

WORLD TRADE ORGANIZATION

RESTRICTED
WT/GC/M/59
13 November 2000

(00-4785)

**General Council
Special Session on Implementation
18 October 2000**

MINUTES OF MEETING

Held in the Centre William Rappard
on 18 October 2000

Chairman: Mr. Kåre Bryn (Norway)

<u>Subjects discussed:</u>	<u>Page</u>
1. Report by the General Council Chairman and Director-General on their consultations on implementation-related issues and concerns, especially those reflected in paragraph 21 of the draft Ministerial text of 19 October 1999	1
(a) Sanitary and Phytosanitary Measures	2
(b) Technical Barriers to Trade.....	3
(c) Agriculture	3
(d) Customs Valuation.....	4
(e) Rules of Origin.....	5
(f) Subsidies	5
(g) Services	6
(h) TRIPS.....	7
2. Discussion of other proposals on implementation, especially those reflected in paragraph 22 of the draft Ministerial text of 19 October 1999 as well as others in the compilation of proposals in document Job(99)/4797/Rev.3 of 18 November 1999	26

1. Report by the General Council Chairman and Director-General on their consultations on implementation-related issues and concerns, especially those reflected in paragraph 21 of the draft Ministerial text of 19 October 1999

1. The Chairman said that the report by the Director-General and himself was on their own responsibility, setting out the situation as they saw it. It was not intended to be a negotiated text or claim to represent consensus on all issues, and he did not expect to engage in a drafting exercise at this stage. He was satisfied, however, that it faithfully reflected the results of the work thus far.

2. As Members were aware, he had been carrying out consultations, together with the Director-General and his colleagues, in pursuance of the work programme agreed at the first Special Session on

22 June and 3 July 2000. In accordance with the work programme the consultations had focussed especially on issues and concerns reflected in paragraph 21 of the 19 October 1999 draft Ministerial text (Job(99)/5868/Rev.1).

3. He had conducted open-ended consultations on these issues on 18, 19 and 25 September as well as on 6 and 12 October. During the previous two weeks, a number of smaller consultations on specific subjects had been carried out. He had reported on these consultations to the two open-ended meetings held in October, and points made in the discussion at those meetings had been taken into account. He had also reported in detail to delegations at the previous day's informal meeting of the General Council. He wished to thank delegations most warmly for their co-operation with him, with the Secretariat and – most importantly – with each other during this process.

4. He had outlined at the earlier informal meetings the approach they had followed in the consultations, which was to focus first of all on those issues under paragraph 21 which seemed to offer the greatest prospect of progress, and it was first and foremost the progress achieved he was reporting to the Special Session.

5. He wished to emphasize, however, that structuring the work in this way did not at all imply that the other proposals that had been made in these or other areas under paragraph 21 were being set aside or ignored. These were issues on which he and the Director-General would of course continue to work hard. In that connection, he assumed that delegations would wish the Director-General and himself to continue their consultations in these areas, as foreseen in the Programme and Calendar of Work adopted on 22 June, and to report to delegations before the third Special Session in December.

6. Equally, the way in which he and the Director-General had organized the consultations was without prejudice to the possibility for delegations who so wished to put forward other concerns for consideration, as some had indicated they wished to do.

7. This report, therefore, was to be seen as a progress report, bringing together the elements on which he had reported at previous informal meetings and outlining the stage he believed had been reached in each case. In an encouraging number of these areas, the General Council was in a position to take note of a high level of common understanding. There were others he and the Director-General would need to come back to, and in some cases there was assistance that the General Council could ask other WTO bodies to give, particularly in clarifying technical parameters. In all such cases it was to be clear that the matter remained with the General Council; but the Council should not deny itself the opportunity to make use of other WTO bodies where it was appropriate.

(a) Sanitary and Phytosanitary Measures

8. Consultations had thus far focused on Tires 2, 3 and 5 of the proposals in paragraph 21 of the 19 October 1999 text.

9. Starting first with Tiret 2, the discussions had suggested that Members could consider dealing with this by way of an understanding that, subject to the conditions set out in Article 10.2, the longer time-frame referred to in that Article should be normally at least 12 months following the date of publication of the measures decided upon. It was understood that this was a Special & Differential treatment provision and that, pursuant to Art. 10.2, it would be applicable on products of interest to developing countries in situations where the appropriate level of SPS protection allowed scope for the phased introduction of new SPS measures.

10. He wished to note that some delegations had indicated that they needed to consider this issue further.

11. As regards Tired 3, concerning international standard-setting organizations, discussions suggested that Members could consider dealing with this on the basis of the following elements:

- First, encouraging international standard-setting organizations to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development;
- Second, requesting the Director-General to explore with the relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms to assist the participation of developing countries in standard-setting activities;
- Third, requesting the Director-General to coordinate efforts with the relevant international standard-setting organizations to identify SPS-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this regard; and
- Fourth, requesting the Director-General to make a progress report on his initiatives regarding elements two and three above to the General Council at its Special Session in December.

12. Regarding Tired 5, on the basis of discussions, and taking into account that this issue would be on the agenda of the 8-9 November meeting of the SPS Committee, he proposed that the SPS Committee be requested to examine the concerns of developing countries regarding the equivalence of SPS measures and to come up with concrete options as to how to deal with them, and that the Chairman of the Committee be requested to report to the General Council before its Special Session in December.

(b) Technical Barriers to Trade

13. Consultations had so far focused on both Tireds 1 and 2 of the proposals in paragraph 21.

14. As regards Tired 1, which referred to international standard-setting organizations, discussions had suggested that Members could consider dealing with this on the basis of elements similar to those he had mentioned earlier with regard to the proposal in connection with the SPS standard-setting organizations.

15. On Tired 2, Members had noted that the TBT Committee had already taken up these issues as part of its current Triennial Review, and also that the last meeting of the Committee in the conduct of that review would be held on 6-10 November. In this regard, on the basis of discussions, he proposed that the TBT Committee be requested to examine the problems faced by developing countries in both international standards and conformity assessment, and to explore possible solutions in the context of the ongoing Triennial Review. He further proposed that the Chairman of the Committee be requested to report on the outcome of that review to the General Council before its Special Session in December.

(c) Agriculture

16. Consultations thus far had focused on four specific proposals in paragraph 21. These were the proposals that dealt with tariff rate quota administration, in Tireds 3 and 4, the proposal on the Ministerial Decision regarding net food-importing countries in Tired 5, and the proposal in Tired 6 regarding implementation of Article 10.2 of the Agreement.

17. Starting first with the two proposals on tariff rate quotas in Tireds 3 and 4, discussions had suggested that Members could consider the following elements as part of a possible solution:

- First, that the administration of tariff rate quotas should be made more transparent, equitable and non-discriminatory; and,
- Second, that this might be achieved by ensuring that notifications submitted to the Agriculture Committee include also details on guidelines and procedures on the allotment of TRQs. In order to do this, Members operating TRQs should submit, by a date to be set, addenda to the MA:1 notifications that were submitted to the Agriculture Committee.

18. It was his understanding that supplementing and amplifying existing information on TRQ administration by providing details on guidelines and procedures on the allotment of TRQs would clearly enhance transparency of the operation of the TRQs and thus improve the possibilities, particularly for new or small suppliers, to take advantage of the market access opportunities provided through the TRQs.

19. With regard to Tired 5, which referred to implementation of the Ministerial Decision on net food-importing countries, Members had noted that implementation of this Decision was monitored annually in the Committee on Agriculture, and that it was on the agenda of the regular meeting of the Committee in November. There was nonetheless wide support for pursuing consultations at the level of the General Council at this stage, and Members had noted the intention of the net food-importing developing countries to submit shortly to the General Council a proposal outlining ways in which the implementation of the Marrakesh Decision might be enhanced. The Director-General and he looked forward to receiving this submission.

20. On Tired 6, regarding the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes pursuant to Article 10.2 of the Agreement, he proposed, on the basis of discussions, that the General Council instruct the Committee on Agriculture to include in the agenda of its regular meetings an item on the implementation of Article 10.2 and to report back on the Committee's progress on this issue to the General Council at its last regular meeting of this year.

21. It was his understanding that in pursuing their work on export credits in accordance with Article 10.2, Members would of course take into account the provisions of paragraph 4 of the Marrakesh Decision on net food-importing countries, in which Ministers had agreed that any agreement on export credits should ensure appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries.

(d) Customs Valuation

22. Consultations thus far had focused on all four Tireds of the proposals in paragraph 21.

23. Starting first with Tired 1 regarding the idea of information exchange between customs administrations on export values in doubtful cases, discussions had indicated that while there seemed to be no disagreement on the importance of the objective behind the original proposal, which was to find effective ways to deal with customs fraud through fraudulent declarations of value to customs authorities in an importing country, there was some concern regarding the means.

24. Some delegations had suggested that there might be a number of practical and technical questions that might have to be addressed, including the question of possible confidentiality constraints in providing the information that was being sought. This was clearly an issue on which further consultations were needed, and also input from customs valuation experts.¹

¹ See also paragraph 96 of the present Minutes.

25. As regards the proposals in Tires 2 and 3, they appeared to raise a number of technical issues that might need to be dealt with at a technical level. In this regard, and on the basis of discussions, he proposed that the Committee on Customs Valuation be requested to consider the proposals, and that the Chairman of the Committee be requested to report on the outcome of that consideration to the General Council before its Special Session in December.

26. Finally, as regards the proposal in Tiret 4, regarding the extension of the moratorium in Article 20.1, Members had noted that the process of examination and approval, in the Customs Valuation Committee, of individual requests from Members for extension of the five-year delay period in Article 20.1 was proceeding relatively well, and that, as part of that process, the Committee had thus far been able to grant 13 out of the 19 current requests for extension. The view had been expressed that the Committee should be encouraged to pursue this work and that no additional action might be needed from the General Council at this stage.

(e) Rules of Origin

27. Consultations thus far had focused on Tiret 1 of the proposals, which concerned the deadline for the completion of the remaining work on harmonizing non-preferential rules of origin.

28. The issue of the deadline for completion of the remainder of the harmonization work programme had been on the agenda of the Rules of Origin Committee for quite a long time, and had most recently been discussed again at the Committee's meeting at the end of September. At that meeting, the Committee Chairman had made some suggestions regarding a new deadline for completing the work on rules of origin.

29. It was clear from the discussions that Members needed to give serious consideration to establishing a new deadline, in the interests of strengthening the credibility of the process. It was equally clear that a new deadline would be meaningless without the political will to redouble efforts to complete this work, and without the necessary technical resources from capitals being devoted to the large amount of very demanding technical work that remains. It would also appear to be useful for Members, at the level of the General Council, to get a sense of the progress of this work on the road to the new deadline, and to ensure that the process was on track.

30. In the light of the above considerations, the following elements had emerged which might form a basis on which to deal with this issue:

- First, to consider as the new deadline the Fourth Session of the Ministerial Conference, or at the latest the end of 2001, as had been suggested by the Chairman of the Committee;
- Second, to urge Members to exercise the political will necessary to expedite the remaining work on harmonizing non-preferential rules of origin; and
- Third, to request the Chairman of the Committee to report to the General Council, on his own responsibility, on the progress of work in the Committee; the first such report would be submitted to the Council at its first regular meeting next year, and subsequently at each regular meeting until the completion of the work programme.

(f) Subsidies

31. Consultations had thus far focused on Tiret 4 of the proposals on Subsidies, relating to Annex VII of the Subsidies Agreement, and had taken up both the broader implementation issue, as well as the technical omission of Honduras – the only original Member of the WTO with a GNP per capita below US\$ 1000 that had not been included in Annex VII.

32. On the broader issue, the Director-General and he had suggested in their discussions with delegations that one might try and meet, in a pragmatic way, the concerns of countries within the existing provisions, and to reach an understanding along the lines of the following elements:

- First, pursuant to Article IX of the WTO Agreement, interpreting Annex VII to include the countries that were listed therein until their GNP per capita reached US\$1000 in constant 1990 dollars for three consecutive years; one would of course need to develop this approach in such a manner that no Member listed in Annex VII would be treated less favorably as a result of these actions.
- Second, extending, in the Subsidies Committee, for an agreed number of years and upon request under Article 27.4 from the countries listed in Annex VII, the 8-year transition period for the phase-out of export subsidies; and
- Third, reviewing the threshold of US\$ 1000 in Annex VII (b) with a view to considering the possibility of including in Annex VII Members in the low and lower-middle income categories as classified by the World Bank. This work could be taken up by the Subsidies Committee.

33. Their understanding, on the basis of the brief discussions that had been held on this issue, was that this was something that would need to be taken up in further discussion. He also suggested for Members' consideration, as a means of allowing this issue to move forward, the possibility of seeking a technical input from the Subsidies Committee on the proposals, and on the implications for national legislations of the changes that might be involved.

34. With regard to the omission of Honduras from Annex VII, the Director-General and he had suggested in discussions that Members' consideration needed to be based on the uniqueness of Honduras' situation as the only original Member of the WTO with a GNP per capita below US\$ 1000 that had not been included in Annex VII.

35. The omission of Honduras from the list in Annex VII was a technical error, and it had been suggested that Members consider correcting it in accordance with the provisions set out in Article 79 of the Vienna Convention on the Law of Treaties regarding the correction of errors in texts or in certified copies of treaties.

36. Under these provisions, in the case of a treaty for which there was a depositary, in this case the Director-General of the WTO, the latter was to notify the signatory States and the contracting States of the error and the proposal to correct it and specify an appropriate time-limit within which objection to the proposed correction might be raised. If, on expiry of the time-limit, no objection was raised, the depositary made and initialed the correction and executed a procès-verbal of the rectification of the text and communicated a copy of it to the parties.

37. Delegations had broadly indicated their willingness to consider this proposal in order to make progress on this issue, and he believed that with some further consultations the Director-General and he should be able to arrive at a solution.

(g) Services

38. Consultations had thus far focused on both Tires 1 and 2 of the proposals on Services.

39. Starting first with Tires 1, differences of view remained among delegations as to the need for more, or less, precise or declaratory language to address this proposal, taking into account also that other domestic administrative agencies were involved in the implementation of commitments under Mode 4. While some delegations would prefer a precise mention of administrative problems being

faced, such as in visa requirements, economic needs tests and multilateral recognition of qualifications, others preferred a more general text that would nonetheless be useful in promoting the full and effective implementation of the commitments which had already been made under Mode 4. With further discussions, he was hopeful that these differences could be resolved.

40. Regarding the proposal in Tired 2, it had been their suggestion that, in respect of Article IV.2, Members consider requesting the Services Council to review the operation of contact points established pursuant to Article IV.2 with a view to assessing their effectiveness in promoting the participation of developing countries in services trade. He had also suggested that Members might wish to revert to the broader issue of effective implementation of Article IV as a whole at a subsequent discussion. One possibility that nevertheless seemed to exist in this regard was to task the Services Council to consider this issue in the context of its Assessment of Trade in Services, which was a regular item on its agenda, and to request the Chairman of the Council to make a progress report to the General Council at its Special Session in December.

41. It was their impression from the discussion thus far on these two elements that, taken together, and with some greater precision as to what was to be requested of the Services Council in regard to the broader issue of the effective implementation of Article IV, as well as the establishment of specific time-frames, Members might be able to come to some understanding on how to address the concerns that lay behind this proposal. This then was another issue he should like to revert to at an appropriate time in further discussions, on the basis also of delegation's comments in the present meeting.

(h) TRIPS

42. Consultations had thus far focused on Tireds 2, 3 and 4 of the proposals on TRIPS.

43. Starting first with Tired 2, the Director-General and he had noted in their consultations that the issue of the relationship between the TRIPS Agreement and the CBD was already being discussed in the TRIPS Council. In this connection, Members could consider building on the following elements as a possible response to the proposal in Tired 2:

- First, urging the TRIPS Council to continue its ongoing work with a view to clarifying the relationship between the TRIPS Agreement and the CBD;
- Second, urging the TRIPS Council, in this connection, to give positive consideration to granting observer status to the CBD Secretariat on an ad hoc basis pending the conclusion of wider discussions on observer status for international organizations in the General Council; and
- Third, requesting the TRIPS Council to report to the General Council on progress on the above points at its Special Session in December.

44. With regard to Tired 3, they had noted in their consultations that discussion was also ongoing in the TRIPS Council on the appropriateness of non-violation complaints in the TRIPS area, as well as on the appropriate scope and modalities of such a recourse. In this regard, and on the basis of discussions, they had suggested that Members might consider the following elements as part of a possible solution:

- First, urging the TRIPS Council to come to an early understanding on the scope and modalities for non-violation complaints made pursuant to the TRIPS Agreement, and to report to the General Council on developments in this regard at its Special Session in December; and

- Second, urging Members to exercise due restraint on this matter in the meantime, on the understanding that this approach should be without prejudice to their rights and obligations under the WTO and to their positions in this regard.

45. He wished to note that some delegations had indicated that they needed to consider this issue further.

46. Finally, with regard to Tired 4, many delegations had noted that the provisions of Article 66.2 were already mandatory in nature. As regards areas where a positive outcome could be sought to meet the concerns behind this proposal, and on the basis of the discussions so far, the following elements appeared to be a good basis for building upon:

- First, requesting the TRIPS Council, with a view to facilitating full implementation of Article 66.2, to give consideration to drawing up an illustrative list of incentives of the sort envisaged by Article 66.2; and
- Second, requesting the TRIPS Council to put on a regular and systematic basis its procedure for the notification and monitoring of measures in accordance with the provisions of Article 66.2. In doing so, the Council would of course need to give consideration to avoiding unnecessary burdens in notification procedures.

47. In addition, with regard to the broader question of technology capacity-building, they had also suggested that the TRIPS Council be urged to invite other international intergovernmental organizations to provide information on their activities aimed at technology capacity-building.

48. The representatives of Australia, Bolivia, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cuba, the Czech Republic, the Dominican Republic, Egypt, Honduras, Hong Kong China, Hungary, India, Indonesia, Israel, Japan, Korea, Mauritius, New Zealand, Nigeria, Pakistan, Panama, Paraguay, Singapore, the Slovak Republic, Sri Lanka, Switzerland, Thailand, Turkey, Uganda, the United States and Venezuela expressed appreciation for the efforts of the Chairman and the Director-General in holding the consultations thus far.

49. The representative of Canada said that his delegation believed that the Chairman's leadership in conducting open informal consultations supplemented by smaller group discussions had been conducive to moving the issues raised in paragraph 21 forward. The Chairman's report was an accurate reflection of the outcome of the consultation process, and his delegation agreed with the understandings and conclusions reached by the Chairman in almost all of the areas addressed in his report. However, his delegation could not agree with the approach he had put forward in relation to tired 2 under Sanitary and Phytosanitary Measures. As the Chairman had stated, some delegations had indicated that they needed to consider this matter further and his was one of those delegations. The proposal in this area would commit Members to extend the time period for implementation of SPS measures from the date of their publication for products of interest to developing countries. His authorities had examined this proposal carefully and remained concerned that it would put trade obligations ahead of food and health safety issues. Members would understand that food and health safety concerns were matters of intense public interest in Canada. His authorities had advised that regulations of this type did go into effect most often at the date of publication. His delegation had engaged in discussion in the SPS Committee on the most constructive ways to assist developing countries in relation to sanitary and phytosanitary measures. But delaying the implementation of food and health regulations necessary to the well-being of Canadians, was not the best or even an acceptable way of achieving this. Senior Canadian officials would be present at the next meeting of the SPS Committee to discuss this issue with any interested Member. Finally, Canada supported the process the Chairman had set out in the previous day's informal meeting for the organisation of further work on implementation.

50. The representative of Mauritius, speaking on behalf of the African Group, said that the Chairman's report was welcome at this stage of the work, since it could serve as a useful working document for further consultations. The African Group believed that the report broadly reflected, with perhaps a few omissions, the discussions and consultations on implementation issues. The outcome might not entirely satisfy all Members, but it was a good beginning in dealing with these issues. The results achieved thus far were relatively scant, if considered in relation to the large number of issues at stake. The least Members could do was to urgently bring these scant achievements to closure, if concrete meaning was to be given to the do-ables, and the African Group agreed with the Chairman that more work was needed on these results. However, these achievements were a good basis for building further momentum into the work ahead.

51. With regard to the sequencing to be used in addressing paragraphs 21 and 22 of the October 1999 draft Ministerial text, Members had indicated at the previous day's informal meeting why they considered it important that implementation issues be addressed, whether separately, concurrently or consecutively. A dichotomy had been apparent in that discussion, but the African Group believed that all the issues were of significance to Members. Logically, paragraph 21 preceded 22, and this indicated clearly which direction the work should proceed. In formulating paragraph 21, it had been recognized in the title that the issues listed called for immediate action, as also in the text itself. Paragraph 22 had been headed implementation review mechanism, and this paragraph addressed a possible decision to establish an improved mechanism to examine and address implementation-related concerns. This had created a kind of a dichotomy, and the African Group believed that the work should continue in the spirit of the formulations found in these paragraphs. There was much to gain by reaching an understanding which reaffirmed this and the sequencing should be more a unifying factor for Members than a divisive one. The sequencing was not really a question of paragraph or issue, but rather a hierarchy of immediacy of results. Many Members had consistently underscored the need for results and result-oriented actions. While the African Group had no objection that work on paragraph 22 be undertaken, it believed that: 1) the immediacy of results as agreed by all Members should be respected if Members wanted to contribute to confidence building; 2) work on paragraph 22 should not unduly harm the progress of work on paragraph 21 and this should be seen on its own merit and urgency; 3) the first results of the Chairman's process, even if they might be seen to be relatively insignificant, should be recognized as stepping stones towards building the momentum needed on implementation issues; and, 4) the Chairman's report gave, with a minor omission here and there, a faithful account of the discussions and consultations. What had been achieved was a collective gain even if it was not as much as some Members would have expected. On this basis, the African Group was optimistic that the reasonable goals of the implementation process would be achieved, and would help confidence building and the strengthening of the multilateral trading system to the benefit of all.

52. The representative of the European Communities said that the current process was perhaps cumbersome, but it was most of all useful and necessary. The Chairman's report would turn collective hard work into reality. Every Member had had ample opportunity to contribute to this result, and his delegation was sure that they would all have similar opportunities to contribute to further results in the months ahead. His delegation concurred with the Chairman's assessment of the consultations. His report reflected the best possible understanding of do-ables at this stage. It was important not to jeopardize this considerable progress by putting at risk the achievements thus far. One should look ahead to the December Special Session which should deliver, both on the progress achieved thus far and beyond. His delegation agreed with the Chairman that the process thus far had not been exhaustive and that there were areas in paragraph 21 where work would have to continue. His delegation also agreed with the Chairman's suggestion to mandate subsidiary bodies to assist in the process. The implementation debate was about to enter a second phase until December which would allow Members to deepen and widen their reflections. This would cover the legitimate concerns of delegations, whether under paragraph 21 or 22. A large majority of delegations seemed to have concerns under both paragraphs and wished to see work proceed on them. There was a lot of work to

do until December, and his delegation had confidence in the Chairman's methodology, but at the same time it wished to move into a higher gear. His delegation was open to further suggestions from the Chairman on how to build on this new emerging momentum, and what really mattered was that Members continue to discuss the issues in substantive terms.

53. The representative of Paraguay said that the task of the Chairman and Director-General in the current process was a complex one, but his delegation was certain that their efforts would lead to full implementation of existing commitments. In the programme and schedule of work, in line with the decision of 3 May, it had been agreed to take up initially paragraph 21 and then move on to paragraph 22. His delegation believed that linking these two paragraphs would not make the work more difficult, and would make it possible to have a more global view of the situation. For this reason, it was not against taking up the two paragraphs simultaneously. His delegation was also certain that this process would lead to the resolution of the concerns raised under each agreement. Paraguay's main concerns in the area of implementation were under the Agreements on Agriculture and Services. His delegation hoped that appropriate solutions would be found to allow full implementation in these areas, and was willing to join the Chairman in any further work in this direction.

54. The representative of Indonesia said that her delegation believed that although some progress had been made, further work on other issues in paragraph 21 was needed before proceeding to paragraph 22. As the Chairman had stated, there had been no intention to disregard or ignore those issues which had not been fully discussed. Members could build upon the progress outlined in that statement. As decided at the first Special Session, the present meeting was to act on the results of the discussions and consultations on paragraph 21 in accordance with the decision of 3 May 2000. Since there were issues under paragraph 21 that had not been addressed in any consultation thus far, such as textiles and anti-dumping, her delegation believed that the General Council should discuss all the remaining issues before addressing paragraph 22. This did not mean that paragraph 22 was less important than paragraph 21 – they were equally important to her delegation. Her delegation continued to believe that the issue of implementation was a high priority and it looked forward to decisions being taken on these issues by December, as had been agreed. The longer difficult issues were avoided, the harder it would be to complete the task before the deadline of December. Her delegation had noted that in the section of the Chairman's report on the Agreement on Subsidies, no mention had been made of Indonesia's proposal on Annex VII of the Agreement. Indonesia had suggested that the countries listed which were excluded from the Annex due to their GNP per capita exceeding the threshold, should be automatically included in the Annex if their GNP fell back under the threshold, and that this should be explicitly mentioned in the Agreement. Her delegation wished to reiterate that this was an issue that only needed clarification and was not going to change the substance of the Agreement, and which should not be difficult for Members to agree to. With regard to the issue of Honduras, her delegation would support any formulation that would ensure the inclusion of Honduras in Annex VII. Finally, the report had not mentioned some issues of importance to her delegation, such as textiles and clothing and anti-dumping. Her delegation looked forward to participating in any future consultations on these issues, and it believed that the issue of anti-dumping should be seriously addressed and resolved in this context, particularly the question of repeated investigations which constituted a form of trade harassment. Her delegation encouraged the Chairman to continue his commendable efforts, and was ready to work with him to build upon the progress thus far, in order to meet the December deadline. Such joint efforts to resolve the issue of implementation would enhance confidence building and improve the credibility of the organization so that Members could move on to discussing other issues which were also of interest to Indonesia.

55. The Chairman recalled that all the issues in paragraph 21 had been addressed in informal consultations held on 18 and 19 September, including the issues raised under the Agreements on Textiles and Anti-Dumping. Following that meeting, the consultations had focussed on those issues where the distance between the points of view of Members was not insurmountable, which was why the concept of "do-ables" had been developed. The aim had been to aim for some areas of common

understanding by the present meeting, but with the clear objective of returning to the more difficult issues at a later stage.

56. The representative of Zambia said that his delegation appreciated the positive developments in response to its proposal on the broad aspects of technology transfer in the TRIPS Agreement, particularly under Article 66.2. His delegation believed there was a consensus among delegations that this article imposed mandatory obligations on developed countries, and that it should be operationalized. For this reason, his delegation had proposed that the General Council adopt an interpretive decision under Article IX.2 of the WTO Agreement on the modalities for the operationalization of Article 66.2 of the TRIPS Agreement. In particular, the decision would set out an illustrative list of incentives, as mentioned by the Chairman, for the purposes of Article 66.2, and require that the reporting on the incentives provided be in accordance with stipulated formats. The formats would have to be consistent with the elements of the mandatory requirements of this article. While his delegation appreciated the positive developments on this issue, it believed that concrete action by the General Council would provide some concrete results in favour of developing countries, and enhance the credibility of the WTO in the eyes of developing countries and the general public. His delegation would not support any suggestion which would remove this issue from the list of issues under paragraph 21, since it believed that it should not be considered in isolation from the other implementation issues. Indeed, that it had received such support should be the more reason for the General Council to finalize the issues that it raised, rather than referring the matter to the TRIPS Council or considering it under paragraph 22. Like other issues, this remained an implementation issue precisely because the modalities for its operationalization were not agreed, and the discussion thus far had strongly suggested that its implementation by developed countries would be facilitated if the modalities were agreed. Against this background, his delegation wished to re-emphasize its proposal, and state that technology transfer involved the entire TRIPS Agreement since it was a central objective stipulated in Articles 7 and 8. Furthermore, the proposal had suggested that the WTO invite other relevant international organizations, in a spirit of coherence and complementarity, to work together to implement these provisions, and not merely to provide information on implementation as suggested in the Chairman's report. While these organizations could provide such information, the obligation to comply with the provisions remained on WTO Members. His delegation was aware of the comparative advantage of these other organizations in the area of developmental issues such as technology transfer, but it still urged the WTO to work with them as partners in this area.

57. The representative of Israel said that his delegation appreciated the approach adopted by the Chairman and Director-General in the process thus far. In particular, the open-ended consultations and the focus on the do-ables had helped to create a good atmosphere and allowed the membership to actively participate in the consultations and be aware of the work being undertaken. It was difficult to satisfy the expectations of all members in a multilateral forum, but the Chairman's report was reasonable and balanced, and his delegation supported it, as also the Chairman's proposal on how to proceed.

58. The representative of Thailand said that his delegation appreciated the way in which the Chairman had conducted the consultations thus far, and concurred with his report. His delegation could also go along with the suggestion by Chairman to take up specific issues and concerns reflected in paragraph 22 at the present meeting. However, since some issues in paragraph 21 remained to be resolved, it encouraged the Chairman to hold consultations on issues in paragraph 22 in parallel with those on the remaining issues in paragraph 21, so that progress could be made and solutions reached in December.

59. The representative of Kenya said that implementation issues were of paramount importance to his country, since it believed that the process of solving implementation problems was a means towards integrating developing countries into the multilateral trading system, through redressing the

imbalances in existing WTO Agreements. In this regard, his delegation supported the statement by Mauritius on behalf of the Africa Group suggesting that priority be given to issues raised under paragraph 21. His delegation had noted that only a third of the issues raised under paragraph 21 had been addressed in the Chairman's report, which left out a majority of issues important to his delegation. His delegation's understanding had been that all these issues were to be addressed, and decisions taken, before embarking on the issues in paragraph 22 which required a longer time-frame. While it appreciated the need to address paragraph 22 issues, his delegation believed that all issues requiring immediate action should be given priority. The issues for immediate action in paragraph 21, such as special and differential treatment for developing countries, the first bullet under sub-paragraph (k) on agriculture, the whole of sub-paragraph (e) on textiles, and the extension of the transition period for developing countries under the TRIPS Agreement were of utmost importance to Kenya if it was to fully and equitably integrate into the multilateral trading system. These issues needed to be addressed immediately. While his delegation concurred with the Chairman that special and differential treatment had cross-cutting implications, it was afraid that deferring work on this issue might prejudice immediate results and impact negatively on the confidence that Members had been trying to restore. Thus, his delegation did not see any urgency in moving to paragraph 22 issues, since they required a longer time-frame. However, should the General Council decide to discuss both paragraphs 21 and 22 in tandem, there should be an assurance that paragraph 22 issues would not crowd out those under paragraph 21.

60. The representative of Japan said that his delegation appreciated the Chairman's work on doable issues in paragraph 21, and the progress made had been evident from the Chairman's report. The question was what should be done until the next meeting in December – continue discussion of the remaining issues of paragraph 21 or proceed to a discussion of issues in paragraph 22. At the previous day's informal meeting, the Chairman had suggested that discussion of paragraph 22 issues could start, but that did not mean that any Members who were interested in taking up some of the remaining issues in paragraph 21 would not be able to raise them, and in a sense the Chairman's suggestion was to take up the issues in paragraphs 21 and 22 simultaneously. This was a reasonable and practical suggestion since some Members, even among the developing countries, attached importance to starting discussions on paragraph 22 while others wished to continue to discuss the issues in paragraph 21. His delegation hoped that Members would show a sense of practicality and realism in their consideration of the Chairman's suggestion.

61. The representative of Korea said that the Chairman's report should be considered to be a progress report outlining the present situation of Members' considerations for each issue. It was clear from the report that work on paragraph 21 was not completed, and for a number of issues, Members had to continue to look for ways to come to an understanding. There were also other issues that were not covered by the report, but which deserved serious deliberation by the whole membership. His delegation looked forward to the continued leadership of the Chairman and Director-General in consultations on these issues. Nevertheless, the report showed that a solid start had been made. For some important issues, Members were close to an understanding on how to deal with the concerns of developing countries. The suggested solutions might not be the most straightforward or clear-cut ones. But his delegation believe that they represented in their entirety an approach that should help Members to address the concerns of developing countries in a pragmatic and realistic manner. His delegation hoped that such an approach would continue to guide Members in their further consultations on paragraph 21. His delegation also believed that the progress made thus far should allow Members to start to look at paragraph 22 issues. The work programme adopted at the first Special Session in June required the General Council to do so. In addition, his delegation did not believe that starting consultations on paragraph 22 issues would hinder or delay progress in consultations on paragraph 21 issues, but rather a parallel consideration of issues under both paragraphs might assist Members to find solutions in both areas by enabling them to have a broader perspective.

62. The representative of Argentina said that in the present difficult exercise, which the Chairman had conducted in such an effective manner, there seemed to be a risk that of moving away from reality. The reality of this exercise in fact had two components. First, one had to re-balance the rights and obligations of developing countries. This was re-balancing because well after Marrakesh it had become clear that developing countries had more obligations than rights, particularly rights that they could effectively exercise. The second component was to create confidence so that Members could progress towards new frontiers in liberalization and trade globalization. Over and above the valuable work that had been done thus far, his delegation had the impression that this exercise did not yet have the critical mass to allow Members to achieve these objectives. On some issues in paragraph 21 virtually no progress had been made, such as special and differential treatment, balance-of-payments problems and TRIMs. His delegation suggested that Members should accept what there was in the Chairman's progress report, and, without excluding the possibility of listening to any innovative proposals under paragraph 22, concentrate until December on priority consultations on some of those issues on which no progress had been made, in particular special and differential treatment and TRIMs.

63. The representative of Switzerland said that his delegation believed that the Chairman's report accurately reflected the situation and Members' positions. As the Chairman had stated, it was one step in a process which would continue, and which would allow all the issues in paragraphs 21 and 22 to be addressed. His delegation believed that there was real potential for progress in the next phase, but this did not mean that the progress made thus far should be minimized. The work thus far had allowed a series of actions to be elaborated which had found agreement among the Members, even if their individual appreciation of the impact of these actions might differ. Furthermore, the technical analyses which the General Council had mandated should result in the necessary clarifications to complex problems. These steps augured well for the continuation of the work and for the results in December. With regard to the method of work, the Chairman's approach thus far had been the best way to produce results and stimulate a productive dialogue between Members. His delegation believed this approach should be continued, in other words looking for agreement on the most realistic proposals in informal meetings or consultations on specific issues. As the previous few weeks had shown, this was the most promising way forward. With regard to the future programme of work, the Chairman's suggestion met his delegation's expectations on the appropriate treatment of all the issues under both paragraphs 21 and 22, and it was for the Chairman to decide on the most practical way of organizing the consultations.

64. The representative of Hong Kong, China said that the progress reported by the Chairman owed much to his skill and diligence, and to the excellent work of the Secretariat. The process had been effective, and was a successful example of the improvements made in terms of internal transparency. His delegation could generally go along with the substance of the individual items in the report. However, the Chairman had said that he would revert to the issue of services on the basis of any discussions in the present meeting, and his delegation wished to flag that it had some further views in this area, and would like to be involved in future consultations. The General Council was taking only the first step on implementation issues, and there were still many important subjects and proposals to discuss in the context of paragraph 21. Some delegations had exercised restraint thus far in not pressing various issues to which they attached importance. Some had termed the elements in the Chairman's statement "do-ables", and his delegation did not object to this, but it would certainly reject any possible implication that the other elements of paragraph 21 were undoable. His delegation believed that the issue of Textiles and Clothing should now be tackled in a meaningful way, and had noted the statement by Indonesia on the lack of consultations on this issue and the Chairman's reply on the nature of the discussions which had taken place. Members should not argue about this. Certainly statements had been made, but the important point was that there had not yet been any real engagement on this issue. Overall, a positive start had been made on paragraph 21, and his delegation believed that this should be built on by extending the spirit of constructive engagement which had been apparent thus far into the remaining areas. Hong Kong, China's focus was still very much on

paragraph 21, which was after all headed immediate action. It had been noted in the previous day's informal meeting that some 35 proposals in paragraph 21 had yet to be considered in depth, not to mention any other work required on the 20 or so proposals that had already been considered. His delegation was willing to take part in consultations on paragraph 22, but any time scheduled for this purpose should not be at the expense of time devoted to paragraph 21.

65. The representative of New Zealand said that his delegation believed that the thorough and detailed nature of the Chairman's report testified to the serious consideration that Members had accorded the consultative process on implementation issues. The effective way in which the consultations had been managed had allowed for a full and frank airing of views, and had yielded results. His delegation agreed with Hong Kong, China that the format for the consultations was excellent and should continue to be followed. His delegation recognized that a number of the elements outlined in the Chairman's statement would be the subject of refinement and it wished to indicate, in relation to the Sanitary and Phytosanitary Measures area, that it would welcome further consideration being given to improving the formulation under discussion on Article 10.2 of the SPS Agreement. Canada had made some observations on this issue earlier, but his delegation wished to point out that some SPS measures, for example the introduction of standards that were genuinely designed to permit and open up trade, were trade-enhancing not trade-inhibiting. In these cases, enshrining the principle of a longer time-frame for the introduction of such measures could actually penalize developing-country exporters. In the informal consultations held on this issue, there had been some suggestions of building in the notion that the longer time-frame could be considered on the basis of a prior request from an affected developing country, and his delegation believed that this was a useful idea to bear in mind as discussions progressed further. Like Hong Kong, China, his delegation wished to indicate its interest in participating in further consultations regarding the services issues referred to in the Chairman's statement. Turning to the sequencing of paragraphs 21 and 22, his delegation believed that the overall aim was to make progress wherever possible in relation to the range of issues set out in those paragraphs and discussion of paragraphs 21 and 22 was not mutually exclusive. Good progress had been made by beginning with paragraph 21, and there was still some work to do in that area, but there were additional issues in paragraph 22 that some Members wished to see discussed before the end of the year. Accordingly, along the lines suggested by the Chairman, his delegation believed it was necessary to proceed flexibly in order to make maximum progress.

66. The representative of Venezuela said that his delegation believed the report by the Chairman and Director-General to be an adequate reflection of the consultations, and the progress achieved. But this was only a first step in the overall process to adopt appropriate action to meet the concerns of developing countries on the implementation of some WTO agreements and decisions and to increase confidence in the organization. This first step had not been an easy one. It had required political will on the part of all Members and this should continue if the process was to succeed. The way in which the Chairman and Director-General had conducted consultations had been effective and positive, and should continue. The work programme had been adopted by consensus and it was clear that those Members wishing to raise proposals in paragraph 22 were entitled to do so. It was equally clear in that programme that the proposals on paragraph 21 should be taken up as a priority and this had been done in part only. For this reason, his delegation suggested that the consultations begin with proposals under paragraph 21 that had not been the subject of substantive debate and those which the consultations had revealed as needing greater effort to reach conclusions. This was unfinished business which needed to be concluded rapidly. In parallel, an informal meeting could be held for a first reading of paragraph 22 issues in order to identify the areas in which progress might be possible through consultations. His delegation believed that this approach would strike a balance between the need to discuss and consider a wide range of problems and interests and the need for concrete results in a short space of time.

67. Before turning to some specific issues, he wished to recall that his delegation understood the present process to be aimed at meeting the concerns raised by developing countries on

implementation on the understanding that this would increase confidence within the organization. It would therefore be contradictory if this process were to involve additional requirements on these countries. With regard to tires 3 and 4 under agriculture referring to tariff quota administration, his delegation was concerned that the Chairman's report made no mention of the understanding reached in the consultations that there would be no additional administrative burdens or other burdens placed on developing countries. Given the importance of agriculture to developing countries, in particular effective market access, his delegation was open to any decision which would meet the concerns of all Members. In addition, his delegation believed that the implementation of the Ministerial Decision on net food-importing countries should be pursued to improve its efficiency. Furthermore, his delegation supported the Chairman's suggestion on tire 6 concerning the development of internationally agreed disciplines governing export credits under Article 10.2 of the Agriculture Agreement. In the area of subsidies, little headway had been possible on this in the consultations which had been confined mainly to Annex VII of the Subsidies Agreement. His delegation found the elements suggested by the Chairman to be satisfactory in this respect, but it believed that a political decision could be taken in the General Council which would allow Members to analyse the alternatives available to implement the necessary legislative changes, without sending this issue to the Committee on Subsidies. The omission of Honduras from the countries listed in Annex VII needed to be corrected as soon as possible to prevent any further misunderstandings on the subject. It was also important to focus on how to proceed with the other issues under subsidies in paragraph 21. The fact that the consultation process had demonstrated that some major difficulties existed in the search for consensus on these issues did not reduce the importance of them for developing countries. Subsidies aimed at legitimate development objectives such as financing for research and technological development, development of environmentally-safe production methods, and the manufacture of high technology and high value-added products as well as regional development would all help to prevent the recurrence of implementation problems in the future. His delegation believed that the proposals aimed at giving developing countries the necessary flexibility in their efforts to improve their production systems by diversifying exports through increasing value-added products was important and would allow them to take advantage of the opportunities offered by the multilateral trading system. He delegation would cooperate fully with the Chairman and the Secretariat in the search for solutions to implementation problems, in accordance with the decision of 3 May. It believed that the outstanding issues under paragraph 21 should receive priority attention, and it encouraged the Chairman to pursue his efforts to that end.

68. The representative of Brazil said that much remained to be done on paragraph 21, and due consideration should be given to the outstanding issues in this paragraph. With regard to the sequencing of the two paragraphs, there was perhaps a false dichotomy in this issue, and his delegation believed that all of the issues under the two paragraphs were important and enriched the implementation agenda. They were even fully complementary in certain cases. As the Chairman had recognized in his report, more work was needed on paragraph 21 issues, and he wished to indicate the interest of his delegation in the issue of textiles in particular.

69. The representative of Chile said the Chairman's report accurately reflected the work which had been undertaken thus far. The results were perhaps modest, but were a first step and his delegation was sure further progress could be made. They represented the easier parts of an agenda which was not easy, and it was important to continue work on the other paragraph 21 issues. The Chairman's approach to this work was acceptable to his delegation, and the work method was adequate and transparent, allowing wide participation and was constructive and positive. This process was aimed at confidence building, and progress was being made in this respect. In particular, with regard to the functioning of the organization, Members were learning to work in an efficient manner and achieve constructive results. Turning to the question of the sequencing of paragraphs 21 and 22, his delegation would be willing to participate in work on paragraph 22 issues, but like Hong Kong, China it believed that this should not be at the expense of further progress on issues under paragraph 21. With regard to the mention of the Subsidies Agreement in the Chairman's report, his delegation

was concerned at the possibility that the number of countries which could subsidize exports might be extended. His delegation had serious reservations at the possibility that the organization could follow such a path. Chile had a high level of trade with many of the countries in the category mentioned by the Chairman, and opening the floodgate to the use of subsidies by these countries would result in a distortion of trade and the industry of his country would have to face the resulting subsidized competition. This was not the appropriate way to resolve the concerns of some countries. However, the inclusion of Honduras in the list of countries in Annex VII was legitimate and this technical error should be resolved as rapidly as possible, as outlined by the Chairman.

70. The representative of Bulgaria said that his delegation was looking forward to participating in the next steps in the present process – the discussion of outstanding issues as well as the drafting of the texts, which would reflect the final outcome of the work. As his delegation had indicated on previous occasions, at that stage of negotiation and drafting it would insist that new special rights or privileges and certain flexibilities in the implementation of obligations be granted on the basis of objective criteria and not to subjectively defined broad categories of countries. The question of which issues belonged to the category of "do-ables" would become clear when the final package of actions to be taken on implementation issues was agreed. Such an agreement would only be possible if there was something in it for all participants. One issue to which his delegation attached particular importance, and on which no work had been done thus far in the course of the implementation exercise, was the extension of the additional protection for geographical indications to products other than wines and spirits. His delegation believed that this was a genuine implementation issue, not simply because it had been included as the first tiret of paragraph 21(g), but because the negotiations mandated under Article 24.1 of the TRIPS Agreement had thus far been disappointing. These negotiations were as mandated as those on agriculture and services, and nominally they should have started much earlier. It was, therefore, quite logical to expect that the negotiations on geographical indications should yield results before those on agriculture and services. And since the present implementation exercise was conceived as preceding the negotiations, his delegation believed it to be the most appropriate framework in which to seek solutions to the issue of geographical indications. Some delegations had stated that this issue reopened the agreement, implying that this was not an implementation issue but an issue for negotiations. It was indeed true that his delegation sought a change in the TRIPS Agreement, which would redress an existing imbalance in it. But this was no more a reopening of the agreement than the negotiations on agriculture or on services. The problem was that some delegations did not recognize that the negotiations under Article 24.1 of the TRIPS Agreement were mandated negotiations, like those under Article XIX of the GATS and Article 20 of the Agreement on Agriculture. Furthermore, these delegations did not see this extension as being possible in the negotiations under Article 24.1 of the TRIPS Agreement. These were problems of implementation, and his delegation wished to have them addressed in the present exercise. They were not difficult to deal with technically, and could thus be included in the category of "do-ables". His delegation was aware of the practical difficulties of sending partial amendments to the Uruguay Round Agreements to national parliaments, but such difficulties had existed on previous occasions. In place of early ratification, another way of approaching the issue would be to take the political decision in the framework of the present implementation exercise and to instruct the TRIPS Council to work out the modalities of such an extension. The extension could then enter into force legally together with a broader package, such as one including agriculture and/or services. Such an approach would place the political decision in the category of the immediate action foreseen in paragraph 21, and work on the modalities would fall under paragraph 22. His delegation believed that such an approach could contribute to building confidence and preparing the ground for progress in other negotiations.

71. The representative of India said that his delegation appreciated the efforts by the Chairman and the Director General, as well as other delegations, to address the implementation proposals in a meaningful way. The Chairman's report was a reasonably accurate reflection of the state of play in the consultation process, perhaps requiring only a few minor clarifications. However, his delegation

could not do otherwise but express its disappointment at the lack of substantial progress in resolving the implementation issues and concerns raised by a large number of developing countries. Paragraph 21 contained 54 tirets reflecting proposals made more than two years previously. From the Chairman's progress report, it was clear that he had undertaken intensive consultations on 20 out of the 54 tirets. This meant that he had yet to hold such consultations on as many as 34 tirets. With regard to the 20 tirets on which intensive consultations had been held, 12 proposals were being sent to the subordinate bodies for further consideration. With regard to six tirets, the Chairman had indicated that he would hold further consultations, since there was still divergence among delegations. With regard to the remaining two tirets, the Director-General would be holding consultations with the relevant international organisations. All of this meant that, even in respect of these 20 tirets, the General Council was far from resolving the problems and the convergence achieved thus far mostly related only to the modality of dealing with these tirets further. It was also clear that proposals relating to important agreements such as those on Textiles and Clothing and Anti-Dumping had not been taken up for intensive consultation by the Chairman. By this, he wished only to highlight the factual situation and not to criticize anybody. The Chairman had clearly indicated that his report had been made on his own responsibility and that it was not a negotiated report. This implied that even in the convergence achieved on these 20 tirets with regard to the procedure for taking the respective subjects forward, the General Council was not taking a consensus-based decision. His delegation was aware that the report was morally binding on Members, if not legally. Therefore, from a qualitative point of view also, the progress achieved was far from satisfactory.

72. In his report, the Chairman had indicated with respect to the first tirt under customs valuation that there was no convergence regarding the manner to proceed. In the informal consultations, his delegation had expressed its reservations on the Chairman's suggestion that this issue should be referred to the Customs Valuation Committee. He wished to indicate that, as an indication of its flexibility, his delegation could agree to this matter being referred to the Committee. His delegation was showing this flexibility with a view to achieving an early solution to the proposal and the Customs Valuation Committee was scheduled to meet on 7 November. The proposal in tirt 1 also had some links to the proposals contained in tirets 2 and 3. However, his delegation requested the Chairman to ensure that the report of the Committee was received by the General Council well in advance of the December Special Session so that an appropriate decision could be taken at that meeting.

73. The legitimate expectation of his delegation had been that, at least in respect of some of the proposals contained in paragraph 21, decisions would be taken in the present meeting with a view to resolving the concerns raised. It recognized that this expectation was not going to materialize. His delegation would acquiesce to this situation because it had taken into account the sensitivities of some other delegations on the timing of these decisions. However, it would be unfair for any delegation to suggest that the present session had not been meant to take decisions. At the 3 May meeting of the General Council, the Chairman had emphasized that the purpose of the present exercise was to resolve implementation issues and concerns, and that this had been reflected in the decision. The Chairman had also reassured his delegation by emphasising the fact that the purpose of the exercise was to take decisions. At the Special Session of 22 June, the General Council had agreed to the Chairman's suggested text regarding the organisation of work and indicative schedule of meetings where, in the third bullet, it was foreseen that the present meeting would begin by acting on the results of the discussions and consultations on the issues referred to in the earlier bullets, in accordance with the decision of 3 May. Therefore, the present Special Session was clearly aimed at taking decisions. His delegation was thus surprised and disappointed by the Chairman's suggestion that work should move on to paragraph 22 issues. More than 90 per cent of the proposals contained in paragraph 22 had been made by a group of countries including India. Therefore, it was obvious that more than anybody else, this group of delegations was interested in these proposals. His delegation had made it clear on a number of occasions that it intended to pursue all the implementation proposals contained in both paragraphs. But it had also made it clear that there was a hierarchy between the proposals in the two

paragraphs. Paragraph 21 reflected proposals capable of being decided on immediately, while the paragraph 22 proposals required a little more time. Furthermore, the proposals in paragraph 21 were relatively simple while those in paragraph 22 were a little more complex. In this light, his delegation was surprised at the enthusiasm of some delegations which were not sponsors of the proposals in either paragraph to move to the paragraph 22 proposals when in-depth consultations had not been completed on even half of the paragraph 21 proposals. His delegation believed that it would not be productive to have detailed presentations of the paragraph 22 proposals when the General Council had not taken even a single decision on the proposals in paragraph 21. His delegation urged the Chairman to complete his consultations on all the paragraph 21 proposals so that the General Council could take appropriate decisions on them. If necessary, the Chairman could convene another meeting in November to discuss the paragraph 22 proposals and, in the meanwhile, complete his consultations on paragraph 21 proposals. His delegation was concerned that some Members might want the proponents of the paragraph 22 proposals to present them so as to take the focus of work away from paragraph 21. This was not something his delegation could accept. For his delegation, all the implementation proposals were "do-ables". However, it was not the intention of his delegation to deprive any other delegation of the opportunity to present paragraph 22 proposals in the present meeting, if they so desired. In order to enhance the credibility of the organization and to promote confidence among developing countries, progress on these issues should be made in an orderly way, and for this purpose it was necessary to observe the proper sequence. Finally, his delegation supported the statement by Bulgaria on the issue of geographical indications.

74. The representative of Turkey said that his delegation believed that the report by the Chairman and the Director-General was an important step forward. It was true that the report had limited scope and that important issues in paragraph 21 were outstanding. Nevertheless, this was a new beginning on which it would be possible to build. Members should recognize that they had stopped turning around and were moving ahead. Indeed, the process should move on to paragraph 22 so that delegations could also have an idea about where they stood with regard to the issues it contained, and to allow a broader and better view of implementation issues. Paragraph 21 bore the title immediate action, but this had been written more than a year previously. In the meantime, some of the paragraph 22 issues might have become equally urgent. But the possibility of revisiting all issues should remain, and his delegation was against the implicit notion of "undoable". Delegations should have the opportunity to continue discussion of all outstanding issues before concluding the work in this process.

75. The representative of Pakistan said that his delegation appreciated the positive efforts by the Chairman and the Director-General to carry out the mandate given to them by the General Council. The process thus far had been constructive, and this could not be so if there had not been focussed discussions on some of the issues under consideration. The organization of work and indicative schedule of meetings had foreseen discussions of implementation-related issues and concerns, especially those reflected in paragraph 21. The genuine expectation of his delegation had been that all the issues in that paragraph would be seriously discussed and resolved. This had not happened and his delegation would not comment on the results of the consultations, but it appreciated the sense of engagement that the Chairman had been able to mobilize. How satisfactory this engagement had been was a separate but related question, but was perhaps self-evident. A major proportion of the proposals had failed to attract the much-needed political will and engagement by some trading partners to move forward. The response thus far had been silent or indifferent. His delegation insisted that, in accordance with mandate of the 3 May decision, all remaining issues under paragraph 21 should be seriously discussed before moving on to paragraph 22. It was necessary to bear in mind the sense and level of urgency in the two paragraphs, the proposals in paragraph 21 having been identified by the proponents as priority issues, as indicated by the title of that paragraph – immediate action. The intention of the 3 May decision was to seek solutions to or resolution of these issues. His delegation was concerned that moving on to paragraph 22 without substantive discussions on all of paragraph 21 would effectively place paragraph 21 on the back burner. This would not be acceptable to many,

including Pakistan, and this was not the objective of the exercise. His delegation believed that the Chairman should hold consultations on all the remaining proposals in paragraph 21, before moving on to paragraph 22, and that he should elaborate on his plans in this respect in the present meeting. Furthermore, the General Council should take decisions on the paragraph 21 issues. His delegation wanted to move forward, but did not want to jump. With regard to the Chairman's report, his delegation supported the inclusion of Honduras in the list of countries in Annex VII of the Subsidies Agreement. On the other issues in paragraph 21, his delegation believed that further substantive work was needed in all areas, also including those areas which had not been the subject of substantive discussions. Without this, efforts towards confidence building would be diluted.

76. The representative of Cuba said that his delegation appreciated the efforts by the Chairman and the Secretariat to find constructive solutions to the issues in paragraph 21, however the results were scant and his delegation was concerned by this. Intensive work was required to consider all the remaining proposals in paragraph 21, some of which had not been the focus of the consultations, such as textiles and clothing and anti-dumping. The aim of the consultations was to achieve concrete results, which had not been achieved in the work thus far. Like others, his delegation believed that it would not be realistic to move on to the more complex issues in paragraph 22 before resolving the issues in paragraph 21. With regard to the Chairman's report, his delegation could agree with the Chairman's suggestion to send the proposal on Annex VII of the Subsidies Agreement to the subsidiary body. The decision to extend the possibility of using certain subsidies to middle-income developing countries could only be a political decision by Members, and this would not be achieved through discussions in the committee. Subsidies were development instruments and had been used by developed countries to promote their industries. Developing countries should not be refused their right to development. His delegation agreed with Indonesia that the Chairman's report had failed to mention the proposal on the principle of automaticity, whereby countries listed in Annex VII which were excluded from the Annex due to their GNP per capita exceeding US\$1000, should be automatically included in the Annex if their GNP fell back under this threshold. His delegation also supported the technical solution suggested by the Chairman to correct the technical error which had omitted Honduras from the list of countries in the Annex VII. Finally, his delegation believed that ways to make the decision on net food-importing developing countries more effective should be considered and adopted in the General Council, and not in the Committee on Agriculture.

77. The representative of the United States said that her delegation appreciated the work of the Chairman, the Director-General, but also of the other delegations aimed at moving the discussions on implementation issues to the point where progress could be shown. The Chairman's report reflected her delegation's understanding of the situation, and although some of the items did not enjoy consensus, there was much to build on. Her delegation had concerns in some areas, and further discussion would be needed as indicated by the Chairman. The Chairman's report included actions requiring examination of some issues by the subsidiary bodies, and her delegation believed that this was a necessary step. The discussions in the consultations had also shown that additional input might be useful in some other areas, and this could be considered in the work leading up to the December Special Session. With regard to the score being kept by some delegations, her delegation believed that the most important point was the results of the work, since results were a win for all Members. In the present meeting, there was a win, there was a start, and this could be built on. Turning to the sequencing and subject-matter of the future work, her delegation was prepared to discuss the serious implementation concerns of all Members, but not to debate the order of precedence of the paragraphs. The aim was to make progress, and her delegation agreed with others that an expansive discussion was needed on all issues. The progress reflected in the Chairman's report had been widely noted by delegations, but something else had also been accomplished in the present process. No delegation had raised any objection to the manner in which the consultations had been held, and this meant that progress had also been made on in internal transparency and effective participation of Members. Consultations had been held at many levels, which had given everyone the chance to give their input.

In the next period, this should continue to allow the additional issues raised by some delegations to be addressed.

78. The representative of Singapore said that the Chairman's intensive and constructive approach to the consultations he had held was a realistic way to move forward. His delegation agreed with the Chairman's assessment of the present situation and that further technical work by the subsidiary bodies would be needed on some issues to contribute to the process. Good progress had been made, and goodwill had been shown by all delegations. The Chairman's report might not have addressed every concern at this stage, but it represented some positive results. Members should build on this progress, and work towards a package where decisions could be taken by the General Council at the Special Session in December. With regard to the relationship between paragraphs 21 and 22, delegations should recall that the division between the two paragraphs had been made in the context of the preparations for the Seattle Ministerial Conference. Two concepts had been involved in this division: first, in paragraph 21 was that of priority or immediacy; and second, in paragraph 22, was the idea of providing a fair opportunity for delegations to discuss all proposals relating to the more difficult implementation concerns. Two questions seemed to arise from consideration of the two paragraphs. First, had discussion on paragraph 21 exhausted? Obviously, the answer was no. Second, should a fair opportunity be offered to discuss proposals in paragraph 22 so that a full view of the range of issues could be available? As suggested by Turkey, some of the proposals in paragraph 22 might have acquired new significance and importance since that time. Furthermore, the advantage in moving on to discussion of the proposals in paragraph 22 was that agreement might be reached on some issues which would contribute to the list of results and which could form part of the package for the December Special Session. His delegation was open to any process that would take the work forward in the coming weeks, and could support suggestions for a parallel process dealing with both paragraphs 22 and 21. This would be a flexible and realistic approach.

79. The representative of Hungary said that his delegation believed that the results of the work carried out by the Chairman and the Director-General spoke for themselves. The Chairman's report was a clear indication that real progress was possible even within the present complicated and delicate process. The results also confirmed that the approach used by the Chairman of concentrating on the do-ables was the right one. With his report, the Chairman had created good momentum, laying out a good basis for results in December. This was just the first step but his delegation was confident that more progress could be made. Work on both paragraphs 21 and 22 could go ahead in parallel, using the informal flexible approach of the Chairman. His delegation supported the suggestion by the Chairman at the previous day's informal meeting in this respect.

80. The representative of Panama expressed the appreciation of his delegation for the Chairman's efforts over the previous weeks and for the very comprehensive agreement that had been achieved. As the Chairman had noted, his report reflected the state of play in the consultations and his delegation found it to be detailed and very commendable. His delegation had taken note that the discussions had focused on those issues on which delegations' points of view allowed the solution of certain issues or do-ables. His delegation believed that this did not mean that responses could not be found to the proposals in other areas of paragraph 21 that had not been addressed thoroughly, or that these areas should be given lesser priority or less effort because they were more difficult. His delegation also believed that the fact that a particular issue had been taken up or a particular proposal put forward did not necessarily mean that a solution had been found to the concerns of developing countries. The Chairman had acknowledged this by not excluding further discussions on those issues, and by stating that his report was on his own responsibility and did not attempt to provide consensus-based solutions. The Chairman had made a series of proposals on the do-ables in his report which seemed to cover the full range of areas of concern of developing countries. One example was the proposal to resolve the omission of Honduras from Annex VII of the Subsidies Agreement, which his delegation supported and which should be accepted promptly because it seemed to be the issue with the least complications. At the other end of the scale, one example of the issues requiring further

consideration was the question of the TRIPS Council being instructed to consider the preparation of an illustrative list of the type of incentives that could be covered under Article 66.2. His delegation hoped that the future work would be aimed at finalizing these proposals. His delegation had doubts on the usefulness of transmitting issues to the subsidiary bodies in this context but it could be flexible on this matter. With regard to future work, his delegation would prefer the focus to be first on the issues in paragraph 21 and then the work could move on to paragraph 22 without prejudice to the time available to resolve the issues in paragraph 21. With regard to internal transparency, considerable efforts had been made in this process, but his delegation believed that the date and time of further small group meetings should be communicated to delegations, so that those delegations which had an interest in the areas under consideration would be able to participate in all possible meetings.

81. The representative of the Slovak Republic said that much progress had been made in the area of implementation, particularly on the issues in paragraph 21, however many issues still remained to be addressed. The Chairman's report was a good starting point for further work on implementation which was an important element of the confidence-building process. For this reason, her delegation supported any work which could lead to satisfactory results for all. Paragraph 21 issues were clearly the priority in this process, however the issues in paragraph 22 could also be addressed if the approach was constructive and effective. In this respect, her delegation supported the Chairman's suggestion on how to move the process forward.

82. The representative of Costa Rica said that his delegation believed that the contents of the Chairman's report represented forward movement in the present process, and a modest but important step towards further progress. His delegation agreed to the Chairman's suggestions in his report. He wished to indicate the importance of the issue of subsidies and countervailing measures to his country. This issue was related to the competitiveness of the exports of his country and its ability to attract investment. For this reason, his delegation wished to participate in any discussions on this subject. On the question of discussions on paragraph 22 issues, his delegation could be flexible, but it would prefer the Chairman himself to decide how to proceed on this issue, following his discussions with other delegations. The Chairman was best placed to understand the usefulness of taking up this paragraph either after or in parallel with paragraph 21, and to decide on the best approach.

83. The representative of Colombia said that his delegation was flexible on the sequencing of paragraphs 21 and 22. His delegation was, of course, interested in having a second round of consultations on several of the outstanding issues in paragraph 21, such as subsidies, TRIMs, textiles and special and differential treatment, since it believed that all these issues should be discussed thoroughly. However difficult discussions of these issues might be for some delegations, the approach of dividing the first round into do-ables and others had been adopted for pragmatic reasons rather than because of the substance. His delegation could not agree to some issues being categorized as issues which could not be discussed because progress was not possible. For this reason, work on these issues should continue. However, his delegation believed that consideration of paragraph 22 issues raised by delegations in the present meeting could start, and his delegation would raise a number of issues in this respect. Turning to the Chairman's report, the suggestion had been made that the Subsidies Committee could review the possibility of including the countries in the lower-middle category of the World Bank in Annex VII of the Subsidies Agreement. His delegation saw no need for an extensive technical debate on this issue because the principle elements of this proposal had already been accepted during the Uruguay Round, when it had been recognized that low levels of income justified a longer time-period for the dismantling of the subsidies in such countries. If the implications of this proposal needed to be examined, all that was needed was to know which Members were in this category, what was their share of world trade and the possible effects of this change. Finally, like others, his delegation fully supported the inclusion of Honduras in Annex VII, and it was surprised that a technical error of this nature required so much discussion. This issue should be resolved as expeditiously as possible, especially since it was simply a matter of justice.

84. The representative of Uganda said that his delegation believed in internal transparency and the Chairman and the Director-General had endeavoured to ensure that internal transparency was adhered to in the consultations which they had conducted thus far. The Chairman's report accurately reflected what had been achieved, but there was still a long way to go with regard to paragraph 21. With regard to the sequencing of the paragraphs, his delegation agreed with others that paragraph 21 should continue to be addressed. His delegation was willing to be flexible on this question, if other delegations were flexible on the issues in paragraph 21. Turning to paragraph 21 and the proposal in tiret 4 under TRIPS, his delegation welcomed the wide acceptance that provisions of Article 66.2 of the TRIPS Agreement were mandatory. The problem was how to operationalize these provisions by defining the incentives that should be used. The TRIPS Council had been requested to continue to work on this issue, but his delegation would have preferred clearer guidelines to be laid out. His delegation believed that, in operationalizing Article 66.2 of the TRIPS Agreement, Article XVI.4 of the WTO Agreement was relevant, and the laws, regulations and administrative procedures of Members would need to be reviewed. His delegation hoped that the TRIPS Council would consider some kind of notification to that effect. Furthermore, any incentives should be designed to achieve the transfer of technology and while there was no obligation on Members to compel enterprises to transfer technology, it would be important to be aware of the incentives being provided. Certain countries were able to provide special provisions for individual inventors, enterprises and non-profit organization in terms of inventions and technology. His delegation hoped that similar incentives would be given for the transfer of technology to LDCs. His delegation hoped that the TRIPS Council would report to the General Council on its work in this area, since the understanding on the implementation of Article 66.2 that his delegation sought should finally be adopted in the General Council.

85. The representative of the Dominican Republic said² his delegation appreciated the efforts of the Chairman, the Director-General and all the Members who had worked so strenuously since June. His delegation took note that the Chairman's report had been submitted under his own responsibility, but did not believe that its position had been reflected in the major part of the report. It would appear that the report was the outcome of a process in which only some delegations had specifically communicated their positions in the form of concrete proposals, and which his delegation had not seen. He wondered, therefore, how certain issues could be considered to require appropriate action in subsidiary bodies. Once again, this was a case of negotiation by proxy, which would not help to enhance confidence in the organization, and was further evidence of a lack of will to resolve the most urgent problems. This had occurred despite the considerable efforts the Chairman had made, which received the full support of his delegation. Unfortunately, this climate of immobility would be decisive for the outcome of future Ministerial Conferences. Only the adoption of concrete decisions to resolve implementation problems would show that Members had really begun the process of rebuilding confidence. His delegation supported the inclusion of Honduras in the list of countries in Annex VII of the Subsidies Agreement. Nevertheless, the Dominican Republic formally objected to issues concerning subsidies being referred to the subsidiary body, in particular the proposal on Annex VII, which had wide support. Furthermore, his delegation believed it would be difficult to start work on issues in paragraph 22 before the problems that required urgent attention in paragraph 21 had been resolved satisfactorily. His delegation had full confidence that, under the proven leadership of the Chairman, the process would be able to reach a situation in which his delegation could give consideration to removing its objections.

86. The representative of Nigeria said that his delegation supported the statement by Mauritius on behalf of the African Group. He wished to recall the goodwill, flexibility and assurances with which the discussions on implementation had begun as part of the confidence building effort. This had raised the hopes and aspirations of countries such as his, which was why they were surprised that only marginal progress had been made on these issues thus far. Their expectations had not been met,

² The text of the statement was subsequently circulated in document WT/GC/W/417.

which explained the reactions that what had been achieved was insignificant. When the proposals on implementation had been submitted prior to the Seattle Ministerial Conference, many Members had displayed understanding and flexibility on the issues. This had led developing countries to expect that decisions would have been possible on them before now, especially on those classified as do-ables. Hope delayed was hope denied. With regard to the sequencing of paragraphs 21 and 22, his delegation's main interest was in results and it encouraged the Chairman to proceed progressively to consider the outstanding issues of paragraph 21, perhaps alongside those in paragraph 22. It was, however, only logical that issues for immediate action in paragraph 21 should receive attention before those in paragraph 22, in particular since they had not all been fully dealt with. His delegation was concerned at the lack of any progress on proposals to make S&D measures effective and concrete. It was important for the WTO to provide a level playing ground for all Members in view of the fact that they were at different levels of development. His delegation was looking for adequate progress on implementation issues by December.

87. The representative of the Czech Republic said that much work had been done on implementation and many proposals had been submitted, but differences still remained among delegations, including on how to proceed further. More work by all would be needed in this process, but also a result-oriented approach would be necessary, along with a balance of Members interests in the outcome. Examining the technical aspects of the proposals was important, but this would be productive once political solutions had been reached.

88. The representative of Egypt said that his delegation supported the suggestion by Mauritius on behalf of the African Group on the immediacy of paragraph 21 issues, since it believed that the remaining issues in that paragraph should be addressed before moving on to paragraph 22. His delegation also supported the suggestions by Hong Kong, China and others on the need to address some important issues in paragraph 21, in particular textiles and clothing, anti-dumping and balance of payments. Finally, his delegation supported the inclusion of Honduras in the list of countries in Annex VII of the Subsidies Agreement.

89. The representative of El Salvador said that her delegation took note of the Chairman's report on his own responsibility, and believed that while it reflected the results of the consultations, it had not taken into account all the positions of Members. Progress had been made to a certain extent in the discussions on paragraph 21, but more than half of the proposals of this paragraph remained to be discussed and the work on these issues should be intensified. Turning to the Chairman's report, in the section on subsidies the concerns of the delegations that had submitted the original proposal had not been taken into account. The three elements suggested by the Chairman did not reflect the objectives of that proposal, which had been submitted by her delegation and others. For this reason, her delegation did not agree that this issue be referred to the Subsidies Committee, since it did not require technical analysis, but rather a political decision to resolve the problems raised. Her delegation supported the suggestion to include Honduras in the countries listed in Annex VII of the Subsidies Agreement to correct the technical error. With regard to the sequencing of the paragraphs, her delegation believed that work on paragraph 21 should be finished before moving on to paragraph 22, as had been agreed in the decision of 3 May. All the issues were important, but the procedure that had been agreed was based on the hierarchy in the proposals and the work should follow the logic of this if productive results were to be achieved. For this reason, her delegation support the proposal by India to continue with consultations on paragraph 21 to the maximum extent possible, and then start consultations on paragraph 22.

90. The Chairman said that the positions of many delegations were not reflected in the report by the Director-General and himself, because this exercise had not been aimed at that. This had been an exercise in attempting to find common ground, which meant that flexibility was necessary on all sides, including on the results. It was important to realise that this was an effort on behalf of all Members to try to come to an understanding on forward movement.

91. The representative of Honduras thanked the Chairman and the Director-General for their work in producing their report, as also the delegations which had supported the inclusion of his country in the list in Annex VII of the Subsidies Agreement. The Chairman had suggested in his report that the omission of his country should be corrected as soon as possible, and had also laid out a solution under the Vienna Convention on the Law of Treaties. This was the easiest of all the issues addressed in the report and its resolution would be proof of the goodwill within the organization to solve the problems faced by developing countries. His delegation was concerned that a decision on this matter was being constantly deferred. Furthermore, his delegation believed that, in accordance with the 3 May decision, the issues in paragraph 21 should be resolved rapidly through concrete decisions to allow the process to move on to the paragraph 22 issues and to be concluded by December. Finally, his delegation was concerned that if the implementation issues and concerns raised by a majority of developing countries were not resolved, there would be delays in other areas in the coming year.

92. The representative of Bolivia said that the progress made by the Chairman and the Director-General had been achieved through an effective mechanism of bilateral and multilateral consultations, and if continued, this could improve the work of the organization and produce results to the benefit of all Members. However, several issues were outstanding, some of which had been described as difficult and, for this reason, the political will of Members had to prevail to allow practical solutions to the problems to be found. One proposal to which his delegation attached importance was on Article 10.2 of the SPS Agreement. This proposal suggested that sanitary and phytosanitary measures should be introduced gradually. These measures should not be used as obstacles to trade, but rather to encourage the implementation of international rules and standards by developing countries. With regard to the sequencing of paragraphs 21 and 22, his delegation believed that it was necessary to complete the work on issues in paragraph 21 and then move on to paragraph 22.

93. The representative of Ghana supported the statement by Mauritius on behalf of the African Group. The Chairman's report had been acknowledged by many delegations to be an accurate reflection of the state of play regarding the consultations thus far, and his delegation commended him for this. The report showed that a number of issues in paragraph 21 remained to be resolved, while the whole of paragraph 22 was pending. The ideal approach would be to resolve all the outstanding issues in paragraph 21 before moving on to paragraph 22, but the fact that many issues in paragraph 21 remained unresolved testified to the difficulty of resolving them. This did not mean that they could not be resolved with perseverance and time. The Chairman had suggested continuing the work on paragraph 21 while also allowing for discussion of any other issues as necessary. His delegation could agree to this, but suggested that the emphasis should be clearly on the paragraph 21 issues. Focussing only on paragraph 21 would exclude the possibility of agreement on some issues in paragraph 22 by December. Finally, his delegation supported the inclusion of Honduras in the countries listed in Annex VII of the Subsidies Agreement.

94. The representative of Sri Lanka said that the report presented by the Chairman and the Director General provided the basis for further consultations to move the process forward. In line with the 3 May decision, the objective of the consultation process on implementation issues was for Members to be able to take decisions as appropriate, at the present meeting as well as at the December meeting. His delegation recognized progress had been made on some issues, which was encouraging. However, from the perspective of many developing countries including his, these achievements were far from satisfactory as they did not reflect what was desired. A large number of issues had been referred to subsidiary bodies and a number of others would be subject to further consultations, which was also cause for concern to these countries. His delegation thus expected that the continuing consultation process would lead to meaningful decisions at the December meeting. The issues in paragraph 21 had been identified as priority issues for immediate action since they were of a less complex nature. On the other hand, the issues in paragraph 22 needed detailed discussion and a complete review of the relevant agreements. While his delegation recognized the importance of the

issues in paragraph 22, it believed that all the issues in paragraph 21 should be given priority. If the paragraph 22 issues were addressed in parallel, they should not overcrowd the agenda and reduce the focus on paragraph 21. Addressing these issues in a meaningful manner and taking decisions on them, in particular paragraph 21, was part of the confidence building exercise, since it would send a positive message to domestic constituencies that genuine attempts were being made to correct the asymmetries and imbalances in the multilateral trading system. Finally, his delegation supported any solution aimed at rectifying the omission of Honduras from the countries listed in Annex VII of the Subsidies Agreement.

95. The representative of Australia said that the report submitted by the Chairman and the Director-General marked a considerable step forward in the present process. In their consultations, the Chairman and the Director-General had clearly focussed on issues that did not undermine or weaken the existing WTO rules or involve further re-negotiations of WTO Agreements, and this had been adroit. With regard to future work, his delegation saw no reason for a debate over whether to continue with paragraph 21 or move on to paragraph 22. As the Chairman had stated, there were elements of paragraph 21 which needed further work and refinement, such as the question of the inclusion of Honduras in the list of countries in Annex VII of the Subsidies Agreement. His delegation was sympathetic to the situation with respect to the inclusion of Honduras, but his country had certain legislative impediments in this respect. His delegation had some creative ideas how to move ahead on this issue, and further consultation would be necessary. Further work on paragraph 21 should not impede discussions on paragraph 22, as foreseen in the work programme. These were different sets of issues, and while his delegation respected the view that there was a hierarchy, it had not been established that one set of issues was dependant on the other. His delegation believed that it was possible to move forward while still addressing some issues in paragraph 21, as suggested by the Chairman.

96. The Chairman said he noted that India could support the suggestion made during the consultations that Tired 1 of the Customs Valuation proposals might also be referred to the Committee on Customs Valuation for consideration of the technical aspects. Since he believed that India had been the only delegation to have expressed reservations on this suggestion, he proposed that his report be adjusted accordingly, and that this item also be referred to the Committee and the Chairman of the Committee be requested to report on the outcome of that consideration to the General Council before its Special Session in December.

97. He then proposed that the General Council take note of the statements and of the report by himself and the Director-General, refer to the relevant WTO bodies the issues identified in that report, as adjusted, as being appropriate for their action, with the mandates and time-frames suggested therein, and invite him and the Director-General to continue consultations on the issues reflected in paragraph 21 of the draft Ministerial text of 19 October 1999, 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 in advance of the next Special Session in December.

98. The representative of the Dominican Republic requested a clarification as to whether the proposals regarding Annex VII of the Subsidies Agreement were among the items identified by the Chairman for referral to the Subsidies Committee, since her delegation formally opposed this issue being referred to the technical committee.

99. The Chairman clarified that this was not the case.

100. The General Council agreed to the proposals by the Chairman.

101. The representative of the Philippines said that the report by the Chairman and Director-General contained a factual statement that the omission of Honduras from the list of countries in Annex VII of the Subsidies Agreement was a technical error, and noted that Article 79 of the Vienna Convention on the Law of Treaties set out what should be done in the case of such errors. His delegation believed that, if it were clearly recognized by Members that the omission of Honduras was a technical error, there should be no need for a decision by the General Council, and the Director-General could and should comply with the provisions of Article 79 of the Vienna Convention, and proceed with the correction to include Honduras in Annex VII forthwith. All Members were bound by the Vienna Convention.

102. The Chairman said that some delegations had indicated in previous informal meetings that they needed to refer this issue to their authorities. It would thus be necessary to wait until it was agreed that the omission was a technical error before proceeding.

103. The representative of the United States noted that her country was not a signatory to the Vienna Convention on the Law of Treaties, although it did adhere to the principles of that Convention to the extent that it reflected customary international law.

104. The General Council took note of the statements.

2. Discussion of other proposals on implementation, especially those reflected in paragraph 22 of the draft Ministerial text of 19 October 1999 as well as others in the compilation of proposals in document Job(99)/4797/Rev.3 of 18 November 1999

105. The Chairman said that he wished to make a few remarks in the light of the discussion in the previous day's informal meeting on the sequencing of work on the issues reflected in paragraphs 21 and 22 of the draft Ministerial text of 19 October 1999. He recalled that the Programme and Calendar of Work agreed on 22 June clearly recognized the sequence of work on issues under paragraphs 21 and 22. This was why the work thus far had focussed on the issues under paragraph 21. It was clear from the work programme that after a first period of work on those issues, the General Council should turn to the issues under paragraph 22. It had never been understood that the issues under paragraph 21 would be left aside when work started on paragraph 22. He believed that the paragraph 22 issues raised under the present agenda item should be added to the list of issues on which consultations would be conducted. He understood the concern of some delegations about the paragraph 21 issues which remained to be addressed, to the effect that adding issues to the consultation process might overcrowd it. Some delegations had suggested that any consultations held on paragraph 22 issues should not be at the expense of paragraph 21 issues, and he fully agreed with this. Others had underlined that some issues under paragraph 22 might be considered as priority issues by some delegations. It would be useful for him to have an indication of the areas in which those issues would be, and he was looking to delegations to provide such indications in the discussion. Identification of such issues by delegations would allow him to plan with the Secretariat the consultations to be held in the coming weeks. By this, he was not saying that work on all the paragraph 21 issues would be finished before starting on paragraph 22 issues, but rather that a certain degree of flexibility would be needed on all sides. He reiterated that work on paragraph 22 issues should not be at the expense of paragraph 21 issues, which had always been understood to have priority in the sequencing of the work programme.

106. The representative of India said that his delegation appreciated the clarification by the Chairman that he would not allow the issues raised under paragraph 22 to overcrowd the process on paragraph 21. The majority of the proposals reflected in paragraph 22 had originally been submitted by a group of developing countries, including his, and these proposals were important, but their priority came after the issues in paragraph 21. His delegation would prefer to take up the issues in

paragraph 22 after completing the work on paragraph 21, but it would not stand in the way of any delegation which wished to identify any issue as being of immediate priority.

107. The representative of Brazil said that, in line with the Chairman's suggestion, he wished to indicate that Brazil's priorities among the issues in paragraph 22 were anti-dumping, subsidies and TRIMs, and at a later stage he might be able to reduce this to a number of turrets. His delegation requested the Chairman to envisage informal consultations regarding these points.

108. The representative of Argentina said that his delegation believed that it would be important to take up all the issues relating to special and differential treatment and the issue of TRIMs in paragraph 22, which would also be a continuation of work on paragraph 21.

109. The representative of Colombia said that, with regard to the issues in paragraph 22, his country had submitted several proposals with respect to provisions for special and differential treatment. One proposal had suggested an increase in de minimis provisions, in particular under the Anti-Dumping, Safeguards and Subsidies Agreements. This proposal had been reflected in the third turret of the section on anti-dumping in paragraph 22. In addition, the sixth turret under anti-dumping, referring to the time-frame to be used in determining the volume of dumped imports was of particular interest to his delegation. Turning to the section on subsidies, the sixth turret, referring to the urgent need for technical corrections to the definition of the term "inputs consumed in the production process" in footnote 61 was also of particular interest to his delegation. His delegation believed that the inclusion of capital goods in this definition should be considered. Furthermore, with the aim of achieving the objective of the multilateral trading system that obligations should be reciprocal and beneficial to all Members, it was important to analyse the results achieved in the transfer of technology to developing countries and how to enhance existing instruments in order to attain this objective. With respect to the section on sanitary and phytosanitary measures, his delegation believed that the second turret should be discussed with a view to clearly differentiating between mandatory standards and voluntary guidelines and recommendations. Finally, the issue of the compatibility of development objectives with trade policy and the protection of traditional knowledge, which could not be considered unconnected to the work of this organization, should also be included in the consultations, as reflected in the second turret in the section on TRIPS.

110. The representative of the United States said the work programme adopted in June provided the possibility in footnote 1 for delegations to raise any other implementation-related issue at the present meeting, and she wished to indicate the interest of her delegation in the issues of textiles, market access, rules of origin and balance-of-payments, and she would indicate more issues at a later stage. Her delegation looked forward to the consultation in these areas.

111. The representative of Bolivia said that, in line with the Chairman's suggestion, he wished to indicate the interest of his delegation in the issues of sanitary and phytosanitary measures, and the protection of innovations by indigenous and local farming communities under TRIPS.

112. The representative of Paraguay said his delegation had an interest in the issues of sanitary and phytosanitary measures, and tariff quota administration in the section on agriculture, which should be transparent, fair and non-discriminatory.

113. The representative of Venezuela reiterated the suggestion by his delegation that informal meetings could be held to allow all delegations to present their proposals as reflected in paragraph 22. His delegation believed that a serious approach to these issues was necessary if progress was to be made. The issues raised under paragraph 21 should be addressed first, and delegations would need sufficient time to evaluate the progress in this area before moving on and presenting their interests in other areas. He could indicate Venezuela's priorities in the present meeting, but he was unsure whether this would help the exercise in any way. His delegation believed the present discussion

should conclude with a recognition that the whole issue of implementation was a priority and that a meeting would be held at a later stage on the issues in paragraph 22. This would be more constructive and would allow progress to be made to the benefit of all Members.

114. The Chairman said that the work programme set out the meetings to be held until the end of the year, and his intention in asking delegations to indicate their areas of interest was to allow the Director-General and himself to plan their work until the next Special Session.

115. The representative of the European Communities said that his delegation sought to advance the work on implementation and was ready to address any concern raised under either paragraph. Time should not be spent on debating the sequence in which to address the issues, but rather on addressing the issues themselves.

116. The Chairman proposed that the General Council take note of the statements, and invite him and the Director-General to also 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 in advance of the next Special Session in December.

117. The General Council so agreed.

118. The Chairman said that many delegations had expressed satisfaction at the way in which the consultations had been conducted thus far, and for this reason the Director-General and he intended to follow the same basic procedure in the further consultations they had been mandated to hold. They would communicate to delegations as soon as possible the schedule of work in this respect.

119. The General Council took note of the statement.
