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**General Council
Special Session
24 March 1999**

MINUTES OF MEETING

Held in the Centre William Rappard
on 24 March 1999

*Chairman: Mr. J. Weekes (Canada)*¹

Subject discussed: Preparations for the 1999 Ministerial Conference

- Continuation of discussion of substantive issues arising from the Ministerial Declaration of May 1998, including proposals by Members, with the following suggested focus: "Proposals on paragraph 9(a) of the Ministerial Declaration".

1. The Chairman said it was clear that Members wanted this phase of the preparatory work to be qualitatively different from the first and, in particular, that it should be driven primarily by proposals. Proposals should therefore be the primary focus of the Special Sessions if Members were to move the process forward. Essentially, he saw the proposals that delegations would be submitting as the basic building blocks of the Ministerial Declaration that would be drafted in the third phase of the preparatory work. The proposals should be brief, perhaps no more than five or six lines, and be specific and action-oriented rather than general statements of concerns. They should also ideally be presented in a form as near as possible to the recommendations that delegations making the proposals would wish to see go forward to Ministers for decision. In sum, Members should be aiming at brief, action-oriented, recommendations on each issue of interest to them, accompanied by appropriate background and rationale, as necessary. Clearly, it would also be helpful to the process if proposals could be submitted to the Secretariat well in advance of the General Council meeting at which they were to be tabled. It was also worth keeping in mind that the result towards which one was working in the preparatory process was recommendations to Ministers regarding the work programme referred to in the Geneva Ministerial Declaration, and that this was not a phase for negotiations on the outcome of that work programme. Furthermore, since the formal meetings were geared primarily to the tabling of proposals and related matters, it would be more productive not to embark on a detailed discussion of proposals at these Special Sessions. Instead, delegations should take the proposals tabled at the Special Sessions, consider them, and come back prepared to discuss them in the informal meetings, which should involve an interactive process in which the proposals could be clarified, elaborated on, and discussed with a view to finding common ground. He sought the cooperation of all delegations in ensuring that work in this phase was focussed very specifically on elaborating concrete recommendations to Ministers, and that meetings were not used to revisit issues and concerns of a general nature that had been raised on previous occasions. If delegations did not have specific,

¹ Mr. Weekes, former Chairman of the General Council, presided in place of the Chairman, Mr. A. Mchumo (Tanzania).

action-oriented proposals to table at this or any other meeting, it would be useful to acknowledge this fact and not continue a meeting beyond the time absolutely necessary. All delegations were working under severe time constraints and he urged all to help each other and the process by avoiding repetition or declarations that were not related to specific proposals. Finally, he proposed the following changes to the indicative schedule of meetings: one, that the special session scheduled for 22-23 April be rescheduled for 3-4 May and, two, that the informal meeting scheduled for 3-4 May be rescheduled for 10-11 May. Bearing in mind that Members had agreed on the need for flexibility in the process, he trusted that these new dates would be acceptable.

2. The representative of Uruguay said that a prompt and effective solution to the problems identified by Members in the area of implementation had to be found, as well as a procedure and modality for conducting work on this issue. At the intersessional General Council meeting in October 1998, his delegation had suggested a classification of the issues raised into three categories in order to assist further work and discussion. In the light of the support this suggestion had received, his delegation had undertaken an initial classification on the basis of the checklists drawn up by the Secretariat, and had consulted on its initiative with a number of other delegations, many of whom had expressed support for this initiative. His delegation was therefore circulating this text to all delegations to hear their views on the basic idea behind this proposal, before any concrete suggestions for changes to the text were incorporated.² The issues contained in the Secretariat's checklists had been classified into the following categories: (i) issues that could be dealt with immediately in the context of the current WTO bodies, and which required no negotiation, such as notifications, technical assistance, and so on. In these cases, the General Council should instruct the relevant bodies to deal with these issues on a priority basis; (ii) issues that could be dealt with within the existing agreements as they now stood but which required some additional clarification on interpretation, such as the "best endeavour" clauses in favour of developing countries and other S&D treatment provisions. In these cases, the General Council should instruct the relevant bodies to deal with these issues on a priority basis or, if necessary, take up some issues itself; (iii) issues that could not be dealt with within the current framework because they necessarily required an amendment or renegotiation of the text of the relevant agreement, such as changes proposed to de minimis margins. These cases would have to be introduced in new negotiations on the basis of specific proposals by Members. He underlined that this text had been prepared on the basis of the Secretariat's checklists and that in some cases therefore the exact views of the Members concerned might not be fully reflected. Uruguay was making this contribution in the best possible spirit with a view to facilitating work and assisting in the search for a concrete means of resolving the problems that had been identified in regard to implementation. The classification suggested in the paper reflected Uruguay's approach and was not necessarily shared by all, and it was obviously subject to modification by Members.

3. The representative of Australia, referring to his Government's submission regarding the mandated negotiations on agriculture (WT/GC/W/156), said that the commitment in Article 20 of the Agriculture Agreement to resume negotiations by the end of 1999 to further liberalize trade in agriculture was part of the balance of concessions and gains from the Uruguay Round. It explicitly recognized that much remained to be done to liberalize agricultural trade. It would be necessary for Ministers at Seattle to agree on a detailed decision regarding these negotiations. They would have to agree on the following: (i) The scope of a decision, building on the agreed long-term objective of a fair and market-oriented agricultural trading system. This should cover further, specific commitments in market access, domestic support and export subsidies. It might also need to address agricultural issues that were not currently addressed in the Agreement, such as tariff quota administration. Work would also need to be done on special and differential treatment and the food security concerns of least-developed and net food-importing developing countries in ways that complemented substantial further agricultural liberalization; (ii) The structure of the agriculture negotiations. This would require addressing how and in what bodies agricultural trade issues would be negotiated, and the

² The text was circulated as Job No. (99) 1799.

chairing of such bodies; (iii) The time-frame of the negotiations. It would be important to ensure that the agriculture negotiations were completed expeditiously. Some Members had noted the relevance of the 2003 expiry date for the provisions of Article 13 of the Agreement on the "peace clause". Deadlines within the overall time-frame should also be specified. It would also be important to provide a mechanism for Members to review progress of the negotiations. It was in this context that Australia had submitted the objectives agreed by Cairns Group Ministers for the outcomes of the agriculture negotiations -- the Cairns Group Vision Statement -- as a framework for the development of specific proposals for the Seattle Declaration. At the heart of this framework proposal was the need to ensure that agriculture was placed on an equal footing with other areas of world trade. It would simply not be acceptable that the next agricultural negotiations be anything other than the last stage in the full and equitable integration of agriculture into the multilateral trading system so that trade in agriculture was treated in the same way as trade in other goods. Agriculture could not remain a poor cousin in the multilateral trading system. All this would require a Ministerial decision in Seattle that provided, *inter alia*, for (i) deep cuts to all tariffs, including mechanisms to address tariff peaks and tariff escalation, major reductions to in-quota tariff rates, and substantial increases in tariff rate quota volumes; (ii) early and total elimination of export subsidies with clear rules to prevent all forms of circumvention of export subsidy commitments during the period of transition to a complete prohibition of export subsidies; (iii) further substantial reductions in levels of production- and trade-distorting domestic support; and (iv) improved disciplines on export restrictions, thereby enhancing the contribution that the overall trade liberalization process could make to food security. Members of the Cairns Group expected to make further specific proposals over the following months on detailed aspects of agriculture for the Seattle Ministerial Declaration. The specific proposals that they would be making should be seen in the context of the Cairns Group Vision Statement.

4. The representative of the Dominican Republic, speaking also on behalf of Cuba, Honduras and Nicaragua, referring to Article 31 of the TRIPS Agreement, which set out in detail the conditions governing the use of so-called compulsory licences, said that this Article should be considered in the light of the Preamble and Part I of the Agreement. The Preamble mentioned the need to "reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade". In the Preamble, Members also recognized that intellectual property rights were private rights, as well as the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives. In addition, Article 7 on objectives used concepts such as "mutual advantage", "social and economic welfare" and "balance of rights and obligations", which indicated that the recognition and enforcement of intellectual property rights involved important social values. Furthermore, Article 8 permitted Members to incorporate in their national legislation such aspects as public health and nutrition.

5. In light of the above, it was their opinion that Article 31 did not limit the right of Members to use compulsory licences in circumstances other than those described in that provision. However, in some respects the provisions of this Article were not sufficiently flexible or specific and, when applied, might be used in such a way as not to benefit, and possibly even to harm, their countries. Accordingly, their countries believed that, in the review of the TRIPS Agreement provided for in Article 71:1, certain aspects of this Article should be made more specific and flexible. They therefore proposed that Article 31(b) include other cases in which a patent might be used without the authorization of the right holder, with the aim of making the provision more illustrative and clear, without making it exhaustive. It would be desirable to include terms such as public interest, including public health and nutrition, as already mentioned in Article 8 of the Agreement, and the protection of the environment, recalling that the adoption of compulsory licences was recommended by Agenda 21, approved in Rio de Janeiro in 1992. Furthermore, Article 31(h) should include a footnote indicating that there should be some flexibility in applying it and that in some cases it would not be obligatory to

remunerate the right holder. This rule would apply in cases in which the compulsory licence was used by the Government of a developing or least-developed country.

6. The representative of Cuba, speaking also on behalf of the Dominican Republic, Honduras and Nicaragua, referring to Article 23 of the TRIPS Agreement, which provided additional protection of geographical indications exclusively for wines and spirits, recalled that at various occasions in the TRIPS Council, some of their delegations had expressed interest in having this protection extended to cover other products of special importance to them such as agricultural and handicraft products. Accordingly, in the review of the TRIPS Agreement provided for in Article 71:1, their countries proposed that the text of Article 23 of the Agreement be amended to include agricultural and handicraft products.

7. On another matter concerning the TRIPS Agreement, he said that intellectual property protection constituted a temporary exception to free competition by granting exclusive rights to a natural or legal person to exploit specific creations of the human mind. In general, intellectual property rights did not provide the necessary protection of the traditional knowledge, innovations and rights of indigenous people and local communities, with the possible exception of copyright legislation which provided a certain degree of protection for documented or recorded traditional knowledge. Nonetheless, the fact remained that it was quite expensive for the possessors of traditional knowledge to make use of the rights to which they were entitled. At the same time, copyright protected only the expression and not the knowledge relating to that expression. There was an intensive ongoing debate as to whether traditional knowledge should not be protected by other forms of intellectual property legislation, in particular patent legislation. This had been prompted mainly by the following factors: (i) the revival of interest in traditional knowledge as a result of the ever-increasing marketing of genetic resources; (ii) the growth of enterprises, mainly in the industrialized countries, devoted to exploration in the field of biodiversity, with the traditional knowledge of the indigenous peoples increasingly emerging as the "technical vanguard"; (iii) a greater awareness of and growing concern about the steady disappearance of plant and animal species, together with the destruction of their habitats, leading to the extinction of indigenous peoples and local communities and hence to the destruction of traditional knowledge of which industry was increasingly in need; and (iv) the fact that the rights of indigenous peoples and local communities were poorly defined or more or less ignored in domestic and international law. In this latter area, some progress had been made as a result of the inclusion of some of these rights in the 1992 Convention on Biological Diversity and, in particular, its Articles 8, 10 and 15. All of these factors had prompted a keen debate in both national and international fora, which had received fresh impetus with the entry into force of the TRIPS Agreement. With the signing of this instrument, many developing countries had found themselves obliged automatically to adopt the accelerated pace of technological development of developed countries and, consequently, to grant protection to new emerging technologies without traditional knowledge being recognized or protected or the guardians of that knowledge recompensed. In this connection, their countries considered that the TRIPS Agreement should include provisions, consistent with the Convention on Biological Diversity, indicating: (i) that the State exercises sovereignty and inalienable rights over the biological resources within its national territory; (ii) the need to protect cultural diversity and the knowledge, innovations and practices of the indigenous peoples and local communities with respect to the conservation and use of biological resources; and (iii) the obligation upon States to regulate access to biological resources, local knowledge and their own technologies. Accordingly, their countries requested, within the context of the review of the TRIPS Agreement provided for in Article 71:1, that a new Article specifying the rights of indigenous peoples and local communities be included in Part I ("General provisions and basic principles") of the Agreement.

8. Speaking on behalf of Cuba, he said that the intersessional meetings had shown the importance of implementation issues for developing countries, who had undertaken major commitments in the Uruguay Round and had submitted to an important process of liberalization under

its overall framework in the understanding that it would represent a step forward for their economic and social progress. However, these expectations had not been met owing, *inter alia*, to inadequate implementation of S&D treatment provisions. This had been reflected in the very low market access for products of interest to developing countries, due sometimes to the establishment of various standards and policies, and the need to carry out adjustments in certain existing obligations, including in some time periods for implementation that had proved to be insufficient. The current financial and economic crisis and its social repercussions made it all the more urgent to resolve all the problems relating to implementation as soon as possible. Due priority should therefore be given to all proposals relating to implementation that would be made at the present meeting and on subsequent occasions. He hoped to have positive reactions from other Members and their understanding of the high importance of these issues in order to make progress in the preparations for the third Ministerial Conference. He wondered what interest the majority of the developing countries could have in the third Ministerial Conference if their implementational problems were not resolved. His delegation, together with several others, was submitting several proposals at the present meeting on agriculture, subsidies and TRIPS, and would be submitting further proposals in due course.

9. The representative of the United States said that Ministers had rightly decided in May 1998 that there could be no meaningful exchange on the upcoming negotiations and future initiatives without an in-depth look at where one was in realizing the benefits of past WTO initiatives. As a demonstration of its interest in the issue of implementation, the United States had produced a discussion paper for the intersessional meeting in October 1998 (WT/GC/W/107), from which it was clear that the United States agreed with others that full and effective implementation of the Uruguay Round Agreements should remain a top priority for the WTO as it prepared for the forward agenda that Ministers would consider in November. Her delegation wished to make several key points in this regard. First, one could identify areas where affirmative action was needed by national governments to comply with existing agreements and decisions. Second, some problems related to implementation would require further clarification, including possibly through negotiation. Third, since transition periods for most agreements would be ending by 2000, a more concerted effort by all partners was called for to ensure compliance on schedule. That being said, if countries were faced with problems in meeting these deadlines, the United States would be willing to look at each of these situations on a case-by-case basis. Fourth, further attention to technical assistance, in particular setting objectives with recipients, was necessary if such assistance was to fulfil the desired results of facilitating implementation. The above points illustrated the need for ongoing attention, determination and creativity in meeting existing obligations as one looked toward the WTO's future. At the same time, the challenges of implementation were certainly within the realm of the manageable and were not an obstacle to pursuing additional work and liberalization beyond that which was already mandated by WTO Agreements if that was the consensus among Members. Uruguay had made a valuable contribution in regard to the implementation question from which all would benefit. Uruguay's classification of the issues was broadly in line with the United States' own views outlined in October, and it would be a good idea to base future implementation discussions on the Uruguayan model.

10. The representative of El Salvador, speaking also on behalf of Cuba, the Dominican Republic, Honduras and Nicaragua, said that there was a serious imbalance in the Agreement on Subsidies and Countervailing Measures in that the subsidies commonly used by developing countries for their industrialization and development were included in the actionable or prohibited category, while those used by developed countries were in the non-actionable category. It was important to emphasize that the subsidies presently used by developing countries were instruments that had commonly been used in the development policies of the developed countries of today. This demonstrated that these incentives were indispensable for developing countries, especially those with small and vulnerable economies, to strengthen their industrial sector and diversify exports. These measures had had extremely effective results in developing countries in creating new industries, attracting foreign investment, creating direct or indirect jobs, improving trade balances, as well as the development of less advantaged areas. All this had contributed towards social stability and to a greater participation

in international trade. A revision of the provisions of the Subsidies Agreement was necessary so that subsidies for national production and exportation, which contributed to the strengthening of economic diversification programmes, industrialization and sustainable development of developing countries, were placed in the non-actionable category and exempted from the obligation of elimination established in Article 27:4. Their countries proposed that, pursuant to Articles IV:1 and IX:1 of the WTO Agreement, Ministers at Seattle adopt a decision to reform Article 3:1(a) of the Subsidies Agreement in order to correct the existing imbalance and to take into account the development needs expressed above.

11. The representative of Egypt said that Egypt would in due course be presenting proposals building on its earlier contributions in the areas of implementation, the built-in agenda and the mandated negotiations. As regards implementation, his delegation was awaiting the inputs that had been requested from the Secretariat in order to assist in a comprehensive evaluation of the process of implementation, and hoped to receive an update on the Secretariat's activities in this regard. Egypt's proposals regarding implementation would address the following: (i) Special and differential treatment, in particular the cross-cutting issues related to S&D provisions such as lack of information in relation to their implementation, the need to clarify and examine how to effectively implement best endeavours provisions, and linking S&D provisions to measurable development criteria; (ii) Capacity building, which would address shortcomings in, and ways of enhancing the effectiveness of, WTO technical assistance; (iii) Distribution of benefits of the trading system, recalling that Ministers in May 1998 had renewed their commitment to ensuring that the benefits of the trading system were extended as widely as possible. In this connection, in 1994, the Secretariat had estimated that the Uruguay Round results on market access would add some US\$755 billion to world exports annually by 2002, and that these figures should increase substantially when gains from increased trade in services were taken into account. Egypt believed that the Secretariat should revisit these estimates and compare them with what had actually transpired. It also requested the Secretariat to analyse the distribution of benefits of the Uruguay Round Agreements so that Members could address how to achieve a more equitable distribution of these benefits, and believed that this would be a prerequisite for the success of any future negotiations; (iv) Integration of developing countries in the trading system, where Egypt would propose that the WTO start working on measurable criteria to allow Members to continuously monitor the integration of developing countries in the trading system, and would provide examples of criteria that could be used; (v) the Ministerial Decision regarding net food-importing developing countries, which would suggest ways to address shortcomings in the implementation of the Decision, including in relation to food aid, export credits, financial imports and agricultural productivity and infrastructure; (vi) TBT and SPS Agreement and, in particular, the manner in which TBT and SPS measures relating to products of particular interest to developing countries could be notified, the participation of developing countries in standards setting bodies, as well as equivalence and investment requirements in the context of the SPS Agreement; (vii) the Anti-Dumping Agreement, where proposals would aim at preventing the abuse of anti-dumping measures including through the introduction of competition principles in the Agreement; (viii) the Agreement on Textiles and Clothing, where the proposal would address the limited liberalization effects of the first and second integration phase, excessive use of safeguard actions, and the failure to address the interests of cotton producing countries, small suppliers and LDCs; and (ix) the TRIPS Agreement, where Egypt would request consideration of the interrelation between the TRIPS Agreement and the Convention on Biological Diversity in order to address the possible reconciliation of the two Agreements in a manner that would ensure a fair and equitable sharing of benefits between owners of resources and knowledge, and users. It would also submit a proposal regarding the extension of negotiations on increasing protection for geographical indications for wines and spirits to other products, particularly those of interest to developing countries.

12. As regards the built-in agenda, his delegation would be submitting proposals on the following issues: (i) the Subsidies Agreement, which would recall that provisions relating to presumption of serious prejudice and non-actionable subsidies would be reviewed in the middle of 1999 to determine

whether to extend their application as currently drafted or in a modified form. Given the fact that the financial capacity of developing countries to provide subsidies was limited and that their development, particularly in the industrial sector, might require subsidies, such subsidies should be categorized as non-actionable under Article 8. These subsidies might include measures such as cheaper finance, financial support for advanced technology, and subsidies for diversification efforts or market development; (ii) the TRIPS Agreement, where Egypt believed that while the status quo in regard to the issues under Article 27:3(b) should not be altered at this stage, the TRIPS Council should consider new developments in this area. Egypt would also be proposing that the TRIPS Council examine the scope and modalities for non-violation complaints with a view to considering an extension of the period stated in Article 64:2 of the Agreement; and (iii) the DSU review, where Egypt would propose substantially strengthened technical assistance. Furthermore, in the time bound dispute settlement process, it was not clear how a number of S&D provisions would be implemented in practice such as giving special attention to the particular problems and interests of developing country Members during consultations. Egypt would propose that clearer guidelines be devised to clarify the scope of these provisions. It hoped that these difficulties would be adequately addressed in the context of the ongoing review of the DSU and the preparations for the third Ministerial Conference. As regards the mandated negotiations, Egypt believed that a prerequisite to successful negotiations was an effective evaluation of the implementation of both the Agriculture Agreement and the GATS, with particular emphasis on the participation of developing countries in international trade in these important sectors. Egypt's proposals would touch on the following issues: (i) the guidelines and principles of the negotiations so that they could start in a constructive and forthcoming manner, a number of which were already stipulated in the relevant Agreements; (ii) the scope of the agriculture negotiations in the areas of market access, domestic support and export subsidies, based on Egypt's experience with implementation. The proposal would address tariff escalation and tariff peaks, the use of the special safeguard mechanism, the administration of tariff rate quotas, as well as special and differential treatment; (iii) the Services negotiations, where the sectors in which agreements had recently been concluded, such as financial services and basic telecommunications, were capital, technology and knowledge intensive, and developing countries were constrained in increased participation in trade in these sectors. While commitments made by a few developed countries contained provisions for movement of natural persons with commercial presence, there had been no meaningful liberalization in the movement of natural persons without commercial presence. The benefits accruing to developing countries as a result of these commitments were marginal, and Egypt would be submitting a proposal in this regard.

13. In concluding, he said that any future negotiations should be initiated with the clear objective that the outcome of the negotiations should be asymmetrical in favour of developing countries. Without such an approach, it would become exceedingly difficult for the WTO to successfully conclude any future negotiations. Furthermore, if the implementation difficulties facing developing countries were not addressed effectively, it would also become more difficult to reach future agreements since many developing countries would be convinced that agreements were there to stay regardless of their balance, implications or even basic considerations of equity and fairness.

14. The representative of Honduras, speaking also on behalf of Cuba and the Dominican Republic said that with the signing of the TRIPS Agreement, many developing countries had found themselves obliged automatically to adopt the accelerated pace of technological development of developed countries and, consequently, to grant protection to the new emerging technologies, when they were still quite far from dealing with traditional innovations. The TRIPS Agreement presupposed the need to modernize domestic intellectual property systems, including legislation, which would make it possible, in the very long term, for developing countries to benefit from more appropriate institutions, in addition to attracting foreign direct investment of importance for their economic development. Given the technological and financial gap between developing and developed countries, the challenge faced by the developing countries in adapting themselves to the requirements of the Agreement was apparent from the difficult and expensive tasks that lay ahead, including: (i) modernizing the

administrative infrastructure; (ii) modernizing and drafting new laws on the granting and protection of intellectual rights, i.e. substantive laws on the various modalities of intellectual property; civil and criminal codes for the protection of those rights; special laws for protecting plant varieties, layout-designs of integrated circuits and software; antitrust and unfair competition law; regulations on customs procedures, etc.; (iii) strengthening institutions and creating a culture for the protection of intellectual property ranging from the training of judges, lawyers, patent agents, customs brokers and officials with responsibility in the field to the education of the public in general in the exercise of their rights and the fulfilment of their obligations as right holders and consumers; and (iv) creating an appropriate framework for promoting research and development and taking other measures to ensure that developing countries did not continue to be mere consumers of foreign technology. Some of these tasks were already being carried out by many developing countries. Others remained to be undertaken, and would only be possible if sufficient resources were available. Despite these efforts, their countries noted with concern that the end of the transition period allowed under Article 65:2 of the TRIPS Agreement was now approaching expiry. Accordingly, within the context of the TRIPS Agreement review process provided for in Article 71:1, their countries proposed a nine-year extension of the transition period for developing countries.

15. The representative of India recalled that both before the Geneva Ministerial Conference, and in the current preparatory process for the third Ministerial Conference, his delegation had repeatedly highlighted its concerns regarding implementation issues. India's concerns related, first, to unanticipated problems encountered in the process of implementing some of the Agreements and, second, to the non-realization of anticipated benefits from some of the Agreements because of the manner of their implementation by developed countries, without regard to the object and purpose of the Agreements. India had also stated on several occasions that these issues and concerns needed to be addressed before the start of the next round of negotiations, and that it was not possible for a country like India to go on accepting new commitments when existing imbalances, asymmetries and inequities were not addressed meaningfully. As his delegation had stated at the October 1998 intersessional meeting, there should be no expectation that developing countries seeking solutions for their legitimate concerns regarding implementation should pay a price for what was only a redressal issue. India had already circulated a number of papers relating to implementation, and was in the process of preparing specific proposals. These proposals would relate to the question of operationalizing the provisions on special and differential treatment in the various Agreements, as well as to specific issues in some Agreements, with a view to ensuring that developing countries were able to derive the expected benefits from these Agreements and that the implementation problems were resolved. A part of India's preliminary proposals relating to the S&D provisions in some of the Agreements was being distributed to delegations at the present meeting, and a revised paper covering S&D provisions relating to all the Agreements would be submitted shortly. In concluding, he reiterated India's position that most of the implementation issues and concerns had to be dealt with either before the Seattle Ministerial Conference or through a decision at the Ministerial Conference, and not as part of a Ministerial Declaration for further negotiations. Unless such issues and concerns were addressed and dealt with seriously and in a meaningful and sympathetic manner before Seattle, India's ability to be a part of any further liberalization process would be extremely limited.

16. The representative of Hungary, speaking also on behalf of Bulgaria, the Czech Republic, Poland, Romania, the Slovak Republic and Slovenia, recalled that their countries had on earlier occasions proposed that implementation issues be classified into separate categories so as to enable a more streamlined discussion thereon. In this regard, their countries fully supported Uruguay's contribution, which would be an important tool in holding a more organized discussion on these issues leading to the preparation of the future work programme and/or to a separate decision on this matter at Seattle.

17. The representative of Nicaragua, speaking also on behalf of Cuba, the Dominican Republic and Honduras, said that the TRIPS Agreement undoubtedly constituted a further advance within the

system of protection of international intellectual property rights, and reflected the search for minimum common standards, at the level attained by the industrialized countries, in the field of intellectual property. Although, in principle, the full implementation of the Agreement would permit the satisfactory transfer of technology, in fact this was only really possible if there was genuine interest and financial support on the part of the industrialized countries which produced and owned most of the protected innovations. In themselves, the protection and enforcement of intellectual property rights mentioned in Article 7 of the TRIPS Agreement did not contribute to the transfer and dissemination of technology. A focused effort was required for this particular provision to lead to concrete results, without the establishment of any conditions. For this reason, their countries requested that in the context of the review of the TRIPS Agreement provided for in Article 71:1, a new Article be included in the Agreement that would provide for the possibility of incentives being given to developed country enterprises and institutions to promote the transfer of technology to developing countries as envisaged for the least-developed countries in Article 66:2. This proposed amendment being proposed should in no sense, however, be detrimental to the rights enjoyed by the least-developed countries under Article 66:2.

18. The representative of Japan thanked Uruguay for its useful contribution. His delegation had already communicated some comments on the paper to Uruguay, and was prepared to continue discussions on this. He indicated that Japan was in the process of preparing a number of specific proposals on various issues, which it would be submitting in due course. Japan's position with regard to the future negotiations was that they should be comprehensive, a single undertaking, and concluded in three years. Japan believed that the following five goals should guide Members in the preparations for the third Ministerial Conference and the negotiations beyond: (i) restraining protectionism and unilateral measures, and contributing to the further strengthening of the multilateral trading system; (ii) adapting the WTO to new situations arising from globalization; (iii) making the WTO system environment-friendly and in a way that contributes to sustainable development; (iv) integrating developing countries further into the multilateral trading system; and (v) gaining public understanding and support for WTO activities. As regards agriculture, he said that, as confirmed at the World Food Summit in 1996 and at the OECD Agricultural Ministerial Meeting in 1998, the importance of non-trade concerns such as food security and the multifunctionality of agriculture was recognized by many countries. It was indispensable to establish trade rules through the next negotiations that reflected non-trade concerns appropriately, improved the balance of rights and obligations between exporting and importing countries, and addressed the situation of implementation of the Agreement and the needs of developing countries. Japan wished to extend these ideas also to forestry and fishery products. In negotiations on forestry and fishery products, it was important to discuss the various issues in a balanced manner, taking up not only import tariffs but also the sustainable use and conservation of natural resources, and the binding and reduction of export tariffs and non-tariff measures such as export restrictions.

19. Regarding services, Japan believed that the next negotiations should cover all the services sectors. Although the liberalization of maritime transport services had been suspended, Japan wished to see these negotiations concluded early by taking into account the enormous implications for the future expansion of trade in goods. As for the preparations for these negotiations, work currently conducted under the Services Council, including the information exchange exercise, had been productive. It would be appropriate to avoid repeating this discussion in the General Council, and Japan would propose that the General Council encourage the Services Council to proceed with its work concerning the assessment of trade, and on negotiating guidelines and procedures, and request it to submit a report to the General Council before the summer break as a basis for future discussions in the General Council.

20. Regarding regional trade agreements, the depth and extent of various such agreements far exceeded what had originally been expected when Article XXIV of GATT 1994 had been formulated. The principle of non-discrimination should be properly maintained for the credibility of the WTO

system. The Singapore Ministerial Declaration had clearly reaffirmed the primacy of the multilateral trading system, and it was vital for the system to ensure that regional trade agreements were WTO-consistent. There was a need to clarify the interpretation of Article XXIV of the GATT 1994 and Article V of the GATS, and to improve the examination of regional trade agreements. The so-called systemic issues should be addressed fully and properly, and a prudent examination of the scope of the "Enabling Clause" was also necessary. Finally, regarding anti-dumping, the measures stipulated in Article VI of GATT 1994 were exceptions to the basic principles of the WTO Agreements. Anti-dumping measures should therefore be imposed with utmost care. However, resort to anti-dumping measures had frequently led to their abuse. Investigating authorities had extensive discretion in the essential part of the investigations, such as determination of dumping, dumping margins and identifying injury. Anti-dumping issues should be discussed from the standpoint of improving clarity and adopting more precise language in the Anti-Dumping Agreement. Japan supported the concerns raised by several developing countries regarding the abuse of anti-dumping measures and their calls for the need to exclude ambiguity, and arbitrary application of such measures. The abuse of anti-dumping measures was not permissible, whether by developed or developing countries.

21. The representative of Costa Rica reiterated his country's support for the launching of a new round of negotiations aimed at higher levels of trade openness at a global level through an exchange of concessions in all sectors and in a single package. Regarding agriculture, Costa Rica had highlighted on earlier occasions certain elements that should be part of any discussion on the continuation of the agricultural reform process in the WTO: (i) the Uruguay Round results in agriculture constituted only a first step in the agricultural reform process, whose objective was the full integration of this sector in international trade in goods; (ii) Members had agreed in the Uruguay Round to continue with the reform process in 1999 to finally establish an equitable, market-oriented agricultural trade system; (iii) experience with implementation of the Agreement had shown that the objectives of liberalization of the sector had come up against obstacles, including in the form of trade policy instruments which, though not strictly in violation of commitments, had market-distorting effects to eliminate protectionist trends; (iv) the total and prompt elimination of subsidies would contribute substantially to equitable, market-oriented agricultural trade in which developing country products would not be displaced from international markets; (v) several Members had shown leadership by foregoing export subsidies and high levels of domestic support measures, in recognition of the serious market-distorting effects of such measures; other Members, however, continued to defend the use of these measures, including their use to protect production and export of products in which they did not have any comparative advantage; (vi) there were sound arguments to show that agricultural subsidies had a negative effect on the environment, and their elimination would therefore further strengthen sustainable development policies; (vii) a reduction in domestic support levels was desirable in the interests of eliminating all forms of trade distortions; (viii) it was in the interest of all Members to bring about better market access conditions through reductions in tariff levels, and in particular tariff peaks, effective and transparent systems of tariff-quota administration, and greater volumes and lower tariff levels for such tariff quotas; and (ix) new forms of protection should be eliminated. Costa Rica believed that the negotiation should be broad-based and that no issue or area should be excluded a priori. The modalities for the negotiations should contain elements to allow for the recognition of concrete, autonomous trade liberalization measures undertaken by Members.

22. The representative of Pakistan said that his delegation also intended to table several proposals in the course of this phase. Two proposals were being circulated at the present meeting, one relating to the implementation of the Agreement on Textiles and Clothing³, and the other relating to the movement of natural persons⁴, which had been circulated in the Services Council. Additional proposals regarding agriculture and the Dispute Settlement Understanding would be circulated

³ WT/GC/W/159.

⁴ WT/GC/W/160.

shortly.⁵ At the present stage of the discussions, talk of a new round of negotiations was somewhat premature and perhaps even irrelevant. As his delegation had stated on several previous occasions, there were several levels of commitment involved. The highest level of commitment was to the implementation of existing agreements, and these issues had to be dealt with on a priority basis and with a sense of urgency. If the WTO and its membership was not able to deal with the fulfilment of existing commitments or the problems relating thereto, it would be difficult for all Members to reach the stage where they felt that new negotiations for further liberalization should be launched as a matter of priority. The second level of commitment was the built-in agenda, i.e. the mandated negotiations in agriculture and services and the mandated reviews. Members were committed to these mandated tasks, which should be started on time and without any linkages. The third level were the new issues, and the level of commitment here was the lowest. Whether all these issues, including the Singapore issues, would be part of a new round or not was inappropriate to judge at the present stage. As India had stated, implementation issues had to be dealt with as a matter of priority, before Seattle, and he hoped that that would be the case. Finally, his delegation welcomed Uruguay's paper, which could be a useful tool in the future discussion of implementation.

23. The representative of Argentina said that the framework proposal on agriculture submitted by Australia on behalf of the Cairns Group established clearly their expectations from the reform of agricultural trade provided for in Article 20 of the Agriculture Agreement, i.e. definitive and full integration of trade in agriculture into the rules governing trade in other goods. This was entirely compatible with what was provided in the Preamble to the Agriculture Agreement. Argentina, like other Cairns Group members, wished to submit proposals complementary to those presented by Australia. First, the Seattle mandate must clearly specify that out of the negotiating process a date must emerge as from which trade in agriculture would be governed by the same rules as those covering trade in other goods. Members must take the final steps in the coming negotiations to complete the agricultural reform process and definitively incorporate agricultural trade under multilateral rules for other goods. Second, special and differential treatment must be translated into concrete commitments that were easily verifiable. This special consideration in favour of developing countries was justified not only for reasons of justice and equity but also for purely trade reasons. The costs of adjustment towards trade liberalization had to be softened in the developing countries. Third, Members should immediately, and permanently, eliminate agricultural export subsidies as part of the convergence of agricultural trade towards the rules governing other goods. This was not a problem that concerned only efficient producer countries, but rather one affecting all developing countries, including those that did not have a comparative advantage in agriculture. No developing country had the necessary resources to protect its rural producers from such unfair competition. The main non-trade concern of developing countries in this area was to combat rural property. Argentina would be submitting further proposals on agriculture as well as other sectors.

24. The representative of the European Communities said that the nature of the comprehensive approach that the Community was pursuing for a new round of negotiations to be launched at the end of the year was well known. The Community would be coming forward with specific contributions from about mid-May onwards which would cover a number of the wide range of issues to which it had drawn attention in earlier statements. In this regard, the Community had noted the Chairman's recommended format for the presentation of specific proposals. Regarding implementation, the Community's objective, as for a number of other Members, was to ensure full and timely implementation of the Uruguay Round Agreements. The Community remained willing to help in dealing with genuine problems encountered by countries in implementing their obligations, whether by technical assistance or otherwise. In connection with the implementation debate, the Community was looking seriously at Uruguay's paper as a possible approach to this issue, and saw merit in the categorization set out therein. In this regard, the Community believed that the existing Committees and Councils should assume their responsibilities and, as part of their work, examine the

⁵ Subsequently circulated as WT/GC/W/161 and WT/GC/W/162.

categorization put forward by Uruguay with a view to identifying and agreeing, as precisely as possible, areas where progress could be made in the three broad categories. He believed that Members could, and should, aim to make considerable progress in the area of implementation between then and the meeting in Seattle. Clearly, it would not be possible to deal with all the implementation problems by the time of the Ministerial Conference. Indeed, it was only fair to recall that paragraph 8 of the 1998 Ministerial Declaration did provide for Ministers to pursue their evaluation of the implementation of individual agreements and the realization of their objectives at the next Ministerial Conference.

25. The representative of Venezuela indicated his delegation's intention to submit several written contributions in the area of services and TRIMs, among others. He recalled that at the intersessional meeting in November 1998, his delegation had stressed the fact that WTO agendas referred with increasing frequency to two main issues simultaneously: on the one hand, liberalization of trade *per se* leading to the growth of trade flows to the benefit of all countries and, on the other hand, what his delegation had referred to as a "policy space", i.e. the margin for action that each country had to apply developmental policies that would lead to improvements in technology, competitiveness and value added in exports, and to increase the benefits it received from international trade. It was ever more clear for developing countries that this deepening of liberalization should not be incompatible with the maintenance of some of the margins he had mentioned above. Maintaining this "policy space" was more important for developing countries insofar as there were clear market failures that impeded the achievement of their objectives, and which could only be overcome through the application of productive development policies. Improvements in the multilateral trading system could thus only lead to growing benefits for developing countries if, in this process, one did not aim at eliminating countries' capacity to apply policies, such as those he had mentioned, that were harmonious with the market or sought to overcome market failures. Unfortunately, this concrete expression of the principle of special and differential treatment for developing countries in the trading system was not efficient, and was reduced more and more to grace periods for implementation of agreements or the promotion of technical cooperation programmes. This did not address the root of the problem, and the issue of flexibility in the application of policies should therefore be included as a guiding principle distinct from special and differential treatment, or as a principle clearly and explicitly incorporated in a broader concept of special and differential treatment and which would be concretely reflected for the purposes of the third Ministerial Conference as well as in any review or negotiations of agreements that Ministers might decide. Venezuela proposed that one of the general principles that should guide the reviews or negotiations of agreements be that of preserving in these agreements sufficient flexibility so that developing countries would be able to use policies aimed at improving their productive capacity and value-added in their exports that were in harmony with the market and intended to overcome market failures.

26. The representative of Mauritius recalled that at the Special Session on 25 February, his delegation had raised the concerns and problems of small economies, and had indicated that in due course this issue would be brought before the Committee on Trade and Development. At the meetings of the Committee on 2 November and 7 December 1998, his delegation had had the opportunity of presenting a joint paper on the concerns of small economies and a country paper setting out the case of Mauritius. Other Members had also expressed their concerns and experience of vulnerability at these meetings. The Committee had noted the encouraging statements made by many Members who had requested that they be provided with concrete proposals as to how these concerns could be addressed. In this connection, he noted that the WTO was already collaborating with the Commonwealth and the World Bank as part of a joint task force, and that several other Members were already working on their own formulations and proposals. The Marrakesh Agreement, in its preamble, emphasized that the integration of all countries constituted the central philosophy of the WTO Agreements by manifestly ensuring that "their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the

production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development". Members had ensured that the WTO Agreements contained provisions for special and differential treatment, recognizing thereby that the playing field was not even and that supportive S&D measures needed to be applied where necessary. However, the application of these measures remained the subject of utmost dissatisfaction, and this had been consistently deplored by Members, whether at the Geneva Ministerial Conference, at the various intersessional meetings of the General Council, at the High-Level Meeting in 1997 or at the high-level symposia held the previous week, and in almost all meetings held in WTO or in other fora. The invariable view had been that the existence of the S&D provisions in the Agreements had been more nominal than real. At every possible opportunity, Members had complained that S&D measures were often unenforceable, and, furthermore, that net food-importing countries were still awaiting positive action in their favour. It was clear that Members must all strive to render the S&D provisions operational, and even enhance them, bearing in mind the needs and concerns of countries at different levels of development. One way of doing this was to introduce greater flexibility in the application of rules and regulations without, at the same time, disrupting the multilateral trading system. Several authoritative voices had been heard in this respect at the recent high-level symposia including that of the UNCTAD Secretary-General. Members needed to apply their collective wisdom and effort to bring about a solution wherever problems emerged in the multilateral trading system. The multilateral trading system was based on certain principles which made it unique and which guided the work at WTO. Therefore, in the interests of these very few principles, i.e. consensus, transparency, equity and solidarity, it was incumbent upon all Members to address all the important concerns affecting some of them or else run the risk of letting the situation become more explosive in due course. He expressed satisfaction that several Members had pledged support for addressing the genuine concerns of the small economies.

27. The representative of New Zealand said that New Zealand attached value to all the elements of paragraph 9(a) of the Ministerial Declaration of May 1998, and at the present meeting wished to highlight two elements of that paragraph, i.e. the mandated negotiations on agriculture and services. On agriculture, New Zealand's views were well reflected in the framework proposal containing the Cairns Group's objectives for the negotiations, which Australia had tabled in document WT/GC/W/156. As Australia and Argentina had indicated, Cairns Group members were working on specific elaborations of elements of the framework proposal, and some of these would be tabled shortly. He emphasized that New Zealand attached importance to the agriculture negotiations being well-prepared, beginning on time and delivering the fundamental reform required to put trade in agricultural products on the same basis as trade in other products. The framework proposal and subsequent specific proposals were the beginning of the Cairns Group's contribution to this. On services, New Zealand's views had been outlined in the first phase of the preparatory process. It saw the forthcoming negotiations as being about securing the benefits of meaningful liberalization in trade in services by completing the framework developed in the Uruguay Round, and by substantially expanding coverage and improving the quality of specific commitments across a broad range of sectors. New Zealand, along with others, was giving thought to how to develop its views into specific proposals for consideration in the second phase, and would revert to this issue at a subsequent meeting. Finally, on implementation-related issues, New Zealand believed, like others, that Uruguay had put forward a constructive set of ideas on how these issues might be approached, and looked forward to studying this further.

28. The representative of the Dominican Republic, speaking also on behalf of Cuba, El Salvador, Honduras, Nicaragua and Pakistan, presenting a proposal concerning agricultural market access, said that after signing the WTO Agreements, developing countries had not experienced improved access for their agricultural exports in developed country markets. The reasons for this were, among others, the continued existence of tariff peaks, selective dismantling of tariffs, tariff escalation, shortcomings in provisions on minimum access, and sanitary and phytosanitary standards. In order to redress these

imbalances and ensure real and effective market access for developing countries, the following elements should be borne in mind in the future negotiations. There should be a considerable improvement in market access for the principal export products of developing countries through a genuine cut in tariff peaks, progressive increases in the tariff-quota volumes, reductions in in-quota tariffs, increase in the transparency of tariff quota administration, and elimination of non-tariff barriers. Also, special safeguard provisions should not apply to products of interest to developing countries. As regards domestic support, greater flexibility should be granted to developing countries to enable the use of domestic support in their agricultural sectors, when this was aimed at the marketing, transport, and diversification of agricultural production, and also when it was to ensure compliance with sanitary and phytosanitary standards. Particular attention should be paid to the needs of net food-importing countries. Market access for products from these countries should be improved to ensure an increase in their export revenues to allow them to meet increases in food import costs. The commitment of financial and technical assistance by developed countries would enable developing countries to diversify and increase their productivity in the agricultural sector, and meet the increased food import costs. With regard to the non-trade concerns of developing countries, particularly those with small and vulnerable economies, an overall package of measures should be drawn up, aimed at improving the national food security situation, maintaining the standard of living of rural populations, and preserving the environment. Such measures should also be exempted from reduction commitments. It should be understood that these domestic support measures would not be linked in any way to export subsidies. In applying provisions in the area of agriculture, greater flexibility should be granted to countries which have suffered natural catastrophes, by allowing temporary application of support measures aimed at reactivating national production.

29. The representative of Hong Kong, China said that, like others, her delegation was in the process of preparing specific proposals which it would submit to the General Council as soon as possible. Her delegation wished to thank Uruguay for its contribution, which supplemented the Secretariat's checklists by categorizing implementation issues and proposals on the basis of the type of action required. However, in view of the complexity of the issues involved and the general lack of specificity in the statements made by Members in the first phase of the preparatory process, her delegation was not sure if it was always feasible to slot the issues as they were into the three categories used in Uruguay's paper. In some cases, a durable and effective solution to non-compliance might lie in rewriting the WTO rules, which could only be achieved through amendments or renegotiations, as for the issues in the third category. There was also the possibility that an otherwise integrated proposal had to be broken up into different parts in order to fit into the categorization. More importantly, the second phase of the preparatory process was to be "proposal-driven", and Members who had made general statements in the first phase would have to present specific proposals for consideration by the General Council in this phase. Thus, while Uruguay's paper could serve as a reference document insofar as implementation issues were concerned, discussions in the second phase, and the preparation of recommendations in the third phase, should be based on the specific proposals submitted by Members.

30. The representative of Switzerland said that his delegation was also in the process of preparing proposals which it would present at a subsequent meeting. Outlining the principles of a proposal that his delegation had submitted earlier that week to the Council for Trade in Services reflecting its views on the modalities and scope of the services negotiations, he said that Switzerland supported the continuation of the liberalization process in trade in services, which should be based on a balance of interests of Members. It believed that such a balance was possible, since all Members had interests, in varying degrees, in the area of services. Switzerland further believed that no sector should be excluded, a priori, from the negotiations. It had proposed that a certain number of formulae should be developed to facilitate the negotiations on specific commitments relating to market access and national treatment. These formulae could include the standard commitment applicable to each sector, and different formats could be envisaged to make commitments more transparent and to improve the homogeneous nature of such commitments. It should also be ensured that the scope of commitments

taken should not be limited by authorization procedures or national regulations inconsistent with the criteria of transparency or proportionality. These were issues under GATS Article VI. Finally, future services negotiations should not be limited simply to strengthening specific commitments, but should also enable certain gaps in the GATS itself to be filled, in particular as regards rules in the areas of subsidies, safeguards and government procurement.

31. Regarding agriculture, Switzerland believed that Article 20 of the Agriculture Agreement constituted the starting-point for the formulation of the recommendations which the General Council would make to the Ministerial Conference. In conformity with the provisions of Article 20, Switzerland was prepared to continue the agricultural reform process in the long term, and had already taken important measures in this regard at the national level. It believed that the reform process implied further cuts in export subsidies and domestic support, as well as reductions in border protection. For Switzerland, the modalities of this progressive liberalization should take into consideration, as provided for in Article 20, four important elements: the experience acquired thus far, the effect of commitments taken during the Uruguay Round, non-economic considerations, which played an important role in agriculture given its multifunctional nature, and the different levels of development of Members. In concluding, he said his delegation had noted Uruguay's communication regarding implementation, and would return to the matter at the appropriate time.

32. The representative of Norway said that implementation of the WTO Agreements, including special and differential provisions, was a priority issue. Consequently, the evaluation of these provisions by developing and least-developed countries was of particular importance. Several proposals aimed at addressing inequalities in existing provisions had already been put forward, and Norway was ready and willing to go through existing agreements and provisions to identify refinements that might be implemented right away, and set priorities for proposals on possible further improvements. Like others, his delegation found Uruguay's paper useful, and would examine it closely. Norway had, on numerous occasions, advocated capacity building and technical assistance as the necessary means to safeguard implementation of WTO agreements and provisions by all Members. To secure predictable and stable financing, technical assistance activities should be an integrated part of WTO activities and financed through the regular budget. In addition, outsourcing of some of the technical assistance activities now carried out by WTO should be sought. Another priority was the need to ensure that all Members, including LDCs, gained real access to the dispute settlement mechanism, and his delegation therefore supported Colombia's proposal for the establishment of an independent legal advisory centre. Norway had earmarked US\$1 million for the establishment of the centre and was looking for agreement, without undue delay, on a system to provide the appropriate kind of judicial help needed to give a fair hearing to, and protect the trading rights of, all Members.

33. Norway was preparing proposals in several areas, including agriculture and services. On agriculture, Norway had noted the communication circulated by some major food-exporting countries regarding their objectives for the upcoming negotiations, which seemed to be based on the assumption that the agriculture sector was confined to the role of being supplier of food and fibre only. There was, however, an emerging consensus that agriculture also played an important role in regard to non-trade concerns such as food security, viability of rural societies, maintenance of landscapes, and the preservation of the environment in general. These multifunctional aspects of agriculture were of crucial importance to Norway. The relative importance of the different roles of agriculture would, of course, vary between countries and regions. However, non-trade concerns in agriculture represented legitimate concerns and should therefore be fully recognized and respected. Furthermore, these multifunctionalities were closely interlinked with production activities, but their value was not fully reflected and internalized in the market. The average production cost for most agricultural products in Norway exceeded the world market price and, as costs were closely related to natural conditions, it seemed clear that this would also be so in the future. This had an effect on the choice of policy measures. Due to the degree of connection that existed between agricultural production and the provision of certain public goods, a combination of policy measures would be called for, including a

certain degree of production-linked support. The major challenge in the upcoming negotiations was therefore how to make the other concerns in Article 20, including non-trade concerns, an integral part of the future Agriculture Agreement. These aspects would be reflected in Norway's proposal.

34. Regarding services, Norway understood that there was agreement among Members on broad coverage, i.e. that no sector or mode of supply should be excluded from the negotiations. A certain amount of work remained to be done on issues remaining from the Uruguay Round, such as rules, government procurement, subsidies, emergency safeguards and issues related to domestic regulations, and also on those related to the scope of the agreement, such as confirming that social security was outside the scope. These issues should clearly be part of the new negotiations, and be covered by the Ministerial mandate. It was in the interest of Members to agree on sensible procedures for the negotiations, building on the organization of work on services thus far. Norway believed that qualitative aspects of trade, such as environmental considerations and consumer protection and health, should be duly taken into account during the negotiations. This would be reflected in Norway's proposal on services.

35. The representative of Sri Lanka said that while his delegation did not have specific proposals to present at this meeting, it wished to associate itself with the proposal made by the Dominican Republic on behalf also of Cuba, El Salvador, Honduras, Nicaragua and Pakistan, with regard to issues related to market access for agricultural products. Despite substantial tariff reductions and other obligations undertaken by developing countries under the Uruguay Round in the area of agriculture, Sri Lanka had not received any tangible benefits in access to developed country markets for products of interest to it. The paper circulated by the above-mentioned countries clearly identified the shortcomings in this area, and Sri Lanka fully associated itself with their conclusions for redressing such imbalances in future negotiations.

36. The representative of Canada said that Canada, like other members of the Cairns Group, was seeking a comprehensive framework for the agricultural negotiations that would address all areas affecting agricultural trade. Domestically, his Government continued to be engaged in a broad process of consultation with stakeholders, including the agri-food sector and the provinces, on the issues and Canada's interests. While Canada's initial negotiating position, to be articulated by the fall, would reflect this domestic consultative process, some key issues in the negotiations were nevertheless readily apparent. Clearly, the negotiations would focus on further substantial, progressive reductions in support and protection, although the speed and depth of those reductions would be determined by the negotiations themselves. Canada's long term objective continued to be substantial progressive reductions in support and protection; this objective was shared with all Members, as it was set out in Article 20 of the Agriculture Agreement itself. While progress towards this goal had been made in the Uruguay Round, much more remained to be done. Support and spending on agriculture by some Members had continued at very high levels, which distorted production and trade and disadvantaged competitive producers in other countries. This disparity in support was a concern not only for countries like Canada, which had reduced support to the agricultural sector, but also for many developing countries which had never been able to match the treasuries of some developed countries. Canada had sought the elimination of export subsidies during the Uruguay Round, and this remained a key policy objective that had the support of Canada's entire agri-food sector. The continuing low prices in world markets for a number of important traded agricultural products should not be used to justify or trigger a slide back into export subsidies, or high levels of trade distorting domestic support. In this context, it was particularly important that Members continued to seek reductions in trade distorting domestic support, and to ensure that there was a clear distinction between trade-distorting and non-trade-distorting domestic support. Any expansion of access opportunities should take into account the disparities in the size of access commitments for different Members that existed at present. While lowering support and protection was clearly an important part of continuing the reform process, it was also essential that clearer and more certain rules applied to agricultural trade. At the intersessional General Council meeting in November,

Canada had suggested a number of examples where it believed clearer rules were needed in agricultural trade, including minimum access commitments, special safeguard provisions, the use of reference prices or gate price systems in tariff administration, definitions of trade-distorting and non-trade-distorting domestic support, use of food aid, export credits and export market development programs in ways that could circumvent export subsidy commitments, export restrictions and taxes, and regulatory approval systems that affected trade in biotechnology products. Canada would refine these ideas further as preparations for the Ministerial Conference moved forward.

37. The representative of Korea said that Korea, like many others, was not in a position to submit concrete proposals at the present meeting, but was preparing four proposals relating to the mandated negotiations on agriculture and services and the WTO rules on regional trade agreements and anti-dumping measures that it hoped to circulate soon. Korea's proposals on agriculture and services contained a few important principles that should provide guidance during the negotiations in both areas. On agriculture, Korea suggested the following on the basis of its experience in implementing its commitments as a net food-importing country: (i) the basic framework and key elements of the Agreement should be maintained so that the reform process might continue in a consistent manner; (ii) in carrying out reforms, a flexible and gradual approach should be taken in consideration of Members' different conditions for agriculture; and (iii) in order to ensure a balance of interests between exporting and importing countries and between developed and developing countries, provisions on non-trade concerns and special and differential treatment for developing countries should be strengthened. On services, Korea suggested the following: (i) the next negotiations should cover all service sectors and no sector should be excluded a priori; (ii) the scope of MFN exemptions should be progressively reduced; and (iii) the work currently under way on rule making in the areas of safeguard measures, domestic regulations, subsidies and government procurement should be completed promptly, at the latest before the conclusion of the next negotiations. Korea's paper on regional trade agreements would suggest that Members examine the WTO provisions concerning such agreements in order to have a clearer, updated set of rules. Current WTO rules suffered from a conspicuous lack of clarity. Given the increasing importance of regional trade agreements in international trade, it was imperative that Members address the ambiguities in the relevant WTO rules. With regard to anti-dumping measures, Korea would suggest that Members examine the provisions of the Anti-Dumping Agreement in order to clarify, improve and, if necessary expand them. The Anti-Dumping Agreement had significantly improved through the Uruguay Round negotiations. However, considering the increasing incidence of anti-dumping actions in recent months and the fact that a number of WTO dispute settlement cases had involved the implementation and interpretation of the Agreement, Korea believed there was much room for further improvement. Korea wished to see far clearer and less ambiguous provisions with regard to some important aspects of anti-dumping actions so that the door was not left open for abuse and unnecessary obstacles to trade.

38. The representative of Brazil said that Brazil, like many others, was also in the process of evaluating and preparing certain specific proposals. He wished to thank Uruguay for its contribution that would help delegations better understand and comprehend the immense task of implementation. Brazil was considering the many proposals which had been tabled, and would shortly offer its reactions. Regarding agriculture, Brazil welcomed Australia's statement and, as a member of the Cairns Group, fully shared the ambitions of the Group for the future negotiations. Brazil's ultimate objective, as a member of the Group, was to bring agriculture into the realm of fair trade. Distortions caused by abusive use of export subsidies, insurmountable tariff barriers, and high levels of trade-distorting support should be eliminated progressively but steadily. Brazil also welcomed New Zealand's statement to the effect that the Cairns Group would shortly be presenting proposals developing the ideas contained in the vision statement. Brazil hoped to be in a position to contribute to specific proposals on tariff reductions in general, and the elimination of tariff peaks and escalation in particular.

39. The representative of Malaysia, speaking on behalf of the ASEAN Members, said that their countries would be circulating several proposals in early April regarding paragraph 9(a) issues, and wished to highlight elements of some of these proposals at the present meeting. Regarding special and differential treatment, he said that although a number of developing countries had become more integrated into the multilateral trading system and had become significant exporters of industrial and agricultural products, many had still not been effectively integrated. Many developing countries had not been able to utilize trade expansion opportunities offered by the Uruguay Round Agreements due to various factors including the lack of human and institutional capacities. Differing levels of development and capacities existed among WTO Members. Developing countries were also deepening and broadening their commitments. In this context, S&D treatment for developing and least-developed countries assumed an even greater role and hence the need for improved provisions in this regard. In the ASEAN Members' view, certain S&D provisions needed to be operationalized. Regarding the Anti-Dumping Agreement, he said that it continued to contain weaknesses that, unless rectified, provided opportunities for abuse. These weaknesses included, but were not limited to, the concept of dumping determination that, in some circumstances, still allowed for a weighted average-to-transaction price comparison which went beyond the fair comparison basis, and the standard of review clause. While it was generally accepted that the procedures in the DSU applied to all WTO Agreements, the Anti-Dumping Agreement was the only agreement with an exception under the standard of review clause. The clause limited the ability of both panels and the Appellate Body to deliberate and to interpret the actions of the authorities against the rules and procedures stipulated in the Agreement. Other technical aspects of the Agreement also deserved close attention. Examples of these included making mandatory both the use of the lesser duty rule and the issue of a public interest clause in making final determinations of anti-dumping duties. As regards to the TRIMs Agreement, Article 5:3 provided for the possible extension of the transition periods for developing country Members. However, in the absence of specific criteria and modalities for taking into account "the individual development, financial and trade needs of the Member in question" such extension might not be practically feasible. The review mandated under Article 9 was a timely opportunity to establish such specific criteria and modalities. However, above and beyond transition periods, it was even more important to re-assess fundamental assumptions. An equitable multilateral framework for trade could not be oblivious to the divergence of the respective capacities of Members to assume obligations with that framework. Indeed, this was tacit in the various agreements, including the TRIMs Agreement. However, by and large, the approach thus far had been merely to provide for transition periods for developing countries. Equally tacit in this approach was the assumption that by the end of such transition periods, developing countries would necessarily have attained the same capacity as developed country Members. It was well known that the passage of time alone did not guarantee this. The TRIMs Agreement, as it currently stood, was effectively no more than just a call for the elimination of TRIMs, including those which could be of crucial importance to developing countries, without regard to the levels of development of these countries.

40. Regarding the Subsidies Agreement, he recalled that pursuant to Article 31 of the Agreement, Articles 6:1, 8 and 9 would not be applicable after the end of 1999, unless there was a decision to extend their application for a further period, either as presently drafted or in a modified form. There were different views on the extension, and it might indeed be premature to presume that Article 31 would be part of the deliberations at the third Ministerial Conference. The ASEAN Members were nevertheless of the view that green-box subsidies primarily catered, by and large, to the interests of developed countries. At the same time, however, if each Member were to be indifferent to a matter simply because it was not of primary interest to it, the WTO could not foster mutuality of interests. In this regard, therefore, one could consider a possible extension of Articles 6:1, 8 and 9, either in their present or modified form, depending on the degree of sensitivity manifested in concrete terms by other Members towards the concerns of developing countries in general, and of the ASEAN Members in particular. Regarding the responsibility of Members under the WTO Agreement, he noted that Article XVI:4 of the Agreement established the basic obligation of each Member to ensure the conformity of its laws, regulations and administrative procedures with its WTO obligations.

However, under Article 22:9 of the DSU, it would seem that the obligation of a Member in respect of measures taken by regional or local governments or authorities within its territory was confined to taking "such reasonable measures as may be available to it". Unless otherwise specifically provided, this was therefore applicable to all of the agreements forming part of the WTO Agreement. The obligation to take reasonable measures was not the same as the obligation to ensure conformity. The ASEAN Members were aware that Article 22:9 of the DSU further provided that the relevant provisions on compensation and suspension of concessions and other obligations were applicable in cases where it had not been possible to secure such observance. However, compensation was voluntary, and suspension of concessions or other obligations was not necessarily a feasible remedy for many Members, particularly developing country Members. The ASEAN Members' concern was compliance with the obligation to ensure conformity. With regard to the "Enabling Clause" of the GATT 1994, he noted that non-discrimination was a core WTO obligation. The "Enabling Clause" allowed preferential treatment as an exception, but subject to certain conditions including that such preferential treatment should be generalized, non-discriminatory and non-reciprocal. Notwithstanding these conditions, there were preferential treatment schemes being implemented at the present time in disregard of those conditions. The ASEAN Members believed that adherence to a core WTO obligation deserved the closest monitoring.

41. Turning to services, he noted that Article XIX of the GATS required Members to establish negotiating guidelines and procedures before each mandated round of services negotiations. It also provided certain key procedural and substantive parameters for these negotiations. The recommendations on services that Members would submit to the Ministerial Conference should meet this requirement for negotiating guidelines and procedures, and be in full accordance with the parameters laid out in Article XIX. There were five core elements of the mandated negotiations which should all be addressed in the negotiating guidelines and procedures. First, on framework issues, the experience that Members had had with implementing the GATS clearly pointed to several grey areas. It would be important to address these in the negotiations so as to bring greater legal certainty to the operation of the Agreement. For example, the ongoing work in the Services Council and the Committee on Specific Commitments had highlighted various definitional or classification problems. These had led and could still lead to conflicting interpretations of the commitments made, such as on the issue of grandfathering. Work on professional services had shown the need for greater clarity in respect of various GATS provisions. For example, the dividing lines between Articles VI, XVI and XVII of GATS remained unclear, as did the definition of what an economic needs test was. Moreover, changes in business practices and advances in technology had also raised various market access and legal issues. Second, there was increasing recognition of the impact that domestic regulations such as licensing, qualifications and technical standards could have on services trade. In fact, Article VI:4 of the GATS did require the Services Council, through appropriate bodies it might establish, to develop disciplines to ensure that domestic regulations did not constitute unnecessary barriers to services trade. Members had dealt with several Article VI:4 issues in the context of the negotiations on accountancy services. There was, however, a need for broader horizontal discussions and, if appropriate, disciplines. The negotiations should provide an impetus for progress in this area. Third, in addition to taking up Article VI:4 issues, the negotiations should also pursue other mandated work under the GATS. These would include, *inter alia*, the review of Article II exemptions, the negotiations on maritime transport services, and the requirement under Article VII to establish and adopt, where appropriate, common international standards for the practice of relevant services trades and professions. The mandated work on GATS rules, and in particular safeguards, was of great importance to the ASEAN Members, and they urged Members to meet the deadline of the renewed mandate on safeguards that was fast approaching. Progress on safeguards might exert an influence on the commitments undertaken in the new negotiations. On the other hand, the GATS mandate on subsidies and government procurement did not stipulate a deadline and, given the limited progress in the discussions on both these issues, they were likely to be rolled over into the upcoming negotiations. Fourth, on the question of developing country concerns, the negotiations should seek to operationalize and make effective the GATS provisions relating to developing countries. Article IV was of

particular concern to the ASEAN Members. The negotiations should seek to strengthen both the domestic services capacity of developing countries and their access to distribution channels and information networks. Fifth, in the area of market access, the negotiations should aim to achieve a fair and balanced package for the entire Membership. They should cover all issues and services sectors with no a priori exclusions, and in particular the sectors of interest to developing countries. Such an approach had clear advantages. It ensured that the interests of all Members were taken into account and, more importantly, that each Member had a stake in the success of the negotiations. The negotiations should also establish modalities for the treatment of autonomous liberalization measures undertaken by Members. Finally, the guidelines and procedures should also stipulate a time-frame within which the negotiations were to be concluded. The ASEAN Members were in favour of a short time-frame of three to four years. The ASEAN Members would be taking up these and other priorities in the Services Council and its subsidiary bodies and, where appropriate, in the General Council process itself.

42. The representative of Australia, commenting on the reference by Norway to an "emerging consensus" on multifunctionality in agriculture, said that multifunctionality was a new name for an old, rich-country argument that high levels of production and trade-distorting support were necessary to maintain rural standards of living, protect the environment, and enhance food security. As Australia had stated on other occasions, as far as its own analyses showed, high levels of production- and trade-distorting support entrenched rural poverty world-wide, led to poor practices in intensive agriculture, such as the overuse of fertilizers that degraded the environment, and diminished food security world-wide by discouraging a large number of countries, particularly developing countries, from pursuing agricultural export opportunities. There was therefore no emerging consensus in this regard.

43. The representative of India expressed concern at the Community's reference to increased technical assistance programmes as a means of addressing implementation issues, and at its suggestion that relevant WTO committees and councils might be requested to take up these issues. While India recognized the role and importance of technical assistance, he recalled his delegation's statement at the intersessional meeting in October 1998 that implementation issues and concerns needed to be handled with political sensitivity. Some Members were trying to downplay these issues and concerns by arguing that they could be resolved through increased technical assistance. India wished to state clearly that the implementation issues and concerns that had been raised were serious and it would be unrealistic to imagine that these problems could be solved and the concerns met through technical assistance alone. If some developing countries faced a major problem in implementing the TRIPS or TRIMs Agreements, or if their trading partners were implementing the Anti-Dumping, Subsidies and Textiles Agreements in ways that impeded market access, the problems could not be solved through technical assistance. Developing countries had found that while implementing the TRIMs Agreement, for example, they were virtually forced to give up some developmental aspirations and strategies. For this reason, India had always maintained that implementation issues and concerns had to be viewed and handled in a political framework and not on the basis of enhanced technical assistance. As regards requesting subsidiary bodies to look into all implementation issues highlighted in the General Council, he recalled that this issue had been discussed when the Geneva Ministerial Declaration was in the process of being drafted, and that his delegation had made clear at that time that implementation issues should be handled in the General Council, which should be completely in charge of the process, and that if in respect of any subject, item or proposal the General Council considered it appropriate to obtain the opinion, advice or recommendation of a subsidiary body, it should take a conscious decision to do so. At the present meeting, he had heard the European Communities suggest sending everything to the subsidiary bodies, and this would be totally unacceptable to his delegation.

44. The representative of Pakistan associated his delegation fully with India's statement concerning technical assistance and the use of subsidiary bodies.

45. The representative of the European Communities, clarifying his earlier statement, said that the Community was willing to help in dealing with genuine problems of implementation, whether by technical assistance or otherwise. As regards the role of subsidiary committees and councils, he said that it was possible for the General Council to make progress before the Ministerial Conference on a significant number of items identified as problem areas in the implementation of the Uruguay Round Agreements, and that one way of making progress was to use the committee structure, although perhaps not for each and every item identified in the various checklists. The committees did exist and could help on this matter. He also wished to note that the General Council could not complete the evaluation implied in paragraph 8 of the Ministerial Declaration, which in fact provided for the evaluation to be pursued in the context of the third Ministerial Conference.

46. The representative of the Dominican Republic associated his delegation fully with India's statement. The issue of implementation was not one concerning simply technical assistance and should be resolved before the consideration of any Ministerial Declaration in the context of the Seattle Ministerial Conference. Furthermore, the ultimate responsibility in the preparatory process lay with the General Council, and any participation in this process by subsidiary bodies was subject to what was decided in the Council.

47. The representative of Cuba also associated his delegation fully with India's statement. The issue of implementation required important political decisions, and it was very simplistic to think that technical assistance alone would resolve the policy problems being faced.

48. The Chairman said that Members had had a valuable discussion regarding both the substantive issues to be addressed at the Seattle Ministerial Conference, and the preparatory process. A number of proposals had been made in the course of the discussion, and many delegations had indicated that proposals would be forthcoming and had given some sense of the content of those proposals. He suggested that delegations circulate their proposals as soon as they were ready, and that they not wait until the next formal meeting to table proposals. If proposals were tabled in the following days, they could be considered at the informal intersessional meeting scheduled for 12-13 April. The process was not intended to oblige delegations to wait for formal special sessions in order to table proposals. Despite his opening remarks in this regard, he noted that some delegations had seen the need to make general statements in the course of the meeting. Bearing in mind the need to try and minimize the demands that were going to be put on all delegations, and particularly the small ones, during the course of the year, delegations might wish to consider circulating in writing any general statements of view which they believed needed to be registered in the process. With regard to the point raised by India, and supported by some other delegations, concerning the importance of having some results or decisions on implementation issues by or at the Seattle Ministerial Conference, he believed that this was an important issue. As mentioned by the European Communities, it was also relevant to the undertaking Ministers had under paragraph 8 of the Ministerial Declaration to further pursue their evaluation of the implementation of individual agreements and the realization of their objectives at Seattle, which was important in terms of the number of comments made by Members in the course of the discussion. He suggested that while there was certainly a role for the subsidiary bodies in assisting the General Council with its task, the task clearly remained one for the General Council, and one which should be managed by the General Council. There was some indication that one could perhaps be looking for deliverables at Seattle, and certainly in the area of dispute settlement, a number of delegations had made it clear that they would expect to see some substantial progress in clarifying some of the provisions in the DSU that had led to a certain degree of uncertainty. As regards the status of preparation of papers by the Secretariat designed to support the General Council's work in the preparatory process, he had been informed that the Secretariat would shortly circulate an up-dated document explaining the situation in respect of each request for contributions from the Secretariat, and he suggested that the General Council revert to this matter after this document had been circulated.

49. He proposed that the General Council agree to the changes to the indicative programme for the organization of future work that he had presented at the beginning of the meeting, bearing in mind that delegations had agreed on the need for flexibility in the preparatory process.
50. The General Council took note of the statements and so agreed.
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