done to ensure better treatment for this basic commodity, most important of which was to bring a better price for its producers.

192. The representative of Tanzania supported the statement by Benin. It went without saying that the development assistance package was a response to a situation created by what had happened on the trade-related side of the cotton issue. That assistance addressed the symptoms and not their cause. It was important to address the cause of the problem as a matter of first priority, without forgetting that it was not limited to the four countries who had sponsored the Cotton Initiative, but was a problem that afflicted all cotton-producing countries in Africa and elsewhere. This issue had to be dealt with at the most fundamental level, rather than dealing with only partial aspects of it.

193. The representative of Uganda supported the statement by Benin. As Tanzania had said, cotton was also a product in which Uganda and other African countries had great interest. Therefore, any support or assistance should not be limited only to those countries that were the principal proponents of the Cotton Initiative. Uganda agreed with Tanzania that this assistance had actually addressed the symptoms, but the whole question had to be addressed – the question of elimination of subsidies that were the source of the problem. Uganda hoped that this would be addressed expeditiously, specifically and ambitiously, and that it could thus be put on a fast track.

194. The representative of Zimbabwe endorsed Benin's statement. The WTO was about fair trade. Zimbabwe had no interest in short-term developmental aspects which, in any case, were riddled with conditionalities that the recipient countries could do without. Zimbabwe insisted that those who distorted trade in cotton should stop, and that the WTO's Appellate Body decisions had to be abided by.

195. The General Council took note of the statements and of the Director-General's report in WT/GC/97 and Add.1, which would be forwarded to the Ministerial Conference.

(v) *Report by the Chairman of the Trade Negotiations Committee*
and

(vi) *Draft Ministerial Text – Statement by the Chairman*

196. The Chairman proposed that, in order to rationalize the discussion, the General Council take up these two items together so that delegations could address these related issues in a single intervention. She wished to begin by inviting the Director-General, as Chairman of the TNC, to make a brief report. She would then introduce the draft Ministerial text that had resulted from Members' work over the past week, following which she would invite delegations wishing to speak to do so.

197. The Director-General, Chairman of the TNC, said that since the October meeting of the General Council, the TNC had held one formal meeting on 30 November 2005. He had also convened two informal meetings, on 3 and 10 November, to review the state of play in the Doha Round and to discuss how Members' work could be taken forward across the board. He had also convened two informal Heads of Delegation meetings on 26 November and 28 November. At the meeting on 26 November, the first draft Ministerial text (JOB(05)/298) had been introduced. Delegations had then had a first opportunity to have a comprehensive exchange of views on that draft at the meeting on 28 November. For the sake of transparency, he had also briefed delegations on the initial consultations on some parts of the first draft text which he had held with a number of delegations, as had been foreseen at the HODs meeting on 28 November.

198. The TNC meeting on 30 November had been an opportunity for delegations to hear the reports of each of the negotiating group Chairs on work in their respective areas before a revised draft text was submitted to the General Council for consideration. It had also been the first opportunity for delegations to place their views and comments on the record following the informal HODs meetings. A large number of delegations had made comments on the first draft text in a very substantive and, in general, positive manner, both at the TNC on 30 November and at the informal HODs meeting on 28 November. A considerable number of delegations had expressed appreciation to the Chairs of the negotiating groups for the hard work they had done in guiding the process and for producing reports. A wide range of concerns and issues had been expressed, including specific suggestions for revision of certain paragraphs in "draft text" form. Comments had also been made on the different approaches used in preparing the text. A large number of delegations had expressed appreciation for the "bottom-up" approach and the principle of no surprises, which had been guiding this work from the very start. In line with these principles and the need for transparency and inclusiveness, the aim had been for all delegations to feel ownership of the draft text.

199. From the consultations the General Council Chair and he had carried out, there was a sense of emerging convergence that the most difficult issues – agriculture, NAMA and S&D – should continue to focus the attention of the membership, since there remained wide divergences on them. Some delegations had also made the point that in the areas of agriculture and NAMA, key questions or issues should be identified for negotiations by Ministers in Hong Kong. At both the HODs on 28 November and also at the TNC on 30 November, he had expressed his sincere hope that Members at the present General Council would be able to agree on the text that would go to Ministers. He wished to stress this because, in his conversations with Ministers over the past week, and more recently at the ACP Minister's meeting in Brussels, he had received a clear and unambiguous message that they expected to receive a workable basis for their future deliberations at Hong Kong, which was 11 days later. He had informed delegations that he was convinced that delegations had a collective responsibility to do their utmost to ensure that Ministers could arrive in Hong Kong with a clear idea of where they needed to focus their work. He stressed that it was important to keep in mind that, although Members might have recalibrated the specific level of ambition for the meeting in Hong Kong, it nonetheless had to provide the launching pad for finishing the Round in 2006. He had also

informed delegations that the overall text mirrored, and would continue to mirror, the reality of the situation prevailing, once again in line with the "no-surprises" principle.

200. As delegations were aware, in the past few days the consultative process had been intensified, with the aim of collectively improving the situation and the quality of the work to be presented to Ministers in Hong Kong. He wished to thank all delegations, and particularly the smaller delegations, for their commitment, hard work and cooperation in this process. As a result of this consultative processes, a revised version of the text had been circulated the previous day in JOB(05)/298/Rev.1. This draft text incorporated amendments made in light of the views expressed by Members in the consultations and in the recent HODs and TNC meetings. Again, this was a no-surprise draft and one that had fully taken into account the bottom-up approach that had been strictly followed – it had tried to capture in a better way the current situation in the negotiations, without trying in any way to push the envelope. In fact, however, there was one small surprise in the text, which was that the brackets relating to the completion of the accession negotiations by Tonga could now be dropped, and the number of outstanding accession processes could be reduced to 29. The WTO family continued to grow, with two new Members in less than a month. Tonga would be the fourth Pacific Island State to join the WTO, and he hoped that soon, more countries could be welcomed into the world trade family.

201. Regarding the revised draft text, he wished first to outline what had not been done in producing it. The text had not taken on board the totality of the suggestions for amendments made in meetings over the past few days. This was because, in keeping with the principles on which Members had been operating, one could not include something that reflected one side of a controversial issue, or seek to force a top-down convergence where none existed. Many of the issues on which suggestions for amendments had been proposed were ones which had been extensively discussed in the negotiating groups and the WTO bodies, but which so far remain unresolved. It was not through a text like this that Members would resolve these issues, but by continuing to address them in a bottom-up manner. The aim had been to carry issues needing political attention to the political level in as user-friendly a form as possible. Thus, the text was not an encyclopaedia of positions. On the other hand, it did not pretend, either, to be definitive or agreed. It did not prejudice any Member's position, and of course left Ministers in Hong Kong full freedom to raise or add any issues they wished.

202. Turning to the changes that had been made to the initial draft text, he said that first, a number of specific drafting suggestions had been taken on board where these appeared non-controversial and went in the direction of a more useful text for Ministers, e.g. adding a reference to JITAP in the section on Technical Cooperation. A few elements had been included which not only enjoyed wide support from Members, but also reflected the reality of their work. This was the case, for example, of the new paragraph 38 on the TRIPS Council's work under paragraph 19 of the Doha Ministerial Declaration. However, the main focus of work to improve the draft had been on agriculture, including cotton, and on NAMA and development issues, because this was where Members' main focus had been. Intensive consultations had been held involving a broad range of the membership, with the aim of producing texts to put before the Council that would better equip Ministers to make progress in Hong Kong on these key areas. Concerning specific development-related issues, they had consulted on ways to make Annex F on S&D proposals for LDCs more manageable – not to decide right now on the issues it contained, but to help Ministers decide in Hong Kong. It had not been possible to find more straightforward text in all points of Annex F, but what was there now was certainly easier for Ministers to come to grips with. In agriculture and NAMA, their efforts had focused on seeking convergence on wording that would add to the draft text a fair and concise account of the real progress made since July 2004. This was the text in paragraphs 4 to 9 and 12 to 18. The Cotton text in paragraphs 10 and 11 reflected divergences as well as progress, but this was the reality, and he hoped it would also transmit a sense of urgency. In these areas also, they had consulted on the formulation of a number of basic questions that might be useful to Ministers in Hong Kong. These were not included in the text, since they were simply a device to assist debate rather than an element

for debate in their own right. The list of issues to be addressed in light of the Doha mandate and the July 2004 Framework was as follows:

Agriculture

1. What are the elements of the formulae for the reduction commitments in trade-distorting domestic support? And what are the disciplines that should complement the reduction commitments?
2. What are the elements of the formula for tariff reduction commitments and other elements to support it? And what are the flexibilities that should accompany the tariff reduction commitments?
3. What agreement is needed regarding parallelism in order to determine an end-date for elimination of all forms of export subsidies?
4. What are the elements necessary to deal with cotton ambitiously, expeditiously and specifically in all three pillars?
5. What are the elements of S&D necessary in all three pillars?

NAMA

1. Can Ministers agree on all the elements needed to finalize the formula and other elements that support it?
2. Can Ministers resolve remaining differences about flexibilities?
3. On unbound tariffs, can Ministers agree that a mark up is the way forward?

These questions were available in written form outside the meeting room. Their intention was to convey them to the Chairman of the Ministerial Conference for use as appropriate to assist his work on these important issues. The questions would be conveyed to him as part of a letter they intended to send early the following week – with a copy to all Members – along with the draft Ministerial text. This letter would also include the key points from the cover page to the revised draft text, which responded to the concerns raised by a number of delegations about the status of the annexes. The letter would clearly state that the texts in all annexes – with the exception of the Annex on trade facilitation, that had been agreed by that Negotiating Group – were presented on the responsibility of the respective Chairs. They would also make it clear that significant differences persisted among Members in various areas, differences that this draft text did not gloss over, but rather sought to reflect honestly. He assured delegations that the situation Members had reached in Geneva would be represented objectively and fairly. For Ministers as well, the motto was "no surprises". The membership could feel some satisfaction at the work done collectively. The result was not a particularly symmetrical or elegant construction, but he believed it was robust enough to serve Ministers as a platform from which to launch a successful concluding year for the DDA. More importantly, he hoped it would show the family spirit in which Members had tried to work in the past weeks. Delegations might not be proud of the progress made in the negotiations, but they could be proud that the draft text was a fair and honest mirror of the situation.

203. Regarding his work on implementation, he recalled that in line with the mandate given to the Director-General in the July 2004 Decision, which had been renewed by the General Council in July 2005, he had been undertaking consultations on the paragraph 12(b) implementation issues in his capacity as Director-General, including on issues related to the extension of the protection of geographical indications (GIs) provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits. In accordance with that Decision, the process he had undertaken had been

without prejudice to the positions of Members on any of the outstanding implementation issues. At the 30 November TNC meeting, he had reported in detail on my consultative processes. He would not repeat that report in full at the present meeting, but wished to highlight some elements. He had been assisted by a number of the Chairpersons of relevant WTO bodies acting as his Friends and by two of his Deputies – Mrs. Rugwabiza had taken up the TRIMs issues and Mr. Yerxa had been consulting on the issues of GIs and the relationship between the TRIPS Agreement and the Convention on Biological Diversity. Overall, he regretted that the situation had clearly not evolved significantly since his predecessor had reported to the General Council in July 2005. Therefore, with the aim of ensuring that Members could fulfil the commitment they undertook at Doha, paragraph 33 of the draft Ministerial text proposed continuing this process and reiterated the instructions given in July 2004 to all relevant bodies to find appropriate solutions as a priority. However, as he had already stressed at the TNC meeting, both flexibility and creativity would be needed in Members' approaches in order to respect their mandate.

204. He wished to say one last word to all delegations who were now finalizing preparations for the Hong Kong Ministerial Conference. In just a few days, Ministers would be gathering in the Hong Kong Convention Centre and would be called to decide on a variety of far-reaching issues contained in almost 40 pages of draft Declaration. It was delegations' collective responsibility to provide Ministers with an objective, balanced, lucid and tranquil evaluation of the current situation of negotiations that would allow them to take well-informed decisions. He therefore appealed to all to make the best of this unique opportunity to help achieve a strengthened, improved and fairer multilateral trading system.

205. The Chairman thanked the Director-General for his statement and, more importantly, for his tireless efforts in ensuring that the draft revised text before Members reflected as much as possible the situation on the ground.

206. All representatives who spoke thanked the Chairman and the Director-General for their efforts in preparing the revised draft text. They also congratulated Tonga on the completion of its accession negotiations.

207. The representative of Brazil, on behalf of the G-20, said these countries wished to restate the importance of the bottom-up approach to ensure inclusiveness and transparency, including at the Hong Kong Ministerial Conference. The lack of political will by some key Members, and not the bottom-up approach, had prevented further progress. The G-20 welcomed the factual summary prepared by the Chairman of the Special Session on Trade in Agriculture. As the latter had profound knowledge of the issues at stake, he should be deeply involved in the Hong Kong process. The G-20 also welcomed the new language on agriculture in the revised draft text. Although it constituted an improvement on the previous version, and despite intensive discussions, substantive elements in this text were minimal, reflecting the lack of convergence. The G-20 considered that the questions to be sent to Ministers, which drew upon the G-20's inputs, took into account the main issues to be tackled in Hong Kong, in particular special and differential treatment for developing countries. It was important to note that cotton, a fundamental issue in the negotiations, was now included in agriculture, in addition to the development context. Irrespective of the efforts made, negotiations would not advance without substantial movement on agriculture by the EC and the United States. Process alone would not be able to conceal the core divergences that still remained to be bridged. In order to achieve progress in agriculture, the G-20 had presented balanced and middle-ground proposals in all three pillars. These encompassed offensive and defensive interests, and therefore provided an appropriate basis for convergences. The G-20 proposals remained on the table, and the G-20 remained committed to them. They were firmly of the view that both domestic support and market access had to be resolved in tandem. While it was of great importance to achieve real cuts in domestic support and to strengthen disciplines, in particular in the Blue Box, the Group was concerned that market access continued to be the least advanced pillar, and emphasized that its

proposal had been broadly recognized as a genuine middle ground. As such, it should remain the basis for the negotiations. That proposal fully conformed to the mandate of substantial improvements in market access and special and differential treatment for developing countries. Needless to say, a balance consistent with the mandate also had to be found across all three pillars. On export competition – in which there was an agreement to eliminate of all forms of export subsidies – determining an end date and dealing with parallelism would provide impetus for progress.

208. At the present juncture, he recalled the G-20 proposals submitted so far in the three pillars, which had in mind the need for proportionality of commitments. At the heart of all these proposals was the imperative of securing substantial reductions in trade-distorting domestic support, elimination of all forms of export subsidies, substantial improvements in market access, and at the same time securing for developing countries the necessary policy space in accordance with the mandate. These objectives were captured in the following G-20 proposals: market access; sensitive products; tropical products; domestic support; product-specific caps in AMS; blue box; green box; monitoring and surveillance; export competition; exporting STEs in developing countries; export prohibitions and restrictions; and flexibilities for developing RAMS. The G-20 would make further contributions as required by the negotiations. The G-20 reaffirmed its commitment to intensify work with the G-33 and other interested groups of developing countries, in order to render effective and operational the instruments of Special Products and Special Safeguard Mechanism, as well as developing modalities for cotton. In the light of the present state of affairs, it was important that Hong Kong constituted a successful negotiating Conference, in order to achieve maximum progress with a pro-development focus on substantive matters. A clear work program for post-Hong Kong should be achieved with a view to agreeing on modalities, at the latest, by early April 2006, preserving the bottom-up approach, with no uncalled-for surprises in the course of that process. The G-20 remained fully committed to the negotiations.

209. Speaking on behalf of Brazil, he said that his delegation had taken note of the statement by the Minister of Benin on behalf of the co-sponsors of the sectoral initiative on cotton. Brazil supported a specific outcome that would ensure that the concerns of the co-sponsors of the cotton initiative were harvested in Hong Kong. As stressed by the Brazilian Minister in Arusha, Brazil supported the efforts in favour of the more positive integration of LDCs in the multilateral trading system, and was prepared to make a contribution in this context, especially in terms of preferential access to the Brazilian market. Regarding the revised draft text, he had several amendments to propose, but in view of the language in the cover note to that text, would refrain from presenting them at the present meeting. Nevertheless, his delegation believed that adoption of the revised draft text – an outcome Brazil favoured – would be facilitated if the paragraphs in the text that referred to the annexes, especially paragraph 21 on services, reflected more clearly the status of the annexes as documents that were under the responsibility of the Chairs of the respective bodies. With this change, he believed that all could approve the draft text. This would provide Ministers in Hong Kong with a sounder basis to work on, and thereby enable them to produce a better platform for Members' work in 2006. It would also show that in spite of Members' differences, they were able to work together. Finally, he wished to thank Secretary Tsang and the Director-General for the arrangements for the Sixth Ministerial Conference.

210. The representative of Japan said his delegation had a number of points to make on the draft text but would refrain from doing so for three reasons. First, the nature of the annexes was clearly stated in the cover note. Second, although insufficient, as a result of being based on the bottom-up approach, the text would serve as a basis for Ministerial negotiations in Hong Kong. Third, at the present juncture, it would be the most efficient use of Members' time to concentrate on making a last-minute effort so that they would not have to go to Hong Kong empty-handed. This was Members' collective responsibility. Japan urged Members not to make points on the draft, as even one point per delegation would mean 148 points.

211. The representative of Paraguay, on behalf of the Informal Group of Developing Countries, said the Group had met to discuss expectations regarding the outcome of the DDA and to analyse progress in the negotiations on issues of interest to them. Although the Informal Group represented rather diverse interests, and it would be difficult to say that developing countries had a common position on specific issues, the Group had found that its members shared many anxieties and, in general terms, some dissatisfaction at the lack of progress in areas regarded as being of key interest. He wished to share with other Members the Group's expectations and concerns in the context of the negotiating process in which Members were engaged. When the round had been launched in Doha, it had been given the grandiose name of the "Doha Development Agenda", and Ministers in the Doha Declaration had stated in paragraph 2 that "International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration."

212. There should be no doubt that it was with this promise in mind that developing countries had decided to embark on a new round of negotiations, despite the bitter aftertaste still left by the imbalances created in the Uruguay Round. Since the beginning of the so-called Doha Development Agenda, developing countries had seen that discussion on development issues had been insufficient, had lacked depth and had been short on initiatives. Consequently, developing countries were beginning to doubt whether all Members were giving the text of paragraph 2 the importance it deserved. It had been stressed that the development dimension of the DDA would be reflected in the work and in the achievements of each of the negotiating groups. However, the Informal Group did not see how the work undertaken so far could lead to concrete and tangible results on the development front. In fact, what it saw in each of the proposals tabled by the developed countries was simply a wish to exchange advantages in market access that took little account of the basic principles of the GATT, such as the principle of non-reciprocity – a principle that was, moreover, explicitly recognized in paragraph 50 of the Doha Declaration. Notwithstanding this explicit recognition, it was difficult for the Group to understand how it had been reflected in the work of each of the negotiating groups and, in particular, in the areas of agriculture and NAMA.

213. The importance of agriculture for developing countries was no secret to anyone. Despite its enormous importance, once again the Informal Group could not but observe that negotiations in this area were at a standstill owing to the resistance of some Members to introduce reforms to their agricultural policies that would represent significant improvement in market access for developing countries. This lack of progress and, in particular, the lack of interesting offers that would improve the conditions of market access for developing countries showed the current lack of interest in fulfilling the development objectives set out in the Doha Declaration. In the area of agriculture, it was also important for developing countries to see an expeditious, effective and ambitious solution on the Sectoral Initiative in Favour of Cotton. The Group hoped therefore that this issue would be resolved before the conclusion of the work on the DDA.

214. Regarding NAMA, there was no doubt that developed countries had considerable comparative and competitive advantages, so that their supply of goods for export was much greater than that of developing countries. However, despite that advantageous position, the Group continued to observe an imbalance between what was asked of developing countries and what developed countries offered to alleviate developing country problems. Thus, the Group had seen no progress by developed countries in the elimination of certain practices, such as the use of tariff peaks and tariff escalation, that had a negative impact on developing countries' possibility of diversifying their exports and producing goods with greater added value. At the same time, he wished to make clear that developing countries had entered these negotiations prepared to make an effective contribution that would expand access to their markets, provided that such concessions were in keeping with their levels of development.

215. Another issue of extreme importance for developing countries was the liberalization of temporary movement of natural persons in the field of services. Once again, this was an issue whose discussion had been constantly avoided or postponed by developed countries, and in which there had been no significant progress. This was particularly regrettable in view of the potential this area of negotiations had to improve directly the welfare of people in developing countries, at the same time as it promoted the growth of the economies of developed countries. Although Members had made little progress on most issues that developing countries regarded as key in these negotiations, not everything was bad. The Informal Group was encouraged by the initiative launched recently on Aid for Trade. A high level of ambition in the creation of this programme would be an important factor that would not only facilitate the application of the commitments made as a result of the Round, but would also help developing countries to obtain maximum benefit from the advantages obtained as a result of the negotiations. However, that being said, it had to be made clear that the Aid for Trade programme could in no way replace the commitments developed-country Members had to make to improve market access for developing countries. As the Director-General had said at a meeting of a group of Ministers in November, it had become obvious that it was necessary to "recalibrate" expectations regarding the progress that might be achieved in the negotiations during the Sixth Ministerial Conference. The Informal Group agreed with that statement. However, it also agreed with the statement by the Director-General that this in no way represented a reduction in the level of ambition in the Doha Development Agenda. It was of the greatest importance to maintain these levels of ambition if Members wished to achieve the objectives set out in the Doha Declaration on the full integration of developing countries into the multilateral trading system.

216. The representative of Canada thanked the Director General and the Chairs of all the negotiating groups for their hard work over the past hours, days, weeks and months. Herding 148 Members was a nearly impossible job, but they had managed to do it with just the right mix of determination and diplomacy. All Members had had the opportunity to review the revised draft text circulated late the previous day. As promised, there had been no surprises. Members now had to ask themselves two questions. First, was the revised text seaworthy enough to sail them from Geneva to Hong Kong? In Canada's view, the answer was yes, barely. If the boat was any smaller or weaker, Members would almost certainly drown somewhere in the South China Sea. Second, was the text strong enough to carry Members on to the next port after Hong Kong? Clearly, the answer was no. Ministers would need to perform some major alterations at Hong Kong Harbour. The agriculture and NAMA sails remained small, tattered and torn. Development, the central mast of the boat, needed reinforcement. Despite the heroic efforts of all three Chairs, Members had left a lot of work for Ministers at Hong Kong. Every Minister would need to come to the Ministerial ready to negotiate and compromise. Not one of them would get everything they wanted. In contrast, services and rules were, on the whole, well balanced and in much better condition. Thanks were due the Chairs of those respective bodies for their courage and creativity in putting these texts together. Of course, every Member had problems with those texts, but all should acknowledge that attempts to re-stitch them at Hong Kong would only weaken the fabric and produce dangerously large tears. Trade facilitation was in even better shape. As the Director-General said, the Chair of the Negotiating Group on Trade Facilitation won the prize for most productive Chair of 2005. In other parts of the text, there were small holes here and there that needed to be plugged. As to whether Ministers could get all that work done in one week, in Canada's view it was certainly possible, as long as Members prioritized and focused on fixing only those things that really were broken. If the necessary alterations were not made at this Conference, all knew what the ramifications would be. Members had already "recalibrated" their expectations for Hong Kong. If they failed to meet even their minimal expectations for this Conference, and did not set a clear course for full modalities in early 2006 and conclusion of the Round by the end of 2006, there would not be another boat big enough for years to come. Canada remained hopeful that Members could still find what they were looking for in Hong Kong.

217. The representative of India said his delegation appreciated the commitment the Director-General and the Secretariat had demonstrated to Members' common objectives at the forthcoming Ministerial Conference in Hong Kong. If the revised draft text proposed for transmission to Ministers fell well short of India's hopes, it was not for lack of effort on their part. India recognized the difficult predicament at the current stage in the negotiations. The draft Ministerial text reflected realistically the limited convergence achieved by the membership so far. Its lack of balance and unevenness had also been commented upon. For all these shortcomings, the draft text closely approximated the best Members had been able to achieve at the present stage. It provided a reasonable basis for Ministers to negotiate at Hong Kong towards credible and substantial results. India remained optimistic about achieving rapid progress in early 2006 and, of course, about timely and successful completion of the Round by the end of 2006. Ministers would have a harder task in the areas of the text that were less developed in content and convergence than others. This was inevitable.

218. The Hong Kong Ministerial would have to reach for the maximum possible convergence in all areas of negotiations. Any *a priori* prioritization of the agenda by delegations in Geneva might limit Ministers' flexibility and freedom, which was so necessary to achieve overall progress. All areas of negotiations, including agriculture, NAMA, services, development, and rules remained on the table for Hong Kong. Close attention to the concerns of the developing countries in all areas of negotiations remained an essential condition for the success of the negotiations. Ministers had to provide the necessary guidance to advance the negotiations towards conclusion in 2006. A political direction on the following issues would go a long way in enhancing the confidence of developing countries like India in the post-Hong Kong phase: (i) in agriculture, effective S&D and flexibility for developing countries, based on proportionality, policy space to address livelihood and food security issues through Special Products, and an effective and operational Special Safeguard Mechanism; (ii) in NAMA, an unambiguous acceptance by all of the stand-alone flexibilities in paragraph 8, and agreement on the numbers in brackets; in the structure of the formula, full realization of the mandate of less-than-full reciprocity in reduction commitments; (iii) in services, a clear direction for the negotiations to move forward, while preserving the flexibility mandated under the GATS for developing countries; the current draft text represented a delicate inter-modal balance which would facilitate Ministers' task at Hong Kong; (iv) in the non-market access areas, the Hong Kong Ministerial had to achieve concrete results for the least-developed Members, including duty- and quota-free access in developed-country markets, reinvigoration of negotiations on the remaining S&D proposals, concrete gains on the mandate on cotton, finding a way forward to address the concerns over preference erosion, and a clear go-ahead to launch negotiations on the relationship between the Convention on Biodiversity and the TRIPS Agreement. India was sure that constructive commitment on the part of all would help achieve substantial progress at Hong Kong, in a manner that addressed the needs and concerns of different constituencies in the membership. It bore repetition that an overwhelming majority of the Members were developing countries. India reaffirmed its support for the statement by Brazil on behalf of the G-20. It also welcomed the completion of Tonga's WTO accession negotiations.

219. The representative of the European Communities said the revised draft text reflected accurately and in a fair way the work done. He thanked the Director-General, the Chairman, the Secretariat and the Chairs of the negotiating groups for their hard work. Members could have done better, but they also could have done worse. The revised draft text did not unravel the initial text, but consolidated some of the progress and put a number of political questions, notably on development-related issues, in a more manageable way. As such it constituted a working basis for Ministers in Hong Kong. Of course, the revised text had the same flaws as the previous text. It was uneven in quality, specificity and ambition. However, it did not prejudge Members' positions. It was now up to Ministers to bring things forward in Hong Kong. In itself, that went without saying. Ministers were Members' ultimate trade negotiators. That was what they were paid for. Moreover, all Ministers had pledged time and again that they wished to make a success of Hong Kong and that they remained committed to an ambitious outcome of the Round not later than 2006. However, it was frankly still a

tall order. The European Communities would do what it took to live up to that challenge before Hong Kong and at the Conference itself. His delegation had taken note of the questions the Director-General had read out on agriculture and NAMA. These should open the way for substantive discussions on all outstanding questions in agriculture, in all three pillars and related issues. Progress made in agriculture should be matched by similar progress in NAMA.

220. The Community certainly accepted that agriculture and NAMA needed particular attention by Ministers. This was even more the case for development-related issues, including cotton, for which Members had taken on commitments in the July 2004 framework. The same was true for services and rules. Progress should be made across the board – that was the very concept of the single undertaking. As he had stated several days earlier, a single-issue Ministerial Conference was destined to fail. He fully agreed with India that across-the-board progress in Hong Kong was the only way to ensure a successful outcome. Like Brazil, his delegation would refrain from proposing amendments to the revised draft text. The disclaimers in that text's covering letter constituted sufficient clarification for the status of that document, which was to provide a working basis for Ministers in Hong Kong, while the annexes – with the exception of the one on trade facilitation – had been presented under responsibility of the respective chairs. This had been clearly stipulated in the text on agriculture and NAMA, where reference was made to the respective reports to the TNC which were contained for reference purposes in Annexes A and B. The Community would not see a problem if paragraph 21 contained the same precision that Annex C as well was established under the responsibility of the Chair, as Brazil had proposed. Much was at stake. This was not just another Ministerial Conference – it was a crucial stepping stone for sustainable trade liberalization and development, and was paramount for the world trading system as a whole.

221. The representative of Argentina said that Argentina's views on the revised draft text had been broadly reflected in the statement by Brazil on behalf of the G-20, and also by the statement by Paraguay on behalf of the Informal Group of Developing Countries. His delegation wished to make a few brief comments and to ask the Secretariat to take note of one particular point that it wished to be included specifically in the records of the meeting. First, in the light of the statement by the Director-General, Argentina had no problem with the draft text before Members. His delegation could accept some minor changes, if some delegations wanted these. However, Argentina did have a reservation in substance with respect to the Spanish version of the text in Annex C, paragraph 1, on services. In Argentina's view, the Spanish version of that text was not in line with the English version. His delegation had explained this to the Secretariat, and wished to make clear that, for Argentina, the only valid version was the English version of Annex C on services. As regards the organizational arrangements for the Hong Kong Ministerial, his delegation welcomed the statements by the Chairman and by Secretary Tsang. Argentina noted the importance attached to the bottom-up approach as the basis for continued work. Some of the decisions in Hong Kong would be highly political in nature, and these had to be tackled in an organized way, particularly regarding cotton, as had been highlighted by various delegations. The level of ambition on agriculture would determine the level of ambition for the entire Round. In Hong Kong, Members had to get sufficiently clear guidance on the future steps to be taken, in order to conclude the negotiations by the end of 2006.

222. The representative of Egypt, on behalf of the African Group, said that, in order to avoid repeating the detailed concerns previously expressed, his delegation wished to have its statement on behalf of the African Group at the TNC meeting of 30 November considered as an integral part of its statement under the present item.¹⁷ The Group welcomed the current improved version of the draft Ministerial text. However, there was still significant room for further improvement. In this context, the African Group remained concerned with the structure of the revised draft text, particularly in

¹⁷ The statement by Egypt on behalf of the African Group at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 107), is incorporated by reference into the present records.

relation to the attachment of the Annexes to it. The reports in these Annexes, with their non-agreed texts, should be treated as background documents. Ministers could then decide whether or not they wished to fully or partially annex any of these reports to the final Declaration.

223. Furthermore, the African Group wished to express its continuing disappointment with many areas of the revised draft. The language used to reflect the main demands and concerns of developing-country Members, particularly in the S&D-related provisions, was insufficient. For example, and to highlight only a few concerns, in the agriculture and NAMA sections, the newly introduced language on S&D remained vague and was not treated at the same level of specificity. This was a clear manifestation of the African Group's major concern that there was a tendency to leave S&D behind as Members tried to move forward. In addition, the African Group re-emphasized its strong position, which was shared by the majority of developing countries, on the fact that the provisions on trade in services, namely paragraph 21, did not reflect any degree of consensus. The Group wondered why the revised draft text was silent on that and did not clearly reflect the non-consensual nature of those provisions, particularly Annex C. The African Group could not overstate the importance of this issue for it. Based on precedents, and given the current status of the text, it might be beneficial to continue to utilize the common practice of submitting the draft Ministerial text to Ministers on the responsibility of the General Council and TNC Chairs. In view of the current status of the text, the African Group was confident that the text presented a platform for further deliberation in Hong Kong. Nonetheless, to maintain the credibility of this developmental round, the Group had to reiterate its expectation that negotiations at Hong Kong would be inclusive of the interests of the whole membership and would address the issues in a fair and balanced manner, while pursuing the fundamental requirements of achieving the developmental aspirations of the developing and least-developed Members. The Group hoped that at Hong Kong, the necessary political will would be displayed, so as to guarantee a successful outcome of the Ministerial Conference.

224. The representative of the Bolivarian Republic of Venezuela said his delegation shared and supported the observation that the revised draft Ministerial text "does not purport to represent agreement overall, and it is without prejudice to any delegation's position on any issue". Accordingly, as the introductory note to the revised text clearly stated, the draft text reflected a low level of convergence. Consequently, there did not seem to be any legal basis for the annexes, which had not been agreed by consensus. Furthermore, the introductory note correctly stated that the texts of all the annexes attached to the revised text, with the exception of Annex E on trade facilitation, had not been agreed and were presented "on the responsibility of the respective chairs". It was in the light of this introductory note that his delegation was suggesting the following improvements to the draft text so as to provide a clearer and more feasible text for consideration by Ministers.

225. As the introductory note to the revised text emphasized, the texts of the annexes had not been agreed and were presented on the responsibility of the respective chairs. Consequently, it was misleading and illogical to give the impression, in the main part of the text, that Ministers had agreed on the annexes. Furthermore, despite the common status of the annexes which, except for Annex E, were not agreed texts and were "without prejudice to any delegation's position on any issue", the draft text treated the annexes unequally. With regard to the section on agriculture, paragraph 4 of the draft text simply "take[s] note of the report by the Chairman of the Special Session on his own responsibility", from which Venezuela concluded that it lacked legal relevance and did not establish commitment levels. Unfortunately, in other paragraphs relating to the negotiations on NAMA, the wording that was used wrongly transformed these annexes to the individual reports of the Chairmen into an agreed collective basis for the negotiations. With regard to NAMA, paragraph 13 of the draft text took a specific observation made in the Chairman's report, which was a non-negotiated text, and sought to make it operational. Not only was this inconsistent, but it seriously prejudiced the position of many Members who had expressed disagreement.

226. With regard to services, many delegations, including his own, had repeatedly objected to Annex C. They had said that paragraph 1 of Annex C on objectives relating to the four Modes of supply was too mandatory and detailed. They had also pointed out that paragraph 7 of Annex C on plurilateral negotiations obliged Members to participate in such negotiations. These proposals, as many delegations had pointed out, were inconsistent with the GATS and the negotiating principles, as well as infringing the flexibilities contained therein. Consequently, many delegations had supported proposals to redraft these paragraphs. However, this had not taken place, and therefore Annex C was not an agreed basis for negotiations and should thus not be included as such. This had to be explained to Ministers as clearly as possible. Accordingly, the following improvements should be made to the draft text. Paragraph 21 of the draft Ministerial Declaration should read: "We are determined to continue the negotiations in accordance with the above principles. We take note of the objectives, approaches and timelines proposed by the Chairman in the Dedicated Session of the Council for Trade in Services, under his own responsibility, in Annex C to this document. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries." An alternative would be to place square brackets around the references to Annex C. In addition, with regard to NAMA, similar wording should be used, or the references to Annex B should be placed in square brackets. Paragraph 13 of the draft text should be deleted, since it did not reflect the range of the discussions and the various proposals discussed thus far by the negotiating group. On the assumption that there was agreement to rework this paragraph, it should be reworded in the following way: "On the formula we instruct the negotiating group to pursue discussions with a view to finalizing its structure and details from among the various existing alternatives, as well as the issues of unbound tariffs and flexibilities, as early as possible, without excluding other alternative proposals."

227. Apart from these proposals on the structure of the document, his delegation wished to comment on its substance. Rather than setting time-limits for the negotiation of such complex issues as the risk to which the economies of developing countries would be exposed as a result of a clearly unbalanced process, Members should establish priorities on a real, genuine and transparent agenda regarding the development needs of the developing countries and the importance for such needs to be reflected in the agreements to be reached. Venezuela reaffirmed the importance of the principles on S&D treatment and less than full reciprocity as an integral and central part of the negotiations, and their independence *vis-à-vis* the other issues involved in the negotiations. Similarly, his delegation wished to reiterate that the flexibilities contained in paragraph 8 were not sufficient to exempt sectors that were sensitive and/or strategic for the developing countries. It was worth noting that in Annex D of the draft Ministerial text of 26 November 2005, two texts of paragraph 4 were proposed, suggesting that they were alternatives. However, subsequently, in the final version of that document of 1 December, both were included, with the result that the scope and extent of the discipline of rules were increased in full knowledge of the difficulties faced by the developing countries and LDCs in complying with them. Venezuela supported the statement by Indonesia on behalf of the G-33, in particular with regard to the central importance of development in the current Round, since these negotiations should be directed towards helping to strengthen an international economic order based on equity, the sovereign equality of states, complementarity, cooperation and the general interest of the Members, whatever their economic and social systems, so as to correct the inequalities and remedy the injustices between the developed countries and the developing and least-developed countries, and to ensure for present and future generations peace, justice and economic and social development that would increase at a steady pace. In this connection, it was appropriate to emphasize the advisability of incorporating into the text of the Ministerial declaration a paragraph that would give effect to the obligation of Members, and of the WTO itself as an international organization subject to the public international order, to respect their obligations under international human rights law and to apply effective mechanisms to ensure there was no contradiction between the WTO trade agreements and such law.

228. He wished to explain Venezuela's position on the main aspects of the proposed draft Ministerial declaration. With regard to agriculture, in a constructive spirit and in the interests of

ensuring the operationality of the text, bearing in mind that it should respect the positions of all Members, Venezuela considered it essential to engage immediately in simultaneous negotiations on the three interrelated pillars, giving practical concrete guarantees to the cross-cutting nature of S&D treatment. In this same spirit, his delegation rejected the notion of setting a date for the conclusion of the negotiations, since the negotiations would conclude when everything had been duly agreed. Venezuela questioned the supposed "convergences" with regard to the reductions in the Final Bound Total Aggregate Measure of Support (AMS) and the general cut in trade-distorting domestic support. There was even less convergence on the *de minimis* reductions, which led his delegation to believe that there was really no convergence on domestic support. Furthermore, his delegation considered that the negotiations on the timetable for dismantling export subsidies should go on simultaneously with the negotiations on market access. It found the reference to S&D treatment in this paragraph to be offensive, insofar as the repeated observations on this issue by the developing and least-developed countries were considered to be insufficiently specific. With regard to the "bottom-up" approach to the negotiations, the discussion of the issues should be balanced and proceed at the same pace. Thus, his delegation would be alert to any initiative to achieve an "early harvest" on issues where there was some degree of convergence, since this would undermine both the principle of the "single undertaking" and the "bottom-up" approach itself. In conclusion, his delegation wished to reaffirm, in each and every one of its parts, Venezuela's statement at the meeting of the TNC on 30 November 2005, and asked that this statement be reflected in the records of the present meeting.¹⁸

229. The representative of Switzerland said that given the course the discussion had taken, he wished to say a few words. The revised draft text before Members made him think about the situations in Seattle and Cancún, which had been two traumas in the life of the organization. Seattle had been a disaster because Members had adopted an outdated and self-defeating approach with a document of more than 100 pages and hundreds of brackets. He hoped that Members had learned the lesson of that Conference. Then in Cancún, Members had unfortunately taken a top-down approach to the draft Ministerial text – an approach which had been forced on the negotiating group Chairs as well as on the Director-General and had led to failure. Members had, it seemed, at least learned from past mistakes. The process so far had been characterized by a strong bottom-up approach, by transparency and by inclusiveness, and already on the level of process, the quality of the most recent exercise was much higher than previous exercises, as was the quality of the draft text before Members. That text reflected the progress achieved thus far, which should not be underestimated. The text also redressed some blatant imbalances in the earlier text, thanks to the annexes on services, trade facilitation and rules. These issues had clearly been lagging behind NAMA and agriculture in the first draft text. Rebalancing at this stage was indispensable if Members wished to guarantee some success in the overall outcome in Hong Kong. The draft text contained a number of very positive elements. In agriculture, for example, there was the idea of a number of bands for the reduction formula in domestic support. There were also a number of bands for the tariff-reduction formula in market access. On export subsidies, there was a good statement on the necessity to ensure parallelism of commitments on all forms of export subsidies. In NAMA, there was apparently convergence on the use of the Swiss formula. There was agreement to convert non ad valorem into ad valorem duties, according to the methodology discussed in the negotiating group, and progress had been made on the identification, examination and categorization of non-tariff barriers. Switzerland welcomed the overall direction provided by the annex on services, and wished to thank especially the Chair of the services negotiations for his efforts. This made up for the lack of progress on services in the July 2004 package, and represented an indispensable basis for future work in this area. The balance and the approach proposed by the Chair of the services negotiations and later by the Director-General was crucial, given the specific nature of service negotiations compared to the other market-access areas. The services annex struck a delicate balance between the interests of all Members.

¹⁸ The statement by the Bolivarian Republic of Venezuela at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 147), is incorporated by reference into the present records.

230. On rules, the annex provided a roadmap for text-based negotiations - which had been missing for so long – and his delegation hoped that these negotiations would begin in earnest in 2006. The draft text enumerated the main elements on which Members should focus, without closing the door on other issues. Unfortunately, it did not yet contain a precise deadline for submission of a consolidated text on the Anti-dumping and Subsidies Agreements. On trade facilitation, Members owed thanks to the Chair of this group for having made up the delay in this area, and the annex would allow negotiations to focus on real issues in a structured fashion. On development, Members should not forget that the development dimension was already part and parcel of all areas under negotiation, and that this would confer a more operational status on S&D treatment. Members should also not forget that there was already broad agreement on special treatment in the negotiations for the LDCs in terms of non-reciprocity. More serious work was needed in these areas. Switzerland attached high importance to the question of cotton, but not, of course, exclusively to that. His delegation agreed with what had been said by Brazil and the EC that the revised draft text was one that would be forwarded as such to Ministers in Hong Kong. This text, as some delegations had put it, already constituted a safety net for the Ministerial Conference. In addition, if complemented with a strong political commitment, the draft text would provide a new impetus to the negotiations. The objective should be to finalize modalities in the first half of 2006. Whatever individual frustrations might be, this text was the best basis Members had. They should be careful enough and responsible enough not to unravel years of work and the concrete progress that had been made.

231. The representative of Chinese Taipei said he wished to express his delegation's admiration for the Chairman's and the Director-General's mental creativity in trying to accommodate all the diverse concerns of Members in a revised draft text in such a short period of time. To a large extent, they seemed to have succeeded. However, he wished to make a few observations and comments on the text. First, the revised paragraphs on agriculture and NAMA – specifically, paragraphs 4 to 18 – were quite fair, and seemed to capture most of the progress that had been made in these two important areas. However, on NAMA, his delegation wished to see highlighted the fact that some good progress had also been made on sectoral liberalization initiatives to reduce tariff and non-tariff barriers. It therefore recommended that this progress be duly reflected in the text. On services, his delegation believed that the text struck a delicate balance and provided a very good general foundation and structure for the services package overall. Members should thus preserve the convergence that had been built up so far. Second, it was evident that there was still some way to go to reach a consensus on full modalities for negotiations in agriculture and NAMA. With this in mind, if Members were to have any chance of achieving a successful outcome to the Round by the end of 2006, they had to redouble their efforts to narrow the gaps on the key issues. In doing so, however, it was essential that an equal level of ambition was maintained across the three pillars of market access, and in agriculture, NAMA and services. Finally, the results of negotiations in market access and rules were equally important and should be mutually supportive. This was because the possibility always existed for market-access liberalization to be negated by inappropriate trade-remedy measures. Members should therefore be careful to ensure that there was a balance between market access issues and rules issues, and should try to maintain equilibrium in the level of ambition across these areas as well. With this in mind, his delegation wished to see paragraph 22 of the revised text further strengthened accordingly. In conclusion, Chinese Taipei wished to congratulate the Chairman and the Director-General on a job well done, while at the same time asking them to give further consideration to the points he had just raised, which his delegation hoped would be duly reflected in what was presented to Ministers.

232. The representative of Mauritius, on behalf of the ACP Group, said that the Group recognized that the Chairman and the Director-General were putting in a lot of effort to provide delegations and Ministers with a workable basis for the Ministerial Conference. It also appreciated the effort being made towards ensuring greater transparency of the process. The ACP Group had already made a statement at the TNC meeting on 30 November 2005, and asked that this statement be included in the

records of the present meeting.¹⁹ The Group wished to underline that the development dimension should remain the central focus of the Ministerial Conference in Hong Kong, and looked forward to a meaningful outcome on all issues of vital interest to the ACP. The Group had raised its concerns on these issues in the respective negotiating bodies. At the most recent TNC meeting, it had also drawn attention to the shortcoming in the draft text in addressing their vital concerns. Unfortunately, none of these comments had found their way into the revised text. The ACP Group was concerned about this, and hoped that the discussion in Hong Kong would effectively encapsulate issues that were of critical interest to it. The Group would not repeat its well-known positions, but he wished to highlight certain key aspects. On agriculture, it was essential to incorporate in the text the notion of balance. The ACP Group was seeking a balanced outcome on the S&D issues, in particular on the issue of preferences, on which the Group was calling for concrete trade-related solutions. It noted that the draft text on agriculture did not give any explicit indication regarding the fate of this issue. In addition, the text should be equally balanced in terms of the reduction formula, the issue of proportionality, thresholds for the bands, selection and treatment of sensitive products, special products, special support mechanism and issues relating to NFIDCS and LDCs.

233. On NAMA, the Group wished to underline the importance of having a tariff reduction approach and an appropriate level of flexibilities, which was in line with the range of development realities of the ACP Group States. The Group hoped that this dimension would be fully taken on board in Hong Kong. The Group was also seeking a trade-related solution to the fundamental problem of preference erosion in the NAMA area. Unfortunately, however, the draft text did not give any explicit indication of how this issue was to be dealt with. On services, the Group was concerned about the status of Annex C. While it was spelled out in the case of agriculture and NAMA that the Chairs' reports were under their own responsibility, this was not the case for the services annex. Although the cover note said that the annexes, except for the one on trade facilitation, were not yet agreed, paragraph 21 implicitly conferred a sort of acceptance status to Annex C. This should be clarified. If not, the ACP requested that paragraph 21 be bracketed. On cotton, the ACP deeply regretted that no solution had yet been found on this crucial and critical issue. It stressed the importance of cotton for ACP countries and the need to achieve concrete results at the Ministerial Conference. The Group noted that a cover note had been included with fundamental provisos regarding the status of the draft text and its annexes. The ACP Group trusted that these provisos would remain until there was a consensual agreement on the text.

234. The representative of Bolivia said his delegation wished to thank the Chairman and the Director-General for their efforts to ensure the success of the Hong Kong Ministerial Conference. Bolivia's general views on the revised draft text, in respect of both its substantive and procedural aspects, were the same as those expressed by Brazil on behalf of the G-20. However, he wished to voice his Government's disappointment at the prospect of meagre results in Hong Kong. Such results had not been bargained for, and fell far short of expectations and the agreed level of ambition. Bolivia had opened its markets more than two decades earlier. It had invariably maintained its trade policies, albeit at a high social cost. It had no coastline, which made trade difficult. It believed in multilateralism and open trade. However, these policies had not been enough to overcome the country's poverty problems, which had even begun to undermine democratic stability. There were players within this organization who, in approaching the issues at hand, failed to practice what they preached, or had no difficulty recalibrating the process. On the contrary, Members should recover their resolve to seek better results in Hong Kong and thus maintain the credibility of the system. Proposals had been put forward to establish a package in favour of the least-developed and poor countries. He wished to point out that there were poor developing countries on several continents. Members had before them the revised draft Ministerial text which, as had been said earlier, reflected

¹⁹ The statement by Mauritius on behalf of the ACP Group at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 127), is incorporated by reference into the present records.

the current state of play in the negotiations, the progress of which had been poor. Bolivia trusted that the Hong Kong Ministerial would be a genuine negotiating forum in which it would be possible to enhance this text with greater specificity and to establish a course of action or a realistic work programme that prioritized key negotiating issues for the first few months of 2006 and that was balanced, so as to accommodate the interests of all Members. At the TNC meeting on 30 November, Bolivia had mentioned the issues of interest to it for an early harvest. In this respect, his delegation noted that the revised draft text incorporated some of the elements requested, such as the mention of paragraph 19 of the Doha Declaration, but many improvements and clarifications were still needed in order to revitalize the content of the text. He would not re-enumerate Bolivia's interests, but simply wished to add that the new issue being incorporated into the future multilateral agenda on aid for trade had to cover the needs of a developing country like Bolivia in order to improve its limited participation in world trade.

235. The representative of Moldova said his delegation had noted some important improvements in the revised draft text. The most valuable improvement for Moldova was a new paragraph 52 that recognized the special situation of recently-acceded Members (RAMs) who had undertaken extensive market access commitments at the time of their accession. That paragraph also stipulated that "this situation will be taken into account in the negotiations". While his delegation was not satisfied with this new paragraph – which contained only an unidentified and open-ended promise and did not go beyond what had already been mentioned on RAMs in the Doha Declaration and the July 2004 framework – Moldova nevertheless considered paragraph 52 to be a first timid step in the right direction. It was possible and indispensable to improve this paragraph further in the time left before the Hong Kong Ministerial. First, Moldova wished to see more binding language in the second sentence of that paragraph by replacing "will" with "shall". Second, the paragraph should also reflect the reality that RAMs had undertaken extensive commitments and obligations not only in market access areas, but also on domestic support and export subsidies in agriculture, in rules and in areas across the board. Third, this paragraph should also mention specific problems and challenges faced by the small low-income economies in transition, which were objectively identical to those of low-income developing countries and LDCs, and hence required similar approaches in terms of granting specific flexibilities and necessary breathing space. With regard to paragraph 51 on Aid for Trade, his delegation considered that this paragraph was vital to strengthen the development-oriented component of the Doha Round as the Development Round. Moldova proposed that small low-income economies in transition should also be included as direct beneficiaries of such supplementary measures. His delegation wished to request the Chairman and other Members to agree now to consider the concerns and proposals of small low-income economies in transition in a positive and unbiased spirit, and to reflect their content properly in the draft Ministerial text, in paragraphs 51 and 52, along the lines just suggested. He asked that Moldova's statement on behalf of the small low-income economies in transition at the 28 November informal HODs meeting be included in the records of the present meeting.²⁰

236. The representative of the United States said that in addition to thanking the Chairman and the Director-General for their tireless efforts in working with Members to develop the revised draft text, all owed a debt of gratitude to the Secretariat for work that was often done out of sight and deserved recognition. Turning to the draft text, he said that, as for other delegations, there was much in the text that the United States wished was different. In fact, the revised text was in many ways identical to the original text, and he would thus not repeat the specific points his delegation had raised in the TNC and the informal HODs meetings. The revised text was a reasonable reflection of where things stood, and provided a good basis for Ministers' work. While it was tempting to try to perfect the text, it was clear that the membership had different visions of what constituted perfection. What was important now was to put a document in Ministers' hands so they could prepare for the task at hand. The Chairman and the Director-General had been true to their word that they would not attempt to impose solutions,

²⁰ The statement is reproduced in Annex IV of the present records.

but rather build up the text on the basis of consensus among Members – the bottom-up approach. Thus, the good news was that Members' worst fears had not been realized, but the bad news was that their highest aspirations had not been realized either. However, rather than dwell on the disappointment that the negotiations were not further along, Members had to seize the opportunity provided by Hong Kong to overcome this. They had to build a solid basis with meaningful substantive guidance that would lead them to a successful conclusion of the negotiations by the end of 2006. The United States continued to believe that the surest path to building the momentum needed for the Round as a whole in the five days available to Ministers was to bring new energy and direction to the negotiations on agriculture and NAMA. It continued to believe that ambitious results on agriculture, including cotton, and NAMA as well as services, held the greatest potential of anything that could be done in the Round to advance development. In this connection, his delegation welcomed the questions posed by the Director-General with respect to agriculture and NAMA as a means of focussing work in Hong Kong. The United States stood ready to work with other Members to advance work on other development-related issues in the negotiations. As many delegations had spoken on the services text, he wished to say that the United States welcomed the text in Annex C as an important contribution on which to build in Hong Kong. His delegation would not support any substantive changes in this part of the text or in any other, because to do so would lead to a process of unravelling, would use up all the time available in Geneva, and would perhaps interfere with getting a text to Hong Kong. However, the United States could support language that would make clearer that Annex C was being submitted on the responsibility of the respective Chairman.

237. The representative of Indonesia, on behalf of the G-33, said this Group shared the disappointment of Members that, despite intensive efforts, it had not been possible to inject much substance into the draft text, including on agriculture and development issues, in view of the lack of convergence on most elements of the negotiations. The G-33 supported and believed it was urgent and crucial that a package of measures be decided by Ministers in Hong Kong that would deliver an early harvest, particularly on the development dimension of the Round. This was fundamental to fulfilling the DDA and would build confidence and provide a more conducive climate of negotiations for a successful conclusion of the Round. In this context, the G-33 strongly believed that in agriculture, special products (SPs) and the special safeguard mechanism (SSM) were directly linked to the pursuit of development objectives, and were issues which the organization had the full competence to address. Thus, it was imperative that any development package resulting from Hong Kong, whether in the agriculture context or as a whole, deliver positive and meaningful progress on SPs and SSM. In this regard, the G-33 wished to underscore that it had made comprehensive and technically robust proposals on modalities on both these fundamental issues, translating into operative language the concerns on food security, livelihood security and rural development of its millions of farmers and rural poor. That proposal was still on the table. These were specific issues on which Members had a clear mandate to deliver. The G-33 would feel much more reassured by a positive decision on SPs and SSM than by promises of loans to address adjustment cuts in the future. As negotiations in Hong Kong unfolded, the G-33 would be vigilant to ensure that balanced progress was made across the various pillars of the agreement and that elements of S&D treatment and development, of paramount importance to the Group, were addressed in a satisfactory manner.

238. As the G-33 had indicated at the TNC on 30 November, there was a minimum package on S&D treatment which it considered merited urgent attention by Ministers for a resolution in Hong Kong, including the adoption of a solid basis for intensified negotiations on these issues as a matter of priority after the Ministerial Conference, if this was needed. These issues included: (i) provisions on SPs related to both designation and treatment, which needed to be addressed in tandem; (ii) provisions on the SSM reflecting that the mechanism would be effective and responsive to the needs of developing countries, build on existing instruments, and allow developing countries to address situations of increased imports and falling prices; (iii) guarantees that the structure of the tiered formula for tariff reduction had in-built the appropriate S&D elements through, among other things, different higher thresholds for developing countries and adequate proportionality in the level

of reduction commitments; and (iv) exemption of developing countries from commitments to reduce *de minimis* support, either on a stand-alone basis or as part of reduction of overall trade-distorting support. The success of the Ministerial Conference would depend on a combination of factors, including the way the deliberations were organized and consensus built. The G-33 stood ready to cooperate in making the Ministerial Conference a success through its active participation in what it hoped would be a very inclusive and open consultative process.

239. Speaking for Indonesia, he said he had refrained from making a long statement, because the status of the Annexes in the draft text, excepting on trade facilitation, was clearly stated in the covering note to the text. His delegation also wished to compliment the Chairman of the Negotiating Group on Trade Facilitation as the most efficient Chair.

240. The representative of Cuba said her delegation had noted with satisfaction that certain changes had been introduced in the revised text that met some of the points raised earlier. To avoid repetition, she asked that Cuba's statement at the 28 November informal HODs meeting and at the 30 November meeting of the TNC be reflected in the records of the present meeting.²¹ Cuba also supported the statement by Brazil for the G-20, by Paraguay for the Informal Group of Developing Countries and by Mauritius for the ACP. Cuba could also take on board the statements by India and, in particular, Egypt for the African Group. Her delegation hoped that the language used in the draft text would give an important thrust to other developing countries awaiting the conclusion of their accession processes to enjoy the same pleasure Tonga was now feeling.

241. At the risk of repeating itself, her delegation wished to take up some of the aspects raised at the present meeting regarding the structure of the draft Ministerial text, as the African Group had done. Cuba was grateful for the cover note to the text but, like others, was concerned by paragraph 21 on services and the references being made to the NAMA Chair's report. Notwithstanding the efforts made on this draft text, there continued to be an imbalance, and as others had indicated, what had been achieved in the text in terms of development was inadequate. Using Canada's metaphor, on a ship, all elements had to be duly balanced and finished. Nevertheless, the helm played a major role in reaching safe harbour. In the present case, the component that needed strengthening – so the ship did not sink – was the development dimension.

242. The representative of the Philippines said that at the 30 November TNC, his delegation had emphasized the need for inclusiveness and transparency, and it wished to reiterate this. As this was the last General Council meeting before Hong Kong, his delegation wished to underscore its most fundamental concerns, for the record and for the consideration of Members. On the whole, the Philippines was seriously concerned that the revised text continued to be problematic, notwithstanding the intensive consultations that had been held and the many concerns that had already been raised at the informal HODs and the TNC meetings. On agriculture, the Philippines associated itself with the statements Brazil for the G-20 and by Indonesia for the G-33. It wished to state its firm expectation that the major players would not underestimate the need to ensure the availability of Special Products and the Special Safeguard Mechanism. The G-33 had tabled concrete proposals on these two issues in order to move the discussion forward, and hoped that the discussions from the present critical juncture would be carried out in a constructive spirit. As the Philippines had emphasized several times, this issue was of fundamental importance not only to it but to many developing countries, for reasons of food security, livelihood security and rural development needs. Neither trade liberalization for the sake of trade liberalization, nor the raw pursuit of commercial interests could be allowed to undermine these development goals. The pursuit by some of their narrow commercial interests, even if done in the name of their development objectives, could not be justified, if this was at the expense of the

²¹ The statement by Cuba at the 28 November informal HODs meeting is reproduced in Annex V of the present records. The statement by Cuba at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 408), is incorporated by reference into the present records.

development of the vast majority of developing countries. Furthermore, his delegation did not perceive SPs and SSM as issues linked only to the agriculture negotiations. More important, these were concrete development issues which the Philippines hoped would be seriously considered in any movement or early harvest in the development package in Hong Kong and the DDA overall.

243. On NAMA, the Philippines agreed that the negotiating group should pursue discussions with a view to finalizing the structure and details of the non-linear formula based on the working hypothesis of a Swiss formula. However, it wished to stress that, consistent with the principle of less than full reciprocity and S&D treatment, the paragraph 8 flexibilities agreed to in Annex B of the July 2004 framework should be fully recognized and achieved without conditionalities. Paragraph 8 was a stand-alone provision, and should not be linked to the formula or the treatment of unbound tariffs. The Philippines reiterated its expectation that the negotiations would provide, in the words of the Negotiating Group Chair's report, a pragmatic solution for those unbound lines with low applied rates. On services, while his delegation agreed that Members should intensify the services negotiations, both in market access and rules, it wished to emphasize that such an agreement could not erode developing-country flexibilities or negate the policy space so carefully negotiated in the Uruguay Round. He recalled that the GATS structure, particularly of full flexibility, was critical to making the GATS acceptable to developing countries – one observer country had even called it a precondition. Article XIX:1 of the GATS had to be viewed in its totality, emphasizing not only its objective of achieving a progressively higher level of liberalization, but also that the process would take place with a view to promoting the interests of all participants on a mutually advantageous basis and to securing an overall balance of rights and obligations. Paragraph 2 of that Article was even more instructive, indicating that the process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. This was the delicate and sensitive structure that was the GATS. His delegation had consistently maintained that the negotiations were not only about broadening liberalization across Members, sectors and modes – which was a legitimate objective – but that they equally had to be informed by the equally legitimate need to respect the flexibility currently enjoyed by developing countries. Having said this, Annex C continued to be a source of deep concern for his delegation. While some parts of the Annex were useful, not only was there imbalance in the level of detail and specificity of this text, but many of the issues were more properly addressed in the request/offer negotiations, which all had agreed would be the main method of the services negotiations. The issue of prescriptiveness, which had been raised by many developing countries, had also not been adequately addressed. Annex C was not a consensus document, and its paragraph 2, in footnote number 1, also referred to another controversial, non-consensus document. In view of these concerns, the Philippines continued to urge the Chairman and the Director-General, as TNC Chair, to strike the appropriate balance between efficiency in process and inclusiveness of consultations. His delegation could not accept any surprises in the lead-up to and at Hong Kong.

244. The representative of Kenya said his delegation had stated its position on the first draft text, which the Chairman and the Director-General had put a lot of effort in trying to revise. However, Kenya found that in spite of the changes made, there were still some areas that appeared not to be balanced. On the positive side, however, the cover note said it all, and his delegation urged Members to approach this revised draft text in a constructive spirit and with respect for the positions of others. The problem was that the text did not contain all positions, and his delegation did not know how Members would respect those positions that had not been included. For example, on NAMA and agriculture there was no mention of preferences. It was not known how Members would respect positions on this issue. Thus, Kenya hoped that at some point it would be brought into the picture, so that while it was respecting others' positions, they could respect Kenya's as well. On paragraph 1 of the revised text, Paraguay had made an important statement regarding development. Kenya noted that there had been an attempt to split the original paragraph in the earlier draft text into two, but still nothing had been added to incorporate development. Perhaps some of the points raised by Paraguay could be included in paragraph 1. For example, after the word "them", one could add "while placing

the needs and the interests of developing and least-developed countries at the heart of the negotiations". That would provide some comfort that Members were still development conscious and committed to the DDA. On agriculture, the text pronounced that there had been progress, but when one looked at issues of interest to Kenya, his delegation had some problem understanding the progress made. While it welcomed the progress in the work of the Special Session of the Committee on Agriculture since 2004 and recorded in Annex A, when it looked at that Annex and related it to paragraph 8, it was left confused, because paragraph 8 went back to the July 2004 framework and picked up just on S&D treatment, leaving aside all other issues. However, Members had been talking about development since 2004. These were the issues Kenya was saying were not being handled at the same level of specificity, and his delegation hoped that at some point, this would be brought up to date. Kenya did not want Ministers to start on this note, because if his Minister took the floor and started talking about paragraph 8, he would be starting from July 2004, while others would be starting probably from Annex A. His delegation hoped this anomaly would be corrected. Similarly, in paragraph 9 there was an anomaly, because Members were resolving to establish modalities no later than some date in the future, but the Doha Ministerial Declaration, in particular in paragraph 44, contained a phrase that was important to developing countries like Kenya. This phrase included provisions for S&D after modalities, and this should not be lost, because Kenya did not want to start arguing in the future over whether this was part of the package. It was better to clarify this now, as Members moved on towards Hong Kong.

245. Regarding NAMA, the same progress was indicated, but when his delegation looked at paragraph 14, it could not relate that progress to S&D treatment. Some of these development-related issues would need to be brought up to date with other issues mentioned in the NAMA text. Again, here Kenya found that preferences were being left out for reasons it did not understand. Kenya never thought that this would be left out and hoped it could be taken into consideration. Regarding S&D treatment, paragraphs 30 and 31 contradicted each other. Paragraph 30 instructed the CTD in Special Session to expeditiously complete the review of all the outstanding agreement-specific proposals, and paragraph 31 expressed concern at lack of progress on Category II proposals and instructed the bodies concerned to expeditiously complete their consideration of these proposals and report periodically to the General Council – not even through the CTD in Special Session. This was a contradiction because one could not ask the CTD in Special Session to handle all the outstanding-agreement specific proposals and at the same time ask the relevant bodies dealing with Category II issues to continue their work and to report to the General Council. That contradiction could be removed by deleting paragraph 31.

246. He would not comment on all the paragraphs in the text, but was picking only those Kenya felt were crucial at the present time. Regarding JITAP, Kenya supported Djibouti's statement, because the way JITAP was dealt with in paragraph 47 was not clear. This was one programme that had proved to be successful, and this should be reflected in paragraph 47. It should also at least be mentioned what was expected of JITAP in the future, and some additional funds solicited so that many other African countries could benefit from this programme which had been very successful. Also, the three agencies involved had done a remarkable job and should be praised. In some other areas, Ministers might need to work not on the language but rather on the concept – for example, on Aid for Trade. The text still did not reflect the proposal that it include language resulting from the meeting of African trade Ministers in Arusha. What was being suggested was that the General Council be invited to convene a meeting for July 2006. However, it was possible that Members would come up with full modalities by the first quarter of 2006, in order to be able to complete the negotiations successfully by the end of 2006. Thus, July was simply too far in the future. The paragraph could be improved – as the issue was still at the conceptual stage – in order to give a sense of what the recipients expected from Aid for Trade, so that it reflected the kind of ownership that would make it possible, when this package was presented to Ministers, for them to clearly understand the concept and that all Members had participated, and thus to avoid the need to negotiate the language. As the text stood, there was still room for improvement, and Kenya hoped this could be

done. His delegation associated itself closely with the statements by Egypt for the African Group, by Mauritius for the ACP, and by Indonesia for the G-33, of which Kenya was a member.

247. The representative of Thailand said her delegation understood from the Director-General's remarks that the revised draft text did not purport to be an agreed text – in particular the annexes presented on the Chairs' responsibility – and was without prejudice to the position of any Member. The draft text unfortunately reflected a low level of convergences in the areas of agriculture, NAMA and development. Members had to strive to move the negotiations forward as much as possible in Hong Kong. In doing so, it was imperative that they continue to respect the bottom-up approach and to share a collective responsibility in narrowing down remaining differences, so as to ensure that the Hong Kong Ministerial Conference provided a balanced and meaningful platform for a successful conclusion of the Round by the end of 2006. Her delegation wished to highlight some of the priorities on which it expected substantial progress in Hong Kong. On agriculture, Thailand supported the statement by Brazil for the G-20. It welcomed the new version of the text on agriculture, which captured well the progress made thus far. However, the text also reflected the large divergences among Members, with market access being the least-developed pillar in the negotiations. Therefore, positive contributions and political will from key players were needed to unlock this impasse and move the negotiations forward. On NAMA, Members should agree in Hong Kong on the structure of the tariff reduction formula, flexibilities for developing countries and treatment of unbound tariff lines. In this regard, the importance of S&D treatment and less than full reciprocity in reduction commitments for developing countries needed to be adequately recognized. In addition, on both agriculture and NAMA, it was also vital that Ministers define a concrete work plan for post-Hong Kong, in order to ensure the successful conclusion of the Round by 2006. On services, Thailand continued to support the concept of flexible parameters or guidance to ensure certain level of quality of negotiated market-access commitments. At the same time, Thailand agreed to intensify discussions on important issues such as rules, especially emergency safeguard measures, subsidies, and domestic regulations, to buttress market access. On services, her delegation could not help but observe that although the bottom-up approach implied that a consultative process should be open, transparent and inclusive, this approach could bring less value if the interests and sensitivities of all Members were not taken into account. In this regard, minor changes to the draft text would help raise Members' comfort level, and it was hoped that due consideration would be given this before finalizing the text.

248. On rules, Thailand aimed to clarify and improve WTO rules in order to secure benefits in market access and ensure clearer and more predictable trade disciplines. To attain a meaningful outcome of this negotiation in Hong Kong, there were areas in the text that Members could improve, in order to underscore the importance of the negotiations, capture the progress made so far and set clear objectives and a work plan for post-Hong Kong, and in order to make this part of the text equitable with the text in other areas. On development, since the main purpose of the DDA negotiations was to assist all developing countries to better integrate and benefit from a rules-based multilateral trading system, Thailand again joined others in stressing the need to ensure that all negotiated agreements resulting from this Round faithfully reflected the development dimension and contained an in-built mechanism that ensured clear, effective, and operational S&D treatment for all developing countries. In this connection, Thailand would welcome a clean text on most development-related paragraphs, although these were largely texts on non-negotiating areas, such as the Integrated Framework, technical cooperation and Aid for Trade. On the paragraph on LDCs, Thailand was pleased that the language on developed and developing-countries' commitment to offer duty-free, quota-free market access to LDCs had been amended to be consistent with the proposed language in paragraph 36 of Annex F. Thailand also noted with pleasure that the sentence on the decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement had been taken out of square brackets. Her delegation viewed the revised text as an improvement on the previous version, particularly in the areas of agriculture and NAMA, and felt it could be sent to Ministers for further negotiation, in order to get a meaningful outcome and clear direction on the way

forward post-Hong Kong, and thus enable Members to complete the Round fruitfully by the target deadline of 2006.

249. The representative of Rwanda endorsed and fully associated his delegation with the statements by Mauritius for the ACP and by Egypt for the African Group. Rwanda had received and considered the revised draft text, and wished to note that this was an improvement over the previous text and attempted to address some of the concerns raised by Members in previous meetings. The Director-General and the Chairman had been true to their word in maintaining the bottom-up approach and in trying to avoid surprises in the text, and this was appreciated. Rwanda also appreciated the surprise the Director-General had presented earlier in the meeting regarding Tonga's accession. Some parts of the draft revised text needed to be improved before Members moved to Hong Kong. His delegation was still unclear about the status of the Annexes, given the imbalance viewed in them. These Annexes had not been agreed, with the exception of the one on trade facilitation. In particular, Rwanda agreed with the views that the current paragraph 21 on services gave the impression that it was an agreed text, and provided a direct reference to the relevant Annex as a basis for intensifying negotiations. That Annex was not an agreed text, and while it might be negotiated in Hong Kong and agreement reached, in the meantime paragraph 21 would need to be reformulated. This would merely be a factual adjustment. The African and G-90 Groups had expressed this concern both to the Chairman and the Director-General, and Rwanda had no doubt that the necessary adjustment would be made before the final text was submitted.

250. Although Rwanda was disappointed that there had been hardly any progress on development issues, and noted that this was a true reflection on the status of the negotiations, his delegation was still committed to making this a true Development Round. To enable Ministers to provide direction, there was a need to provide more information in this area. For example, the references to special and differential treatment in paragraph 8 on agriculture and paragraph 14 on NAMA needed to be elaborated, with more information on what elements were being discussed and what their status was. Currently, these texts were general and vague, and would not help Ministers make adequate intervention or provide direction. Members might perhaps even point out the elements they wished Ministers to focus on, with a view to prioritizing development. Specifically, on LDC agreement-specific proposals, Rwanda regretted that there had hardly been any progress despite intensive consultations. In this regard, Rwanda wished to thank the CTD Special Session Chair for his commitment and hard work. His delegation also noted that some Members had serious concerns on some elements of the LDC proposals. Rwanda urged these Members to try to exercise more flexibility in order to give LDCs a meaningful package. The proposals as they stood would unfortunately not achieve this objective. Failure to deliver in this area – where LDCs would gain more and relief would be provided for the most marginalized countries – was an undesirable situation. Members needed to keep in mind that the LDCs' share in world trade was not significant, and their enhanced trade would not significantly affect global transactions. Rwanda welcomed the improved draft text on cotton and hoped the desired results would be achieved at Hong Kong. His delegation was still committed to working to achieve further convergence on this text.

251. The representative of Jamaica said his delegation had made statements at the 30 November meeting of the TNC on the earlier version of the draft Ministerial text and had also spoken at the informal HODs on 28 November 2005. Those statements expressed Jamaica's views on some of the substantive issues in this document and conveyed some of the concerns it had with the initial draft. Jamaica would submit those statements for the record, so that it could be briefer at the present meeting.²² His delegation was pleased to see that some of the comments it had made had been

²² The statement by Jamaica at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 250), is incorporated by reference into the present records. The statement by Jamaica at the informal HODs meeting on 28 November is reproduced in Annex VI of the present records.

accommodated in this revised text and appreciated this. Overall, his delegation considered that the revised text, though unchanged in its fundamental aspects, reflected some improvement, and this was a good thing. However, Jamaica continued to have some concerns. First, while he hesitated to quibble about the cover note, it did seem that the fourth paragraph fell somewhat short of total frankness. The last sentence of that paragraph stated that the texts in the annexes other than on trade facilitation did not "purport" to be agreed texts. Jamaica did not believe this was a matter of purporting this to be so. All Members knew that these were not agreed texts, and the cover note should state this unequivocally. The second point was more fundamental. Paragraph 21 was quite incomprehensible in light of the fact that the cover note stated that the annexes, other than on trade facilitation, were not agreed. It had to be abundantly clear that whatever had prevented some Members from supporting or agreeing to Annex C, would also prevent them from agreeing to paragraph 21 in its present form. This issue had to be addressed. Jamaica did not support paragraph 21 and fully supported the statement by Mauritius for the ACP that this paragraph should be put in square brackets.

252. A second concern was the imbalance in the text relating to development issues. Jamaica understood in some measure why this was so. Both in the work of the CTD Special Session and as a cross-cutting issue, the development dimension – which, he recalled, was at the heart of the Round – was far below expectations. It should be made clear in transmitting this text to Ministers that this imbalance had been recognized, and that an objective in Hong Kong had to be to ensure that the final product of the Ministerial Conference reflected a higher level of achievement in respect of the development dimension, which would be in accordance, of course, with the Doha mandate. This had to be drawn to the attention of Ministers so that they would focus on this deficiency in Hong Kong. Thus, Ministers had to provide results-oriented political guidance and/or concrete decisions on matters such as special products, special safeguard mechanism, less than full reciprocity, flexibilities, preferences, agreement-specific S&D proposals, Aid for Trade and implementation issues and – critically, for his delegation – small economies. These were some of the important development issues for Jamaica and, no doubt, for many other developing countries. There should be no misunderstanding that what was contained in the revised text represented the level of expectation Jamaica had for an outcome on development issues at Hong Kong. What the text contained was a mere floor on which Jamaica expected Ministers to build in regard to the development aspects of the DDA. His delegation believed this could be done, even though its expectations for Hong Kong generally had been lowered and did not now include full modalities in agriculture and NAMA. Jamaica would not be able to support the transmission of this text to Ministers by the General Council if Annex C and paragraph 21 were not satisfactorily clarified. As the Director-General himself had repeatedly reminded Members, the revised text contained no surprises. Jamaica was quite prepared and hopeful that Members would be surprised, and pleasantly so, at Hong Kong, through meaningful progress on development issues and in perhaps some other areas.

253. The representative of Tanzania associated his delegation with the statements by Egypt for the African Group, by Mauritius for the ACP, and by Zambia for the LDCs, as well as by coordinators of other groups to which his country belonged. The revised draft Ministerial text was a reasonable basis upon which Members could engage in Hong Kong, provided that the various shortcomings mentioned by various delegations were addressed. Tanzania acknowledged, in particular, the effort that had been made to take on board the many issues of interest to LDCs, in spite of the recalibration of expectations for Hong Kong in light of the realities in the negotiations. His delegation hoped that Ministers in Hong Kong would be able to generate further convergence on key issues in the negotiations that could add up to significant progress.

254. In light of the statements by the coordinators of the various groups to which Tanzania belonged, he would refrain from going into specifics on many areas of the draft text. However, following up on his preliminary remarks during the discussion under item 12(d)(ii) at the present meeting regarding S&D treatment, he wished to underline the need to adopt a well-measured sense of

optimism on the ability of Ministers to resolve the outstanding divergences on the LDC agreement-specific proposals which had been highlighted by the Chairman of the CTD Special Session. In the light of the limited time-frame of the Ministerial Conference, and the need to achieve this objective in a manner that not only met the objectives of the Doha mandate to make the provisions more precise, effective and operational, but also represented concrete value additions for the LDCs, his delegation had taken note of the Director-General's optimistic assessment of Annex F as being amenable to early resolution by Ministers. Tanzania hoped that this would be the case, but if it were not, his delegation counted on the membership to adopt a positive attitude that would allow for work to continue on these proposals even after Hong Kong, within the broader context of paragraph 30, until this matter was brought to its logical and satisfactory conclusion. Tanzania was keen to have some early harvests on development at Hong Kong, but was even more keen that any package on S&D treatment should meaningfully contribute to efforts to build up the LDCs' trade capacities.

255. The representative of Nigeria said his delegation wished to make some brief comments on both the process and substance of the preparatory process for the Sixth Ministerial Conference. On process, his delegation wished to restate the importance of transparency, inclusiveness and the bottom-up approach. Nigeria hoped that these values and principles would be sustained so that the entire membership would be involved and claim ownership of the process and its outcome. His delegation also hoped that the useful and constructive comments made by Members would be fully taken on board in the final draft text sent to Ministers. On substance, his delegation was of the view that since the Doha Round was a development Round, its development aspects should feature prominently in the text. The eventual outcome of the negotiations should also be pro-development. It was also important that balance be achieved between the different areas of the text, even though Nigeria was aware that the final balance could only be achieved at the end of the negotiations. His delegation wished to note in particular, that the main springs of what constituted development should be based on how Members saw it as developing countries, rather than on the basis of definitions and prescriptions from elsewhere. He associated his delegation with the comments in some of the key areas mentioned by Kenya and Jamaica, and would not elaborate more on these points. It was highly important to have a common understanding on the reports made by the various Chairmen on their own responsibility, since most of these reports had not been agreed. This would prevent any dispute on the interpretations or status of such reports in the future. He was saying this because he also wished to commend the Chairman and the Director-General on their management of the preparatory process in a manner that had avoided the rancour and uproar that had preceded Seattle and other previous Conferences. Like the Director-General, his delegation also wished to live with experience. He recalled that in order to accommodate all interests, delegations had accepted the balanced text in Singapore, and Members had spent several years deciding on whether some issues were part of the single undertaking or outside it. In this regard, notwithstanding the cover note to the revised draft text, his delegation urged that the treatment given Annexes A and B be extended to Annex C, and that paragraph 21 of the text therefore be revised to reflect this. Nigeria did not wish to spend time and energy in the immediate post-Hong Kong phase trying to understand the tricks that Members had played on his country by the ingenious amongst the membership.

256. On the substance of the text, Nigeria recognized the importance of all issues in the negotiations being treated equally. Nigeria underscored the place of agriculture as an engine of the Round. Since Hong Kong would be a negotiating conference, his delegation wished to see meaningful and substantial progress in this area, including progress towards the establishment of modalities and conclusion of the Round in 2006. Nigeria fully associated with the statement by Brazil for the G-20 and by Indonesia for the G-33. His delegation also supported and was in total agreement with the statements by Egypt for the African Group and by Mauritius for the ACP. His delegation welcomed the statement by the Chairman of the Hong Kong Ministerial Conference, and hoped the Conference would produce a successful outcome in which all Members could partake. Nigeria looked forward to assisting in that task.

257. The representative of Ecuador expressed his delegation's appreciation for the statements by the Chairman and Secretary Tsang regarding the procedures for the Hong Kong Ministerial Conference. His delegation supported the statement by the Conference Chairman that the meeting should serve as a platform for dealing with the main issues of these negotiations, in which there should be substantive progress, principally in the agricultural area – where there was a compromise pending which should be given due effect. The revised draft text partially incorporated the views of some delegations. The Hong Kong Ministerial would provide a favourable opportunity to agree on a balanced package for the benefit of all Members' interests. An important aspect of this draft text was the development dimension, which included those points relating to market access, the formulation of rules, and specific development-related issues. With regard to market access, after analysing the advances in the revised text on agriculture, his delegation found that there was still a considerable deficit in the three pillars of the negotiations. Ecuador hoped that Ministers would be able to establish the numerical bases for the implementation of the modalities to be negotiated in 2006. As a result of this situation, other areas of the negotiations had also failed to show any substantial progress, as in the case of NAMA, where there had even been some regression. The second aspect of the development dimension, involving the formulation of rules, had also shown few advances, with a gradual weakening of the principles which guided this organization, such as the MFN principle and the process of trade liberalization as a whole. This had been due to the recent submission of proposals which, with a view to achieving supposed benefits for the developed-country Members, had sought to justify their lack of future commitment and their own sensitivities. This could only increase uncertainty about the commitments Members wished to achieve in Hong Kong, and divided the developing countries, which the Round was supposed to benefit. His delegation would have liked to see the retention in the text of the second sentence of the paragraph on coherence – the present paragraph 50 – since multilateral trade liberalization had to be based on rules that complemented international financial initiatives. Ecuador was pleased that the development package would include initiatives that would benefit the LDCs, such as the Cotton Initiative and the extension of the transition period for the application of TRIPS. Despite these comments, Ecuador viewed with expectation the issue of Aid for Trade, which should be discussed and approved in the WTO, on the understanding that it would benefit all developing countries.

258. The representative of Uganda fully associated his delegation with the statements by Zambia for the LDCs, by Egypt for the African Group, and by Mauritius for the ACP. In order to avoid duplication, his delegation asked that its statement at the 30 November TNC meeting be included in the records of the present meeting.²³ However, he wished to comment on one issue, which was the flexibilities for LDCs in paragraph 8 of the NAMA framework, referred to in paragraph 10 of Annex B in the revised draft text. While his delegation appreciated that the LDCs had been granted flexibilities, it wished to observe that they were not given the full flexibility to determine the level of bindings they would make. The language in Annex B appeared to provide benchmarks, and Uganda therefore considered that this would work to undermine and greatly compromise LDCs' flexibilities. It was therefore important that the LDCs were granted full flexibilities, and this was why his delegation felt that in spite of the great improvements in the text, further balance could be achieved in this area.

259. The representative of Benin congratulated the Chairman, the Director-General, the Chairs of the negotiating groups and the Secretariat for their unceasing efforts to come up with a revised draft text for Hong Kong. If this text did not contain the substance Members expected, it was not the fault of these individuals, to the extent that it was the Members who should put the substance forward. He wished to take up a problem dear to his country's heart. In Benin, it was said that when one suffered from an ill, one had to speak to all of one's peers until one came up with a solution, in the hope that the umpteenth time the point was raised, a solution would be found. On behalf of the four co-

²³ The statement by Uganda at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 350), is incorporated by reference into the present records.

sponsors of the Cotton Initiative and other African cotton-producing countries, he recalled that the cotton issue had been raised again and again. He wished to recall several important points. In May 2003, for the first time Members had welcomed a head of state, the President of Burkina Faso, who had come to speak to Members in the General Council. This indicated the seriousness of this problem. President Compaoré had made clear that Africa was not begging for alms, but merely asking that the rules Members had set be respected. The 33 African cotton-producing countries were asking that the WTO rules be respected. Were those rules being respected, these countries would not be in the present situation. These countries' hopes had rested on Cancún, and all knew what had happened there. The hopes of the 33 African cotton-producing countries had been shattered simply because the major trading partners had not wished to speak of agriculture, and his delegation had the same impression that these same Members did not wish to speak of agriculture seriously in Hong Kong. If these Members did not wish to speak of agriculture and wished to link the cotton file to agriculture, this meant that cotton would be put off forever, and would never be settled. This was why Benin called on all to remember that they had a mandate. This was important, because one had a tendency to forget the July 2004 package, which stated that the cotton issue would be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. "Specifically" meant that the problem of cotton had to be dealt with unlinked to anything else. "Expeditiously" meant as fast as possible, and since Members had missed the boat in Cancún, the most rapid means of transportation was the Hong Kong boat, and Benin hoped that this problem would be solved there. "Ambitiously" of course meant within the modalities, and that was why the proponents' proposals on cotton tried to ensure that all export subsidies would be eliminated by the end of 2006, and that all other domestic support and other forms would be eliminated at the latest by 2009. This was what was meant by expeditious, ambitious, and specific treatment, and this was what the cotton farmers were hoping for. At present, these farmers were backed up against the wall and dying of hunger. They hoped that this problem would be solved, so that they could smile again, rather than weep. This was the dramatic side of this problem.

260. He reiterated that the 33 African cotton-producing countries had the support of the ACP, the LDCs and the African Group, and that all delegations supported the cotton issue, because they had heard so much said about it. They had heard so much said of the ravages caused. The time had come for all to support finding a solution to this problem in Hong Kong. At present, subsidies cost Chad, Burkina Faso, Mali and Benin US\$450 million in losses. These countries were LDCs, and this was a great deal of money. Cotton was these countries' only product, which was why he was speaking at such length about it. This was the issue for which these countries had joined the WTO. If this problem was not solved, it meant that Members did not want to have these countries included in the WTO. The consequences of this problem were that schools closed, health centres lacked medication and people died from minor illnesses. This was a sad fact of life and, unfortunately, in developing countries it was the little girls who were the first victims – they did not go to school in Benin because they were far more useful than the young boys, and when problems arose, parents called on their daughters. All of the international organizations and agencies were talking about the Millennium Conference. There had just been a mid-term review of year five leading up to the Millennium Conference, and it had been said that by 2015 at the latest, poverty had to be eradicated and all children should be able to go to school. At the same time, Members were applying policies that prevented children from going to school and that aggravated poverty. There was an incoherence in this, and he urged all to ensure that coherence was restored. The current round of negotiations had been baptised the Development Round. No one had forced Members to call it that. However, Members could not have a Development Round in which they applied policies that were devastating to developing countries and that ran counter to development.

261. His delegation appealed to all Members to make this round truly a Development Round. His delegation knew that all Members had a heart. The 33 African cotton-producing countries were waiting, and hoped there would be a reaction. Only ten days remained before the Hong Kong Ministerial, and Benin hoped there would be a political leap, that there would be the political will to

settle this problem, and that on the evening of 18 December in Hong Kong, Members could all celebrate by saying they had understood that there were problems in 33 African countries, and that they had come up with the appropriate solution. He had been in Chad ten days earlier and had been told that the marketing period for cotton had always been a period of rejoicing. At present, it was a period of mourning, because when the farmer went to weigh his cotton, he discovered that he owed a lot of money for his inputs, and that he was evermore in debt. Over the past six years, these countries had been in a constant cycle of indebtedness. His delegation urged Members to put an end to this. His delegation echoed the statements by Egypt for the African Group, by Zambia for the LDCs, and by Mauritius for the ACP. Benin thanked all who had supported the cotton issue and would continue to do so in Hong Kong, so that Members could find a solution.

262. The representative of Zimbabwe said his delegation committed itself to cooperating with the Chairman, the Director-General and others to produce the result all Members were looking for, especially regarding development, which was the *raison d'être* of this Round. The draft text, while not pleasing everyone, was a useful platform from which Members could build the desired edifice. He wished to illustrate what his delegation perceived to be some of the deficiencies in the text, which could be improved upon. Some Members had frankly been offended by the consensus implied in paragraph 21. Zimbabwe trusted that corrective action would be taken so that it became acceptable to as many as possible. Regarding paragraph 11 on cotton, domestic reform efforts were being carried out by only some – and he wished to underline "some" – African countries. The preponderant majority of African cotton producers had not embarked on such reforms, largely because of the misrepresentation of the level of dependence on cotton among African countries. More importantly, if Members went by the WTO's Appellate Body Decision, it was not the African cotton-producing Members who should be reforming, but others. This was why his delegation saw a false complementarity in a cause-and-effect relationship. This was an example of how fair-trade distortion was the perversion of WTO fair-trade policy. The consequential development assistance now being sought merely sought to repair the damage wrought by the impermissible subsidies for cotton. This false complementarity should be corrected. Zimbabwe hoped there would be no more false statements whose intent was to give false comfort – that enough development assistance had been harnessed to give comfort to all African cotton producers. Moreover, as had been noted earlier, the promised development assistance to reform the cotton sector in Africa was not being realized on the ground, certainly not in sufficient magnitude to make any difference to the suffering cotton-producing peasant farmers. His delegation associated itself with the statements by Egypt for the African Group, by Mauritius for the ACP, by Indonesia for the G-33, and by Brazil for the G-20.

263. The representative of Uruguay said it would be ill-considered to speak at length at the present time. Regarding the substance of the draft text, he merely wished to say that Uruguay supported the statement by Brazil for the G-20, and was convinced that progress on agricultural market access would serve as a trigger for similar advances elsewhere. For that reason, the Hong Kong Ministerial – as had often been said by the Director-General – had to be a true negotiating forum. Regarding procedure, Uruguay echoed what Brazil and a lengthy list of delegations had said indicating their conformity with the intelligent and clear manner in which the Chairman and the Director-General had met the concerns expressed regarding the status of the annexes and the reference thereto in the draft text. His delegation was one of those concerned, but the cover page indicating that the text did not purport to be agreed and was without prejudice to the position of any Member dissipated these concerns and any misunderstanding Ministers might have, and clarified this issue throughout the draft text.

264. The representative of Nepal said that at the outset, he wished to associate his delegation with the statement by Zambia for the LDCs. Nepal had had seen a number of issues of importance to it reflected in the revised draft text. Although his delegation would have liked to see a better reflection of its concerns, it appreciated the efforts made to accommodate some of them in the text. Nepal was therefore willing to take the process forward with this text. His delegation looked forward to a

meaningful development outcome from the Doha Round and a substantial indication of that at the Hong Kong Ministerial, because this was an important gateway to the Doha Round. For Nepal, this would be a true measure of success. Urgency was sometimes lost in repeating the facts, but it might be worthwhile for Members to remind themselves of those facts so that they did not lose their overall perspective while focussing on details. LDCs represented 750 million people in about 50 countries, but their share of world trade had decreased from three per cent in the 1970s to around 0.65 per cent at present. Marginalization was therefore a major issue for them. The development dimension was, naturally, an issue of paramount importance to them. Their concerns and expectations were not that great, but they were vital and critical to pursue their trade and development objectives. Duty-free and quota-free market access for LDCs, reduction of NTBs, and flexible rules of origin were fundamental market-access tools for LDCs that should be ensured on a secure and predictable basis. He stressed that even if LDCs were granted those facilities, they needed to have the productive capacity to make use of them. Because of their vulnerabilities, low level of development and productivity, the LDCs faced many supply-side constraints. For this reason, the LDCs were looking for a clear understanding of their concerns both for market-access issues and supply-side constraints, and effective measures to deal with them in a meaningful manner. Nepal sought a clear direction in Hong Kong towards these objectives. Hence, it wished to see an enhanced IF as an effective instrument for LDCs and, similarly, a clear commitment on Aid for Trade and the necessary modalities to help expand their trade. Finally, Nepal wished to see the Hong Kong Ministerial be a success. This would be possible only when Ministers in Hong Kong prepared a solid groundwork for concluding the Doha Round with a clear development outcome for all, including the most marginalized countries, in an effective manner.

265. The representative of the Solomon Islands said his delegation wished to join others in welcoming the two surprises the Director-General had presented in paragraph 35 of the revised text. On behalf of Tonga, he wished to thank the Chairman of the Working Party on Tonga's accession, the Members of the Working Party, the Secretariat and all other Members for facilitating Tonga's accession to the WTO. The process had taken some ten years and some tough negotiations. The Solomon Islands was pleased that Tonga's accession process had concluded and that Tonga, after Saudi Arabia, was on its way to becoming the 150th Member of the WTO and the fourth Pacific Island country to join the WTO ranks. This was indeed another historic event for the WTO, the Pacific and, of course Tonga, as it paved the way for a stronger multilateral trading system and a stronger Pacific Island representation in the WTO. Tonga would certainly be in Hong Kong to thank all Members for the early harvest his delegation hoped could also be extended to the issue of cotton.

266. The representative of Nicaragua endorsed the statement by Paraguay for the Informal Group of Developing Countries. She wished merely to add one element to the concerns her delegation had raised at the 30 November meeting of the TNC with respect to development issues, and asked that that statement be included in the records of the present meeting.²⁴ This related to the press release issued following the meeting in Brussels between the EC Trade Commissioner and the G-90, in particular the European Commissioner's statement that "we have not and will not agree to cuts that will eliminate the preferential access we offer to African and Caribbean countries". Her delegation wished to stress that, according to studies conducted by the Secretariat, more than 70 per cent of Nicaragua's exports to the European Union consisted of products for which the Community had been asked that preferential access be protected. In the light of that statement, Nicaragua wondered whether it could remain confident that Hong Kong and the Round in general would provide it with the effective market access it needed for its development. Her delegation's concern was also fuelled by the Community's decision to introduce, as from 1 January 2006, a new regime for bananas which, however one looked at it, would reduce access for Latin American bananas, and which consequently violated the mandate in the Annex to the waiver approved in Doha (WT/L/436). Her delegation could only hope that the

²⁴ The statement by Nicaragua at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 438), is incorporated by reference into the present records.

informal meeting to be held later that morning between the Latin American banana producers and the Commission would lead to the initiation of true negotiations, and that bananas would not become another point of discord at Hong Kong. Finally, Nicaragua sympathized with Bolivia and supported its request that Aid for Trade should cover the needs of the lower-income countries with a smaller share in world trade.

267. The representative of Pakistan welcomed the revised draft text and the beefing up of the texts on NAMA and agriculture in particular. These improvements were a positive development in the right direction, indicating a trend of increasing convergence. However, since these areas covered only a limited number of issues, Pakistan appreciated the inclusion of the Chairmen's texts in annexes. In order to make progress, Members needed to identify priority areas, which Pakistan felt should be strengthened substantially. As rightly mentioned by Brazil, these priorities included enhanced market access in agriculture. According to a recent World Bank study, over 90 per cent of gains in the Doha Round would come from enhanced market access. Should the key players be sincere in delivering on development, this was where they could make a difference. Agriculture was a matter of survival for a vast majority of the world's population and needed the attention of a few major players in the best interests of economic justice. Introducing innovative barriers in trade negotiations, holding one's cards close to one's chest until the last minute, raising high walls of unrealistic preferential protection, lobbying support from one block or the other or on one pretext or the other, subsidizing a few at the cost of the rest, and arguing hard for non-economic solutions to economic sufferings might provide short-term relief to some developing countries, but would definitely derail their genuine process of long-term development.

268. The other key area where Pakistan thought Members had agreed in the July 2004 package was the flexibility in paragraph 8 on NAMA. It was unfortunate, however, that the draft agreed in July 2004, through a supposedly bottom-up approach, was being subject to re-interpretation by some key players, despite the fact that this creative interpretation was in no way consistent with the rest of the text. Pakistan was willing to accept ambitious results in NAMA, as long as there was some consideration of the realities on the ground, existing bound tariff rates in any final structure of a formula, and adequate flexibilities available to developing countries. A stronger commitment on market access, along with an expeditious and ambitious solution for cotton would be a welcome achievement in Hong Kong. Pakistan welcomed the Annexes relating to services and trade facilitation. On rules, Pakistan would have liked a more committed draft with a clearer roadmap, capable of sailing Members – as Canada had said – on a well-guided voyage from Hong Kong harbour to the final port of disembarkation by the end of 2006. Pakistan was satisfied with the revised draft text as an initial outline for the Ministerial negotiations. It hoped that Hong Kong would turn out to be a successful milestone, with a win-win package for all those who played as well as those who had opted to watch, on the basis of a well-understood but recalibrated text based on a bottom-up approach and no-surprises.

269. The representative of Zambia, on behalf of the LDCs, said that these countries had full confidence that the Chairman and the Director-General – who had no doubt taken into account the suggestions made by delegations at the present meeting – would produce a text that raised the level of comfort for all Members regarding how the draft text would be conveyed to Ministers in Hong Kong. The LDCs hoped to have a text in Hong Kong that was focused, would allow Ministers to engage constructively, and would provide appropriate guidance for Members' work programme beyond Hong Kong, in order to ensure that the level of ambition Members had set out for ourselves in this Development Round would be maintained.

270. The representative of Kenya said that in his earlier intervention he had overlooked commenting on the services text. Like other delegations, Kenya was concerned with the implicit references in paragraph 21 that Annex C was an agreed text. While Kenya did recognize that the elements of Annex C had been the subject of discussions in the Special Session of the Services

Council, there had been no consensus on these elements. It should therefore be made clear in the main text that the content of this Annex had been presented by the Chairman of the Special Session on his own responsibility, as had been done for the Annexes on agriculture and NAMA.

271. The representative of Singapore asked that his delegation's statement at the TNC meeting on 30 November be reflected in the records of the present meeting.²⁵

272. The Chairman thanked all delegations for their constructive and thoughtful interventions. It was very encouraging to her and to the Director-General that their commitment to transparency and inclusiveness – which they had sought to respect at every step – had been appreciated by the membership. The bottom-up process they had followed had certainly resulted in a text that was less advanced than all might have wished, but it was one that was grounded in reality, and all had noted that. She was certain that the current text would help Ministers at Hong Kong to provide the momentum and direction needed to conclude the Round. She had sensed from the discussion that delegations generally felt this text had been taken as far as it could in Geneva. She did not think it would make Ministers' task any easier if Members sought to re-open that text now. All had the assurance of the Director-General and herself that they would faithfully convey the substance of the present cover note to the Chairman of the Conference, along with the draft text. There was, however, one change that seemed necessary to make at the present stage, and this was to harmonize the status of the services annex, as clarified in the cover note, with the relevant wording in paragraph 21 of the text. There appeared to be broad convergence among Members to do so. In concrete terms, this would mean putting square brackets in the first sentence of paragraph 21 around the words, "and the Objectives, Approaches and Timelines set out in Annex C to this document". If this was acceptable, this modification would be made in the text before it was sent to Hong Kong.

273. The representative of the European Communities said his delegation agreed in principle with the approach just outlined by the Chairman, even though it felt this was an unsatisfactory result, because it agreed that this was necessary. However, the Community believed that the brackets should not be placed just around "and the Objectives, Approaches and Timelines set out in Annex C to this document", because this singled out the annex as being the problem in this paragraph. His delegation would prefer starting the brackets before the words "in accordance with the above principles" and continuing to "and the Objectives, Approaches and Timelines set out in Annex C to this document".

274. The representative of Chinese Taipei said his delegation did not like the idea of bracketing a part of paragraph 21, and considered that the services text already struck a delicate balance, as had been indicated earlier. However, in the interest of completing Members' task of preparing the draft text for Ministers, his delegation, like the EC, could accept the Chairman's proposal in principle. Chinese Taipei supported the EC's suggestion that the bracketed text begin with "in accordance with the above principles", in order to have a more balance result.

275. The Chairman appealed to Members not to re-open the proposal she had made, because this would necessitate a longer discussion than had been intended at this late hour. She appealed to the EC and to Chinese Taipei to accept the proposal she had put forward in the interests of maintaining the consensus and the convergence that Members seemed to have at the present moment.

276. The representative of the European Communities said that in a spirit of compromise, his delegation would not prolong this discussion unnecessarily. The Community did not wish to have the brackets placed where the Chairman had proposed because, essentially, there was a balance in paragraph 21 that would be affected if one singled out only one part of the paragraph. Therefore, in a

²⁵ The statement by Singapore at the TNC meeting on 30 November, which is reflected in the records of that meeting in document TN/C/M/22 (para. 259), is incorporated by reference into the present records.

spirit of compromise, rather than singling out Annex C as being the problem, his delegation would propose putting the whole paragraph in square brackets.

277. The Director-General said he hoped to be able to convince delegations of the reason why the brackets were better placed where the Chairman had suggested. The two previous paragraphs, 19 and 20, set – on the basis of the GATS, the Doha mandate and what was stated in the July 2004 framework – a number of principles which were dear to a number of Members who basically wanted S&D treatment and flexibilities to be reflected carefully in the enunciation of these principles. This was why, to address what the vast majority of the membership had said about paragraph 21, the Chairman and he had proposed to align the status of Annex C. This was the purpose of what had been proposed. It had not been proposed to delete the language, but rather to put it in square brackets. In order to properly reflect the preparatory work and discussions, it would not be fair to bracket the words "in accordance with the above principles" in paragraph 21, because there had been no disagreement on the principles, and these principles locked in – for a number of developing countries who wanted S&D treatment – something that was important for the future of the negotiations. If Members wished to move the services negotiations further along, they would not do this without the principles set out in paragraphs 19 and 20. This was the rationale behind the compromise suggested, and he urged the European Communities to have a careful look at it.

278. The Chairman said that the European Communities had just indicated that it could agree to placing the brackets where she had proposed.

279. The representative of Chinese Taipei said the reason his delegation had proposed moving the initial bracket was that it remembered well that, when Members had discussed paragraphs 19, 20 and 21, these had been an integral part of the whole discussion. Therefore, if Members had to bracket the "Objectives, Approaches and Timelines" set out in Annex C, they should also bracket the "above principles". However, in the interests of concluding this work, Chinese Taipei could accept the Chairman's proposal, but hoped Members that could agreed on the contents of Annex C in Hong Kong or at the earliest possible date, so that these brackets could be removed.

280. The Chairman thanked the European Communities and Chinese Taipei for the flexibility they had shown, and also thanked the Director-General for his explanation.

281. The representative of Korea associated his delegation with the position stated by Chinese Taipei.

282. The Chairman thanked delegations for their statements. She wished to clarify that she was not proposing the draft Ministerial text in Job(05)/298/Rev.1 for adoption by the General Council. The future evolution of that draft text would be for Ministers to decide. She was proposing instead that the General Council agree to transmit this draft text to Ministers for their consideration, bearing in mind its duty to provide Ministers with a basis for their negotiations. She hoped it was clear that in doing so, this would in no way prejudice delegations' positions on any of the issues covered in the draft text, or on any other issue. By agreeing to transmit the draft text to Hong Kong, the General Council would effectively be transferring the situation as it existed in Geneva at the present time to the Hong Kong Ministerial, where all hoped that some concentrated political attention would produce solid progress. The hard work all delegations had put in over the past few weeks meant that they were putting Ministers in a better position to focus their efforts than had seemed likely a short while earlier. On behalf of all delegations, she wished to thank the Director-General and his staff for their untiring efforts. She wished also to thank the Chairs of all the WTO bodies who had contributed so much to this product, and to express the General Council's appreciation to the interpreters for the hard work they had put in at the present meeting. She then invited the General Council to take note of the statements that had been made and to agree to transmit the draft Ministerial text in document

JOB(05)/298/Rev.1, with the amendment she had proposed to paragraph 21, for consideration by the Sixth Session of the Ministerial Conference.

283. The General Council so agreed.

284. On 6 December, the Chairman advised delegations of a modification that was proposed to be made to paragraph 34 of the draft Ministerial text in JOB(05)/298/Rev.1 – relating to TRIPS and Public Health – in order to reflect the Decision the General Council had taken a short while earlier on this matter under Item 2 of the Agenda. The current text in paragraph 34 consisted of two sentences. The proposal was to modify the second sentence to read as follows:

"In this regard, Members welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement."

285. The rest of the paragraph would remain unchanged. She proposed that, if this were agreeable to Members, the Director-General and she would include this amendment in the draft Ministerial text that the General Council had agreed on 2 December to transmit for consideration by Ministers in Hong Kong.

286. The General Council took note of the statement and so agreed.

13. Chairmanship of the Working Party on the Accession of Afghanistan

287. The Chairman, speaking under "Other Business", informed Members that following consultations with Members of the Working Party and the authorities of Afghanistan, and in keeping with usual WTO practice, it had been agreed that Mr. Ian De Jong (Netherlands) would serve as the Chairman of this Working Party.

288. The General Council took note of this information.

ANNEX I

Implementation of paragraph 11 of the Decision on the Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (Agenda Item 2)

Attachment to the General Council Chairman's Statement

"Best Practices" Guidelines

"Companies had often used special labelling, colouring, shaping, sizing, etc. to differentiate products supplied through donor or discounted pricing programmes from products supplied to other markets. Examples of such measures include the following:

- Bristol Myers Squibb used different markings/imprints on capsules supplied to sub-Saharan Africa.
- Novartis had used different trademark names, one (Riamet®) for an anti-malarial drug provided to developed countries, the other (Coartem®) for the same products supplied to developing countries. Novartis further differentiated the products through distinctive packaging.
- GlaxoSmithKline (GSK) used different outer packaging for its HIV/AIDS medications Combivir, Epivir and Trizivir supplied to developing countries. GSK further differentiated the products by embossing the tablets with a different number than tablets supplied to developed countries, and plans to further differentiate the products by using different colours.
- Merck differentiated its HIV/AIDS antiretroviral medicine CRIVAN through special packaging and labelling, i.e., gold-ink printing on the capsule, dark green bottle cap and a bottle label with a light-green background.
- Pfizer used different colouring and shaping for Diflucan pills supplied to South Africa.

Producers had further minimized diversion by entering into contractual arrangements with importers/distributors to ensure delivery of products to the intended markets.

To help ensure use of the most effective anti-diversion measures, Members may share their experiences and practices in preventing diversion either informally or through the TRIPS Council. It would be beneficial for Members and industry to work together to further refine anti-diversion practices and enhance the sharing of information related to identifying, remedying or preventing specific occurrences of diversion."

ANNEX II

Statement by HE Mrs Massiyatou Latoundji-Lauriano,
Minister of Industry, Commerce and Promotion of Employment of Benin

"First of all, I should like to associate myself with the statements that have just been made by the African Group, the Group of Least-Developed Countries and the ACP Group on all of the issues under negotiation. I should also like to express my full appreciation and that of the four cosponsors of the Sectoral Initiative in Favour of Cotton for the efforts that you have made, Madam Chairman, together with the Director-General of the WTO and the chairmen of the negotiating groups in the course of the preparatory process for the Sixth WTO Ministerial Conference in Hong Kong.

"I have come to Geneva to follow with you the work of the present session of the WTO General Council, which is being held at a decisive moment, since it is from this session that we shall take to Hong Kong the outcome of four years of intense work and unremitting negotiations. The four countries co-sponsoring the Sectoral Initiative in Favour of Cotton have taken note of the draft declaration of the Hong Kong conference and of its revised version issued today. Consequently, they would like, through me, to express to you their concerns with regard to the issue of cotton. Thus, while it may be the case that the issue is included in the structure of the text of the Draft Declaration, we note that in actual fact the text has failed to give the desperate situation which prevails on the ground in the cotton-producing and exporting countries in Africa all the attention it requires and it does not provide the foundations for an ambitious, expeditious and specific settlement of the cotton issue for which the WTO General Council had given us a mandate at the end of July 2004, that is to say over a year ago. That is a cause for concern in view of the continuing sluggish economic activity in our countries, which obtain most of their income from the production and marketing of cotton, which contributes about 12 per cent of the gross domestic product (GDP), 40 per cent of total export earnings and 70 per cent of agricultural earnings.

"By way of an illustration, we should like to point out that during the 2004-2005 cotton seasons the expenditure by our four countries, namely Benin, Burkina Faso, Chad and Mali, to deal with the deficits resulting from the fall in the price of cotton on the international market is estimated at \$400 million. You will understand therefore that small, poor countries like ours with vulnerable economies and limited resources cannot continue to live with this financial haemorrhage. Such deficits have serious consequences on the populations of our countries who see their living conditions declining from day-to-day, which is reflected in their inability to meet their basic needs, such as a balanced diet, decent housing, appropriate education and primary health care. These populations are now all the more desperate since they have realized that the decline in their living conditions results from the fall in the price of cotton on the international market caused by the subsidies granted by certain developed countries to a small number of cotton producers. It is for this reason that we wish to call the attention of all the WTO Members to the urgent need to take a clear decision on the issue of cotton at the Hong Kong conference at the latest. It is essential that comprehensive, concrete and operational modalities are adopted on this issue following the "early harvest" principle, independently of the results that might be obtained in the field of agriculture. This was requested by the cosponsors of the Sectoral Initiative in Favour of Cotton in Ouagadougou in Burkina Faso and in N'Djaména, Chad on 10 and 16 November 2005 respectively, and the African Ministers of Trade confirmed it on 24 November 2005 in Arusha, Tanzania.

"I arrived yesterday evening from Brussels, where the ACP Group held its ministerial session over the past three days. The message that this enlarged group of WTO Members has also sent to it on the cotton issue is the same: it is an urgent and reasonable message and a call for fairness in the international trade in a product which constitutes the backbone of the economy of our countries. It also strongly recommends the adoption by Hong Kong of the following modalities:

- the total elimination of cotton export subsidies by 31 December 2005;
- a substantial reduction in domestic support, which causes serious prejudice to the trade in cotton, in accordance with the following timetable of implementation:
 - 80 per cent by 31 December 2006;
 - the following 10 per cent by 1 January 2008, and
 - the remaining 10 per cent by 1 January 2009;
- the elaboration of disciplines forbidding and monitoring the conversion of non-authorized support into authorized support;
- the establishment of a transitional emergency fund in order to offset the deficits resulting from the fall in cotton prices on the international market;
- the mobilization of technical and financial assistance for the development of the cotton sector in Africa.

"The adoption of these modalities in Hong Kong will send out a strong signal from the Members of the WTO to the whole world that would show our determination to reduce poverty in a number of developing countries. We have the opportunity to obtain concrete results on cotton as a result of the mandate given to us in the Framework Agreement of July 2004 to address the cotton issue ambitiously, expeditiously and specifically. We remain convinced that together we can reach a consensual decision on the cotton issue that will no doubt contribute to making the Doha Round a genuine development round."

ANNEX III

Statement by Mr. John Tsang
Secretary for Commerce, Industry and Technology of Hong Kong, China
and Chairman of the Sixth Session of the Ministerial Conference²⁶

"Let me start by saying how pleased I am to be here. I realize that the last couple of weeks have been a period of intense activity preparing the draft Declaration for the Sixth Ministerial Conference in Hong Kong. My thanks to you all. It is not a secret that many of us would have liked to see agreement on full modalities in Hong Kong, but I am not going to agonize over that now. Multilateral negotiations have a life and a rhythm of their own. As with baking, you cannot force the pace without risk of spoiling the cake. From Hong Kong, China's point of view, what is important is that we add value to the process. The Ministerial Conference in Hong Kong will not be just an occasion for stocktaking. We will be fully engaged in serious negotiations. We will aim to ratchet up the extent and quality of our convergence, and set the platform for the next stage of our preparation towards the conclusion of the Round by the end of 2006. Pascal is fond of aeronautical metaphors. So let me say that our aim is to emerge from the Ministerial meeting refuelled, re-charged and re-focused with an unambiguous flight-plan for the final leg of the journey. To my mind, that has always meant that we must concentrate colleagues' minds on key issues in each area and secure decisions, which clear the way for the final stage of negotiations here in Geneva.

"In that context, allow me to say a few words about how we plan to run the meeting in Hong Kong. The strategy for the preparatory work was a bottom-up process with no surprises. That is exactly how I intend to run the Hong Kong meeting: bottom-up and no surprises. We want to have, indeed, we need to have, an open, transparent and inclusive process, with nothing new or novel, nothing untried, nothing untested or nothing unfamiliar. I fully understand that communication amongst delegations and groups of delegations is a key ingredient for an effective ministerial meeting. We will, therefore, be adhering to past practice in having two daily one-hour slots, morning and afternoon, to facilitate this sort of coordination. I will also ask the coordinators and spokespersons of various groupings to assist me in disseminating information on the latest developments to their respective constituencies to ensure that everyone is up to date on the state of the discussion and that the process remains as transparent as possible.

"Madam Chair, I understand that you intend to say a few words later about the organization of work, and I have no wish to duplicate this now. However, let me just emphasize that after the formal opening of the Conference on the afternoon of Tuesday 13 December, we will move quickly to the business session of the conference at which we would need to adopt an agenda and agree on the organization of work. I have been in close touch with the Director General on this over the last few weeks, and I will communicate with delegations more formally on detailed arrangements shortly. Allow me today simply to say that the informal process in Hong Kong will essentially mirror the process you are familiar with here in Geneva. There will be regular informal Heads-of-Delegations meetings, at least once a day. As part of this, I believe that, like my predecessors, I will need the assistance of a number of colleagues to facilitate the process in Hong Kong. I have, therefore, approached a number of them to ensure, initially, that they are both willing – you will understand me when I say that there are few volunteers for this sort of work – and that they are available. I am happy to say that I have secured the services of six courageous colleagues. They are:

Minister Humayun Khan (Pakistan) who will deal with NAMA;

Minister Mukhisa Kituyi (Kenya) who will deal with Agriculture; and

²⁶ The full text of Secretary Tsang's statement was circulated subsequently in document JOB(05)/317.

Minister Clement Rohee (Guyana) who will deal with specific development-related issues.

For Services, Rules and other issues, I have secured the assistance of three other colleagues who will serve as facilitators at large. They are:

Minister Hyun Chong Kim (Korea);

Minister Jonas Støre (Norway); and

Minister Ignacio Walker (Chile).

"So there it is, my slate of facilitators who will assist me in Hong Kong. In choosing them I have borne in mind the five core areas of work, which Members have pursued since the beginning of this year, and the need to be even-handed. I also had in mind the need for some flexibility in the organization of work as negotiations evolve during the conference. I will be giving further thought to this in the time remaining between now and our meeting in Hong Kong, but I thought it best to share my broad thinking with you at this earliest possible moment. I can assure Members that all facilitators will provide opportunities for every delegation to make its respective views known, and will keep transparency and inclusiveness close to their hearts.

"Preparations for the Hong Kong Ministerial are complete. Logistically, everything that can be done to facilitate a successful meeting of Ministers has been done. Hong Kong, China, looks forward to welcoming you all and to making every aspect of your stay with us as comfortable and enjoyable an experience as possible. What we cannot do is guarantee success; we cannot do your work for you. Success is something for which Members have a collective responsibility. We are all fond of repeating that the WTO is a Member-driven organization: the agenda is Member-driven; the process is Member-driven; and so success must also by definition be Member-driven. Hong Kong, China is delighted that we have been given the opportunity to host the coming conference. We hope that it will move negotiations forward, but a successful conclusion of this Round depends on you, the Members, having the global vision and the individual courage necessary to drive determinedly through the Ministerial and on to the final stage. For sure, colleagues, the world will be watching.

"In conclusion, let me say how pleased I am to have had the opportunity of being with you all at this meeting of the General Council this morning. It has been immensely valuable in helping me think through my final preparations for the task ahead. Thank you for taking the process this far; I look forward to seeing you all in Hong Kong and working with you all collectively towards a successful conclusion of the Doha Development Round."

ANNEX IV

Statement by Moldova at the Informal HODs meeting on 28 November 2005

"As other delegations, we would like to thank you for the Draft Ministerial Text. In this overall context, Madam Chair:

"First, we have noted that in the main part of the draft (pages 1-8), the special situation of the Recently Acceded Members (RAMs) has been recognized only with regard to Services. That is not acceptable to us and, moreover, that is also not in line with the paragraph 9 of the Doha Ministerial Declaration, where extensive market-access commitments in all areas already made by these countries on accession were fully recognized, as the fact that these accessions had greatly strengthen the multilateral trading system.

"Second, therefore, we would like to draw your attention once more to the very substantive concerns of small low-income countries in transition, which are also Recently Acceded Members, as highlighted in their three formal proposals submitted to the Special Session of the Committee on Agriculture and the Negotiating Group on NAMA, as well as more recently to the Negotiating Group on Trade Facilitation. Those proposals are based on these countries' real, factual and objective situations both with regard to their already substantial and largely unmatched input into the multilateral trading system and their level of development, which remains quite low comparable to that of many Least Developed Countries. These three proposals are based on the provisions of paragraph 38 of the Doha Ministerial Declaration, paragraph 1.d and other relevant sections of the General Council's Decision of 1 August 2004, which underline the difficulties faced by small low-income economies in transition in their efforts to implement economic and trade policy reforms. Thus, we firmly consider that small low-income countries in transition, whose tariffs are bound at very low rates across the board, should remain exempt from any kind of further reductions in the medium-term, in view of the still high tariff levels of other Members, as well as international market distortions caused by agricultural export subsidies and domestic support measures exercised mostly by developed country Members. The same, if not even more, applies to Services liberalization. On Trade Facilitation, we have requested that small low-income economies in transition be also granted special flexibilities with regard to trade facilitation and be provided with technical assistance and capacity building in accordance with paragraphs 2, 3, 5 and 6 of Annex D of the General Council's Decision of 1 August 2004.

"Third, I would also underscore that, for known historical reasons, small low-income countries in transition had joined the multilateral trading system very recently by accepting an unprecedentedly high level of obligations and commitments as a result of their accession to the WTO. Equally important is to understand that these countries, for the same historical reasons, had entered the international scene also quite recently and thus had very limited opportunities for obtaining international recognition of their actual development levels in accordance with the established political realities, which had been formed without participation of these countries. In particular, in the WTO, the Multilateral Trade Agreements as well as the Doha Ministerial Declaration did not stipulate any specific flexibilities for these countries, although their level of development would warrant that kind of approach. We had a rather positive initial response to our proposals from other Members. However, this has not materialized yet in any specific provisions or counter proposals. Moreover, in their reports to the TNC, the Chairpersons of the respective negotiating bodies have scarcely mentioned our positions, in particular in agriculture, which is a crucial area for our countries and also for the Round as a whole.

"Finally, with regard to any "Aid for Trade" package as a possible Hong Kong outcome, we consider that such package is vital to strengthen the development oriented component of the Doha

Round as the Development Round. Small low income countries in transition should also be viewed as a major and direct beneficiary of such supplementary measures. Madam Chair, we would like to convey to you our high expectations that our proposals will be eventually considered in a positive and unbiased spirit, but, for Hong Kong, we urge that, at least, their content will be fully and properly reflected in the Ministerial Text, like positions of other Members."

ANNEX V

Statement by Cuba at the Informal HODs meeting on 28 November 2005

"We thank the Chairperson of the General Council, the Director-General and the WTO Secretariat for presenting this draft ministerial text.

"At this advanced stage of the discussions, there is little new that we could add to what has already been said. We consider it important, however, to underline some of the points that have already been made by other delegations.

"We fully endorse the statements made by Brazil on behalf of the G-20, and by Indonesia as coordinator of the G-33. In the latter case, we associate ourselves with that group's call for the provisions on Special Products and on the Special Safeguard to be incorporated into the section on agriculture in the Ministerial Declaration. We also support China's statement, in essence regarding the inclusion of a specific paragraph setting out the concerns and interests of recently acceded Members. We further support the statement by the Ambassador of Benin, underlining the need to incorporate full modalities that will address the cotton initiative tabled by several African countries, in an expeditious, specific and ambitious manner.

"We echo the sentiment already expressed by other delegations to the effect that we have some difficulty with the inclusion of the annexes and their respective references in the ministerial text, for in the cases of NAMA and Agriculture for example, which are of particular importance to most developing countries, they are reports submitted on the Chair's own responsibility, and are not texts agreed by Members.

"Like others, we underline the absence of any reference to Doha paragraph 19, on which our colleagues from India and Peru have already elaborated.

"As other delegations have pointed out, it is necessary to guarantee due fulfilment of the development objectives set at Doha, which are not duly reflected in the proposed text.

"As pertains to coherence and aid for trade, we endorse the comments made by Bangladesh and Nigeria, and with specific reference to the latter, we confirm the need for a clear description of the implications and the concept of aid for trade in the ministerial text. Like Peru, we consider it necessary to include UNCTAD in the paragraphs under reference.

"With respect to Services, we share the concerns voiced by other developing countries regarding the excessive restrictiveness built into the text, as well as the failure to mention that it is not a text that was agreed on as part of the Ministerial Declaration. In that connection, we attach the greatest importance to Ecuador's statement that the framework for this topic derives from the General Agreement on Trade in Services, paragraph 15 of the Doha Declaration and Annex C of the July Package.

"Like the Ambassador of Jamaica, we believe that it would be a meaningful step to harmonize the various aspects of the ministerial text. Accordingly, my delegation would be grateful if the texts on Agriculture and NAMA could include fulfilment of the objectives set in the July Package, as has already been done for those laid out in the Doha Declaration.

"I should like to repeat that these comments are preliminary, and our delegation reserves the right to take up these matters again in forthcoming consultations or meetings."

ANNEX VI

Statement by Jamaica at the Informal HODs meeting on 28 November 2005

"Jamaica wishes to thank you as Chairperson of the General Council, and the Director-General, for producing this first draft of the Ministerial text for Hong Kong for the consideration of Members. We note that this is a first draft and that it provides a basis for intensifying the discussions on what should be presented to Ministers at Hong Kong. Jamaica wishes to make brief comments on the structure and nature of the draft text as well as on a couple of substantive issues which we feel should be addressed between now and the Ministerial conference.

"With respect to the cover note for the draft text, Jamaica notes that it correctly reflects that the text does not purport to represent agreement overall and that divergences still exist among the membership. It is stated in the last sentence of the second paragraph of the cover note that "in some areas where important, substantive differences persist" the draft attaches a report by the relevant Chair, prepared on his own responsibility, setting out the present situation as he sees it". It is not clear to us which of the reports this sentence relates to. In this context we are particularly concerned regarding the case of the services text. Paragraph 9 of the draft Ministerial text makes a cross-reference to Annex C, which is the services text, and serves to give the impression that this text is agreed. This in our view is not the case as divergences still exist among the membership on some of the elements contained in Annex C. It is on this basis that Jamaica wishes to emphasize the need for greater clarity in establishing the nature of the attached reports. We are of the view that a distinction needs to be made between those reports made by Chairpersons on their own responsibility and those reports which are being submitted by the respective negotiating groups such as the report by the Negotiating Group on Trade Facilitation where there is general acceptance by the membership.

"We feel that the substantive elements of the draft text represent a good effort in general but we have concerns regarding the content in certain areas. We think the text is weak in a number of areas as it does not provide a basis for Ministers to consider specific issues and recommendations with a view to making clear decisions and providing direction for the negotiations that must take place after Hong Kong. While we do recognize that in some instances this may be a natural consequence of the state of play in some areas, we think more needs to be done to provide Ministers with a clear idea of the issues which they are being requested to address and on which their guidance needs to be provided. We believe this is necessary if, short of full modalities we are to narrow differences and importantly also at the political level, create better understanding of Members positions and the potential for movement or otherwise. It is vital that such efforts to assist Ministers focus in Hong Kong and provide guidance be characterized by balance, and that the issues with respect to which they are being asked to provide guidance are comprehensive and inclusive. We know that there is a view that some issues will fall into place after Hong Kong, but we think this is risky and believe that all issues of importance to a significant or to a large number of Members, deserve Ministerial attention so as to ensure that they do in fact fall into place. We hope it will be possible to arrive at a balanced and inclusive list of issues for Ministers. This will be particularly important for those Ministers who do not participate in meetings such as those which have taken place in London and Zurich and such places and for whom Hong Kong might be the only opportunity to let their Ministerial colleagues know their views on issues of importance to them and their countries before the end of the Doha Round.

"Turning to another issue, Jamaica is of the view that sufficient attention has not been paid to development components of the negotiations. We are of the view that the text lacks sufficient direction in the areas of Special and Differential Treatment and implementation-related issues. There is urgent need to make more progress on implementation and on the agreement-specific proposals on S&D. With regard to S&D it is regrettable that since the Round was launched in 2001, no meaningful

progress has been reached on making S&D more precise, effective and operational. We therefore believe that the development component of the Round cannot be satisfied without concrete progress at Hong Kong on S&D, including the LDC and other Agreement-specific proposals.

"We welcome the section on Aid for Trade contained in paragraph 37. However, we think it should be made as operational as possible in the circumstances. We also believe that the paragraph can be improved in certain ways. In this paragraph, we have references to an ambitious conclusion of the Round and a further reference to a successful and ambitious conclusion. Jamaica supports a successful conclusion of the Doha Round and a conclusion that is in keeping with the Doha Mandate. We are not sure however that all Members are agreed on precisely what an ambitious conclusion is and we think that therefore it is safe to refer only to a successful conclusion. We would wish to see the paragraph very clearly indicate that Aid for Trade can help some Members take advantage of the potential opportunities resulting from the DDA and specifically among the purposes of Aid for Trade is facilitating adjustment to trade liberalization including the fact of preference erosion.

"We fully support the points made by the delegation of Bangladesh in regard to the first two sentences of the section on coherence. We think that there is an approach to coherence and to conditionality in these two paragraphs which we cannot support.

"Turning to Services, we have concerns with this draft text. As indicated earlier the relationship between paragraph 9 and Annex C would suggest that that Services text is an agreed document. But we continue to have strong reservations about certain elements contained in Annex C. We have already raised those concerns in an informal session of the Council for Trade in Services in Special Session. I will not repeat our concerns this afternoon, except to indicate our reservations about, *inter alia*, paragraphs 1 and 7 of Annex C. We note with satisfaction that the reference to numerical targets and indicators has been deleted. However, in paragraph 7 of the draft Ministerial text, we see that there is a reference at the end of the first end sentence to "due respect for the right of Members to regulate". We would recall that the Services Agreement specifically also draws attention to the importance of due respect for national policy objectives. We believe that this concept should be included as well in paragraph 7 of the Ministerial text itself. That we think will serve to protect the interests of many Members.

"On NAMA, we have a concern regarding the range of coefficients specifically referred to in the report submitted on his own responsibility by the Chairman of the Negotiating Group. When linked to the suggestion that Ministers seek to narrow the range of coefficients at Hong Kong, our concern is greatly heightened. In regard to the direction in paragraph 34 and 35 of the Chairman's report, we believe that there are other important issues relating for example to Special and Differential Treatment, including the question of less than full reciprocity and also relating to aspects of flexibility, other than those identified in paragraph 8 of the NAMA Framework which require ministerial attention if there is to be balance in the discussions and negotiations and if there is to be comfort to a large number of Members, and, furthermore, if there is to be adherence to the letter and spirit of the Doha Mandate and the July 2004 Framework text. This returns my delegation to the question of balance and inclusiveness in the provision of any guidelines to Ministers in regard to the issues on which they should focus so as to move our process forward ultimately towards full modalities.

"Lastly Madam Chair, on an editorial point, which we are sure you will address, we note from the draft texts that there are different references, some to the General Council Decision of 1 August 2004, others to the July 2004 Framework Text. We think that these should be streamlined so there should be one consistent reference to help those outside this organization in understanding the text that is before us.

"These are some of the preliminary comments that Jamaica has. The draft is being reviewed in our capital and we will have further comments to make within the course of this week. We conclude by thanking the Chairs of the different negotiating groups and Committees for their hard work and effort in providing their inputs for the draft text. Jamaica underscores its willingness to work with all Members in an effort to achieve further convergence on the text in the time remaining before the Ministerial Conference in Hong Kong and particularly towards providing all Ministers with more clear-cut guidance in so far as that is possible to focus the discussions and negotiations to take place in Hong Kong."
