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Held in the Centre William Rappard
on 22 June and 3 July 2000

Chairman: Mr. Kåre Bryn (Norway)

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1. Programme and calendar of work

1. The Chairman said that before moving to considering the programme and calendar of work, he wished to make some observations regarding the process Members were launching, and the broad parameters for their work. It had taken a long time to set up this very important process, which he believed was a major achievement. He knew that all delegations were approaching it in a serious and positive spirit. It was the same spirit in which Members had approached the intensive consultations that had been under way in recent weeks to prepare for this first Special Session and to reach some understandings on the organization of work at these meetings, as well as an indicative schedule until the end of this year. The process of consultations had resulted in a draft text that was considered at an informal meeting of the General Council the previous day. This was, in his view, a balanced text which would provide a basis that would enable all to begin the substantive work that lay ahead. Agreeing on this text would not prejudice any Members' substantive position; it would help initiate the process, not predetermine its outcome. He also emphasized, in response to comments at the previous day's informal meeting, that this was definitely an action and result-oriented process. The General Council decision of 3 May, which was quoted in the preamble to the draft schedule of work, committed Members to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action. These objectives governed the whole programme of work, and he suggested that delegations read the draft text in this light, as he did. Members collectively aimed to fulfil the mandate of 3 May faithfully, and he counted on the co-operation of all delegations in the work necessary to do so.

2. Regarding the second tirt of the first bullet point on page 1 of the draft – which read "provide an opportunity for identifying activities under way which may be of relevance in addressing implementation concerns" – he said that this point simply aimed at ensuring that delegations could have all the facts that might be relevant at their disposal as they considered specific implementation issues; it was in no way a substitute for that consideration. As a contribution to improving Members' information base, he proposed to make a report at the resumed meeting on 3 July concerning activities already under way in the WTO which might be of relevance to addressing implementation concerns. Of course, delegations should also feel free to inform the Council about any such activities they themselves or other agencies were undertaking, and he hoped they would.

3. In addition to the organization of work and schedule of meetings outlined in the draft text available to delegations in the room, he proposed that the basic order in which they took up the issues should be that of the WTO compilation of the legal texts of the results of the Uruguay Round negotiations. Within this basic framework Members would be able to take up specific issues and concerns at the Special Sessions, giving first priority as agreed to those identified in paragraph 21 of the draft Ministerial text of 19 October 1999. For example, at the present Session, Members would start with the issues raised in paragraph 21 of the 19 October text under the Balance-of-Payments provisions of GATT 1994, followed by those on Agriculture, and so on. The possible cross-cutting issue of provisions for special and differential treatment would be raised at the end, if they were not addressed under each Agreement. Similarly, Members could retain this basic sequence when they took up the other proposals on implementation, and address any remaining cross-cutting issues at the end. He proposed that the General Council agree to the organization and indicative schedule of meetings in the draft text before it and to the sequencing of issues as he had outlined.

4. The General Council so agreed.¹

¹ The text of the agreed Organization of Work and Indicative Schedule of Meetings was circulated as Job 3859, dated 22 June 2000.

5. The representative of Morocco, speaking on behalf of the African Group, said that many African countries, and in particular the least-developed countries, were not in a position to examine each agreement and to evaluate where they might have problems with implementation. A systematic effort would have to be undertaken to assist these countries, focused on finding out the problems they were facing. He recalled that in 1996 the Committee on Trade and Development had drawn up a questionnaire aimed at evaluating whether agreements were being implemented and, if not, whether the problems were those of capacity or some other. He suggested that the Secretariat enter into a systematic stocktaking exercise along similar lines with the African countries that needed it most, so as to determine exactly which countries had problems, the nature of the problems and how to address them. This would have to be done early enough so that the discussion in the process that Members were now embarking on would be meaningful. Many African countries, for example, could not relate to any of the urgent or non-urgent matters reflected in paragraphs 21 and 22 of the 19 October text because some of them were simply not in a position to make an evaluation of their implementation problems. As a result, even if all the proposals in those paragraphs were addressed, the problems and concerns of African countries might not be covered. One could not assume that, because a concern was raised by a developing country or a country in Africa, all the other African countries or the LDCs in Africa would have the same kind of problem. He urged the Chairman and the Secretariat to move on this task, and to get in touch with the chairmen of the Committee on Trade and Development and other WTO bodies to produce an updated questionnaire on the basis of which an evaluation could be undertaken and the emerging issues discussed in the informal consultations to be conducted by the Chairman and the Director-General with the aim of finding solutions to the urgent problems.

6. The Chairman said that the issue raised by Morocco was very important for the whole process. The Secretariat would do its utmost to assist the African countries, and he asked the African Group to get in touch with the Secretariat in order to identify their needs, so that those could be taken on board as the process moved along.

7. The representative of the European Communities said that he had noted carefully Morocco's statement on behalf of the African Group. The Communities were willing to examine any issue on the table in the area of implementation, and noted that considerable progress had been made during the preparatory process for Seattle, and at Seattle itself, in considering these proposals, both in terms of methodology and in identifying precise items where early progress was possible. Since then, Members had taken a decision at the General Council meeting of 3 and 8 May to establish an implementation review mechanism, and had agreed at the present meeting on the organization of work and indicative schedule of meetings in that process. Progress was also being made in regard to the TRIMs transition period issue following the framework agreed at the May Council meeting, and in relation to the implementation problems in the customs valuation area. The Communities, together with Canada, Japan and the United States, had put forward earlier in the year some specific ideas relating to the implementation concerns in the TBT, SPS and other areas, and in the necessary component of technical assistance and capacity building. Clearly, technical assistance was not and could not be the solution to all problems, and the Communities had stressed this in the past. However, they were determined to press forward with this area of work, and noted that Members were now beginning to hold first discussions in relation to improving the Integrated Framework, in which the Communities would play a positive and active part. There had been some comment in the work thus far on implementation to suggest that perhaps undue emphasis had been given to procedural questions. Procedure, however, was vital to progress in this area, given the long and complex list of very different proposals. In adopting the programme and calendar of work at this meeting, Members had essentially put procedure behind them and the way was now open to move forward. The Communities believed that other WTO bodies would also have a role in the consideration of some of the implementation proposals, and that this should not be seen in any way as a tactic to bury items or to ensure that they were dealt with by technical experts alone. The Communities genuinely believed that the General Council was not always the best forum for the adequate consideration of some of the very complex and technical issues involved, and looked forward to playing a role at the level of both

the General Council and subsidiary bodies for this reason. For their part, the Communities were close to completing a reexamination of each of the proposals on implementation in the light of the recent General Council decisions and other initiatives, including that of the Quad, and also in the light of the current state of play in relation to the WTO work programme. Much would now depend on the consultations to be conducted by the Chairman and the Director-General. The Communities looked forward to playing a full and positive part in those consultations, which he hoped would begin at an early date.

8. The representative of Japan said his delegation was fully aware that the exercise Members were now engaged in was aimed at confidence-building. Japan would be engaging in this exercise in the strong belief and hope that it would facilitate the launch of a broad-based new round of negotiations. As his delegation had stated repeatedly, a broad-based round was the only way to achieve the optimal goal of further trade expansion reflecting the varied interests of the membership as a whole. It was important to set out clearly the parameters under which Members were to conduct their work. The Geneva Ministerial Declaration stated, in paragraph 8, that "full and faithful implementation of the WTO Agreement and Ministerial Decisions is imperative for the credibility of the multilateral trading system and indispensable for maintaining the momentum for expanding global trade ...". It went on to state, in paragraph 9, that "... we decide that a process will be established under the direction of the General Council to ensure full and faithful implementation of existing agreements ...". This was the very basis of Members' work on implementation. They should not lose sight that their aim was to discuss how best they could ensure the full and faithful implementation of existing agreements and take necessary actions towards it. Naturally, in so doing, Members needed to address the problems encountered in implementation and the consequent impact on the trade and development prospects of Members. On the basis of the above and the 3 May General Council decision on implementation-related issues, he wished to elaborate on how the individual issues should be dealt with, including those contained in the documents cited in the 3 May decision. He hoped that Members would be able to solve in a timely manner the issues and concerns raised in the course of their work. However, since the objective of the exercise was to ensure full and faithful implementation of existing agreements, this work should also focus on how those Members in need could be assisted in complying with the required obligations, and on how to clarify and elaborate the meaning of some clauses of existing agreements that were found to be ambiguous so as to make them more operational. The issues whose solution required revision of the rights and obligations in the existing agreements were beyond the scope of the implementation exercise and needed to be taken up as part of a future round of negotiations. Japan had no intention of prejudging the outcome of the present exercise. However, an agreement to take up a particular issue in the context of the future round of negotiations should also be considered as one of the decisions or actions envisaged in the work programme.

9. As regards modalities, he drew attention to the second tirt of the first bullet point of the text just agreed on the organization of work and indicative schedule of meetings. Examination of implementation issues was a complex task. The General Council needed to benefit from the inputs of all WTO bodies conducting relevant work on these issues in order to have a full and balanced picture. It needed timely inputs from theses bodies as well as from the Secretariat. He was not asking for value judgements but rather factual inputs. He welcomed the Chairman's intention to report on 3 July on activities under way in the WTO that might be of relevance to addressing implementation issues, and hoped that that report would include mention of seminars and other educational activities as well as technical assistance programmes carried out not only by the WTO but by other organizations as well. Japan intended to listen very carefully to the implementation-related issues and concerns of Members at the present meeting, and hoped to have a better understanding of the concerns of developing-country Members in doing so. Implementation concerns were not limited to developing-country Members, however, and Japan had its own concerns – although much smaller in number – which it hoped would be addressed in an appropriate manner in this exercise. He stressed that although Members would be looking into texts that were tabled before Seattle, they were now

working in a context different from that of the pre-Seattle period. This fact had an important bearing on this work, and realism and pragmatism on the part of all was the key to a successful outcome.

10. The representative of Brazil said that he had noted with satisfaction the comments by the European Communities, particularly on the general thrust of their engagement in this important exercise, and also the points by Japan, particularly on the confidence-building nature of this work. That was how Brazil understood this exercise, and believed that it was a necessary and important step on the road to further negotiations. In this context, Brazil continued to believe that the issue of transition periods should be examined in its entirety, that this was the opportunity to do so, and that the notion of due restraint should still remain as the basis of this work. Confidence-building, especially in the implementation area and in the light of paragraph 8 of the Geneva Ministerial Declaration just referred to by Japan, would provide the means to developing countries to comply fully with the commitments set out in individual agreements. That was the whole purpose of this exercise, and he hoped that delegations would engage in a positive and constructive spirit on the many proposals that they would soon be addressing.

11. The representative of Poland, speaking also on behalf of the Czech Republic, Hungary and the Slovak Republic, said that they approached the coming process of consultations and discussions in good faith and with realism. While progress on implementation might, on the one hand, accelerate the way to the early launch of a new round of negotiations – a goal they fully supported –, the most difficult implementation problems could, on the other hand, only be resolved through negotiations that were best placed in the framework of a new round. As their delegations had stated previously, they favoured a broad-based and balanced agenda for the new round, which should include implementation-related issues. Discussions and consultations on implementation issues should be conducted in a transparent way and enable Members to examine sufficiently the nature and origins of the possible problems. It was essential to be able to assess the real dimension of the concrete implementation problems in the multilateral trading system, keeping in mind the diversity of factors which might be at their origin in particular countries. He hoped that in dealing with implementation issues, Members would be guided by the spirit of the further strengthening of the multilateral trading system and a determination to achieve as quickly as possible the objective of new negotiations and to conduct effectively, in the meantime, the process of new accessions.

12. The representative of the United States said that implementation was a matter of concern to all Members, and that it was important to have set aside the time to discuss implementation-related issues and how to move forward. It had taken a while to get to this point, but Members now had a good format and a good schedule. She welcomed the statement by Morocco on behalf of the African Group, which reflected what the United States had been saying for a long while. Members needed to look at all that was being done in all the different WTO bodies to help them get where they wanted to on implementation. The General Council could reinforce and complement that work, and in this context Members would benefit from the update on the activities under way in the WTO of relevance to addressing these issues that the Chairman would provide. There had been several seminars on services, for example, and a TBT seminar was being planned for the following month, and in her view much greater publicity about these events was necessary. In addition, the United States along with other countries had taken numerous initiatives in the area of technical assistance to facilitate implementation, and although technical assistance was not the only answer to implementation problems, it was certainly a part of it. At the May General Council meeting, her delegation had indicated that the United States was providing additional funds in the area of customs valuation, and other Members might also wish to advise the Secretariat of implementation-related assistance that was being provided so that one could get a better idea of the overall input. In certain areas, the WTO had entered into cooperation agreements with other institutions, such as WIPO and ITU, and an update on how this assistance was being utilized would also be helpful since these arrangements were specifically targeted to assist with implementation problems. With such information as background, Members would be able to move forward in a practical and constructive way, and be able to

determine what practical steps could be taken to address legitimate implementation concerns. Finally, as all delegations were aware, the context of the present discussion on implementation had changed somewhat with the lack of agreement on an overall agenda at Seattle. That being said, the United States recognized that this exercise did not prejudge Members' positions on the issue of negotiations. For its part, the United States was prepared to listen to the concerns of its partners, and to participate, not only in the present discussion but also in the discussions and consultations in the following months, and looked forward to finding constructive, positive and real ways to address all of the implementation concerns. Of course, as the Chairman had stated, all Members were engaged in this exercise without prejudice to their rights and obligations under the WTO Agreements.

13. The representative of the Dominican Republic, speaking also on behalf of Bolivia, El Salvador, Guatemala, Honduras, Nicaragua and Panama, said that the delegations of these countries had contributed to the identification and discussion of problems in implementation since September 1998. They had faith in the present exercise, since it constituted the only hope of building confidence in the multilateral trading system, which had yet to fulfill its objectives. This had led to three main problems in this area: (i) a lack of further liberalization in sectors of interest to developing countries; (ii) significant imbalances between rights and obligations, as well as in market access conditions; and (iii) a lack of benefits from existing agreements, which all contained special and differential provisions for developing countries. This implementation review mechanism under the General Council initiated a new phase in the process which had been under way since the second Ministerial Conference. If this mechanism was to increase the confidence of developing countries in the multilateral trading system, it would be important that all Members worked with a common understanding on the meanings of the "ways needed" to resolve the problems in implementation and "completing" the process, as mentioned in the decision of 3 May. It was only in this way that Members would know what result they were looking for in this process. For the countries on behalf of which he was speaking, the "ways needed" to resolve implementation problems meant decisions of, or interpretations by the General Council, as well as measures adopted at national level, if appropriate, to resolve each problem. They believed that the process would be "completed" when each one of the problems identified in implementation had been resolved through these "ways". According to this decision, the process should be "completed" not later than the Fourth Session of the Ministerial Conference. Only a positive result from this process would regenerate confidence in the multilateral trading system. This confidence was essential, since the citizens of these countries also had a say in the decisions which their governments would take in the future, when one took into account the new aspects of the WTO's work programme. It was from this point of view that these countries had joined the consensus on the text on the organization of work and indicative schedule of meetings.

14. The representative of Canada said that his delegation welcomed the opportunity to move forward in this important area of work. Addressing implementation concerns raised by Members would contribute significantly to efforts to building confidence in the WTO. Prior to and at the Seattle Ministerial Conference, addressing the issues in the area of implementation had been difficult and divisive, and had contributed to the lack of success at that conference. This new process was a golden opportunity to try to redress the whole issue. Like others, his delegation believed that progress on implementation would reinforce the chances for the successful launch of a new round of trade liberalization initiatives. Canada was open to considering different proposals that Members would wish to put forward, and would engage fully in the discussions in the General Council, in the technical work in the subsidiary bodies and in the consultations to be held, and would show as much flexibility as possible. There was, however, a note of caution which he wished to sound. The list of items that Members had put forward in paragraphs 21 and 22 of the 19 October text was extensive and ambitious, and the discussions on implementation would need to be balanced and realistic. In some instances, where proposals might require a complete reopening of existing agreements, it might be necessary to address the issue in the context of wider negotiations where Members would have a full range of new opportunities and flexibility. This was not to say that progress could not be made in the Special Sessions. Canada firmly believed that progress could be made in the present and subsequent

meetings. If Members were selective, pragmatic, and prioritized the many issues before them, there was no reason they could not succeed in addressing the concerns put forward and improving the positions of all in this organization. Members were engaging in this exercise as part of a fuller agenda, which entailed that progress was also needed in the mandated negotiations in agriculture and services to move the organization forward.

15. The representative of Pakistan appreciated the Chairman's statement that the present process would be action-oriented and should lead to decisions. His delegation believed that this was not an academic exercise, nor a safety valve to blow off steam. His delegation was looking for appropriate decisions, as envisioned in the decision of 3 May. Like other developing countries, Pakistan's response to other initiatives would, to a great extent, be conditioned by the progress made on implementation issues.

16. The representative of Colombia said that the creation of the WTO engendered many expectations in developing countries – the strengthening of binding rules, non-discriminatory treatment and disciplines in new areas – which should have resulted in a balance in the rights and obligations, the benefits of which were to be distributed equally among all Members. However, provisions for special and differential treatment, which had been announced as the triumph of developing countries in the Uruguay Round negotiations, ended up being simply a list of good intentions with limited application. The non-binding nature of these provisions had reduced the possibilities of appropriate application. For this reason, the present process was of fundamental importance for developing countries, since it was not only a serious commitment to seek solutions to implementation problems, but also a response to the legitimate concern of developing countries on the need for immediate measures in this area. Making progress in this exercise would increase confidence in the multilateral trading system, and it was thus important that all Members commit themselves to working in a positive and constructive manner, and in a spirit of compromise. It was unfortunate that, when developing countries had started to open their economies and set up development strategies in the 1980's, developed countries had increased their use of trade remedies against their exports. Barriers in the area of sanitary measures and exaggerated use of agricultural subsidies made market access for developing countries difficult. Certain provisions in the Subsidy, Safeguards and Anti-Dumping Agreements were drafted in such a manner that some developing-country exports were subjected to the rigor of these agreements, despite their small market share. For this reason, his delegation had submitted proposals on these agreements in the preparatory process for the third Ministerial Conference, with the aim of improving their implementation.

17. The representative of Ecuador said that the number of proposals which had been submitted on implementation was evidence of the problems which developing countries faced in this area. These problems stemmed from not only the structural deficiencies in these countries, but also the lack of implementation of the agreements by developed countries. This lack had led to insufficient liberalization in the sectors of interest to developing countries, affecting their access to developed markets for the few products which they could export. Finally, he wished to reiterate the growing concern of developing countries at the non-implementation of the provisions for special and differential treatment.

18. The representative of India appreciated the Chairman's clarification that the exercise would be result and action-oriented, since the decision of 3 May had stated that the aim of the exercise would be to take decisions as appropriate. His delegation believed that this decision and the Chairman's statement on that occasion were important for this exercise, since it was governed by what had been laid out there. With regard to any future negotiations, he respected the views of some who sought to launch a round of multilateral negotiations rapidly, but he was sure that those Members would also be sensitive to the views of delegations such as his. In the context of this exercise, as the Chairman had stated on 3 May, Members were embarking on this exercise without prejudice to the position of any one of them on any future round. It had been agreed that this process would be led by the General

Council, and the role of the subordinate bodies was laid out in the work programme, and his delegation believed that the process should remain under the purview of the General Council, taking inputs from the subordinate bodies where necessary. The issues to be addressed had been under discussion for some time, and it had been stated that perhaps the context in which they should be seen had now changed. His delegation believed that the only change in context was that considerable time had been lost. His delegation hoped that all Members would participate in the process in good faith, and that issues would be resolved as the exercised progressed, not at the very end.

19. The representative of Korea said that, like others, his country attached great importance to addressing the difficulties in implementation faced by developing countries. His delegation hoped that the present process would produce viable solutions to the issues raised, but also that Members would be able to avoid repeating the discussions on these issues held prior to the Seattle Ministerial Conference. These discussions had led to a deeper understanding of the issues, which could serve as a basis for the present process, but going back to the starting-point of the previous year would be neither efficient nor productive. His delegation believed that there was an even greater need for flexibility and pragmatism than before Seattle. The lesson which had been learned in recent months was that addressing the concerns of developing countries should be one of the priorities of the WTO. However, the absence of a broader framework in which Members could consider implementation issues might limit the range of solutions acceptable to all. For this reason, only a flexible, realistic and pragmatic approach could bring the process to a successful conclusion. A number of implementation issues involved amendment of the relevant agreements, and while his delegation did not wish to rule out the possibility of finding agreement on such amendments in the present process, a realistic assessment would tend to be rather cautious of such a possibility. For this reason, his delegation believed that addressing issues involving amendment of existing agreements in a broader context of a new round of multilateral trade negotiations would offer a greater chance of success.

20. The representative of Hong Kong, China said that implementation was one of the priority issues facing the WTO at the present time. It was a vital part of the confidence-building process, and while his delegation agreed that progress in this area was not linked to progress in other areas, it was clear that progress on implementation would affect the atmosphere in which work in other areas could be advanced. It was important to address the issues involved in a realistic manner to allow a strong work programme in the future. Implementation was an issue which concerned all Members, not just developing countries, since it affected the future health of the organization, and all Members should thus play a constructive part in the work. In this process, his delegation was looking for an orderly and focussed discussion, an adequate allocation of time so that the issues could be properly dealt with, and flexibility on all sides and results. In this respect, his delegation was pleased that the work programme was action-oriented, as also stated by the Chairman. Finally, Hong Kong, China had its own areas of interest in implementation, which were not necessarily limited to the issues raised in paragraphs 21 and 22 of the 19 October text.

21. The representative of Cuba said that his delegation agreed with others that the present process was aimed at re-establishing the confidence which should have always existed between Members, with a view to facilitating future work. Concrete discussions on implementation issues had been foreseen since before the Seattle Ministerial Conference, and the fact that such discussions were now to take place justified the insistence by some Members that these issues needed to be addressed. Least-developed and the less-advanced developing countries were those which had endured the most problems stemming from the implementation of the Uruguay Round Agreements. The problems were not caused only by deficiencies in the area of technical assistance, but also by the criteria and time-frames contained in the provisions of the agreements, which were impossible for these countries to respect. To assist future work in the organization, including a possible round of negotiations, it was important to address these fundamental problems. This implied reforming the existing agreements, not only to re-establish balance, but also to make special and differential treatment effective. The

objectives of the WTO could only be achieved if all Members accepted that not all countries were equal and developing countries needed special and differential treatment.

22. The representative of Egypt said that the decision of 3 May and the Chairman's statement on that occasion provided three key elements to guide the process being launched in the present meeting. In addressing the implementation issues, the General Council would assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action. Her delegation had joined the consensus on the programme of work on the basis of these elements, and it believed that the process should be conducted in and by the General Council and cover all the outstanding implementation issues contained in paragraphs 21 and 22. Her delegation looked forward to a constructive and meaningful exercise with a successful outcome. The Chairman had characterized the process as action-oriented, and this was also reflected in the decision of 3 May. Her delegation believed that a successful outcome was not beyond reach if all Members adopted a constructive attitude and displayed the necessary political will. Her delegation further believed that addressing the difficulties faced by developing countries in implementation and adopting effective measures for capacity building in these countries would create an environment conducive to agreement on the future WTO work programme.

23. The representative of Djibouti said that, like Morocco, his delegation believed that it would be necessary to look at the specific problems faced by African developing countries in adopting multilateral rules and disciplines. The least-developed countries in particular would need help in understanding how the WTO functioned and how technical cooperation activities could assist them.

24. The representative of Costa Rica said that his delegation hoped that the present process would have a successful outcome and lead to a new round of negotiations on further trade liberalization in the near future.

25. The representative of New Zealand said that his delegation supported a pragmatic and flexible approach to the present process, as long as it was systematic and as coherent as possible. At this stage, his delegation would be mostly listening, since the aim of the exercise was to allow developing-country Members to identify their implementation concerns. However, all Members should participate actively in the stocktaking and consultation phases. He wished to highlight three aspects which might guide the work. First, it might be necessary to gauge, from time to time, the relative weight and significance of individual implementation issues, so the General Council might need to obtain information from the Secretariat on the real extent of actual situations where difficulties had arisen, so that the relative importance of issues could be fully understood. Second, implementation was a high priority, but Members would need to be aware that there might be several different and constructive pathways to solutions. It would be necessary to adopt both short and medium-term perspectives for results. Third, the concepts of a balance of interests and a broad-based perspective should be kept in mind, and these were key and ongoing themes underlined in the Geneva Ministerial Declaration. It was that Declaration which had given impetus to the implementation question, and it had done so in the context of the trade liberalization objectives of the WTO, aimed at lifting living standards.

26. The representative of Switzerland said that his country approached the present process in a positive and constructive manner, since it believed that implementation problems concerned all Members. In this respect, Members had committed themselves to full implementation of the WTO Agreements at the Marrakesh, Singapore and Geneva Ministerial meetings and this was the overall objective. The present exercise was aimed at resolving the problems which had been met in attaining this objective. The work in this exercise should be efficiently organized, and the subordinate bodies would have a role to play in both dealing with some issues and providing relevant information to the General Council. The work should also allow the technical assistance needs of developing countries to be identified, which would allow this assistance to be better targeted. His delegation agreed that

technical assistance alone was not enough to resolve all the problems. The resolution of some of the issues raised in paragraphs 21 and 22 could have important repercussions on the balance of rights and obligations of Members. Tangible solutions to this type of problem would be more easily found in the context of a round of negotiations than in the implementation review mechanism. Switzerland had long supported the launch of a comprehensive round of negotiations, and it hoped that this mechanism would lead to the preparations for such a launch. The scope of such negotiations would have to be balanced, and allow for implementation problems to be fully addressed and resolved.

27. The representative of Norway said that her delegation welcomed the opportunity to start the process of addressing implementation issues and consolidating the results of the Uruguay Round. This was important to ensure that the WTO was truly multilateral. Her delegation agreed with Morocco that some developing countries would need assistance in identifying and addressing their problems. It would be important to ensure that all implementation concerns were fully addressed, including issues beyond those already raised, so that the multilateral trading system remained relevant to a changing global economy. This would have to be undertaken in the framework of a broad-based new round of negotiations.

28. The representative of Malaysia said that his delegation had accepted the text of the paper on organization of work and indicative schedule of meetings only after the Chairman had clarified in the informal meeting that the taking of decisions was not precluded at the October meeting. The Chairman had further stated at the outset of the present meeting that this was an action and result-oriented process. He wished to recall that the process was guided by the decision of 3 May and the accompanying statement by the Chairman. His delegation had been heartened by the statements by some Members, particularly Norway, to the effect that if the WTO was to be truly multilateral, it had to be sensitive to the concerns of all Members, particularly developing countries and the poorest among them. Addressing implementation issues went in the right direction. But Members should not begin this exercise with the preconceived idea that addressing the imbalances in the existing agreements had to be pursued in the context of any future new work in the WTO. He wished to recall that the implementation issues raised by developing countries were not only aimed at full and faithful implementation but also at addressing the imbalances in some of the agreements, which had limited the development and policy options of these countries.

29. The representative of the Philippines said that the implementation of the WTO Agreements was politically sensitive in his country, as in many other developing countries, and there was a feeling that many economic difficulties stemmed from it. Confidence in the ability of WTO to bring about the promised benefits from trade liberalization had not materialized. The true context in which the implementation review mechanism would have to work was one where political, economic, employment and income aspects were fundamental. There was a wide expectation in these countries that the agreements should be redressed in some way. The decision of 3 May was aimed at confidence building, and if at the end of the process there was no visible result, he wondered where WTO would stand.

30. The representative of Indonesia said that, while it could agree to the Chairman's suggestion on the sequence in which the issues would be taken up, her delegation believed that, in order to be able to take appropriate action on each issue, it would be important to distinguish the nature of the problem in each case, be it technical, procedural or legal. This would facilitate a focused discussion, and the General Council might request the Secretariat to assist in categorizing the issues. Her delegation believed that implementation issues should be discussed solely in the General Council, but it did not rule out the possibility of the General Council giving relevant subsidiary bodies specific instructions to discuss an issue within a specified time-frame. Her delegation supported the suggestion that the Chairman and the Director-General be invited to assist the process through further consultations on specific issues as appropriate. Her delegation hoped that the issue of implementation would be

resolved in advance of the fourth Ministerial Conference, and before the consideration of any other issues, including the launch of a new round.

31. The representative of Argentina said that his delegation supported the present exercise as a further step in improving the atmosphere in the WTO, believing that it would contribute to confidence building. It should not be linked to progress in other areas, but it should be efficient, focussed and aimed at rapidly identifying concrete results acceptable to all. Like Hong Kong China, his delegation believed that implementation was an issue which concerned all Members, and it hoped that the consultations which would be held would be wide enough to allow all Members to evaluate the actions under discussion.

32. The representative of Singapore said that her delegation agreed that the issue of implementation was important for all Members, developed and developing. The list of proposals was extensive, and her delegation believed that a realistic, pragmatic and flexible approach was necessary. While the General Council would oversee the exercise, her delegation saw a useful role for the subsidiary bodies, particularly on the more technical issues. Progress in this area should not be linked to progress in other areas, and vice versa. It would be important to keep in mind the Geneva Ministerial Declaration, which was the basis for this work, and that addressing implementation issues should be seen in the context of furthering the trade liberalization objectives of the WTO.

33. The representative of Thailand said that it was widely recognized that the Uruguay Round was a major achievement for the multilateral trading system, yet the content of the agreements was complicated and overwhelming for many Members, in particular developing countries. This exercise was the opportunity for the difficulties which had come to light in the implementation of the agreements to be addressed, guided by the decision of 3 May. The efforts many Members had put in to meeting their obligations should be recognized in the process. If solutions were not found to the problems being encountered by some Members, it would not bode well for the future of the organization. Political will should be nurtured in the process, to allow the organization to continue its trade liberalization agenda.

34. The representative of Mauritius appreciated the clarification on the nature of the process by the Chairman. Many Members had expressed their willingness to examine the issues under implementation, and also their flexibility on these issues. The statements made in the present meeting showed the importance of these issues to all Members, not only developing countries. His delegation hoped that this confidence-building exercise would continue in the same spirit, and that positive results would be achieved.

2. Discussion of implementation issues

35. The Chairman recalled that in addition to the framework for consideration of implementation issues and concerns that Members had just agreed, they had also agreed to focus at this meeting in particular on the implementation issues reflected in paragraph 21 of the draft Ministerial text of 19 October 1999. Looking at the sequence of agreements in the WTO compilation of the legal texts of the results of the Uruguay Round negotiations in the light of the proposals in paragraph 21, he did not see any dealing with the Agreement Establishing the WTO. He proposed therefore that Members move first to consideration of proposals on GATT 1994, followed by those on Agriculture, and so on.

(a) GATT 1994

(i) *Balance-of-Payments provisions of GATT 1994*

36. The representative of India said that paragraph 21(j) of the 19 October text listed two proposals on the balance-of-payments provisions of GATT 1994: (i) only the Committee on Balance-

of-Payments should have the authority to examine the overall justification of BOP measures; and (ii) the Committee should keep in view that Article XVIII was a special provision for developing countries and should ensure that Article XVIII did not become more onerous than Article XII. His delegation had submitted a paper in the preparatory process for the third Ministerial Conference on Article XVIII:B which had formed the basis for these proposals (WT/GC/W/364). With regard to the first proposal, there were some complex issues involved which could be a problem for developing and developed countries alike. This involved the manner in which the legislative bodies of the WTO could utilise their role of rule-making or interpretation in the light of the role of the dispute settlement system. On a number of occasions, situations had arisen where functions which should be exercised by the membership as a whole in the General Council or a subsidiary body were being carried out by panels and the Appellate Body. His delegation believed that this had created certain difficulties and would create more in the future. Such difficulties were clear in the discrepancy in the manner in which the provisions of Article XXIV and the balance-of-payment provisions of the GATT were being interpreted in the dispute settlement system. Paragraph 12 of the Understanding on the Interpretation of Article XXIV of GATT 1994 and the footnote in the Understanding on the Balance-of-Payments Provisions of GATT 1994 contained identical language, but these two provisions had given rise to two differing rulings in dispute settlement cases. In the case of Article XXIV, a panel had taken the view that the compatibility of a Member's agreement with a customs union would not be taken up since this compatibility had to be examined in the light of the overall economic and political considerations, and only the Committee on Regional Trade Agreements was competent to do so. In the case of the balance-of-payments provisions, both the panel and the Appellate Body had ruled that they were competent to examine the overall justification of the balance-of-payment measures taken by a country. These rulings showed that different approaches were being used to the question of political decision-making and whether this role belonged to the legislative bodies or to the panels and Appellate Body. His delegation would shortly circulate a paper containing the details of its arguments on this issue. Turning to the second proposal, he said that Article XVIII:B was a special provision for developing countries in the early stages of development and was aimed at allowing flexibility in their trade policies so that the wider interest of development was maintained. Article XII had been used in the past by developed countries for maintaining quantitative restrictions for balance-of-payments purposes. As a consequence of interpretations by panels and Appellate Body, it was easier for developing countries to invoke the provisions of Article XII to maintain quantitative restrictions for balance-of-payments reasons than Article XVIII:B, which was supposed to be a provision for developing countries. The proposal was aimed at establishing a general understanding to remedy this, to guide panels and the Appellate Body in the future.

37. The representative of Hong Kong, China disagreed with India on the question of interpretations by panels and the Appellate Body. His country had been a third party to the panel involving India and Turkey on certain textile products in the context of the Customs Union Agreement between Turkey and the European Communities. His delegation's understanding of the Panel and Appellate Body reports differed from that of India. His delegation found no mention that the forum competent to take up the examination of the articles relating to either balance-of-payments or regional trade agreements should be confined to the respective committees. The Understanding on the Interpretation of Article XXIV of GATT 1994 was extremely clear that the Dispute Settlement Understanding could be invoked with respect to any matters arising from the application of the provisions of Article XXIV. In the case of balance-of-payments provisions, there was no any explicit exclusion of Article XVIII from Appendix 1 of the DSU, in which case any panel had full jurisdiction to examine any measures relating to Article XVIII. For this reason, his delegation believed that the interpretation by India was not entirely correct. His delegation also believed that the proposal itself would have some institutional problems, since it suggested that only the Committee on Balance-of-Payments should have the authority to examine the overall justification of BOP measures. However, under Article IV.7 of the WTO Agreement this Committee had been established by the Ministerial Conference, and it was thus subject to direction by the General Council. It would not be correct, therefore, that the Ministerial Conference and the General Council should cease to have authority over

such a matter. For this reason, the first proposal was not appropriate and his delegation would not be able to accept it.

38. The representative of Malaysia fully supported the statement by India. Hong Kong, China appeared to believe that the Dispute Settlement Body had the right to create jurisprudence on all existing agreements. His delegation believed that there were limits to the jurisdiction of that body, and in the case of balance-of-payments provisions, it could not rule on the justification of such measures. This was a political question to be addressed by the membership as a whole. Questions of application of those measures were, however, within the jurisdiction of the DSB.

39. The representative of Saint Lucia said that the statement by India raised an important systemic issue. Article IX.2 of the WTO Agreement provided that the General Council had the exclusive authority to interpret the WTO Agreements and this provision had not been used. Clearly, panels and the Appellate Body could misinterpret facts and misapply the law, and this could be overturned by a consensus of the membership under this provision. But the membership had yet to exercise this power. It was important to have a proper division of power in all cases where both political and legal decisions were possible. This held true in the areas of Article XVIII and Article XXIV, but also for the definition of a small supplier which was an important issue for her delegation. It would be important to address the issue of Article IX.2 in the consultations to be held.

40. The representative of Hungary appreciated the arguments contained in the statement by India and his delegation shared many of the concerns raised. His delegation agreed on the distinction between application and justification. There was a danger that not only would Panels and the Appellate Body take over the role of the Members, but also that they might be expected to clarify the many provisions which were vague. This might require negotiation which should only be done by the Members.

41. The representative of the Philippines supported the statement by Saint Lucia.

42. The representative of India said he wished to respond to the doubts raised by Hong Kong, China on the panel report to which he had referred. This report stated that it was not the panel's task to substitute itself for the CRTA and that the panel could not rule on the legality of the measures forming the object of the complaint in the absence of agreed conclusions on the consistency of the Turkey/EC agreements with Article XXIV. In his earlier statement, he had not been suggesting that balance-of-payments provisions and Article XXIV were different from other provisions, since Article 11 of the Dispute Settlement Understanding set out the assessments to be made by panels in all cases. If the interpretation given by Hong Kong, China was correct, there would be no need for the footnote in the BOP Understanding. He had attempted to point out the distinction between interpretations of the language in the two provisions only as an example. It had also not been his intention to rule out the role of the General Council or the Ministerial Conference. The General Council could clearly assume the powers of the subordinate body, and he agreed with Hong Kong, China on this point.

43. The representative of the United States said that, exercising its right as a Member of the WTO legislature which had consensus as the paramount element of its decision-making process, the United States had serious reservations about the proposal on the BOP Committee. However, her delegation would listen to all the other issues raised in the exercise and respond accordingly later in the process.

44. The representative of Japan said that his delegation would further consider the points raised by India, but, at the present time, it held a differing view of this issue.

45. The representative of Hong Kong, China said that his delegation's understanding of the jurisprudence established by the panel and Appellate Body reports mentioned by India was based on

paragraphs 9.52 to 9.55 of the Panel report in document WT/DS34/R, paragraph 60 of the Appellate Body report in document WT/DS34/AB/R, and also a relevant Appellate Body report on balance-of-payments restrictions in document WT/DS90/AB/R. These reports showed that the Appellate Body had ruled clearly on this matter, and the latter report stated that "if panels refrained from reviewing the justification of balance-of-payments restrictions, they would diminish the explicit procedural rights of Members under Article XXIII and footnote 1 to the BOP Understanding, as well as their substantive rights under Article XVIII:11". He was not suggesting whether the Appellate Body was right or wrong in its ruling, but just wished to recall what the Appellate Body had stated in this regard.

(ii) *Paragraph 3 of GATT 1994*

46. The representative of the European Communities said that he wished to raise one other issue under GATT 1994, but not with a view to making any particular recommendation or request. The Communities, along with a number of other delegations, had submitted a proposal before the Seattle Ministerial Conference relating to paragraphs 3(a) and 3(b) of GATT 1994. His delegation assumed that the opportunity to discuss this proposal would arise in the forthcoming consultations on implementation issues. This issue was also under discussion in the General Council in a different context.

47. The representative of the United States said that her delegation had noted the statement by the European Communities with respect to paragraph 3(a) and it would be prepared to discuss any issue raised in the present exercise, as well as other implementation issues that her delegation itself had raised in other contexts, including the Dispute Settlement Body. However, her country had respected the provision for a five-year review of the exemption provided under paragraph 3 and had answered all the questions submitted. Her delegation was as disappointed as others that no solution to this issue had yet been found, but it did not understand how such an issue could be raised in a meeting aimed at addressing real implementation problems

48. The representative of Japan said that his delegation believed that the issue raised by the European Communities was effectively an implementation issue.

49. The representative of the Dominican Republic recalled that at the last regular meeting of the General Council it had been agreed that the Chairman would initiate informal consultations on the issue of paragraph 3. His delegation suggested that these consultation be initiated rapidly, if they were not already under way.

50. The representative of the Philippines said that there seemed to be confusion about the nature of paragraph 3(a) and its relationship to implementation issues. There appeared to be two views on the issue of paragraph 3(a). Some believed that the exemption under paragraph 3(a) had been granted for five years and unless an extension was decided under the review, this exemption lapsed. The other view was that the exemption was valid until revoked. In either case, his delegation believed that this was an implementation issue. If the first view was correct, then this was a transition period issue. If the second view was correct, this issue was a perpetual waiver, which was in effect a TRIMs measure in favour of certain developed countries. In this case, it was a valid implementation issue in respect of the balance of rights and obligations of Members. Other Members were being taken to task for exercising their right to request an extension of the transition period under the TRIMs Agreement, while in this case some other Members were in effect maintaining that the GATT 1994 granted them a perpetual extension. For this reason, his delegation believed that there was an imbalance and that this issue should be addressed as an implementation issue.

(iii) *"Enabling Clause"*

51. The representative of the Philippines said that he wished to recall that the ASEAN Members had submitted a proposal on compliance with the "Enabling Clause" which addressed the manner in which MFN obligations were enforced under the GATT 1994. He drew the attention of Members to this proposal for their further consideration.

(b) Agreement on Agriculture

52. The representative of Pakistan said that, during the Uruguay Round, most developing countries had signed agreements such as TRIPS and TRIMs mainly as a result of the projected benefits to them under at least two other agreements, one of which had been the Agreement on Agriculture. With the objective of establishing a fair and market-oriented system in the agriculture sector, this Agreement provided that Members would: (a) reduce agriculture support and protection substantially and in a progressive manner; (b) tariffy non-tariff barriers; and (c) take into account the particular needs and conditions of developing countries by providing for greater improvement in market access opportunities for agricultural products. When these objectives were weighed against the empirical evidence, the present picture was not encouraging. In the light of recent developments in agricultural trade, his delegation did not believe that the playing field was level, and a WTO study had substantiated this. The share of agricultural exports originating from developing countries had remained at 4.5 per cent from 1990 to 1997. No-one could deny that the sector remained highly protected in developed economies, and this was mainly due to the inequities and imbalances inherent to the Agreement and the lack of will in developed countries to fulfil their commitments under the Agreement. The studies undertaken prior to the conclusion of the Uruguay Round had predicted that further liberalization under that round would lead to a significant increase in world income and growth, boosting income by 1 per cent per year, or \$200-\$500 billion. Agriculture was expected to contribute at least 10-30 per cent of the overall benefits. However, these predictions had not happened and the sector remained protected in developed economies. In two of these economies, farmers made up less than 5 per cent of the labour force, and produced less than 2 per cent of GDP. In comparison, almost 70 per cent of the labour force in Pakistan was engaged in the agriculture sector, which generated 25 per cent of GDP. If linkages between agriculture and other industrial sectors were taken into account, this contribution rose to almost 66 per cent. In that light, agriculture was an important sector for Pakistan. This also highlighted the inequity in the Agreement, under which developed economies could to continue to apply distortive measures, whereas developing countries could not, despite their continuing need to support their agriculture sectors. In most developed countries, agriculture had reached its optimum level, whereas in developing countries the sector remained to be exploited. There was a need for a wider development perspective in the Agreement, since the inequities were undermining developing-country efforts to develop this sector.

53. In a paper submitted in the preparatory process for the third Ministerial Conference (WT/GC/W/161), his delegation had highlighted some of the factors it believed were contributing to this distortion of the level playing field, such as tariffication through overvaluation of tariff equivalents, selective tariff reductions and tariff escalations, the continuation of domestic support to domestic producers and the ability of the developed countries to re-balance domestic support, commitments on an aggregate basis to undertake much lower commitments, the discriminatory and non-transparent tariff rate quota administration by allocation of MFN tariff quotas to preferential suppliers, better access to state trading enterprises, limitations on imports of particular products and broadly-defined quota commitments, and making imports under tariff quotas conditional on adoption of domestic production of the product concerned, besides other non-tariff border measures. One other important element was the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. This decision was a binding commitment and none of its provisions had been implemented to date. This was a valid implementation concern which needed urgent resolution and unless these

imbalances and inequities were corrected or removed from the Agreement, it would be difficult for developing countries to undertake any further liberalization commitments, whether in the mandated negotiations or in any round of negotiations.

54. The representative of Mauritius associated his delegation with the statement by Pakistan on the need to operationalize the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

55. The representative of Cuba associated his delegation with the statement by Pakistan. His delegation, along with the Dominican Republic, Egypt, El Salvador, Honduras, India, Indonesia, Malaysia, Nigeria, Pakistan, Sri Lanka and Uganda, had submitted a paper in the preparatory process for the third Ministerial Conference (WT/GC/W/354) setting out proposals in several areas including agriculture. These proposals were still valid since developing countries needed greater flexibility in the use of support. These economies, which were in the main based on agriculture, needed sufficient flexibility in the green box to be able to adequately address their non-trade concerns such as food security and rural employment. Support provided by these countries for non-trade concerns, even if outside the ambit of the green box, should be exempt from the AMS. For this reason, his delegation continued to propose that, if in the calculation of the AMS, domestic support prices were lower than the external reference price, so as to ensure access of poor households to basic foodstuffs, thereby resulting in negative product specific support, then Members should be allowed to increase their non-product specific support by an equivalent amount. A suitable methodology should be adopted for taking into account the high levels of inflation while making the domestic support notification. In addition, TRQ administration should be made transparent, equitable and non-discriminatory, in order to allow new/small-scale developing-country exporters to obtain market access. Imports by developed countries under TRQs should not be made conditional to absorption of domestic production. To this end, notifications submitted to the Committee on Agriculture should include details on guidelines and procedures of allotment of TRQ. Furthermore, the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries should be revised, before 1 January 2001, in order to ensure its effective implementation, which had not the case to date. His delegation had also co-sponsored a proposal with Dominican Republic, Egypt, El Salvador, Honduras, Sri Lanka, Uganda and Zimbabwe (WT/GC/W/374), and these countries expected that the overall assessment of the Agreement on Agriculture in this proposal would be taken into account in the discussion, since many doubts had been expressed as to the way in which the Agreement had been of help to developing countries. The proposal addressed issues in the areas of market access, domestic support and provisions relating to special and differential treatment. These provisions had remained ineffective and should be further developed and become binding. Furthermore, the issue of sanitary and phytosanitary provisions was addressed in this paper, and the proposals made in this area were also valid. The delegations sponsoring the proposal hoped to hear reactions to it and that it would be addressed in the forthcoming consultations.

56. The representative of Honduras said that proposals on agriculture submitted by his delegation and others in the preparatory process for the third Ministerial Conference were contained in the 19 October text. These proposals related to market access through a significant reduction of tariff peaks, reduction of tariffs within tariff quotas and the reduction of the volume of such TRQs. These countries suggested that the provisions relating to special safeguards should not be applied to products of interest to developing countries. Furthermore, greater flexibility should be ensured for developing countries to enable them to draw up domestic support programmes. The proposals also referred to the need to address non-trade concerns, such as food security in developing countries, particularly small and vulnerable economies, through a range of specific measures which should also aim at maintaining living standards of rural populations.

57. The representative of Bolivia said that her delegation would support any measure aimed at redressing the imbalances in the Agriculture Agreement. This Agreement was unjust, and it negatively affected an important sector of the economy of her country. In Bolivia, it had hampered development, further impoverished the population, and encouraged delinquency and poverty by encouraging many to leave rural areas.

58. The representative of Egypt associated his delegation with the statements made by Pakistan and Cuba. Like others, his delegation believed that the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries had been not implemented and had remained ineffective. This Decision should be revised in order to ensure its effective implementation through the incorporation of concrete operational and contractual measures, including provisions for technical and financial assistance that were both effective and responsive to the special needs of LDCs and net food-importing developing countries.

59. The representative of India said that his delegation shared the concerns on agriculture expressed by the previous speakers. His delegation had always supported the mandated negotiations in agriculture and services, but this did not mean that some of the issues which had been raised as implementation issues could be put off or pushed into the negotiations. The implementation concerns of his delegation and others had been raised almost two years before the mandated negotiations started. For various reasons, no progress had been achieved to date on these, but they were genuine and real concerns that had to be addressed. While his delegation was committed to the successful completion of the mandated negotiations, it believed that it was important to look at the implementation concerns separately with a view to helping countries which had real problems in agriculture, some of which had a high dependency on agriculture. Among the proposals on agriculture, full and timely implementation of Article 10.2 of the Agreement was very important, since it might be that disciplines in this area developed in another organisation were being taken as binding on Members of this organisation. His delegation believed that this proposal should be addressed in the forthcoming consultations. Another important issue was found in the second proposal in paragraph 21(k), which referred to the calculation of AMS for some developing countries where domestic support prices were lower than the external reference price, so as to ensure access to food articles for poorer families. In cases where negative product-specific support resulted, the proposal was that those Members should be allowed to increase their non-product specific support by an equivalent amount. One other issue discussed just before the Seattle Ministerial Conference and in the Committee on Agriculture concerned some developing countries which faced a disadvantage because the external reference price they had used for their domestic support price had been based on their local currency and devaluation had created a problem. These three issues should be addressed without any linkage to the mandated negotiations.

60. The representative of Bangladesh said that his delegation shared many of the concerns raised by some developing countries on agriculture. However, for least-developed country Members, such as Bangladesh, the debate on resolving the issues under discussion was not so important in the immediate term. For these countries, the question of food aid and not food importing was of the essence. These countries could not be termed net food-importing since they were rather net food-receiving, and this would have to be taken into consideration in any future negotiations. This group of countries, which depended on food aid from the World Food Programme and donors, such as the European Union, the United States and Australia, were concerned to see that donors were divided on these issues. These net food-receiving countries could not import since they did not have enough money, and binding special and differential measures would be necessary to address their needs.

61. The representative of Argentina said some of the proposals on agriculture in paragraph 21 were linked to the implementation of the Agriculture Agreement. With regard to Article 10.2, there was a commitment to complete work on this issue by the end of the year. It was well known that a

solution to this issue was far from being found, so his delegation saw no reason not to discuss this issue in the General Council. His delegation was open to consideration of any of the issues listed in the paragraph but some would be easier to address than others. There were some practical suggestions, such as on the application of quantitative restrictions, and these could be addressed in the light of the decisions taken in the Committee on Agriculture. His delegation also agreed that it was necessary to address issues relating to the needs of net food-importing countries. Some other issues in the list presented a greater degree of difficulty and perhaps could not be easily resolved in the forthcoming consultations. Nevertheless, his delegation had no objection in working on any of these issues.

62. The representative of Côte d'Ivoire said that her country's success was based on agriculture and this had been used as a slogan in her country for decades. This showed the importance of agriculture to Côte d'Ivoire, and was the reason why it would support any measure aimed at promoting market access in the agriculture sector, in particular any measure that would allow it to become self-sufficient or import food supplies. Like others, her delegation believed that any future agreement on agriculture should meet the fundamental needs of developing countries. The WTO had an obligation to encourage countries which were making major efforts in this sector. Agriculture represented a large share of GDP for many of these countries, and it was important that any issues concerning agricultural pricing and market access be taken into account in the negotiations.

63. The representative of Norway said that her delegation supported the general thrust of the proposals under discussion, which was to see how the Agriculture Agreement could meet the needs of developing countries in a more efficient way. Her delegation fully shared the objective of securing sufficient flexibility for developing countries to address non-trade concerns and would work with them on this issue in the ongoing negotiations. With regard to the calculation of AMS, her delegation supported the content of the proposal but was unsure whether this might rather be an issue for negotiation. Finally, her delegation fully supported calls for effective implementation of the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

64. The representative of Brazil said that while he could offer comments on the proposals under discussion, that was not the point of the exercise. What the proponents of the proposals wished to hear was whether the developed countries accepted the proposals as they stood, proposed amendments, or needed further clarifications on them. That would be the positive engagement that was needed and that was how the exercise should be conducted.

65. The representative of Indonesia said that his country, as a predominantly agrarian economy with many poor and small farmers, believed that there should be sufficient flexibility in the green box to adequately address non-trade concerns such as food security and rural development and employment. Specific and concrete special and differential treatment for developing countries, such as Indonesia, should be established to take account of their development, financial, trade and non-trade concerns, including food security. Furthermore, effective assistance to enable these countries to take full advantage of preferential treatment and market access, including facilitating increased levels of investment in agriculture to promote productivity, should be enhanced. Finally, particular attention should also be paid to the situation of net food-importing developing countries and small island developing economies.

66. The representative of the European Communities said that his delegation was in the process of completing a re-examination of the proposals in this area, including those in paragraphs 21 and 22, with a view to making substantive contributions in the forthcoming consultations. With regard to the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, his delegation believed that the General Council should work out recommendations designed to improve the

effectiveness of the Decision. His delegation hoped that this approach would be taken up in the context of the consultations.

(c) Agreement on the Application of Sanitary and Phytosanitary Measures

67. The representative of Bolivia said that the SPS Agreement was of particular interest to her country and for this reason, her delegation had taken an active part in the work in this area throughout the preparatory process for the Seattle Ministerial Conference. Her delegation believed that adoption of the measures proposed in paragraph 21(c) of the 19 October text should not be complicated since Members had signed the Agreement with the intention of applying its provisions. Adoption of the proposed measures would be proof that the Agreement had been negotiated and agreed to in good faith.

68. The representative of India said that his delegation believed that no Member should be prevented from adopting or enforcing the measures necessary to protect human, animal or plant life, and that the goals of the SPS Agreement included improving human and animal health, and the phytosanitary situation in all Member countries. However, developing countries such as India had faced two types of problem during the course of the implementation of this Agreement. First, existing market access for developing-country exports was impeded by barriers in this area. Second, new market access opportunities had not come about since new barriers had been erected and new standards had been elaborated without developing-country participation. Furthermore, developing countries also faced problems of personnel resources and expertise in their participation in international standard-setting organisations. The proposals in paragraph 21(c) had to be seen in the light of these problems. Like many provisions on special and differential treatment throughout the agreements, paragraph 10 of the SPS Agreement had not been made operational, and was not legally binding. The proposal was that the provision in Article 10 should be made mandatory, since the existing language in the first paragraph of this Article, which addressed the special needs of developing-country Members and in particular the least-developed, was diluted by the words "take account of". Paragraph 2 of that Article mentioned that longer time-frames for compliance for the phased introduction of new sanitary or phytosanitary measures should be accorded on products of interest to developing-country Members, and it would be useful to know what longer time-frames had actually been made available. The proposal was for a period of at least 12 months from the date of notification for compliance with new SPS measures for products from developing countries, and in particular the least-developed. Paragraph 2 of Annex B of the Agreement also allowed for a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting countries, particularly developing countries, to adapt their products and methods of products to the requirements of the importing Member. Here again, the proposal was for a period of 12 months to enable developing countries to adapt to those requirements. With regard to developing-country participation in international standard-setting organizations, the problem was not simply a question of whether these countries were present, but also whether they were able to participate effectively in the formulation of standards. If they could not, one could not contend that these countries should implement the standards. In some of these organizations, decisions were taken on the basis of voting rather than consensus, and this also had an impact on the implementation of the Agreement, at least from the point of view of developing countries. This was important, since the Agreement made the standards developed by the three standardising bodies mandatory for all Members. Developing countries had little choice in this matter, whether they had been able to participate in the development of those standards or not, and whether they had the resources to implement those standards or not. His delegation believed that this issue should be addressed with a view to ensuring that developing countries were present in international standardising bodies, had the resources to participate effectively, and had the technical assistance and resources necessary to implement the standards. Finally, Article 4 of the Agreement encouraged Members to accept each other's SPS regimes and to enter into equivalency agreements, but in reality not many developing countries were involved in equivalency agreements. Those

Members which did have equivalency agreements tended to equate equivalency with sameness. This was not the intention in the Article, and as a result, equivalency agreements had almost never been entered into with developing countries because their SPS regimes would never be able to qualify under the test of sameness. It was thus important to ensure that Members entered into equivalency agreements only when they had determined that their respective SPS regimes provided similar protection to plant, human and animal life. The proposal in paragraph 21(c) was aimed at allowing developing-country Members to benefit from Article 4, taking into account the work being done in relevant international standard-setting organisations.

69. The representative of Pakistan associated his delegation with the statement by India. His country had co-sponsored the proposals in paragraph 21(c), most of which addressed the special and differential treatment provisions of the SPS Agreement. These proposals sought clarification of these provisions, by making obligations mandatory and establishing reasonable time-periods. Developing countries had accepted some of the obligations under the Uruguay Round on the premise that S&D provisions would take care of their particular needs, and this had not come about. What these countries now sought was ultimately only a reiteration of what had been said during the Uruguay Round.

70. The representative of Egypt said that the proposals outlined by India, which his country had co-sponsored, sought to make some of the provisions under the SPS Agreement mandatory, rather than best-endeavour as at present. For S&D measures to be effective, they would have to be complemented by sufficient technical assistance. His delegation urged that technical assistance be extended to strengthen the ability of developing countries to deal with scientific issues, in particular risk assessment, and the complexity of the entire SPS Agreement. It would be necessary to improve these countries' laboratory facilities, including the financing of the technology needed to comply with the requirements of the Agreement. Such assistance was specifically mentioned in Article 9 of the Agreement, and the provisions of that Article needed to be applied in full.

71. The representative of Cuba said that, as a co-sponsor of the proposals in paragraph 21(c), his country supported the statements by India, Pakistan and Egypt. Further measures were needed to make the SPS Agreement more consistent with the interests and needs of developing countries.

72. The representative of Thailand said that the provisions addressed in paragraph 21(c) had been agreed by Members when they accepted the SPS Agreement, and the problem was the implementation of these provisions. His delegation agreed with India that Article 10 of the Agreement should be made mandatory. However, with regard to the participation of developing countries in international standard-setting organisations, his delegation had doubts on how to ensure this, and it might have to be discussed in greater detail at a later stage. Nevertheless, his delegation fully endorsed all the proposals.

73. The representative of Jamaica supported the statements by the previous speakers on the need to address the issues raised in the proposals on the SPS Agreement. Her delegation was aware that the SPS Committee had agreed to discuss Article 4 on equivalency and Article 10 on special and differential treatment at its next meeting. Her delegation expected that, as anticipated by the decision taken earlier in the present meeting, there would be free flow and exchange of proposals and results of discussions between the General Council Special Sessions and the work of that subsidiary body.

74. The representative of Brazil said that his delegation was unsure whether the issues under discussion should be addressed in the General Council or in the SPS Committee. The proposal on the provisions of Article 10.2 was clearly not aimed at re-opening the SPS Agreement. The proponents of that proposal were asking the developed countries to consider extending the time-period for compliance for products of interests to developing countries. A reasonable period had been suggested to allow developing countries to adapt to what were sometimes extremely tough and demanding

sanitary and phytosanitary measures. This did not imply re-opening the Agreement, but rather considering the merit of fixing a time-frame which would be acceptable to all. India had also mentioned special and differential treatment, and this was a good opportunity for demonstrating special and differential treatment without re-opening an agreement. His delegation hoped that others would not be so reluctant to engage in the process that they would not even consider the issue of time-frames, which was an issue with minimum political and technical costs.

75. The representative of the United States said that all delegations seemed to agree that the SPS Agreement was important, and discussions were also under way in the SPS Committee on the issues raised. Her delegation believed that it would be important to address these issues in that Committee. Her country was a major provider of technical assistance in the area of SPS, and her delegation had that day circulated a document in the SPS Committee listing some of the technical assistance provided by her country since 1995 (G/SPS/GEN/181). This assistance was not solely monetary, a large part was in human resources, aimed at attempting to help trading partners move forward. She encouraged all delegations to look at this document to see how progress could be made in this area. There were misunderstandings on the issues being discussed, and while this discussion should continue in the General Council, the decisions should be taken in the SPS Committee. The SPS Agreement was a good example of how it would be possible to progress in the present process, but her delegation would need more time to look at the proposals before making suggestions on them.

76. The representative of Saint Lucia said that her delegation was pleased to see that the positive engagement being sought by Brazil was under way with the statement by the United States. Her delegation supported the statement by India. With regard to the jurisdiction between the WTO and international standard-setting organisations, a proposal submitted by Zambia, Jamaica, Kenya, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe in the preparatory process for the third Ministerial Conference suggested a new definition of international standards. Her delegation hoped that proposals such as this would form the basis of the forthcoming consultations to allow progress to be made on these issues.

77. The representative of Canada said that her delegation was prepared to consider the proposals under discussion in a spirit of pragmatism and flexibility. As it had stated earlier in the present meeting, her delegation believed that the subsidiary bodies had an important role in the work on some of the proposals, because a number of them were extremely detailed and technical. Her delegation had actively participated in the discussion on these issues in the SPS Committee, since it believed that it was important to look at ways of making the special and differential provisions meaningful. Canada along with the European Communities, Japan and the United States had recently put forward some suggestions on how to deal with some of the elements raised by developing countries with respect to implementation. These suggestions addressed issues with respect to least-developed countries as well as to developing countries more generally, and called on the Director-General to co-ordinate efforts with the relevant international standard-setting organisations to identify SPS and TBT-related technical assistance needs and how best to address these.

78. The representative of India, referring to the statements by the United States and others, said that the intention of his delegation was for the process to continue in the General Council and to participate in the consultations that the Chairman would conduct on this subject. Input to the process could be sought from the SPS Committee, and his delegation would look at the document to which the United States had referred. However, his delegation believed that it was this body meeting in its present configuration which should take a multilateral decision on the reasonable time-frame proposed by his delegation and others, so that countries were not left to make separate requests to their trading partners.

79. The representative of the Philippines said that the SPS Agreement was an area where her country faced much frustration. The Philippines, along with other ASEAN Members, had actively

participated in the review of the provisions of the Agreement on special and differential treatment and technical assistance, and had raised a number of concerns similar to those which other developing countries had raised in the present meeting. The parallel discussion of these issues in the SPS Committee had been constructive and the Committee could help the General Council to make progress in this area. Much technical assistance had been provided by developed countries, including the United States, but the number of technical assistance activities was not directly proportional to the efficiency or the effectiveness of the assistance provided, and this was shown by the concerns expressed by many developing countries. There was still a wide gap in the implementation of the Agreement and it was important to address these concerns constructively in the General Council.

80. The representative of the Dominican Republic said that his delegation appreciated the constructive statements by the United States and Canada, which would raise the hopes of the developing countries that some progress would be made in the sensitive area of SPS.

81. The representative of Egypt, referring to some statements made by developed Members, said that the Decision on implementation-related issues taken at the 3 and 8 May General Council meeting allowed for input to the process from subsidiary bodies if the General Council so decided. The SPS Committee had already circulated a possible input in document G/SPS/W/105 which summarized the discussions on S&D treatment in the Committee.

82. The representative of Bolivia supported the statement by India that it was important to conduct the present process in the General Council but that the General Council could request input from the SPS Committee.

(d) Agreement on Textiles and Clothing

83. The representative of Hong Kong, China, also on behalf of members of the ITCB that were also Members and Observers of the WTO, said that, in his remarks before the adoption of the Decision on implementation-related issues in the 3 and 8 May General Council meeting, the Chairman had emphasized that the purpose of this exercise was to resolve implementation issues and concerns, and that, in addressing these issues, the General Council would assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action. It was also important to recall the wide-spread recognition, within the WTO and outside, that the implementation of some WTO Agreements had given rise to serious concerns among many developing-country Members, and that progress in addressing these implementation concerns would enhance confidence in the multilateral trading system. Few agreements had given rise to as many concerns as the Agreement on Textiles and Clothing (ATC), because of the great importance of trade in textiles and clothing for developing countries. The sector accounted for about 20 per cent of their exports of manufactured products, and for some developing countries, especially the least-developed, its share in their export earnings was even larger. Manufacture of clothing was a labour-intensive activity, and the sector was thus particularly important for the creation of employment opportunities in these economies. Unfortunately, implementation of the Agreement had failed to come up to developing countries' legitimate expectations. During the preparatory process for the third Ministerial Conference, members of the ITCB had devoted considerable time and effort, pursuant to paragraph 8 of the Geneva Ministerial Declaration, to producing a detailed, factual critique of the implementation of the ATC. This had been submitted in August 1999 in document WT/GC/W/283, and the main elements had been incorporated in the draft Ministerial text in square brackets. But they had never been discussed either before or at the Seattle Ministerial Conference, and a "Chairman's text" had appeared towards the end of the Conference, incorporating a greatly diluted version and including a clause which was contrary to the views and interests of the ITCB members. These members believed that genuinely and deeply held views, based on fact, should not have been treated in this fashion. The impression had been given that some of those who opposed these members' views had wanted to avoid any real engagement. It could be justifiably said that the whole Seattle process ignored

paragraph 8 of the Geneva Ministerial Declaration in failing even to attempt a meaningful evaluation of implementation of this symbolically and commercially significant agreement.

84. He believed that a new leaf had been turned in this respect, and that a genuine dialogue had become possible. It was in that spirit that he was approaching the matter in the present meeting. The ITCB evaluation paper (WT/GC/W/283) could be re-read by Members, and he wished to summarize some of its key points. Essentially, the Agreement had been in effect for almost six years, yet the committed progressive liberalization of quotas had not materialized. Although 33 per cent of trade in the sector had been "integrated" by the restraining countries in a narrow technical sense, this comprised mainly imports of products which had not been under restriction. This had resulted in the elimination of only a few quota restrictions (13 out of 750 by the United States, 14 out of 219 by the European Union, and 29 out of 295 by Canada), thus leaving the great bulk of restrictions still in place. Additional access granted by restraining Members had been limited to the minimum increases in quota growth rates under the Agreement, and had not resulted in any lessening in the restrictive nature of quotas. Developing countries, including small suppliers and least-developed countries, had not received meaningful increases in their access possibilities. Consequently, despite solemn commitments, the process of liberalization had failed to be progressive in character. It had not allowed developing countries to benefit from strong consumer demand in major developed country markets. Indeed, they had made little effort to facilitate increased competition in their markets. On the other hand, major developed restraining Members had resorted to a number of trade restrictive measures, including: (i) a large number of unjustified safeguard actions for new restrictions, involving also exports from small suppliers for whom the ATC in fact envisaged more favourable treatment; (ii) changes in rules of origin; (iii) unduly cumbersome customs and administrative procedures; and (iv) anti-dumping actions targeting particularly products that had already been under quota restrictions. Based on this evaluation, which remained as accurate at the present as when it had been produced, the ITCB members had also developed some practical suggestions for improving the implementation of the Agreement. These were contained in document WT/GC/W/357 dated 12 October 1999. He wished to emphasize that these suggestions fell within the existing framework of the ATC and did not require any modification or changes to the Agreement. The suggestions were specific, and addressed the problems identified in the earlier paper on evaluation. He would present the full arguments of the ITCB members in the more detailed discussions that would take place. In the present meeting, he wished to highlight the proposal that at least 50 per cent of imports of products that had been under specific quota limits should be liberalized by the start of the next stage of implementation on 1 January 2002. The ITCB members believed that it was not unrealistic or unreasonable to expect liberalization of 50 per cent of the restrictions in what would amount to 70 per cent of the transitional period of the Agreement. Likewise, they proposed that the provisions of growth-on-growth should be applied so as to contribute to meaningful increases in access possibilities for developing countries. Accordingly, they suggested that the restraining countries: (i) apply the methodology employed by the European Union in implementing growth-on-growth for small suppliers and extend the same treatment to least-developed countries; (ii) advance the implementation of growth-on-growth for stage 3 to 1 January 2000 from 1 January 2002; and (iii) increase any resulting growth rates lower than 6 per cent to that percentage. Other specific proposals were contained in the paper, relating for example to the use of anti-dumping, safeguard measures, administrative procedures and rules of origin. He wished to take this opportunity to point out that, probably in the rush before Seattle, the draft Ministerial text contained in Job(99)/5868/Rev.1, dated 19 October 1999, had mixed up the sequence of ITCB suggestions for improving implementation of the ATC. Furthermore in some instances, the drafting did not reflect accurately the ITCB language. This might have caused some confusion and he wished, therefore, to request that the presentation be re-arranged by the Secretariat, so as to facilitate more efficient consideration.

85. Developing countries had made tremendous sacrifices in accepting to live under quota restrictions for a long period of time. They had also had to offer significant concessions in the Uruguay Round to secure an end to these restrictions, in a phased and progressive manner, even

though the restrictions had never been GATT-consistent. The ITCB members expected that the major restraining countries live up to their promise and fulfil their leadership responsibilities. The case for immediate action, to deliver some credible and meaningful liberalization was overwhelming. Besides assisting the developing economies, it could bring huge benefits for businesses and consumers in the restraining countries themselves. All analyses attested to that. Indeed a recent study commissioned by the Swedish Minister of Trade concluded that EU import restrictions on textiles and clothing had cost European consumers almost 25 billion Euro a year, that was about 270 Euro per family of four in the EU. Unfortunately, it was a matter of regret that, recently, a major restraining Member had announced its decision to demand additional market opening from developing countries as a pre-condition for meaningful liberalization of its own quota restrictions, even during the third stage of the implementation of the ATC. In this connection, he wished to inform the General Council that the ITCB members had considered this demand at a recent session of the ITCB Council of Representatives held in Guatemala. They had rejected attempts by some importing developed countries to demand additional market access concessions from developing countries as a condition to fully comply with their obligations under the ATC. They had further emphasized that the importing developed countries should live up to their commitments under the ATC and act in accordance with its provisions. The ITCB's Guatemala Communique would be circulated in a document². It was the earnest hope and expectation of the ITCB members that the restraining developed countries would engage in a constructive discussion on identifying ways to improve their implementation of the Agreement on Textiles and Clothing. This challenge was seen as the litmus test of whether they truly cared about raising standards of living in developing countries. If they could not respond meaningfully, in the present meeting or in the near future, the appropriate conclusions would be drawn and the cause of the WTO would be set back significantly.

86. Speaking only as the representative of Hong Kong, China, he said the notion of reciprocal market access in trade in textiles and clothing was totally without a shred of credibility, as the experience of his country demonstrated. Hong Kong, China had not been able to export one single extra piece of clothing, or been given a fraction of a percentage point of extra growth as a result of its completely open import regime. Developing countries, rightly in the view of his delegation, regarded the rhetoric about market reciprocity as insubstantive and purely tactical.

87. The representative of Thailand supported the statement by Hong Kong, China on behalf of the ITCB members since his country was a member of the ITCB. For the past four years, many Members had raised genuine concerns on the issue of textiles and clothing. Many of the benefits for developing countries resulting from the Uruguay Round Agreements continued to be held back. The sector of textiles and clothing was not only symbolic but also valuable and meaningful to the development of these countries. A large part of the trade in textiles and clothing continued to take place under rules and disciplines inconsistent with the GATT, such as non-MFN treatment. When developing countries had accepted the Agreement on Textiles and Clothing in the Uruguay Round, it had been in the expectation that its implementation would be progressive. The seventh year of the implementation period approached, yet only a tiny fraction of the textiles trades had been liberalized and integrated into GATT rules and disciplines. This caused a lot of harm to developing countries such as Thailand, because not only were they being deprived of the due benefits, but also it did not bode well for the smooth transition envisaged in the Agreement. Further delay in integration would only invite political pressure. The proposals by the ITCB members did not imply re-opening the Agreement. They represented a set of practical and reasonable suggestions on the way that importing restraining Members could inspire confidence among the developing-country Members. The suggestion that 50 per cent of the restrained products be integrated immediately was not unreasonable, and nothing in the Agreement prevented restraining Members from integrating restrained products or eliminating restrictions earlier than scheduled. Articles 2.10 and 2.15 of the Agreement provided for voluntary autonomous actions in this sense, but neither had ever been invoked, with the possible exceptions of

² Subsequently circulated as document WT/L/359.

Norway and Canada. These proposals were indeed the litmus test of the importing countries' intentions, and there was no need to wait for a new round, what was suggested could be done now. The tangible benefits could be enjoyed now and the aspiration of developing countries to raise their living standards could take place due to progressive and meaningful liberalization of textiles and clothing sector. The expectation of these countries were high, and they awaited positive developments.

88. The representative of Pakistan said that his delegation endorsed the statement by Hong Kong, China on behalf of the ITCB members. Pakistan had co-sponsored the proposals on textiles in paragraph 21(e) of the 19 October text and the rationale of these proposals had been laid out in the written submission by the ITCB members. The textile and clothing sector was of prime export importance for a number of developing countries including Pakistan. His country was a cotton-producing country and an exporter of textile products. During the Uruguay Round, it had been projected that one third of the overall benefits would accrue from liberalization in the textiles sector. However, instead of liberalization, new restrictions had been imposed, such as changes in rules of origin, safeguard actions and repeated anti-dumping actions. In reality, the textile sector had been made more restrictive, against the objectives of the Agreement. The demand for additional market access from developing countries as a pre-condition for meaningful liberalization of one Member's quota restrictions went beyond the commitments undertaken under the Agreement and was unjustified. His delegation fully endorsed the statement by Hong Kong, China on behalf of the ITCB members in that regard. His delegation hoped that the concerns reflected in the proposals under discussion would encourage the developing countries' trading partners to engage in a positive dialogue in the present mechanism and lead to redressal of these concerns.

89. The representative of Indonesia said that his delegation supported the statements by the previous speakers, in particular Hong Kong, China on behalf of the ITCB members, which had presented a fair assessment of the situation. In the preparatory process for the Seattle Ministerial Conference, Indonesia had submitted proposals in this area along with other developing countries (WT/GC/W/354 and 357), and considered these proposals to be still valid. The major thrust of these proposals was for the textile products of interest to developing countries to be fully and expeditiously integrated under the Agreement on Textiles and Clothing. He wished to emphasize the need for importing countries to apply growth-on-growth for stage 3 earlier than 2002. There was also an urgent need for restraining countries to implement positive measures to manifest their commitments toward liberalizing trade in the textile sector by integrating at the very least 50 per cent of the products under restraint. Other restraining countries should also apply the methodology employed by the European Union in implementing growth-on-growth for small suppliers. It would be important to address the issue of anti-dumping in this sector, since repeated investigations of products already under quota restriction had had adverse effects on the trade of developing countries. Like many other developing countries, Indonesia believed that the textile sector was essential for growth. WTO Members had continuously promoted trade liberalization and market opening and Indonesia hoped that this would also apply to the textiles sector.

90. The representative of Guatemala said that textiles and clothing was an important sector for his country, and it was for this reason that the 31st Session of the Council of Representatives of the ITCB had been hosted by Guatemala. As stated by Hong Kong, China on behalf of the ITCB members, textile and clothing-exporting developing countries had worked hard on a number of proposals for the preparatory process for the third Ministerial Conference. These proposals were still valid in the view of his delegation, since they reflected the real difficulties faced by Guatemala in the textiles and clothing trade. These difficulties had not disappeared nor had they been taken into account by the developed countries that were restricting trade in this sector. The final communiqué (WT/L/359) of the meeting held in Guatemala fully reflected the ITCB members' positions and problems in this important sector, and these countries hoped that it would have the impact necessary for rapid solutions

to be found. Finally, his delegation fully endorsed the statement by Hong Kong, China on behalf of the ITCB members.

91. The representative of Honduras wished to draw the attention of Members to document WT/GC/W/357, submitted by the ITCB members including his country, which contained practical suggestions to improve the implementation of the Agreement on Textiles and Clothing. Honduras had a substantial interest in textiles, and, for this reason, fully supported the statement by Hong Kong, China on behalf of the ITCB members.

92. The representative of the United States said that her country also had implementation concerns under the Agreement on Textiles and Clothing, in particular on market access and transshipment in the area of textiles. The United States believed that it had implemented the Agreement, and she wished to respond to some of the points made by other Members in the present meeting, including by Hong Kong, China on behalf of the ITCB and also on behalf of Hong Kong, China. The issue of textiles had been discussed at great length before the Seattle Ministerial Conference, and would continue to be discussed, since many Members had concerns in this area, like the United States. In these discussions, when one quoted statistics, it was not only integration of products that was important but also growth-on-growth and the percentage of the market, and these were substantial for the exporting countries in the US market. The problem in the implementation of the Agreement was that some developing countries felt that they had not obtained what they had believed they would at the end of the Uruguay Round. However, the developing countries also made use of safeguards, and that was part of the Agreement. There would not have been an Agreement if those particular provisions had not existed, and her delegation believed that, in the years to come until 2005, more Members would use those parts of the Agreement. Her delegation wished to note that some Members had not implemented Article 7 of the Agreement and that there was a connection between this article and implementation of the Agreement. Article 8.12 allowed for growth-on-growth to be taken back if there was not real market access. Everyone was aware of the difficulty that the United States faced when asked to do more on textiles, and this was because it did not have the market access in other countries. The United States had eliminated quotas and accorded preferences in the previous three or four months, and her delegation was amazed to hear some of the comments that more needed to be done. Perhaps some delegations needed to check what had already been implemented in the area of elimination of quotas. There was clearly a need for dialogue but without repetitive statistics, since her delegation could also supply statistics. What was needed was to look at areas of compromise in order to make progress on some of the concerns on the issue of textiles.

93. The representative of Bangladesh supported the statement by Hong Kong, China on behalf of the ITCB members. Trade in textiles and clothing represented around 70 per cent of Bangladesh's total of \$5 billion of merchandise trade, compared to the 20 per cent for other ITCB members' trade mentioned by Hong Kong, China. Furthermore, over 12 million people worked in this sector in Bangladesh, of whom around 1.8 million were women, and it was also a pioneer in the total elimination of child labour. Since Bangladesh was a least-developed country, it was in a special category in the area of textiles and clothing, and his delegation requested the advanced developed countries to keep this in mind.

94. The representative of Sri Lanka associated his delegation with the statement by Hong Kong, China on behalf of the ITCB members. Although in terms of paragraph 18 of Article 2 of the Agreement on Textiles and Clothing, Sri Lanka was a small supplier, the apparel sector was vital to its economy since this sector contributed 41 per cent of industrial production and 68 per cent of industrial exports, providing employment to a large number of people. This was a sector in which Sri Lanka had both comparative and competitive advantage. The Agreement had been expected to be the principal area of benefit for developing countries from the Uruguay Round, providing more than one third of the total benefits. However, this had not materialized since the Agreement had only been implemented in letter and not in spirit, and liberalization thus far had been neither progressive in

character, nor commercially meaningful. Furthermore, Article 1.2 of the Agreement clearly stated that Members agreed to use the provisions of Article 11.18 and Article 6.6(b) in such a way as to permit meaningful increases in access possibilities for smaller suppliers and least-developed countries, but the benefits remained marginal thus far. It was thus necessary to ensure that smaller suppliers and LDCs received these meaningful increases, and his delegation endorsed the proposal that the provisions for growth-on-growth should be applied accordingly. Like others, his delegation regretted that a major restraining Member had recently announced its decision to demand additional market opening from developing countries as precondition for meaningful liberalization of its own quota restrictions, even during the third stage of implementation of the Agreement. Sri Lanka had embarked upon an autonomous trade liberalization process, removed restrictions on imports and reduced tariffs, and substantially rationalized its tariff structure. However, it had not been granted any extra growth as a result of its autonomous open import regime. His delegation thus viewed this demand with great concern.

95. The representative of Egypt supported the statement by Hong Kong, China on behalf of the ITCB members. This area of implementation was one of the utmost priorities for his country. His delegation hoped that developed countries would live up to their commitments to significant and meaningful liberalization and integration of textile products of interest to developing countries, by eliminating all barriers impeding the exports of these countries, such as safeguard and anti-dumping measures, administrative procedures and changes in rules of origin. The proposals by the ITCB members along with the proposals in paragraph 21 of the 19 October text represented the legitimate expectations of developing countries, and should be seriously considered for appropriate action as soon as possible.

96. The representative of India associated his delegation with the statement by Hong Kong, China also on behalf of a number of other WTO Members. The stated objective of the Agreement on Textiles and Clothing was liberalization of international trade in textiles through complete integration of the textile sector into GATT 1994 on 1 January 2005. During a transition period of ten years, the Agreement was supposed to provide liberalization through two routes. First, through progressive integration, at least to the understanding of developing countries when they negotiated the removal of quotas. And second, additional access for items continuing to be under quota through increased annual growth rates. However, as stated by Hong Kong, China also on behalf of others, this liberalization was not being achieved. When the Agreement had been under negotiation, it had been meant to cover items under quota restrictions, and these quotas would have been eliminated progressively. By some strange logic, the Agreement ended up covering these items and also items which were not under quotas, which resulted in an extraordinary Annex elaborated at the last minute. As could be seen from the figures already quoted by Hong Kong, China, these quotas were not being removed. The same was true for the growth factor route, where a developing country's increases in access depended on its base level of the quota and the growth rate in its bilateral agreements, some of which had been set very low, and some countries continued to have minimal increases in this access. His delegation agreed with the United States that solutions had to be found, but it believed that they had to be based on increased access. Other aspects of this process had also not been anticipated by developing countries, such as changes in rules of origin and repeated anti-dumping actions on textiles products under quota restrictions. Reference had been made to non-implementation of Article 7 of the Agreement, and in this regard, it was important to bear in mind the Chairman's statement in the Trade Negotiations Committee at the adoption of the Final Act of the Uruguay Round on 15 November 1993, which had been aimed at reassuring those who, even at that stage, had foreseen future problems with the Agreement. One could not avoid the political reality that a large number of developing countries were disillusioned by the benefits from the Agreement. It was not a question of the legal provisions of the Agreement. The lack of liberalization had arisen from the protectionist policies of some major players, which were at the same time constantly promoting liberalization in other sectors, such as financial services and telecommunications. These Members maintained that they had political problems, but India could not remain silent since it too had political problems because of its

commitments under the WTO Agreements and the disputes it faced. The time had come to address the problems faced by developing countries in this sector, if Members really wanted to enhance credibility in the multilateral trading system, and build up the name of this institution. He would not address the details of the proposals under discussion, but the main thrust of them was to ensure improved market access through removal of quotas faster than at present and the application of growth factors earlier than envisaged. The proponents of the proposals had been told that they were trying to change the Agreement, and this was far from being true. The WTO stood for trade liberalization, and it would be extraordinary to argue that an agreement stood in the way of the liberalization that was being sought by all. His delegation was grateful that the United States had stated that it was prepared to look at these issues, and this was the constructive engagement the developing countries were looking for in the present meeting, which had not been the case on earlier issues. The forthcoming consultations should be undertaken on the basis of known views of delegations, since the whole exercise could be defeated if some major trading partners remained silent on these issues. If this were to be the case, the credibility of the exercise would be lost and confidence further eroded. There had to be a positive meaningful engagement otherwise the process would not succeed.

97. The representative of Mauritius said that textiles and clothing was of crucial importance for the development of the economies of countries such as Mauritius, and for this reason his delegation wished to be involved in the forthcoming consultations, which should be transparent and inclusive.

98. The representative of Pakistan said the discussions in the present meeting appeared to his delegation to be largely one-sided presentations by developing countries with little interaction from the developed countries. This would make the Chairman's task of evolving decisions on implementation issues more difficult. His delegation and others had sought to make their proposals in a form that could serve as a basis for decision by the General Council. If there were responses and reactions to these proposals, there would be a dialogue in the General Council and the forthcoming consultations, leading to consensus decisions. But if there was no response, the common conclusion of parliamentary practice was that there was no opposition. In the absence of any reaction, the conclusion would be that these proposals were acceptable to the General Council, which should then act accordingly. In this case, new points should not be raised in the consultations, since this would be contrary to recent professions of transparency. If there were any problems with these proposals, they should be raised in the present meeting, and not behind closed doors. His delegation hoped that this practice would be adopted. Finally, the willingness of a large number of developing countries to move forward in areas of interest to other Members would be conditioned by the nature of the outcome of the discussions on implementation. The confidence that had been built in creating this mechanism was not being sustained by the manner in which the mechanism was being used by some Members.

99. The representative of Brazil said that Hong Kong, China on behalf of the ITCB members had presented a very good summary of the implementation concerns of textile-exporting countries. In fact, the situation in the textiles sector was symptomatic of the difficulties developing countries faced when trying to gain improved market access in developed countries, especially for products or sectors in which they had high competitiveness. If one analysed the results of the integration process thus far, it became evident that the effective results of the process were modest and, for this reason, disappointing to the exporting countries. More than half of the period of the Agreement on Textiles and Clothing had elapsed, and the level of liberalization attained had been poor. Furthermore, attempts by some developed countries to condition the liberalization to which they were committed to additional market access on the part of developing countries were of great concern to his delegation. Brazil was undertaking a major re-structuring of its textile industry, which was being thoroughly modernised. For those competitive companies that remained, the least that could be expected was fair market access conditions in developed countries, and this was not the case at the present. Brazil

believed the discussions on implementation were a good opportunity to address these imbalances and to provide for a fairer environment for trade in areas not completely integrated in WTO rules.

100. The representative of Hong Kong, China agreed with Pakistan that it was disappointing not to have responses from importing developed countries on this issue, which was so important. There were many good reasons for taking a broad perspective on the question of implementation of this Agreement. His delegation believed that the concerns which some Members had expressed about the dangers of rolling back Uruguay Round commitments through the implementation mechanism did not apply in the area of textiles. On the contrary, taking up the suggestions that had been made was fully in line with the spirit of progressive liberalization of restrictions under the Agreement and fully in line with the spirit of progressive trade liberalization which permeated the ethos of the entire organisation. Furthermore, taking up some of these suggestions would be good for consumers in the importing countries. The sensitivity of the sector was sometimes mentioned, but it was sensitive only from the narrow perspective of domestic producers. If importing countries were to take a broader perspective they would of course realise that this was a win-win situation, both for developing countries and for the consumers in developed countries. Another good reason for making progress on the suggestions was the symbolic importance of the textiles and clothing sector and the Agreement to developing countries, and if progress could be made, then this would undoubtedly build confidence in the system and lead to a healthier organization with a more positive agenda. Finally, he wished to re-emphasise the commercial significance of progressing the implementation of the Agreement for developing countries. His delegation looked forward to hearing some sort of a response to the suggestions made.

101. The representative of the Dominican Republic endorsed the statement by Pakistan that there was little constructive dialogue of the type that developing countries were looking for in the present mechanism. The absence of clear positions or reactions to the proposals that had been on the table for some 15 months meant there was no disagreement. In which case, his delegation's understanding was that these proposals would be considered in the consultations to be conducted by the Chairman between the present meeting and the meeting in October. Decisions would then be taken in the General Council on national measures which still remained pending, in order for developed countries to comply with existing commitments. His delegation hoped that this mechanism would thus serve the purpose for which it was created and lead to increased confidence in the multilateral trading system.

102. The representative of the European Communities said that his delegation was not in a position to give its final position with regard to the proposals on implementation in the present meeting. The European Commission was in the process of reviewing all the proposals, which would be completed shortly, and the Agreement on Textiles and Clothing was a part of that overall review. His delegation was willing, and was working hard, to resolve in the short term those issues that could be resolved without amendment to existing WTO Agreements or without substantive negotiations. It considered the current phase of the work programme to be an exercise designed to identify precisely what might be resolved at the present or in the very short term, and what issues, either because they involved amendments to agreements or because they were changes to what his delegation considered to be the balance of the negotiated agreements, could only be addressed in the context of further multilateral negotiations. Under any objective analysis, his delegation believed that many, if not the vast majority of the proposals did require revisiting, reopening or renegotiating various aspects of the WTO Agreements. It did, however, confirm its willingness to look at all the proposals in the context of new negotiations. In the meantime, after reviewing the proposals, his delegation would attempt to identify, together with others, those issues which could be resolved in the short term. Turning to the organization of work, he said that the decision adopted in the present meeting reaffirmed the possibility of discussions at the level of the specific committees. For some issues, this seemed to his delegation to be essential, partly for technical reasons in view of the complexity of some of the issues. Many in the General Council were not the experts on the application of the Subsidies or Anti-Dumping Agreement, for example. It was also necessary to de-politicise the debate on some of these

issues, and to have a calm and objective look at them in the appropriate forum. It was not a question of whether these issues were discussed in the present meeting or behind closed doors, but simply that, for his delegation, the General Council was not the appropriate forum. The General Council could fix deadlines for this work, which in most cases would be in the technical committees concerned. There was also a clear need for further consultations, as the General Council had mandated the Chairman and the Director-General to undertake with a view to making rapid progress, and his delegation would play a positive role in them. In the course of the discussion on the Agreement on Textiles and Clothing, some delegations had taken a position which suggested that implementation of the Agreement by the Communities was somehow conditional on further market access by exporting countries. This was a misstatement of the Communities' position. The European Commission was finalising details for phase 3 of the Agreement, and would proceed to implement phase 3 in accordance with the terms of the Agreement without attaching any conditions. His delegation had stated that there might be possibilities for going even further, if it believed that there had been progress in the opening of the markets in many of those countries which retained very high or very difficult tariff and non-tariff barriers. But the Communities' implementation of the Agreement would proceed unconditionally.

103. The representative of India said that Members had decided that the process would involve the present discussions and then, in order to narrow differences, the Chairman and the Director-General would hold consultations. The European Communities had stated that it would participate more in the consultations, but the consultations were not meant to replace the General Council meetings. The aim of the present meeting was to allow delegations to explain their positions and try to narrow their differences. If differences remained after this, consultations would be held with the aim of bringing the trading partners together. As he had already stated, his delegation believed that such consultations should be open-ended, and not bilateral, since this was a multilateral organisation. This was not the first occasion that these issues had been discussed – they had been under discussion for two years. A lack of any response, even a negative response, might lead to a situation in other WTO bodies where delegations preferred to come back to proposals submitted there much later in the same way. He hoped that the European Community would reflect further on its position. Furthermore, nobody was politicising this process under the General Council. The developing countries had said from the start that these were serious concerns and the Director-General and the Chairman had said that resolving these issues was a matter of confidence building. To indirectly suggest that, in seeking solutions in the General Council, developing countries were politicising the process was wrong. His delegation had consistently said that these issues had to be addressed with political sensitivity. They could not be dealt with by experts the specific committees, since a certain amount of political sensitivity would be required to reach solutions on these issues. With regard to the notion that developing countries were trying to reopen the Agreement on Textiles and Clothing, many delegations had stated their belief that there was no need for changes to its provisions. The Agreement was supposed to provide for liberalization of trade in textiles and clothing, and any measure which liberalized trade could not be against the spirit of this Agreement. It would be entirely possible to provide relief to the concerns expressed without changing the Agreement. Reference had also been made to the balance of rights and obligations, and his delegation had addressed this issue on many previous occasions. Many developing countries were facing enormous difficulties in implementing some of the obligations which they had entered into without fully appreciating the implications, and in the areas of textiles and agriculture, they were not obtaining the benefits they thought they would. Finally, he was grateful to the European Communities for having stated that it would not impose any conditions on its implementation of the Agreement, and that it would shortly come up with responses to the suggestions by developing countries. The decision adopted at the present meeting allowed for flexibility in the scheduling of meetings, and his delegation would be prepared to attend a further General Council Special Session to listen to the responses of the European Communities.

104. The representative of Canada said that the discussion seemed to be about two issues – the Agreement on Textiles and Clothing and the manner in which these meetings on implementation were

being conducted. With respect to the second issue, a number of delegations had made general statements at the outset of the meeting, including her delegation. In that statement, it had been clear that her delegation was prepared to look at all the proposals that were on the table, give each one of them full consideration and show flexibility. But it had also been clear that this was going to take some time and that there was an important role for subsidiary bodies, not to take over the role of the General Council but to provide useful and valuable input. And it had also been clear that her delegation believed that the discussions on implementation would need to be balanced and realistic and, in some instances, proposals that required reopening of agreements would need to be addressed and ultimately resolved in the broader context of a new round of multilateral trade negotiations. This did not mean that progress could not be made in the present discussions, and her delegation was prepared to listen to see where there could be movement and where it could show flexibility. In the light of this, certain statements now being made seemed to be quite contrary to what a number of delegations had said at the outset. Turning to the Agreement on Textiles and Clothing, her delegation fully recognised the importance of this sector to developing countries. Canada had always fully complied with its obligations under the Agreement and she wished to reaffirm her country's continuing commitment to its full implementation. Opening the Canadian market to imports had required the Canadian textile and apparel industry to adjust significantly. In the mid 1970's, the Canadian market had been essentially supplied by domestic producers. At that time Canada had had over 350,000 textile and apparel workers. Today this sector employed 100,000, producing to a considerable extent for the export market while maintaining a less than 50 per cent share of the domestic market. This transition had been difficult for both Canadian industry and labour. Her Government expected this transition to continue, and to continue to be difficult, but the path had been set. Canada would continue to comply fully with all obligations under the Agreement, including the termination of all bilateral restraints by 1 January 2005. A few examples of Canada's actions in this respect might be useful. Canada had significantly and meaningfully liberalized its restraint regime by removing quotas on products of direct interest to developing countries. This might not have been clear from some of the statements made in the present meeting, but it had removed from quota the following commercially significant products: tailored collared shirts, rainwear, women and girls ensembles, women and girls knitted blouses, children's blouses and baby outer-wear. In addition, in 1998, it had increased by 10 per cent the restraint levels for winter outer wear, above and beyond the required growth rate specified in the Agreement. Imports had also been growing significantly in its market, because under the growth-on-growth provisions of the Agreement, Canada's annual quotas were now growing at a fast rate. In terms of major suppliers, India benefited from an annual compound growth rate of almost 9 per cent, Bangladesh enjoyed growth rates between 9 and 11 per cent, and Pakistan's growth rate was expanding by 8.5 to 11.6 per cent. With very few exceptions, Canadian growth rates for restrained exporters were in excess of 8 per cent a year. The small exporters' growth-on-growth provisions also provided for meaningful and significant increases in quota levels for those products under restraint. In the case of Canada, small supplier growth rates would in fact double by phase 3 of the Agreement. For example, for Sri Lanka and Lesotho rates were expanding by 9 per cent, and for both Jamaica and the Dominican Republic, growth rates were above 8 per cent. At the same time, imports from small exporters had been growing substantially. For example, in the 1994-99 period the Dominican Republic's textile and clothing exports to Canada had surged by 218 per cent and Sri Lanka had moved ahead by 21 per cent. One of the main reasons for this was that Canada did not impose large number of restraints on small exporters to start with. Furthermore, various quotas would be removed that were particularly important for small exporters, such as on tailored collared shirts and women's blouses. Moreover, in implementing the small suppliers growth-on-growth provisions, Canada had applied the advance formula to 16 exporting developing countries, five more than strictly required by the Agreement. She wished to emphasize the importance that Canada attached to this sector and the actions it had taken to ensure that developing countries could enjoy the trade liberalization that all had been seeking in the Uruguay Round. Canada recognised that the third stage of integration would be a critical component of the confidence-building process and preparations were under way in Canada to ensure that it would fully and meaningfully discharge its obligations.

105. The representative of Japan said that his country believed that full and faithful implementation by all Members of the Agreement on Textiles and Clothing was important. But besides the issue of textiles, statements of a general nature had been made in the present meeting and he wished to make some general observation to clarify the intention of his delegation. Some developing-country Members had stated that they were disappointed by the lack of immediate responses from developed-country Members and there seemed to be doubts on the usefulness of the process because clear interaction was maybe lacking. It was true that his delegation had remained relatively quiet, but this should not be interpreted as a sign that Japan had little interest in the process. As it had stated at the outset of the meeting, his delegation had been listening attentively and carefully to the comments and concerns expressed by developing-country Members and intended to continue to do so. His delegation was taking careful notes of their comments and would report them to the capital. It had responded and would continue to respond to some of the comments, but at this stage it wanted to listen to and understand the rationale of developing-country Members, since they were the demandeurs on most issues. His delegation regarded this exercise as being part of the confidence-building activities, and it was better to spend some time on studying how it could respond positively to the maximum extent possible to the issues raised. His delegation would give its responses to the Chairman and the Director-General through the forthcoming consultations. Some had expressed concerns about the possible closed nature of those consultations, but his delegation trusted that the process would be transparent, so that all Members which had an interest in particular issues would be informed of his delegation's views at that time. His delegation would respond in good faith in order to build confidence among Members, so that an atmosphere would be created conducive to the launch of a broad-based round in the near future. But as he had already stated earlier, his delegation might have some limits to what it could do at this juncture. He hoped the developing-country Members would study the responses of his delegation from a pragmatic point of view, to see how to achieve the best result under the given constraints.

106. The representative of Cuba said that, like others, his delegation believed that trade in textiles and clothing should be more balanced, since this was a sector necessary for the improvement of the economies of many developing countries. His delegation was also disappointed by the way in which the discussions on implementation were taking place. These meetings should make more progress and be more subjective. Before the Seattle Ministerial Conference, many developing countries had worked hard to submit proposals on how to achieve greater balance in the results achieved in the Uruguay Round. These proposals had not received adequate responses, even at the Conference. The present process appeared to be just a repetition of old speeches, with no appropriate responses from developed countries. A more constructive spirit was needed, to take into account these proposals and lead to real progress. One delegation had said that it was there just to listen. His delegation disagreed with this, Members were there to interact, to have an exchange of views on each one of the proposals. The developing countries were looking for reactions to their proposals to be able to take into account proposals which developed countries might make. In this way it would be possible to construct the confidence which all were seeking.

107. The representative of the United States said that her delegation had already responded to some of the issues under discussion earlier in the present meeting. The Agreement on Textiles and Clothing was sensitive to all who had spoken, including the United States. Her delegation was not there just to listen. She had already stated that her country had recently undertaken more liberalization, for least-developed and developing countries, not only on textile products but also in agriculture products and many other areas. She had also stated it would be necessary to send some issues to the subsidiary committees to deal with the technical issues. Her delegation was looking at all the issues in a constructive way with other delegations, and she believed that the Agreement on Textiles and Clothing was an example of an area where more time would be needed. That was not in any way putting the issues off, and did not mean that her delegation was not willing to move forward. She agreed that this was a question of building confidence, but less time should be spent talking about procedure and what had not been done in the past. The United States was very positive on

implementation issues, and also had its own concerns. She believed that it was time to move on in the discussion.

108. The representative of Hong Kong, China said that, since there was no textiles committee in WTO, time would need to be spent on textiles and clothing in the General Council. He thanked Canada for its statement, which had made clear that Canada had maintained fewer restraints than some other importing developed restraining countries and had liberalized a somewhat higher percentage. Of the 295 quotas which Canada had maintained, 29 or nearly ten per cent had been liberalized. Ten percent after 50 per cent of the transition period was not a brilliant record, but it was better than some others. Canada could still do even better, since after forty years of adjustment it was producing not only for its domestic market but also for export, to the expense of developing countries. The US market had grown by about 60 per cent in 1994-99, and Canada's exports to the US had grown by 130 per cent over that period. This showed that there were still many distortions in the market and the overall the picture was that restrained suppliers had not be able to benefit to the extent that they should have been able to from increased demand in the major importing and restraining developed countries.

109. The representative of Pakistan said that, like Hong Kong, China, his delegation was pleased that Canada was doing more than other restraining countries, but perhaps Canada itself was pleased that it was doing better in certain export markets. Canada would clearly be able to provide greater and accelerated access to the restrained countries. The European Union was the largest exporter of textiles, despite forty or fifty years of adjustment – more evidence of market distortions. His delegation was disappointed that there had been no specific response to the proposals on textiles in paragraph 21, and concluded that there was no particular opposition to those proposals. But if the opposite were to be the case, his delegation wished to know and hoped that any comments would be made in the General Council, rather than through the private consultations which the Chairman and the Director-General would hold. This was absolutely essential to his delegation. Since some were in the process of studying these issues, he suggested that a Special Session on textiles be scheduled at a very early stage, as soon as those delegations were ready with their responses. His delegation would not wish to conclude that, after having waited a year and a half, this continuing study was being put forward as a way of putting off decisions on these proposals. That could lead to a significant erosion in confidence, at least on the part of the textile exporting countries, with perhaps quite important consequences for their positions on other issues. He wished to recall that, under Article IX of the WTO Agreement, the General Council was empowered to interpret agreements. The General Council was to reach its decisions not only the basis of technical facts but also on the basis of its political judgement of what was required for the proper functioning of the agreements. For this reason, his delegation believed that the General Council was the proper forum for implementation issues to be discussed and would resist strongly any effort to push this process into technical committees and working groups, which would obviously have the effect, if not the design, of delaying action on these proposals. That course of action, if pressed by others, would be another indication that the confidence that some had in this process was in fact misplaced.

110. The representative of Honduras supported the statements by the Dominican Republic, India, and Pakistan. The present process had been created to resolve the implementation concerns that developing countries had been expressing for two years. Her delegation was disappointed that some developed countries were still not yet ready to respond to these concerns, and hoped that in subsequent meetings these concerns would be met in a positive way. Future discussions on these issues should held in the General Council, so as not to exclude the proponents of the proposals, and the other approaches being proposed were unacceptable.

111. The representative of Uruguay supported the statements by Hong Kong, China and other members of the ITCB. His delegation believed the proposals submitted on textiles and clothing were covered by the existing Agreement and required no changes to it. Turning to the general approach to

the present exercise, some had stated that the majority of the proposals on implementation implied changes in the agreements which could only be achieved in the context of a new round. If this were indeed the case, then this exercise would have lost a great deal of its interest and importance, because the aim of it had been to attempt to solve the implementation problems faced by developing countries without the need for a round. His delegation fully understood that certain issues could not be resolved without changes to agreements, and a round would perhaps be necessary for that. But other issues did not fall into this category and these should be resolved as promptly as possible.

112. The representative of Kenya supported the statements by India, Pakistan and Hong Kong, China. Referring to the statement by the United States, he noted that the quotas imposed on his country's exports of textiles by the United States had been eliminated by the recent African Growth and Opportunity Act.

113. The representative of the United States thanked Kenya for its statement. The United States had removed quotas for the Africa region and instituted new textile liberalization programmes for the Caribbean Basin, which raised liberalization in that region to a level similar to that in its free trade agreement with Canada and Mexico. For other countries, the accelerated growth provisions had also significantly increased access to the US market for textiles. For example, India's access had increased by 69 per cent since 1995 and she could supply more figures even higher. These increases would not be the case if the United States had not implemented the Agreement on Textiles and Clothing, which it had in accordance with what it had agreed.

114. The representative of Pakistan said that he remained concerned at what had not transpired in the present discussion. If were not possible to take decisions at the October meeting on these issues, it would become inevitable that a concrete discussion of the proposals on textiles take place later, since it had not been the case in the present meeting. In the absence of such a discussion, he did not see how the Chairman and Director-General would be able to consult on the issues and how decisions would be reached by October. If decisions were not reached by October, his delegation, and perhaps others, would not be able to move on other issues. He reiterated his suggestion that a decision be taken to convene another special meeting of the General Council, devoted to discussing the textiles sector and perhaps other areas that might not have been sufficiently considered, once delegations were able to respond to the proposals. In the light of that meeting, consultations could be held to prepare the October session. It was important to avoid a situation where no progress would be made.

115. The Chairman, referring to the proposal by Pakistan, said that he was in the hands of the General Council to decide whether to hold another Special Session for specific topics. He believed that this proposal could be taken up in consultations he intended to hold before the end of July on how to conduct the consultation process.

116. The representative of Hong Kong, China said that if he understood correctly, the Chairman intended to hold consultations about further consultations. While he understood that this was a difficult area, the proposals in question were far from new, since they had been on the table for a year. Everyone had had more than sufficient time to consider them and it would be important to schedule further work rapidly. This could be a meeting or consultations to consider the proposals. He wished to reiterate that there was no dedicated committee to deal with textiles and clothing, so it seemed that the discussion would have to continue in the framework of the General Council.

117. The Chairman said that he had been suggesting consultations about how to proceed on all issues, not only on textiles and clothing. The discussion on textiles had illustrated the need to reflect on the further process, including the role of subsidiary bodies. The time available before the October meeting was limited, so it would be important to organise the agreed consultations on all the issues in an effective manner, taking into account all the points raised. The proposal by Pakistan indicated the need to have an understanding on how to conduct the consultation process, and textiles would be one

important issue to address, bearing in mind that there was no specific substantive committee for that issue. However, it would be necessary to address the issues raised under all agreements, which would be a huge task. He believed that it would thus be necessary to consult in the coming days on how to proceed with this work.

(e) Agreement on Technical Barriers to Trade

118. The representative of Egypt said that one of the proposals on the TBT Agreement in paragraph 21 suggested giving a specific mandate to the TBT Committee as part of its triennial review work programme to address the problems faced by developing countries in both international standards and conformity assessment. These were the priorities on the list of issues to be addressed during the review, however her delegation wished to address them in the present meeting, since they were at the core of developing countries' implementation concerns in this area. Egypt believed that the benefit drawn by developing countries from international standards was minor and the process of adjusting their national standards to them was difficult. This could be attributed to two factors: (i) the participation of developing countries throughout the various phases of setting international standards was limited, resulting in them having to apply standards set without their participation and which corresponded more to the market needs of developed countries; and (ii) some international standards specified safety, health and environmental requirements applied by developed countries which were difficult for developing countries to meet and carried financial and technical consequences. Wider participation for developing countries in international standards setting was now being widely sought. However, Egypt could only accept new obligations on developing countries to participate in the process of standards setting, if technical and financial assistance was provided to such countries by the standardizing bodies to ensure their effective participation. Furthermore, a number of obstacles were being faced in conformity assessment. First, the lack of established national accreditation bodies negatively affected the process of concluding mutual recognition agreements and hampered the facilitation of conformity assessment procedures. These procedures varied between developing and developed countries, as also among developing countries, which entailed that goods were subject to multiple tests, leading to financial and technical burdens, particularly in developing countries, and hampering trade flows. Second, conformity assessment systems in developed countries were of a sophisticated and advanced nature, and it was difficult for developing countries to apply them due to their modest infrastructure, minimum technical experience and limited laboratories capacities. Third, developing-country economies relied mainly on small industries, and application of conformity assessment procedures represented a financial burden on such industries. For these reasons, Egypt believed that the Agreement should only include obligations on the implementation of specific conformity assessment systems or procedures once the means of assistance to be granted to developing countries to adjust to such systems or procedures was defined. Finally, Egypt believed that the proposed forms of technical assistance were not beneficial to developing countries, since they only consisted of lectures, data assembling and preparation and dissemination of reports. Technical assistance should be aimed at effective implementation of the provisions of the Agreement. It should allow developing countries to make use of electronic means for information and documentation exchange, participate in the preparation of international standards, establish conformity assessment systems according to the international requirements and the mechanisms for setting technical regulations, and establish sound infrastructures and active enquiry points. Precise criteria should be set for measuring the efficiency of technical assistance, the results achieved and the positive effects of implementation. Such criteria could take the form of practicable executive programmes.

119. The representative of India supported the statement by Egypt, and said that the first proposal in paragraph 21(d) was identical to one of the proposals for the SPS Agreement his delegation had addressed earlier. Developing countries did not appear to be present during the phases of standard setting, and were standard receivers rather than standard setters. Furthermore, even if they were present, they lacked the resources and the expertise to participate effectively. Decision making in some international organizations did not take place by consensus, but rather by voting. This resulted

in a situation where, even if developing countries were present, their views were not necessarily taken into account. The idea contained in this proposal was not new and was simply an elaboration of the language contained in Article 12.5 of the TBT Agreement. The second proposal was for the General Council to give a specific mandate to the TBT Committee as part of its triennial review, which was expected to conclude in December 2000, to address the problems faced by developing countries in the areas of standards and conformity assessment. In this respect, his delegation welcomed the workshop to be held by the TBT Committee on 19 and 20 July on technical assistance and S&D treatment. However, his delegation believed that the Special Session had to go beyond this and take fully into account the outcome of the workshop, as well as other issues raised.

120. The representative of Pakistan associated his delegation with the statements by Egypt and India. After almost five years of implementation of the TBT Agreement, his delegation believed that there were three major sets of problems associated with its application. First, the non or ineffective participation of developing countries in various international standard-setting organisations, which was addressed by the first proposal in paragraph 21(d). Developing countries did not have the resources and expertise to participate in various standard-setting activities, and this situation needed to be rectified. Ways and means had to be developed to ensure the presence of countries at different levels of development and from all geographical regions, throughout all phases of standard setting. The second set of problems stemmed from the unsatisfactory implementation of the provisions on technical assistance and special and differential treatment. Most of the problems identified in this area could easily be addressed in the TBT Committee as a part of its triennial review. The third set of problems were of a systemic nature and were faced by developing countries in both international standards and conformity assessment. These included the lack of clarity in the definition of an international standard, and the presumed definition should be reviewed in the light of the participation of developing countries in setting standards. A narrower definition would be necessary, where only standards formulated with the participation of developing countries would be treated as international standards, and only if adopted by consensus. Similarly in the area of conformity assessment, developing countries faced a number of difficulties, such as self-declaration by developing-country exporters and its acceptance by importing countries, inclusion of developing countries in mutual recognition agreements, and specific provisions for technical assistance in the area of adoption of conformity assessment, and these needed to be addressed.

121. The representative of Japan said that some of the issues raised under the TBT Agreement in statements by developing-country Members had been addressed in a contribution by Japan, along with Canada, the European Communities and the United States in April. These Members had suggested instructing the TBT Committee to address the problems faced by developing-country Members as part of its work programme. His delegation was unsure whether it was necessary for the General Council to set a specific mandate for this, but it could agree to the General Council instructing the TBT Committee to look into these issues matter as part of the triennial review. With regard to enhanced participation by developing countries in international standard setting, his delegation believed that it was a question of how to enhance technical assistance in this field, and in the same contribution, Japan and the other Members had suggested requesting the Director-General to coordinate efforts with relevant international setting organisations, to identify areas related to both the TBT and SPS Agreements where technical assistance was needed.

122. The representative of Jamaica said that her delegation supported the statements by Egypt, India and Pakistan.

123. The representative of the United States said that her delegation agreed with Japan that the General Council could instruct TBT Committee to address some of the problems faced by some Members as part of its work programme, in particular in the areas of international standards and conformity assessment. Her delegation also agreed that the Director-General could be requested to co-ordinate efforts with the international standard-setting organizations to identify, in particular, TBT

and SPS-related technical assistance needs and how to address them. This should take into consideration the importance of bilateral and regional technical assistance. Her delegation would be working with others to see what could be done in this area, starting with the workshop mentioned by India.

(f) Agreement on Trade-Related Investments Measures

124. The representative of India said that eight proposals had been submitted on the TRIMs Agreement during the preparatory process for the third Ministerial Conference, two of which were in paragraph 21. The TRIMs Agreement also formed part of the work on transition period issues. In the proposal submitted by India in document WT/GC/W/203, the main point had been that the Agreement denied the freedom to developing countries to channel investments in such a manner that fulfilled their development needs, in particular with regard to local content requirements. Although mentioning the need to take into account the developmental needs of the developing countries, the Agreement constrained the degree of freedom of developing countries. The fundamental concern of whether the Agreement was friendly to the development needs of the developing country had to be looked into. The two proposals in paragraph 21 suggested that the transition period mentioned in Article 5.2 should be extended and that developing countries should have another opportunity to notify existing TRIMs which they would then be allowed to maintain until the end of the new transition period. The basic point behind these proposals was that developing countries should not be required to remove existing TRIMs immediately. They needed more time. In previous discussions on transition period issues, his delegation had stressed that they should not be limited to bilateral solutions. It was important to extend the period in Article 5.2 and provide another opportunity to notify to countries which had not done so, to keep the development needs of developing countries in view. His delegation believed that both these decisions should be taken in the multilateral context.

125. The representative of Brazil said that, while his delegation could support many of the ideas reflected in the two proposals in paragraph 21, it was confused that the issue of transition periods had come to the fore in the General Council again. It was not a question of the substance, more the mechanics of addressing these issues. One could not deny that some effort had been made to take care of those countries which had notified and asked for specific extensions under the TRIMs Agreement, and the General Council would return to this issue at some point. The confusion might be whether it should be addressed in the present meeting or in a regular meeting of the General Council, as also for the same issue under the TRIPS Agreement. His delegation had stated previously that it believed that transition periods as a whole should be the object of a comprehensive and multilateral decision. Since this had not happened, his delegation would have to revert to expressing its support for the proposals in the meetings on implementation.

126. The representative of Hong Kong, China, referring to the first proposal in paragraph 21(f), said that the General Council had taken a decision in May on informal consultations to be conducted by the Chairman of the Council for Trade in Goods on this issue, who hoped to achieve consensus shortly. His delegation had been positive on this proposal and on the applications for extension, and it looked forward to a rapid conclusion of the consultations. He wished to request the Chairman to clarify the relationship between the proposal in paragraph 21(f) and the consultations being conducted by the Chairman of the Goods Council. Unlike other implementation issues listed in paragraph 21, work on the issue in this proposal was well advanced, in particular in the light of the May decision, so he wondered what would be the institutional relationship between the present process and the process led by the Chairman of the Goods Council. His delegation was looking to the Chairman for guidance on this question.

127. The Chairman said that the answer to the question by Hong Kong, China was straight forward, since any outcome of the process launched in the May General Council meeting and presently being followed up in the Goods Council would have to be taken into account in looking at

any outstanding problems related to the proposal in the present meeting. The earliest that the General Council could take a decision on this issue was October, at which point the proponents of the proposal would be able to amend it in the light of any results achieved elsewhere. This was his understanding of the relationship between the two processes.

128. The representative of Cuba said that his delegation supported the two proposals in this area. His delegation believed that the TRIMs Agreement was linked to developing countries' prospects for development, and flexibility should thus be shown by developed countries to allow the time-periods to be extended, and any new Agreement could be considered at a later date.

129. The representative of Mexico said his delegation believed that, independently of efforts undertaken by the Chairman of the Goods Council, the issue under discussion should be kept in the context of the present discussions of implementation problems. On the first proposal in the area of TRIMs, his delegation could accept the time-period in the second set of brackets, which could also be reduced to have four years. With regard to the second proposal, his delegation shared the view that developing countries should have the opportunity of notifying existing TRIMs, since these measures would be eliminated at the same time as those covered by the first proposal. This would give equal treatment to all countries which had had recourse, or could have recourse to TRIMs. Furthermore, a positive response to the requests by developing countries in this area would contribute to the creation of confidence that all had talked about.

130. The representative of Honduras said that his delegation supported the statement by India, in particular the proposal that a new opportunity should be given to developing countries to notify their TRIMs.

(g) Agreement on Anti-Dumping

131. The representative of Egypt said that misuse of trade remedy measures in the field of anti-dumping by some developed countries, without due consideration to the provisions under Article 15 of the Anti-Dumping Agreement, had become a significant barrier to the exports of developing countries. As a developing country that suffered from the application of anti-dumping measures in this manner, Egypt had previously suggested re-examining certain provisions of the Agreement in order to evaluate their adequacy and whether they could be amended in the light of the experience. In the present meeting, her delegation re-submitted these proposals which suggested that: (i) Article 2.4 should include further details on how the investigating authority could effectively solve the problems arising during the process of investigation with regard to foreign exchange rates, as fluctuations could affect the dumping margin calculations, causing difficulties for the investigating authority and limiting its ability to easily determine the dumping action; (ii) Article 3 should contain a detailed provision dealing with the determination of the material retardation of the establishment of a domestic industry as stipulated in footnote 9; (iii) Article 15 should be modified in order to be more comprehensive, operational and mandatory, and constructive remedies should be more specific and reasonable for developing countries. The lesser-duty rule should be applied to imports from developing countries. Repeated anti-dumping investigations by some trading partners on the same product lines had resulted in trade harassment of developing-country exporters; and (iv) a new detailed provision should be elaborated to set guidelines for all Members in conducting anti-circumvention investigations.

132. The representative of the Philippines said that his country, along the other ASEAN Members, had previously submitted proposals on Articles 2.4, 17, 5.3 and 5.8 of the Anti-Dumping Agreement (WT/GC/W/205). The Philippines was concerned about the standard of review in Article 17 and believed that it should be aligned to the standards of review in all other areas of work in WTO.

133. The representative of Indonesia said that, as a member of ASEAN, his country supported the statement by the Philippines. Along with other developing countries, his country had submitted proposals on anti-dumping before the Seattle Ministerial Conference, contained in documents WT/GC/W/205, 354, and 355, and it remained committed to them. His delegation wished to highlight the importance of addressing and resolving issues related to repetitive anti-dumping investigations on the same products, which it believed constituted trade harassment. The abuse of existing provision under the Agreement needed to be addressed. If it was not, it would cause disruption of trade from exporting countries which were not engaging in dumping, but rather being exposed to unfair competition from uncompetitive industries in importing countries. In this regard, his delegation supported the ASEAN proposal referred to by the Philippines, which highlighted the need to consider Article 5.3, among others, to limit the scope for repeated anti-dumping investigations on the same product. Reviewing this Article would not lead to imbalances in the Agreement, but would lead to the improvement of the Article, and prevent abuse for the sake of imposing trade barriers.

134. The representative of the European Communities said that anti-dumping was an important area for many Members, and was also important in the context of movement towards new negotiations. For this reason, his delegation believed that this area merited substantive investigation of the various proposals. To his delegation, there appeared to be two categories of proposal. Many could be addressed in new negotiations and others were not negotiable. Before reaching such conclusions, his delegation believed that there should be a substantive investigation. General discussions could continue forever in the present forum, so his delegation suggested that these issues should be sent to the relevant committee where the experts would be able to report back on what was feasible and what was not. This work could not be done in the present forum. While this was not perhaps the preferred course of action for some delegations, his delegation urged them not to reject it since it was the way to make progress. This same approach should be applied in other areas where proposals were detailed and experts would be required, such as subsidies and countervailing measures, customs valuation and technical barriers to trade. In the latter case, the question of how to ensure that developing countries participated in standard setting needed to be looked at by experts, since it involved resources on the part of those countries. There were technical issues in many areas which needed to be looked at in more detail than delegations could do in the present meeting.

135. The representative of Colombia said that his country had submitted a proposal on the Anti-Dumping Agreement in document WT/GC/W/315 and Add. 1 which addressed four specific issues. First, to give effect to the provisions on special and differential treatment of products from developing countries, the provisions of Article 9.1 on the application of duty less than the margin of dumping, and Article 15 on the need for constructive remedies instead of applying anti-dumping duties, should be made mandatory. Second, under Article 5.8 on negligible imports from a developing country, this concept should be applied when such imports were less than 7 per cent of the total. Third, the de minimis margin referred to in Article 5.8 should be increased from 2 to 5 per cent, expressed as a percentage of the export price. Finally, paragraph 4.2 of Article 2 should be clarified so that the application of the rule establishing the comparison between the weighted averages of the normal value and the export price involved obtaining those averages on the basis of the same time-period.

136. The representative of Chile said that in the area of anti-dumping there was no question of a lack of implementation, but rather the reverse, even excessive implementation. This was a source of concern to many since what was being implemented was a set of unreasonable standards in international trade, introducing imbalances, and affecting credibility, certainty for investors and the value of what had been negotiated. There seemed to be a race between governments to adopt these discriminatory instruments which had proved to be inadequate. This was a problem which had become truly multilateral. His country's exporters had been affected by anti-dumping measures, throughout South America and also in Central and North America. Perhaps the only country that Chile had not had problems with in the Americas was Canada, since the two countries had an agreement on the elimination of anti-dumping measures and a Free Trade Agreement. This issue

needed a change of approach in terms of the goals of the multilateral disciplines involved, and because of its major importance, it should be seen in a broader context of new round of multilateral trade negotiations. Nevertheless, there were sufficient proposals to allow a detailed investigation of certain issues in the anti-dumping process, with the aim of identifying technical adjustments to prevent selective and discriminatory protectionism. The suggestion by the European Community for such an investigation pending a broader based consideration of the multilateral issues concerned was a sensible one.

137. The representative of Guatemala, referring to her country's proposal on anti-dumping contained in document WT/GC/W/330, said that Guatemala had suggested that certain definitions of the existing Agreement needed to be improved. The definition of "like product" in Article 2.6 was one such improvement, since the current definition referred to a product which, although not alike in all respects, had characteristics closely resembling those of the product under consideration. Some countries considered functional similarity or use as an important factor in determining whether products were alike. In other countries, particular emphasis had been placed on physical similarities between products to determine likeness. This led to conflict between commercial reality and the Agreement. Furthermore, anti-circumvention practices tended to use the concept of "like product".

138. The representative of the Dominican Republic said that his delegation supported the statements by Egypt and Guatemala. With regard to the suggestion by the European Community for a technical analysis of the issues in this area, one had to bear in mind that such issues might involve changes in the text of the Agreement, as also in the case of the Subsidies Agreement. Any such changes would have to be considered in the context of the procedures laid out in the Marrakesh Agreement. Article IX.2 of that Agreement stated that the Ministerial Conference and the General Council had the exclusive authority to adopt interpretations of the Agreements, and Article X contained a procedure for amending the Agreements. The authority to undertake this procedure had been given to the Ministerial Conference, and, in the absence of a Ministerial Conference, the General Council. In the light of this, the General Council could decide on a role for the subsidiary bodies in this process, in line with the May decision, but these bodies could not take the necessary decisions. The General Council was the only body authorized to take a decision on the nature of the interpretations to be authorised or the amendments to be introduced to resolve the problems in the area of implementation.

139. The representative of Japan said that his country had grave concerns about the abuse of anti-dumping measures. Compared with ten years ago, a larger number of countries were now making use of these measures. Japan was concerned that, if no attempt was made strengthen the disciplines in the Anti-Dumping Agreement, the situation would arise where countries would resort to counter anti-dumping measures against measures taken by another country. This kind of interaction could take place in increasing numbers. For this reason, Japan had long emphasized the need for negotiations aimed at strengthening these discipline. With regard to the proposals in this area in paragraph 21, Japan believed that it would be necessary to study the concrete modalities of the various anti-dumping measures which had been implemented, as well as a detailed interpretation of the relevant clauses in Agreement. For this reason, Japan agreed with the European Community that the General Council should instruct the subsidiary body to undertake a technical examination of these issues. One proposal in paragraph 21 addressed the lesser-duty rule, and Japan believed that this would entail amending the Agreement. Examination of the other proposals might lead to the same conclusion, which was why Japan believed that these proposals should be taken up in the next round of negotiations.

140. The representative of Hong Kong, China said that his country's approach to the issue of anti-dumping was somewhat different from many other Members, since it believed that there was limited value to amending the Agreement. The Agreement concerned the implementation of Article VI of the GATT, and it was Article VI itself which was the problem. In this respect, his delegation agreed with

much of the statement by Chile. His delegation would be open to most of the proposals in this area in paragraphs 21 and 22, and it agreed with the Philippines on the need to look at Article 17.6 relating to the standard of review. Like the Philippines, his delegation believed that it would be beneficial if normal dispute settlement provisions were to apply in this respect. Finally, as before Seattle, his delegation strongly objected to any proposal that there should be any form of presumption of dumping in whatever situation might be envisaged. He acknowledged that this referred to dumping by developed countries to developing countries, but his delegation found the whole notion of a presumption of dumping repugnant.

141. The representative of Bolivia said that her delegation believed that the present mechanism had not been created in order to decide at a subsequent stage that it was not able to act. Rather, it has been created to ensure that the political element would help in the resolution of technical problems. During the course of the discussions before the decision on this mechanism had been taken, the possibility of declarations of political intent to resolve the problems had been evoked. There was no reason why delegations should not bring to these General Council meetings experts to assist on the technical aspects. This would facilitate political decisions, including those involving interpretations of agreements.

142. The representative of Mexico said that his country had had problems in all aspects of the issue under discussion, both as an importer applying anti-dumping measures and equally as an exporter when such measures were applied against his country, perhaps frivolously. Mexico thus had a particular interest in this issue, which was not a purely technical problem. His delegation believed that a new approach was needed to establish a better balance between the export and import interests of all Members. This approach should be adjusted to market realities, and be less legal and more based on economics. For this reason, his delegation believed that this issue should be addressed in the General Council. Finally, it had been agreed that this work in the General Council would be without prejudice to whether there would be any link in the future to any further multilateral trade negotiations.

143. The representative of Pakistan said that the application of anti-dumping measures was allowed under the WTO as an exception to the general disciplines, but on the understanding that the selective imposition of duties tended to lead to discriminatory trade policies. Anti-dumping actions caused significant adverse effects for trade and business, whether or not actual anti-dumping duties were finally put in place. His delegation believed that there was an in-built bias towards protectionism in the anti-dumping proceedings, and this was reflected by the practice of some developed trading partners. In this respect his delegation agreed with Chile on the over-exuberance of some of these partners. Two cases involving his country in recent years had created doubts about the manner in which this trade policy instrument was being used. One case involved bed linen, where an investigation was initiated in 1994, followed by termination and initiation of a second investigation within a span of a two months in 1996. The second case related to cotton fabric, where investigations initiated on 20 January 1994 were terminated on 19 February 1996, and re-started on 21 February 1996 after two days. One wondered what could have occurred in a span of two days to necessitate such a re-initiation. This could only reflect the intention by the trading partner involved to disrupt the trade flow. This was what worried his delegation, and the first proposal in paragraph 21(a) addressed that concern, suggesting that no investigation should be initiated for a period of 365 days from the date of finalisation of a previous investigation for the same product. His delegation recognized that anti-dumping provisions were aimed at addressing genuine concerns of unfair trade practices. But it was necessary to correct the bias in the Anti-Dumping Agreement to prevent the use of these provisions to disrupt normal trade flows. The second proposal addressed the lesser-duty rule in Article 9.1, which laid out that it was desirable that the anti-dumping duty be less than the full margin to dumping, and that this should be sufficient to remove the injury. The problem was the word "desirable". The rationale of an anti-dumping duty was that it should be corrective, not punitive, in which case the rationale of the lesser-duty rule was not difficult to understand. Since it was termed

desirable, relatively few countries used this rule in practice, which led to a difficult situation for exporting countries, and in particular developing countries. The wording should thus be changed, and the lesser-duty rule should be made mandatory. The third proposal suggested that Article 2.2 should be clarified in order to make appropriate comparisons with respect to the margin of dumping. This addressed the problems his country faced in the determination of the margin of dumping. His delegation believed that this provision was not clear, giving leeway to national authorities to determine the margin of dumping however they wished.

144. The representative of Brazil said that his country had an interest in many issues raised by the Anti-Dumping Agreement, particularly the issues covered by the proposals in paragraph 22. His delegation wondered if it might be useful to hold consultations on the proposals in both paragraphs at once, since they were similar. Like Hong Kong, China, his delegation had a strong interest in the question of the general standard of review.

145. The representative of India said that the first proposal in this area in paragraph 21 suggested that to avoid back-to-back anti-dumping investigations, there should be an understanding that there would be a moratorium of at least one year in anti-dumping investigations against the same product from the same exporting Member. Like Pakistan, his country had been subjected to this very situation by a major trading partner. There had also been cases where India's textile products had been kept under anti-dumping investigation for a period of nearly six years, without provisional or final duty being levied at any point of time. His delegation believed that this was not the purpose of the Anti-Dumping Agreement. The second proposal was for the provisions of Article 9.1 to be made mandatory, so that when the injury margin was lower than the dumping margin, the level of dumping duty should be restricted to the injury margin. The third proposal related to Article 2.2, suggesting that constructed values should be used only when investigating authorities come to the conclusion that the margin of dumping could not be determined by comparison with the export price to a third country. All three proposals were simple, straightforward proposals, and did not imply any fundamental changes to the Agreement. Provided there was goodwill, he believed that it would be possible to develop understandings to give effect to these three proposals. However, there appeared to be different approaches to addressing the issues in this area. Some believed the problem to be Article VI itself, like Hong Kong, China. Others believed that not much could be achieved on these issues in this process and they should thus be dealt with in future negotiations, but his delegation had often stated that implementation issues should not be linked to a future round. Another approach was to send these issues to the Anti-Dumping Committee, since they were complicated, as suggested by the European Community. With regard to the last approach, his personal experience, particularly in the area of textiles, had shown him that experts were not necessarily the best negotiators, since they had fixed views they were unable to change. As he had said, these were simple, straightforward proposals, and no great knowledge or expertise was required to deal with them. With the necessary goodwill and a political decision, these three issues could rapidly be resolved in the present forum without sending them to any other committee.

146. The representative of Singapore said that her country looked at the issue of anti-dumping from a broader context, since there had been an increase in the use of anti-dumping actions not only by developed countries but also by developing countries. Since the conclusion of Uruguay Round, with greater opening of markets and reduction of tariffs, countries had resorted to the use of the anti-dumping instruments as a means to protect domestic industries. Although most of the proposals in this area were from developing countries, her delegation believed that the increased use of anti-dumping actions and in many instances, the abuse of such actions, should be a source of concern for all Members. Her delegation questioned whether the proposals truly sought a better balance in the interests of importers and exporters, as some maintained. The objective should be to tighten rules in this area to ensure that the users of anti-dumping actions did not resort to these actions in an arbitrary and frivolous manner. Many of the proposals required substantial and technical examination, and her

delegation would accept any procedure, whether in the General Council or the Anti-Dumping Committee.

147. The representative of Malaysia said that, like others, his country had concerns in the area of implementation of the Anti-Dumping Agreement. Malaysia had submitted proposals in this area on behalf of the ASEAN Members before the Seattle Ministerial Conference, as mentioned by the Philippines and Indonesia. One proposal important to Malaysia was that Article 5.8 of the Agreement needed to be clarified with regard to the time-frame to be used in determining whether the volume of dumped imports was negligible under the thresholds stipulated in the Article. With regard to the view of some delegations that these were issues which should be relegated to the Anti-Dumping Committee, his delegation believed that some of them could be dealt with in the General Council, such as the first proposal in paragraph 21 on the 365 day moratorium on repeated anti-dumping investigations. Other proposals might need to be sent to the Committee, but this was for the General Council to decide. If work was sent to the Committee, the General Council should set a precise time-frame, perhaps three months, within which the Committee would have to report back. His delegation continued to believe that any decision in this regard should be taken without prejudice to any linkage to any new round of negotiations. His delegation agreed with India that some issues should be discussed in the General Council since they were political, while others were only clarifications or interpretations that did not need to be relegated to the Committee.

148. The representative of Saint Lucia said that her delegation recognized the detailed nature of the Anti-Dumping Agreement, which some delegations had suggested would require the issues to be addressed in the Anti-Dumping Committee. At the same time, her delegation was concerned by the lack of substantive movement on a number of these issues. When one considered how long it had taken to determine an appropriate length of an investigation in that Committee, her delegation was unsure whether progress would be made on these issues, although some appeared to be of a technical nature. Her delegation had a particular interest in the treatment of small and medium size enterprises under Article 6.13 and this issue could be added to the proposals being discussed. She wondered whether the suggestion by Pakistan for Special Sessions dealing with specific topics could be extended to inviting the necessary experts to these meetings, to assist the General Council in taking what were largely political decisions on these issues. Her delegation agreed with Malaysia that if any issues were sent to the subsidiary body, clear terms of reference should be given in a time-bound manner. Her delegation preferred, however, all issues to remain in the present forum, including those on anti-dumping.

(h) Agreement on Customs Valuation

149. The representative of India said that the proposals by India on the Customs Valuation Agreement drew upon the recognition in the Agreement that the provisions of Article VII needed to be elaborated in order to provide greater uniformity and certainty in their implementation. The Agreement required that the customs value should be based on the transaction value, or the actual value. The Agreement also recognised that a fair, uniform and neutral system for the valuation of goods for customs purposes should preclude the use of arbitrary or fictitious customs values. India attached importance to both these dimensions of the Agreement, which laid out that the actual value would be the sale price in the ordinary course of trade and under full competitive conditions. Uniform customs valuation methods presented in a hierarchy under the Agreement had been advocated on the grounds that importing countries should not use arbitrary values to restrict trade and that traders would know in advance their duty liability with certainty. Implementation of the Agreement, however, posed many problems particularly for the customs administrations of developing countries. It was easier to rely on transaction values in advanced countries where the duty rates were low, import controls were minimal and not based on value, exchange controls were non-existent, corruption in the public service was low, voluntary compliance was high and the judicial system was quick and efficient. But the situation in developing countries was different. Moreover, the number of cases of

fraudulent transactions might not be as high in developed countries as in developing countries. The World Bank Policy Research Paper entitled "Implementation of Uruguay Round Commitments: The Development Challenge", of October 1999, observed that: "Where tariffs are high, and where accounting expertise and access to electronic information limited, shifting to a risk-based valuation system that depends on in depth examination of a sample (15 or 20 percent) of shipments, might increase rather than reduce the number of shipments on which importers attempt to under-invoice. Traders might view the change as giving them a better, not a worse chance to get away with under-invoicing".

150. India's specific proposals in this area were aimed at addressing these important provisions and the need to deter fraud, facilitate genuine trade and protect revenue. The first proposal in paragraph 21 suggested a multilateral arrangement for the exchange of information on customs value. The provisions of the Agreement did not address the situation where an exporter filed the correct export declaration to the customs authorities, but the importer unilaterally resorted to mis-declaration of value to the customs authorities in the importing country to evade due customs duty. To tackle this problem, the practice of entering into bilateral agreements for exchange of information regarding customs value had evolved. But this was not a practical and enduring solution to the problem. In this regard the World Bank Paper stated that: "At least for basic goods, a valuation system based on observed world prices might offer a better opportunity to introduce transparency, objectivity and accountability into the system. At periodic reviews of these "reference prices" both import users and import-competing interests might be given "standing" and could be offered the opportunity to submit evidence in support of revisions. It might also be possible to establish a collective system of reference prices, over which no one government had control. Schedules of reference prices might be determined by an intergovernmental group, their preparation and circulation might be contracted to an independent agency". The Agreement did not explicitly provide for adoption of reference values as a method of valuation. However, there might be no objections to using such values for price comparison purposes to test the truth and accuracy of declared values and for rejection of the transaction value method. Successful implementation of the Agreement and proper valuation of goods traded internationally required international cooperation. One way could be through securing administrative assistance from the customs administration of the exporting country when there was doubt regarding truth and accuracy of the value declared. This was not a new idea, since the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (the Nairobi Convention) acknowledged in its preamble that "offences against Customs law are prejudicial to the economic, social and fiscal interests of States and to the legitimate interests of trade" and that "action against Customs offences can be rendered more effective by co-operation between Customs administrations". This Convention had been ratified by only 38 countries, of which only 28 had ratified Annex II relating to valuation frauds, and most of developed countries had not done so. Thus, while developing countries had a binding obligation to apply the Agreement, there was no such binding obligation on developed-country Members to render assistance to verify customs values even in doubtful cases. India's proposal was accordingly to develop a multilateral solution that enabled customs administrations of importing countries to seek and obtain information on export values contained in the export declaration from the customs administrations of exporting countries in doubtful cases, in a time-bound manner. The second proposal addressed the cost of services, such as engineering, development and design. Under Article 8.1(b)(iv) of the Agreement, the addition of the cost of such services, supplied directly or indirectly by the buyer free of charge or at reduced cost for the production of goods under import, was permitted only if the services were undertaken other than in the country of importation. This provision provided for the import value to be split, by claiming that part of the services had been rendered in the importing country itself. India's proposal was that the cost of such services, which were integral to the value of the imported goods, should be included in the valuation irrespective of whether they had been undertaken in the country of importation. The third proposal addressed the determination of customs value under the residual method in Article 7 of the Agreement. Paragraph 2 of this Article prohibited, inter alia, the determination of customs value on the basis of: (i) the price

of goods in the domestic market of the country of exportation; and (ii) the price of the goods for export to a country other than the country of importation. The exclusion clause (c) in paragraph 2, however, created a situation of dichotomous treatment. Under the Anti-Dumping Agreement, a product was to be considered as being dumped (introduced into the commerce of another country at less than its normal value) if the export price of the product was less than the comparable price for the like product sold in the domestic market or the export price in a third country where there was no sale in the domestic market. While the Anti-Dumping Agreement recognized the domestic price and export price in a third country, the Customs Valuation Agreement explicitly excluded such a possibility. India proposed that the residual method of determining customs value appropriately under Article 7 should be inclusive of all residual eventualities, thus allowing valuation based on domestic market price or export price in a third country with appropriate adjustments.

151. The representatives of Cuba, Honduras, Pakistan and Sri Lanka supported the statement by India, since their countries had been co-sponsors of the proposals in paragraph 21(h).

152. The representative of Hong Kong, China said that, with regard to the first proposal on customs valuation in paragraph 21, his delegation believed that there had been some developments since the 19 October text which would provide a better basis to take the matter forward, in the consultations or further discussion in the General Council.

153. The representative of the European Communities said that his delegation was not in a position to provide a detailed position on the issues under discussion, and it believed that this was an area where an exchange at expert level would be necessary. His delegation's preliminary reaction to the proposals was that most of them would entail negotiation, since they appeared to question the fundamentals of the Customs Valuation Agreement. In the case of the proposal relating to the exchange of information between authorities, it was difficult to envisage how to make such a system operational in a way which would not result in a burden on the services concerned. His delegation wondered whether the proposal addressed more the symptoms rather than the underlying problem, which was the effective application of the Agreement. He wished to draw attention to proposals in this area on which his delegation had been working. The first addressed extensions for developing countries in difficulties coupled together with an implementation programme for the countries involved. The second covered the broader issue of enhanced technical assistance to build capacity, on which his delegation had submitted a specific proposal, in the belief that this was the key to both good and timely implementation of the Customs Valuation Agreement. This approach could serve as a model for other agreements where some least-developed countries had especially acute resource problems. His delegation was keen to make progress on these two issues, which it believed would remove many of the implementation problems in the area of customs valuation.

154. The representative of Japan said that his delegation believed that the first three proposals in paragraph 21(h) would involve altering the right and obligations under the current Agreement and they would most appropriately be addressed in further negotiations. The first proposal would probably entail changing his country's domestic regulation and the third proposal would involve a considerable burden on customs authorities and would imply technical complexities. With regard to the fourth proposal, his delegation believed that this issue was being adequately dealt with in a separate process.

155. The representative of the United States said that her delegation appreciated the statement by India on the justification for its proposals. However, her delegation was concerned that some of the issues raised involved re-negotiating the provisions of the Customs Valuation Agreement, and it believed that the Agreement was sufficient as it stood. With regard to the first proposal, the Agreement adequately addressed the issue of verifying the truth or accuracy of statements and declarations made by importers. However, her delegation was willing to engage in further consultation on some means of facilitating the objective sought in the proposal, short of opening up

the Agreement. On the second proposal, her delegation was concerned that the proposal would discourage the design and development of products by domestic workforces in the importing country. Her delegation did not see how these related to the transaction value, but it would be ready to explore further clarifications. Equally, the third proposal might change the fundamental character of the Agreement, since it explicitly recognised these methods of valuation as being inappropriate to approximate transaction value. Her delegation also agreed with the statement by the European Community in this respect. Since these proposals had been made there had been demonstrative progress on the issue of transition periods and more was being done in the area of technical assistance. While technical assistance was not necessarily a solution to all implementation issues, Customs Valuation was one area where it was applicable.

156. The representative of Morocco said that, as a developing country, Morocco fully associated itself with the statement by India.

157. The representative of India said that the Customs Valuation Agreement provided for the declared transaction value to be the basis for customs valuation. The first proposal addressed the discrepancies which existed between the value declared by the exporter to the exporting customs authority and the value declared by the importer to the customs authority of the importing country. In a number of countries, this led to fraud and a leakage of revenue. Some delegations believed that this proposal would change the balance of rights and obligations in the Agreement, but since the existing provision was not effective, a way should be found to allow customs administrations in importing countries to obtain the cooperation of those in exporting countries when they had strong reasons to believe that there was a discrepancy. One could not reject the aim of dealing with fraud through seeking the help of exporting countries by saying that the existing balance of rights and obligations was correct. No major burden would result from this proposal, since the documents existed in most cases. The argument that it would require a change in domestic laws for some Members was not also not valid, since many Members were struggling to change their laws to implement the WTO Agreements. It was extraordinary that many developed and even some developing countries could be opposed to this simple proposal, and this was a matter for reflection.

158. The representative of the United States said that her reference to the balance of rights and obligations in her earlier statement had been with regard to other proposals, not the first one. She wished to reiterate that the existing provisions were adequate to verify the accuracy of declarations made by importers. Her delegation acknowledged there was a problem in this area, and this could be addressed without reopening the Agreement. Her delegation was ready to work towards such a solution in the consultations.

159. The representative of Japan, responding to the statement by India, said that the true objective of the first proposal was not the supply of information on export values, but rather accurate assessment of the value of the particular commodities. The proposal addressed the means to overcome the problem, but the real objective was elsewhere. He agreed with others that custom valuation was a highly technical area, and to make progress in this area it would be appropriate for experts to be involved. Japan had certain limits in its domestic regulations on supplying export value information, which was why experts would be necessary. Experts would also have to be involved in addressing the issues in the second and third proposals, since some solutions might change the nature of customs valuation.

160. The representative of Switzerland supported the statements by the United States on all the proposals and the European Communities on the latter three. On the first proposal, his delegation did not oppose looking for solutions in this area, but it agreed with the Community that the question of practical feasibility of supplying information was a factor. It would be unfortunate if such a system resulted in an avalanche of requests by the importing countries to the customs authorities of exporting countries. Furthermore, the proposal omitted to mention export value declaration, which would give a

different dimension to what was proposed and allow delegations to examine it from a different view point. Another problem in the exchange of information was the variety of domestic legislation across Members, and this should be taken into account.

161. The representative of Canada supported the statement by Japan. Her delegation believed that of the issues under discussion in this area were complex and technical, and Members' domestic systems had different rules and regulations. Therefore these issues should be referred to the technical experts. With respect to the fourth proposal, work on this issue was taking place in the Customs Valuation Committee, and her delegation believed that efforts should continue in that forum.

(i) Agreement on Rules of Origin

162. The representative of India said that his delegation was satisfied with the work carried out in the Technical Committee on Rules of Origin. In May 1999, this Committee had sent to the Committee on Rules of Origin (CRO) its final report on the technical aspects of the Harmonization Work Programme on non-preferential rules of origin in accordance with its mandate. The CRO had worked until November 1999 to try to meet the deadline for completing its work, however, this had not been possible. This work had covered issues relating to overall architecture as well as product-specific issues. According to the Agreement on Rules of Origin, this work should have been concluded by July 1998, at which point the CRO had agreed to make best endeavours to conclude the work by November 1999, or the third Ministerial Conference. This deadline had been seen to build in the necessary political impetus for completion of the harmonization work. But this deadline could also not be met. These slippages in meeting the deadline were serious matters. The CRO had since continued its discussions in accordance with a detailed management plan for the year 2000 for resolving all outstanding issues, on the understanding that it would simultaneously deliberate and agree upon a reasonable deadline. The work under the management plan had been less intensive than in 1999, and indeed the meetings in the current year had seen more of a repetition of known country positions than any real negotiation or flexibility. Her delegation believed that the key obstacle to completion of the work was the lack of collective understanding of the complex trade policy implications that underpinned rules of origin. India and other developing countries had repeatedly tried to generate a serious discussion through the submission of papers, however this discussion had always been postponed. Some Members had been using rules of origin transitional arrangements for the protection of domestic industry and as instruments to pursue trade objectives directly or indirectly, contrary to Article 2(b) of the Agreement on Rules of Origin. It was also evident that through their proposals for harmonizing non-preferential rules of origin, some Members were attempting to dovetail them to their existing preferential rules, which was unfair to other Members and lacking in purpose. In the preparations for the third Ministerial Conference, India had proposed that this work be concluded by July 2000. During informal discussions, Members had agreed that 31 December 2000 was achievable. In the ongoing discussions on the deadline, an impasse had been reached. All agreed that a fixed deadline was necessary to complete the work and that it should be reasonable in order not to further erode the credibility of the WTO. However, no one was willing to suggest an alternative to India's proposal other than to merely state that it was unrealistic. Unlike most areas where deadlines had been agreed, rules of origin was an area where Members had domestic experience and where they had spent more than five years generating a collective appreciation of the negotiating elements. What was required was not a statistical assessment of the outstanding work, but rather the will to give and take. Her delegation believed that: (i) the CRO should complete its remaining work on harmonizing non-preferential rules of origin in a reasonable time-bound manner, and, in the meanwhile, no new interim arrangements should be introduced; and (ii) special and differential treatment for developing countries in the disciplines during the transition period should be provided, including suspension with effect rules or of the operation of interim arrangements on origin introduced by any Member on or after 1 January 1995.

163. The representative of Pakistan supported the statement by India on the failure to meet the deadline for work in the Committee on Rules of Origin. His delegation wondered if the non-completion of this exercise was not in the interest of some Members. However, it was important for other Members, particularly developing countries, that this exercise be completed at the earliest. This was because rules of origin had the potential of being used as a protectionist tool, since they had implications on other trade policies instruments, such as anti-dumping actions and quantitative restrictions. If this exercise was not completed, the objectives set out in GATT 1994 and reiterated in the Preamble to the Agreement on Rules of Origin of predictability, transparency, facilitation of flow of international trade would not be achieved. Completion by the deadline of 31 December 2000 was still possible in the view of his delegation, but it was prepared to be flexible on this. The second proposal, on the suspension of any interim arrangements introduced with effect from 1 January 1995, contained a date limit which had been surpassed, but his delegation that this suspension should still take place done because of the implications of this trade policy instrument.

164. The representative of the Philippines, speaking on behalf of the ASEAN Members, said that the Preamble to the Agreement on Rules of Origin clearly set out the objective of harmonizing and clarifying rules of origin to ensure that such rules did not create unnecessary obstacles to trade and nullify or impair the rights of Members. The work on harmonizing rules of origin was still ongoing in the Committee on Rules of Origin way beyond the original schedules set out in the Agreement. Article 2 of the Agreement stated that "until the work programme for the harmonization of rules of origin ... is completed, Members shall ensure that ... rules of origin shall not themselves create restrictive, distorting or disruptive effects on international trade". In the meantime, an interim arrangement introduced by a Member had created restrictive, distortive and disruptive effects in sectors of export interest to developing countries. The delay in completing the work programme was upsetting the balance of rights and obligations of Members. To restore this balance it was important that a reasonable and feasible deadline be set and adhered to.

165. The representative of Hong Kong, China said that the timely completion of the rules of origin Harmonization Work Programme was a priority for his country. It was important that the harmonized rules be of high quality, but that quality should in no way be compromised by hastiness. Taking into account the progress made thus far and the complexity of the outstanding issues, his delegation did not believe that the time-frame of end of December 2000 would be realistic. As the work programme was a common endeavour, his delegation would join any consensus on a workable date in further consultations held by the Chairman of the Committee on Rules of Origin.

166. The representative of Brazil said that his country attached great importance to the completion of the work on harmonization of rules of origin, which it believed was part of the mandated negotiations. His delegation was prepared to discuss ways to speed up these negotiations within the Committee on Rules of Origin.

167. The representative of Canada said that, like others, her country attached importance to concluding the work on harmonizing non-preferential rules of origin and her delegation had been a very active participant in those discussions. However a number of the issues with respect to product-specific rules of origin had only been reviewed once by the Committee on Rules of Origin and still remained outstanding. There were also issues outstanding with respect to the general rules and the overall architecture of rules of origin. Canada would prefer to have a set of rules that were open, transparent, consistent and well thought-out, rather than a set of rules that had been hastily put together in order to meet a unrealistic deadline.

168. The representative of Honduras said that his delegation believed that it was necessary to set a realistic time-frame to finish the Harmonization Work Programme so that the provisions of the Agreement on Rules of Origin did not distort international trade.

(j) Agreement on Subsidies and Countervailing Measures

169. The representative of Egypt said that her country, as it was listed in Annex VII paragraph (b) of the Agreement on Subsidies and Countervailing Measures, had concerns on this Annex. Seeking to preserve the efforts exerted to negotiate this Annex in first place, it believed that the threshold of US\$1,000 GNP per capita should be treated as being expressed in real terms and not nominal. There should also be an understanding that a Member listed in Annex VII(b) would cease to be covered by the provisions of this Annex only when its GNP per capita had exceeded US\$1,000 per annum for three consecutive years, and that the same Member could become re-eligible automatically if its GNP per capita fell below that level.

170. The representative of the Dominican Republic said that if there was one good example of an implementation problem stemming from the of the imbalances of the Uruguay Round negotiations, it was the case of Annex VII of the Subsidies Agreement. This Annex listed some developing countries which were not subject to some of the provisions of the Agreement. It set a threshold of GNP per capita of US\$1,000 for those countries which had the good fortune to be listed, but several countries below that threshold were not included, such as Honduras. Once the countries listed crossed this threshold, they would have to adhere to the provisions of the Agreement. His delegation wondered where this threshold had come from and what had been the technical criteria on the basis of which it had been set. Once this arbitrary threshold was crossed, these countries were being subject to disciplines for which they were not prepared. The proposal made by his country and others was to lift this threshold to a slightly higher level – an average income established in the World Bank methodology of classification. In this regard, his delegation supported the statement by Egypt, and hoped that this proposal would be given serious consideration to show that the WTO took into account the interests of small nations. The 71 member countries of the ACP had supported this proposal, and the Trade Ministers of the 59 countries which were also WTO Members had stated that the review of Annex VII was a pre-condition to the participation of their countries in a new multilateral round of trade negotiations.

171. The representative of Honduras said that her country had cosponsored a proposal to amend Annex VII of the Subsidies Agreement to include those countries with a per capita income lower than US\$1,000 which were members of the GATT but not listed in the Annex. The threshold should also be extended to other countries, on the basis of the World Bank categories. This proposal did not require technical work, since it was simply a question of political will.

172. The representative of Malaysia said that paragraph 21 contained two proposals on Article 8 of the Subsidies Agreement. The first proposal suggested that the Subsidies Agreement dealing with non-actionable subsidies should be expanded to include subsidies referred to in Article 3.1 of the Agreement when such subsidies were provided by developing-country Members. His delegation believed that this proposal merited serious and urgent consideration to rectify the imbalance in the Agreement. Article 8.2 of the Agreement provided for assistance for research activities, assistance to disadvantaged regions within the territory of a Member and assistance to promote adaptation of existing facilities to new environmental requirements. While this provision was available to all Members and was helpful for economic development, it required huge capital outlays, which was why Malaysia had not availed itself of this provision. It was rather the richer industrialized Members which had benefitted from it. For this reason, his delegation believed that those subsidies presently classified as prohibited under Article 3.1 should be considered as non-actionable when provided by developing-country Members. Some of the programmes currently classified as prohibited were necessary tools for economic development of his country, and this prohibition limited its policy options. Furthermore, his delegation supported the proposal that the prohibition on using export subsidies under Article 27.6 should be applicable to a developing country only after its export levels in a product remained over 3.25 per cent of world trade continuously for a period of five years, rather

than the two years at present. This would better reflect the actual performance of the products, since the two year period discounted the effects of inflation and fluctuations in exchange rates.

173. The representative of Indonesia said that, as a co-sponsor of the proposals on subsidies in paragraph 21(b), his country believed that these proposals should not entail major difficulties since many concerned clarifications of provisions in the Agreement. The proposal on Annex VII was a good example of this, and his delegation supported the statements by the Dominican Republic and Honduras in this regard.

174. The representative of Cuba said that his delegation associated itself with the statements on subsidies by other developing countries and endorsed all the proposals in paragraph 21 on this issue.

175. The representative of Brazil supported the statement by Malaysia on the provisions of Article 8 of the Subsidies Agreement.

176. The representative of Saint Lucia said that her delegation believed that the Subsidies Agreement highlighted the imbalances present in many Uruguay Agreements, and it shared the views of the developing countries which had spoken in the present meeting. Such imbalances in the Agreement were clear where sub-national governments had the authority to grant regional subsidies because of the restricted language used in Article 2.2 of the Agreement, and where the provisions of Article 8 permitted subsidies for R&D, as mentioned by Malaysia. Her delegation supported the proposals in paragraph 21(b), which were aimed at allowing additional flexibility in the Agreement, particularly in context of Annex VII and the de minimus levels for small economies.

177. The representative of Hong Kong, China said that there had been developments in the area of the proposal on Annex VII of the Subsidies Agreement since the present proposal had been submitted, in particular alternative language arising from discussions at Seattle, which might provide a better basis for work on this issue. On the first proposal on Article 8.1, his delegation believed that it was clear in Article 31 that Articles 6.1, 8 and 9 should apply for a period of five years, and after the mandated review, the Subsidies Committee would determine whether to extend the application. No such decision had been taken. Furthermore, in the Subsidies Committee meeting of November 1999, the Committee Chairman had stated that the review would end on 31 December 1999 and, if there was no consensus to extend the provisions at that time, the provisions would lapse. The Subsidies Committee subsequently met on 9 May 2000 and this question was not addressed further. For this reason, his delegation believed that these three Articles had lapsed, both legally and procedurally. In this regard, there could be no question of considering the extension of the scope of Article 8.1.

178. The representative of El Salvador said that, as a co-sponsor of the proposal on Annex VII, her country believed that the implementation problem it addressed could be solved through a political decision taken by General Council to change the application threshold from US\$1,000 to the Lower Middle Income Category of the World Bank.

179. The representative of Pakistan agreed with Saint Lucia that the Subsidies Agreement was a clear examples of the inequities and imbalances in the Uruguay Round Agreements, and supported the statements by the Dominican Republic, Honduras, Indonesia, and Malaysia.

180. The representative of Ecuador supported the statement by the Dominican Republic. His government believed that the proposal on Annex VII deserved broad support, since it would reap clear benefits for developing countries.

181. The representative of India supported the proposals on the Subsidies Agreement in paragraph 21. His delegation acknowledged that the transition provisions on certain Articles had ceased to exist with effect from 1 January 2000, as mentioned by Hong Kong, China. However, all

these proposals had been made before the expiry date of those transition provisions with the expectation that some decisions would be taken before 31 December 1999. The main point was that many developing countries believed the Subsidies Agreement to be one of the most inequitable agreements. The transition periods of five years had given immunity to the types of subsidies granted by developing countries, but by the time they had become aware of that, the period of five years had expired. His delegation believed that, because of this peculiar legal situation, the proposals might have to be re-written without changing their substance. But, in the consultations on these issues, an approach would be needed which would help developing countries address the problems they faced. It might be argued that Article 8 was no longer legally in existence, but it was important to ensure that the subsidy measures implemented by developing countries aimed at achieving legitimate development goals were not challenged.

182. The representative of the European Communities said that much time had been spent on these issues before the Seattle Ministerial Conference, and some progress had been made, in particular on the issue of Annex VII. His delegation was willing to look again at this and other proposals. However, as stated in relation to other issues, in this area it might be necessary to ask the advice of the experts within the appropriate committee. One way to achieve this in all cases could be through special sessions of the relevant Committees, to allow priority consideration to the issues under consideration. This might help all sides get closer to a consensus solution on an implementation package.

183. The representative of Venezuela supported the statements by the Dominican Republic, Ecuador, Honduras, India, Indonesia, Malaysia and Pakistan. The measures proposed could contribute to helping developing countries improve their production facilities so that their exports would no longer be based on commodities with low added value. This diversification would be a basis for the development mentioned in his country's proposal in July 1999 on spaces for development policies. These proposals also corresponded to special and differential treatment, not to create more exceptions but rather to improve the export prospects of developing countries.

184. The representative of Chile said that it appeared that some Members sought to extend the capacity of number of developing countries to subsidise their exports. Chile did not find this appropriate in a multilateral trading system aimed at liberalizing trade, since it had to compete with imports wherever they came from and wished to compete on an equal basis without subsidies. Chile would have grave concerns if some Members wished to allow further export subsidies.

185. The representative of the United States said that some of the issues under discussion were also taken up by the Subsidies Committee under the built-in agenda, as also mentioned by Hong Kong, China. However, her delegation believed that the application of Annex VII of the Subsidies Agreement could be examined in a positive way.

186. The representative of Jamaica said that his country supported the proposals in paragraph 21(b). Jamaica believed that the widening of the range of countries able to utilise some elements of subsidisation to strengthen their participation in global economy should be given due consideration. The proposal in this respect placed limits on the share of trade above which this would not be permitted, and his delegation believed that would take care of the question of significant trade distortion in respect of the application of subsidies.

(k) Agreement on Safeguards

187. The representative of Colombia said that his country had submitted a proposal on the de minimis margin in the application of safeguard measures. Colombia believed that in the Safeguards Agreement and also in the Subsidies and the Anti-Dumping Agreements, the de minimis margin was too low. Colombia had proposed to modify Article 9.1 of the Safeguards Agreement so

that safeguard measures would not be applied to imports from developing countries which individually accounted for less than 7 per cent of total imports.

(l) General Agreement on Trade in Services

188. The representative of Egypt said that the implementation of the provisions of the GATS aimed to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports through the strengthening of their domestic services capacity and its efficiency and competitiveness, and the liberalization of market access in sectors and in modes of supply of export interest to them. The proposals in this area in paragraph 21 were aimed at fulfilling those objectives by fully implementing the commitments undertaken by developed countries in favour of developing countries. In the area of movement of natural persons, these aims were to be achieved through reducing and eliminating barriers to their presence, especially those related to licensing requirements, visa procedures and economic needs tests, as well as establishing a monitoring and notification mechanism to ensure effective implementation of Article IV of the GATS.

189. The representative of Pakistan said that his country had previously submitted a proposal on the movement of natural persons under GATS (WT/GC/W/160) and a discussion paper on the same subject (WT/GC/W/131). These papers briefly reviewed the results of the Uruguay Round with respect to the liberalization of movement of natural persons, identified the key barriers to their free movement and provided strong legal and economic arguments for further liberalization and commitments in this area. Throughout the Uruguay Round negotiations, developing countries had maintained liberalization in labour mobility as one of their major negotiating objectives, since many of these countries had a comparative advantage in exporting labour services, both skilled and semi-skilled. This was important in terms of export earnings, and helped to improve living standards for many. However, the lack of commercially meaningful commitments in Mode 4 had created a major imbalance in terms of trade. Most of the gains in this mode of supply applied to developed countries for managers and executives, and developing countries did not gain from such commitments. Barriers remained in this mode, such as strict and discretionary visa and licensing requirements, lack of recognition of qualifications and economic needs tests (ENTs). These barriers prevented developing countries from participating in a variety of activities essential to their market penetration, particularly economic needs tests due to their discretionary nature. Available evidence suggested that further liberalization of trade in services could not succeed without addressing the issue of economic needs tests, as well as the other barriers. In this respect, two documents by UNCTAD (UNCTAD/ITCD/TSB/8, dated 6 September 1999) and the OECD (TD/TC/SE(2000)2/Rev1, dated May 2000) contained compilations of ENTs maintained by developed countries, in particular in Modes 3 and 4. Furthermore, there was a tendency to confuse the issue of movement of natural persons with immigration policies. Movement of natural persons was not an issue of immigration policy, and the GATS Annex on Movement of Natural Persons was very clear in this regard. The GATS did not apply to measures affecting natural persons seeking access to the employment market of a Member, nor did it apply to measures regarding citizenship, residence or employment on a permanent basis. Despite these explicit indications in the Annex, the issue of movement of natural persons was confused with issues such as immigration policies, residency requirements and work permits. To rectify this, Pakistan believed there was an urgent need to restore the balance between the commitments under Mode 3 and mode 4 and treat the factors of production of capital and labour in a symmetrical manner. Finally, prior to any further liberalization in this area, Pakistan believed it was necessary to ensure that the services of export interest to developing countries through any mode of supply were included in developed countries' schedules of commitments. The second proposal in paragraph 21 suggested the establishment of a monitoring and notification mechanism to ensure effective implementation of GATS Article IV. This Article aimed to ensure the increasing participation of developing-country Members in world trade through specific commitments relating to: (a) the strengthening of their domestic services capacity and its efficiency and competitiveness, inter alia through access to technology on a commercial basis; (b) the improvement of their access to

distribution channels and information networks; and c) the liberalization of market access in sectors and modes of supply on export interests to them. Pakistan believed that a monitoring and notification mechanism would need to be established to operationalize and ensure effect implementation of the provisions of this Article. This mechanism would enable developing countries to obtain information regarding steps being taken by developed countries for implementation of the Article, and also facilitate the increasing participation of developing countries in world trade as provided in the Article.

190. The representative of Cuba said that his country agreed with other developing countries on the importance of the proposals on services. Neither proposal would give rise to changes in the text of the GATS, since they were aimed at achieving full implementation by developed countries of their Uruguay Round commitments. In particular, Mode 4 relating to movement of natural persons was a sector where developing countries were competitive and Cuba believed a system of notification would help confirm that the commitments in this area were being fulfilled.

191. The representative of Japan said that, despite having listened carefully to the statements by developing-country Members thus far, he failed to understand what was meant by the first proposal on services. If these Members were trying to say that they were not satisfied with the way his country implemented its services schedule, his delegation would be ready to discuss this on a bilateral basis. But if it was rather the improvement of Japan's services schedule that they were referring to, this was precisely the subject of the negotiations that had just begun on services.

192. The representative of India, responding to the statement by Japan on the first proposal, said that he agreed that if the proposal sought additional commitments, it should be submitted in the negotiations launched on 1 January 2000. However, the proposal actually addressed the implementation of existing commitments. Even though existing Mode 4 commitments by developed countries, including Japan, were modest, they had not resulted in increased market access for developing countries for the reasons explained by Pakistan. The delegation of Japan had indicated its willingness to enter into a discussion on this, but the question remained whether this should be bilateral or multilateral. The problems in this area were cross-cutting and not applicable to only one country, and it was for these reasons that some developing countries had raised it in the present multilateral forum. The second proposal addressed GATS Article IV, which his delegation believed was one of most important articles in the GATS, since it provided for the increasing participation of developing countries. Pakistan had elaborated on how this was to be achieved, according to the Article, but the only way in which one could find out whether this had happened was through the mandated assessment of trade in services under Article XIX. However, the Council for Trade in Services had had difficulties in undertaking this assessment for various reasons, including the of lack of statistics in this area. His delegation also believed that this issue was too important to become a routine item on the agenda of the Council for Trade in Services. For these reasons, some developing countries had proposed the establishment of a mechanism to monitor the functioning of Article IV.

193. The representative of the Dominican Republic supported the statements by India and Pakistan. Article IV of the GATS provided for the establishment of contact points by developed-country Members. But this Article also stated that developing countries needed access to distribution channels and information networks and he wondered whether Members had information on the status of implementation in this respect. This was not a question of new commitments, but rather a question of problems of access to these distribution channels and information networks. These hard-negotiated provisions were being nullified through a whole series of barriers, as in air and maritime transport, to access to information networks, such as barriers to access to technology and encryption. A monitoring and notification mechanism would ensure that these provisions of the GATS were implemented, and not nullified by protectionist policies which were unjustifiable in the twenty-first century.

194. The representative of the United States said that the explanations of the proposals in this area given in the present meeting were interesting, and her delegation looked forward to further discussion on these issues aimed at resolving the concerns expressed. With regard to the statement by the Dominican Republic, the United States had recently taken steps to liberalize its encryption policy. Perhaps more should be done to increase the transparency of what access to information was available, and the ITC might be able to play a role in this. Some of the issues raised concerned areas where progress had been made, but not everybody was aware of it. Finally, the United States believed more could be done in the implementation of the Fourth and Fifth Protocols to the GATS.

195. The representative of Saint Lucia thanked the United States for its statement, as it had highlighted why a monitoring mechanism would be useful. Such a mechanism would provide information on the steps being taken by developed countries, such as the United States on the issue of encryption, which was an important area to developing countries that wanted to expand their electronic commerce activities.

196. The representative of the European Communities said that work undertaken on the second proposal, on GATS Article IV, at the Seattle Ministerial Conference had resulted in a text which partially responded to what had been proposed. This text related to a review of the operation of contact points under Article IV, and his delegation believed that it could be look at again in a positive way. With regard to the first proposal on Mode 4, his delegation believed that any reference to full implementation of commitments should apply to all Members and not just developed countries. Like Japan, his delegation questioned whether the issue was an implementation issue per se. It seemed rather to be focused on the quality of the commitments, in which case the correct procedure for addressing the concerns it represented was in the context of the negotiations which had already begun.

197. The representative of India, responding to the statement by the European Communities, said that the present process had been established because of the concerns expressed by some developing countries on a number of areas where they had found their commitments difficult to fulfill, but also because the expected benefits were not being realised. In the case of trade in services, these countries had believed that the commitments by developed countries would provide opportunities for them, and this was not happening. The proposal on Mode 4 was clearly based on an implementation issue, since the expected benefits of this commitment were not being realised by developing countries.

(m) Agreement on Trade-Related Aspects of Intellectual Property Rights

198. The representative of Egypt said that TRIPS was an area where developing countries had experienced many difficulties due to the imbalances in the Agreement. The implementation of the Agreement by developed countries should contribute to facilitating the efforts of developing countries to fulfill their obligations in this area, in particular through technical and financial assistance, as also flexibility with regard to transition periods. The proposals in paragraph 21 were aimed at addressing the imbalances in this Agreement. The objectives and principles of the Agreement as laid out in Articles 7 and 8 should be also taken into consideration and faithfully implemented.

199. The representative of Pakistan said that one of the proposals on TRIPS in paragraph 21 addressed the extension of the transition period under Article 65.2. His delegation believed that this issue had not been adequately discussed thus far and it merited serious and urgent consideration by the General Council. The rationale behind this proposal was, that despite their best efforts, many developing countries might not be in a position to implement all their obligations under the TRIPS Agreement, and, at the least, would not be in a position to fully meet the wide-ranging enforcement requirements. This would not be due to a lack of commitment to implementation in this area, but rather a lack of institutional capacity and resources. Non-implementation of the provisions of this Agreement should not be treated as grounds for invocation of dispute settlement procedures. It was for this reason that the proposal for extension of the transition period had been made, and his

delegation supported it fully. The other proposals in this area were aimed at rectifying the more apparent shortcomings and imbalances in the Agreement. Some of these issues, such as the extension of the scope of protection to geographical indications, exceptions under Article 27.3(b) and the relationship between the Agreement and the Convention on Biological Diversity, had also been raised in the TRIPS Council. However, there had been no meaningful progress on these issues in that forum due to the refusal of some countries to engage in substantive discussions and to their repetition of procedural arguments. His delegation believed that it would be more productive to address these issues directly in the General Council. It appeared that some progress might be made in the TRIPS Council on the issue of non-violation complaints, and his delegation would monitor those discussions in the hope that a solution would be found.

200. The representative of India supported the statements by Egypt and Pakistan. The first proposal on TRIPS in paragraph 21 concerned the extension of the scope of additional protection for geographical indications to products other than wines and spirits. This proposal by a number of developing countries was also supported by some developed countries. Discussions in the TRIPS Council had not resulted in progress thus far, which was why the developing countries were resubmitting it to the General Council. The second proposal addressed the relationship of the TRIPS Agreement with the Convention on Biological Diversity (CBD), another area where no progress had been made in the TRIPS Council. While the TRIPS Agreement recognized intellectual property rights to be private, the CBD reaffirmed that nation states had sovereign rights over their own biological resources, recognized the desirability of sharing equitably the benefits arising from the use of these resources as well as traditional knowledge, innovations and practices relevant to the conservation of biological diversity. These two international agreements were intrinsically linked with one another, and it would be important to find ways to reconcile their contradictions, while respecting the overall objective of conservation of biological resources with sustainable development. The CBD clearly stated that the authority to determine access to genetic resources was with national governments and subject to national legislation. It also stated that access, where granted, should be on mutually-agreed terms and subject to the prior informed consent of the resource provider. It further directed the international community to respect, preserve and maintain knowledge innovations and practices of indigenous communities. However, patents were being granted under the TRIPS Agreement on biological and genetic resources, either completely without the knowledge of the legitimate owners of these resources, or worse, against the criteria for patentability in the Agreement. Such patents were totally in violation of Article 15 of the CBD Agreement, which listed conditions for access to biological and genetic resources. The proposal in this area suggested that, pending an examination of the relationship between the TRIPS Agreement and the CBD aimed at harmonizing them, patents which were inconsistent with Article 15 of the CBD should not be granted. With regard to the proposal on the non-violation provision of GATT 1994, his delegation agreed with Pakistan.

201. The review provided for in Article 27.3(b) of the Agreement was important to India. This Article clearly stated that a substantive review should be undertaken. Some Members believed that the review was related to the implementation of the provisions. His delegation disagreed with this, since the review was foreseen one year before the implementation of the TRIPS Agreement by developing countries, and a review of implementation was contained in Article 71. There appeared to be deadlock in the TRIPS on this issue, and his delegation believed that it should thus be addressed in the General Council. In the context of such a review, India had also raised a number of issues in the TRIPS Council to be addressed, including the link between Article 27.3(b) and development issues as mandated by the General Council, issues relating to patentability of life forms, sui generis issues, the relationship to conservation and sustainable use of genetic material, and the issues of traditional knowledge and farmer's rights. In the light of this, the fifth proposal suggested that the period for implementation of the provisions of Article 27.3(b) should be five years from the date the review was completed. The next proposal was to include the list of essential drugs of the WHO in the list of exceptions to patentability in Article 27.3(b), in the light of the public policy objective of protection of public health and nutrition in Article 8 of the Agreement and references to this issue in the recent

Human Development Report from UNDP. None of these proposals could be considered to be technical proposals, since they had aspects which were wider than the implementation of the TRIPS Agreement, and they should thus be addressed in the General Council.

202. The representative of Cuba associated his delegation with the statements by India and Pakistan. Implementation of the TRIPS Agreement had become a burden for developing countries, and the proposals in paragraph 21 in this area could help in this respect. The proposal on the extension of additional protection to geographical indications to other products would require a political decision. Such a decision would help to strengthen the balance in the Agreement and be of value developing and developed countries alike. He fully agreed with India on the second proposal, to the effect that patents incompatible with Article 15 of the Convention on Biological Diversity should not be granted. He also agreed with India on the two proposals on Article 27.3, in particular on the need to include essential drugs in the list of exception to patentability which would allow many developing countries to afford important drugs. His delegation also supported the proposal for the extension of the transition period for developing countries, since it was important for the Agreement to be implemented and these countries needed additional time for this.

203. The representative of Honduras supported the statements by Cuba, Egypt, India and Pakistan.

204. The representative of Malaysia said that although many of the proposals on TRIPS had been items on the agenda of the TRIPS Council, little had taken place on the issues they addressed. There even seemed to be reluctance on the part of some Members, especially developed countries, to discuss them. For this reason, his delegation believed that these issues should be addressed in the present meeting rather than in the TRIPS Council, including the extension of the transition period.

205. The representative of Canada said that her delegation believed the TRIPS Council was the appropriate forum to address the issue of the application non-violation, nullification and impairment provisions, and the TRIPS Council had agreed to examine the scope and modalities for such complaints under Article 64 of TRIPS. Some Members had suggested extending the additional protection for geographical indications to products other than wines and spirits, but her delegation believed that this would require reopening the TRIPS Agreement. Finally, her delegation recognised that many developing countries faced legitimate difficulties in implementing their TRIPS obligations, but it believed that the specific problems faced by individual developing-country Members should be examined through the built-in review process underway in the TRIPS Council. It would then be possible to identify on a case-by-case basis how best to ensure that these concerns were dealt with in a timely manner.

206. The representative of Bulgaria said that, like others, his country attached particular importance to the extension of the additional protection of geographical indications to products other than wines and spirits. This issue had been included as an implementation issue in paragraph 21(g) and as an issue which required immediate action. Bulgaria agreed that immediate action on geographical indications was necessary because the negotiations provided for in Article 24.1 of the TRIPS Agreement were not progressing satisfactorily and the provision of the first sentence of the Article 24.1 had not been implemented expeditiously thus far. The negotiations on geographical indications under Article 24.1 were as mandated as the negotiations on agriculture and services. Bulgaria was concerned by the manner in which negotiations on geographical indications were referred to with regard to their status within the Uruguay Round Agreements. Some Members tended to describe only the negotiations on agriculture and services as being mandated. The negotiations on geographical indications were often pushed away into the category of other work to be undertaken, and in the TRIPS Council there had been resistance to list these negotiations on its agenda. Bulgaria was even more concerned when this omission of geographical indications from the category of mandated negotiations was made by the Chairman of the General Council or the Director-General. From the point of view of confidence building, which was the purpose of the present exercise, the

blurring of the legal status of the mandated negotiations on geographical indications was disappointing. If there was any difference between the mandated negotiations on geographical indications and those on agriculture and services, it was that the latter had started only recently while those on geographical indications under Article 24.1 had started much earlier. It was thus logical to expect that the negotiations on geographical indications would yield results earlier – in the framework of the present exercise – than the negotiations on agriculture or services.

207. The representative of Switzerland supported the proposal on an extension to the additional protection of geographical indications to products other than wines and spirits. His delegation believed that progress on this issue could be made in the work programme of the TRIPS Council. With regard to the proposal on non-violation cases under Article 64 of the TRIPS Agreement, his delegation agreed that work should be undertaken in the TRIPS Council to define the modalities of the examination of such cases. The next proposal suggested making the provisions of Article 66.2 obligatory, however, his delegation wished to point out that the text of this Article already had an element of obligation, since it read "shall provide incentives". It was also suggested that measures taken under this Article should be notified, but such a notification exercise had taken place in the TRIPS Council. Developed countries had supplied information on their implementation of this Article at the request of Haiti, and his delegation did not see the need to set up a formal notification system. His delegation believed that the other proposals appeared to entail such an important modification of the rights and obligations of Members under the TRIPS Agreement that they could only be addressed in wider multilateral trade negotiations.

208. The representative of the Czech Republic said that his country had a strong interest in the issue of the extension of additional protection of geographical indications to other products. While promoting the extension of absolute protection, his delegation had often stated that there were products other than wines and spirits which were particularly vulnerable to imitation and counterfeit, and that an efficient multilateral mechanism was needed to deal effectively with these practices. His delegation had hoped that Ministers at Seattle would have endorsed the extension of the additional protection required by Article 23 and mandated the WTO to complete the negotiations on this issue within a specified time-frame. His delegation believed that this would have been an endorsement, since the existing provisions of the TRIPS Agreement, together with the Singapore Ministerial Declaration, offered sufficient legal basis for holding these negotiations. His delegation believed that such negotiations did not entail reopening the Agreement. His delegation and others had recently made every effort to move this issue forward in the TRIPS Council, but no substantial progress had been achieved thus far. For this reason, this issue should be addressed as implementation issue in the General Council. Finally, his delegation hoped progress would be made in the TRIPS Council on the scope and modalities of the examination of non-violation complaints.

209. The representative of Peru supported the statement by India on the need for progress in the work in the TRIPS Council on the compatibility between the Convention on Biological Diversity and the TRIPS Agreement.

210. The representative of Indonesia supported the statements by India and Pakistan. Indonesia believed that the proposal to include the list of essential drugs of the WHO in the list of exceptions to patentability in Article 27.3(b) of the TRIPS Agreement was most important and needed to be addressed seriously.

211. The representative of Jamaica said that his country supported all the proposals in paragraph 21(g). The additional protection on geographical indications accorded to wines and spirits should be extended to other products. This was a source of serious imbalance in the TRIPS Agreement, and was particularly disadvantageous to small countries which had to take advantage of specialised and niche markets. Finally, an understanding was needed that the Agreement would not prevent developing

countries from issuing compulsory license for drugs listed by the WHO as essential drugs. Jamaica believed that this issue was most important in terms of its social implications.

212. The representative of Sri Lanka supported the statements by Egypt and Pakistan, as well as that by Bulgaria on providing additional protection of geographical indications to products other than wine and spirits, which was an important issues for Sri Lanka. A number of developing countries had requested this additional protection under the provisions in Article 23 and 24 of the TRIPS Agreement. Sri Lanka believed that these Articles provided the mandate for such negotiations, and that the formulation of Article 24.1 was broad enough to cover negotiations on the extension of additional protection to products other than wine and spirits. In addition, Article 24.2 mandated the TRIPS Council to review the application of the provisions of this section of the Agreement and Article 71.1 stated that the TRIPS Council would review the implementation of the Agreement having regard to the experience gained in its implementation. Furthermore, the mandated review should address the impact of the Agreement on the trade and development prospects of developing countries. It was in this context that the proposals on the extension of the scope of additional protection of geographical indication and on negotiations for the protection of the intellectual property rights for traditional knowledge should be viewed. As a co-sponsor of the proposals in paragraphs 21 and 22, Sri Lanka believed that all those proposals should be addressed and resolved as implementation issues.

213. The representative of Saint Lucia supported the statement by Jamaica. Her country had a particular interest in three issues related to TRIPS which had been raised in paragraph 21: the extension of geographical indications beyond wines and spirits; the consistency of the TRIPS Agreement with the Convention of Bio-Diversity; and the exclusion of non-violation and other complaints under the Agreement. There had been an interesting debate on these issues in the TRIPS Council, but no progress was being made. Like India, her delegation believed that these issues extended beyond simple technical analysis and included broader considerations. With regard to the proposal on Article 64, the TRIPS Council had already failed in its task as mandated in that Article, but this did not absolve it of its duty to continue deliberations. Delegations should reflect on the utility of remanding this issue to the General Council, at least without the express undertaking of all Members not to pursue non-violation complaints, in an attempt to clarify existing ambiguity over the expiry of the five year period referred to in Article 64, through the DSB as opposed to the General Council as contemplated by Article 64.3.

214. The representative of Bolivia supported the statements made in the present meeting by a number of developing countries, in particular India on the relationship between the TRIPS Agreement and the Convention on Biological Diversity. Many of the issues raised in this area were of great importance to her country, such as access to genetic resources and the protection of traditional knowledge, and her delegation agreed with the proposal on the inclusion of the list of essential medicines of WHO into the TRIPS Agreement.

215. The representative of Turkey said that his delegation supported the proposal on an extension of the additional protection of geographical indications to products other than wines and spirits. It believed that the mandate in the TRIPS Agreement was clear enough to enable discussions on this issue, but that there was also a need for a comprehensive study on geographical indications. The questions within the context of this issue, such as protection, additional protection, extension of protection and establishment of a protection system were all interrelated, and Articles 22, 23 and 24 should be taken into consideration and be discussed together. His delegation believed that this work was necessary in the context of the assessment of implementation of the TRIPS Agreement and that it should take place before any negotiations aimed at further liberalization. This approach was the most appropriate way to find remedies for the imbalances within the Agreement. With regard to the issue of non-violation complaints, his delegation hoped that a substantive discussion on the scope and

modalities of the issue would take place in TRIPS Council. Such work would enable clarification of the Agreement, as well as of its relation with other WTO Agreements.

216. The representative of the Philippines said that he wished to respond to the statements by some Members that if the remedy to any implementation issue necessitated the amendment of an Agreement, the issue was not an implementation issue, but rather one of renegotiation issue or a new round. As a developing country, the Philippines also attached importance to the full and faithful implementation of the WTO Agreements. But full and faithful implementation went beyond just the letter of the agreements. What the developing countries were seeking in this exercise was to question whether certain provisions of the agreements were fully and faithfully consistent with the objectives of the WTO Agreement. It was for this reason that they maintained that a rebalancing of some of the existing agreements was needed. If one compared the TRIPS Agreement to the GATT 1994, one would see that the GATT contained general market access provisions conferred on governments, essentially in a global market economy but ultimately for the benefit of private parties. But there were also general exceptions under Article XX to protect other legitimate policy objectives. There was no similar provision in the TRIPS Agreement. The TRIPS Agreement simply protected private rights without recognising other legitimate policy objectives. His delegation suggested that Members should consider recognising the legitimacy of other policy objectives in the TRIPS Agreement through a provision similar to Article XX of GATT.

217. The representative of the United States said that in the light of the productive meetings which had recently been held in the TRIPS Council, many of the issues raised in the present meeting had been addressed. Her delegation suggested that this work should continue in the TRIPS Council. However, like others, her delegation believed that some of these issues would entail renegotiation of the TRIPS Agreement.

218. The representative of Brazil said that his delegation agreed with others that the relationship between the TRIPS Agreement and the Convention on Biological Diversity should be examined in detail.

219. The representative of Pakistan said that the issue of the modification of rights and obligations had been raised, and his delegation agreed with the Philippines that implementation of the agreements should be in accordance with the spirit of those agreements. In the case of the list of essential medicines, this same issue had been discussed at the recent UN Social Summit. The same argument had been used that reference to international agreements in this context might involve a renegotiation of the balance of rights and obligations, and an African delegation had pointed out that if a large proportion of the population in some countries was under threat of dying, one could not insist on a procedural pretext to put off discussion of this issue. Similarly, his delegation believed that there was no room for procedural grounds to put off discussions of this issue in the WTO, and the TRIPS Agreement itself recognised the need to promote the economic and social welfare considerations of societies. The issue of essential medicines needed to be addressed seriously. The final declaration of the Social Summit recognized that countries had the right to use all options in international agreements, and the implications of this were quite clear in this case.

(n) Dispute Settlement Understanding

220. The representative of Philippines said that the Dispute Settlement Understanding was the jewel in the crown of WTO, since disputes were solved on the basis of the rules. However, there was no enforcement mechanism in WTO. Members had to resort to suspension of concessions to enforce their rights, which was not easy for economically weak Members. Thus, enforcement of rights was power-based. His delegation regretted that it was unable to offer a solution to this.

(o) Special and Differential Treatment

221. The representative of Pakistan said that the issue of special and differential treatment was a very important element of the multilateral trading system and of all the WTO Agreements. His delegation believed that this issue needed to be discussed in detail with reference to each agreement. Considering the time remaining in the present meeting, his delegation suggested that this issue be taken up in greater detail in the next meeting.

222. The representative of Jamaica supported the suggestion by Pakistan. Many developing countries had repeatedly stated that the provisions for Special and Differential treatment should be made more concrete and specific to facilitate implementation. These provisions should, thus, be considered to be binding obligations. His delegation supported the third proposal in paragraph 21(m) on preferential trading arrangements, since this important implementation issue could be resolved immediately.

223. The representative of the Dominican Republic supported the suggestion by Pakistan. The issue of Special and Differential treatment was another case in which not only the letter but the spirit of the agreements had been disregarded. The elements involved were theoretically well balanced in the agreements, but the implementation of the provisions was often put off. He agreed that it would be useful to take this issue up agreement by agreement, to identify the objectives of, and compliance with, these provisions.

224. The representative of India said that his country had submitted a number of proposals aimed at making Special and Differential provisions operational as well as legally binding. His delegation supported the suggestion of having a special discussion in the General Council on an agreement-by-agreement basis, so that the participation of experts could also be facilitated.

225. The representative of Egypt supported the suggestion to revert to the issue of Special and Differential treatment in the next meeting to enable a more comprehensive discussion.

226. The Chairman proposed that the General Council take up the suggestion by Pakistan to revert to the issue of Special and Differential treatment in the next Special Session. He also proposed that the General Council take note of the statements made on the various issues, and invite him and the Director-General to hold consultations, in a transparent manner, with a view to identifying ways needed to resolve these issues in accordance with the decision of 3 May on implementation-related issues, and to report to Members sufficiently in advance of the next Special Session.

227. The General Council so agreed.

3. Activities under way in the WTO that may be of relevance to addressing implementation issues (Job (00)/4217)

228. The Chairman, introducing a report on activities under way in the WTO that may be of relevance to addressing implementation issues (Job (00)/4217, dated 3 July 2000), said that given the short time that had been allowed to prepare this text, it should clearly not be taken as definitive. However, it would be useful in providing a broad overview of activities under way, both in the various WTO committees and councils as well in the Secretariat, that may be of relevance to the implementation of existing agreements and decisions. The information provided in this paper would of course be updated as one went along so that discussions at the General Council level could be fully informed. As he had mentioned at the beginning of the meeting, delegations should also feel free to inform the Council about any such activities they themselves or other agencies were undertaking, and he hoped they would. This paper was being circulated on his own responsibility, and Members

should see this information and the order of its presentation as being without prejudice to their position on any issue. The paper was divided into two parts: first, information on the work under way in existing WTO bodies including as a result of the built-in provisions in some of the agreements; and, second, a brief look at possible relevant technical cooperation activities undertaken by the Secretariat.

229. In the section on work in existing bodies, information was provided on the reviews of the operation and implementation of the relevant agreements which many bodies had undertaken or must undertake as part of the built-in agenda, such as the triennial reviews of the TBT Agreement. Furthermore, some bodies had decided or had been mandated to create specific mechanisms to conduct work on provisions of the relevant agreement where implementation problems had been identified. Examples of this would be the Ad Hoc Group on the Implementation of the Anti-Dumping Agreement and the Informal Group on Anti-Circumvention. In certain bodies, a decision had been taken to include specific provisions of an agreement in the regular work programme with a view to resolving problems identified, such as in the TRIPS Council. Technical cooperation activities aimed at assisting with the implementation of WTO Agreements had been an integral part of the Secretariat's work since the establishment of the WTO. Since they covered a wide variety of activities, the information provided in the paper did not aim to be comprehensive, but was aimed more at providing an idea of the areas in which activities were taking place. Although many activities concerned technical missions and assistance provided to delegations in Geneva, he had attempted to highlight the type of activity which addressed a specific aspect of implementation. Examples would be the SPS workshop on risk analysis which took place in June, and the seminar on implementation and related issues held under the auspices of the Committee on Trade and Development in the past week. He added that this information was only the start of what he believed should be a continuing process of providing information as a background to discussions in the Special Sessions. The Secretariat's Task Force on Implementation set up by the Director-General would assist Members in this process. As he had mentioned earlier, the paper should not be seen as being comprehensive, and he intended to add to the information he was providing today as the discussions progressed.

230. The General Council took note of the statement and of the report.
