

# WORLD TRADE ORGANIZATION

RESTRICTED

WT/GC/M/64

15 June 2001

(01-2983)

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**General Council  
Special Session on Implementation  
27 April 2001**

## MINUTES OF MEETING

Held in the Centre William Rappard  
on 27 April 2001

*Chairman: Mr. Stuart Harbinson (Hong Kong, China)*

### Subjects discussed:

- 1. Report by the General Council Chairman and the Director-General on their consultations on the outstanding implementation-related issues and concerns**
- 2. Organization of further work**

1. The Chairman proposed that both agenda items be taken up together.
2. The General Council so agreed.
3. The Chairman said he would first present the report by the Director-General and himself on the consultations they had been carrying out on the outstanding implementation issues and concerns. This report had been made available to delegations prior to the present meeting.
4. As delegations were aware, the then-Chairman of the General Council, Ambassador Bryn, had held an informal meeting on implementation-related issues on 5 February 2001 to seek delegations' views on how to proceed with addressing the outstanding issues with a view to completing the process no later than the Fourth Session of the Ministerial Conference, as envisaged in the General Council Decision of 15 December 2000. In the light of that meeting and other consultations he had undertaken in that period, Ambassador Bryn had suggested at the regular meeting of the General Council on 8 February 2001 that the Director-General and the present Chairman conduct informal consultations, in full respect of transparency, to prepare for further special sessions of the General Council, with a view to developing and implementing the continuing work programme on implementation that all had agreed. Consultations had been carried out in line with that mandate, and delegations had before them their report on them. This was a report on their own responsibility, setting out the situation as the Director-General and he saw it, and he was satisfied that it faithfully reflected the results of their work thus far.
5. The General Council's mandate on implementation issues constituted an important part of the work of the WTO, and everyone should strive to do their best to fulfil the terms of that mandate, notwithstanding the complexities surrounding the issues. In his work on the outstanding issues he had adopted a thematic approach, with an emphasis on achievable results and maintaining the distinction between paragraphs 21 and 22 of the draft Ministerial text of 19 October 1999. The focus of these

consultations had been the issues outstanding under each Agreement as listed in the compilation of outstanding issues circulated by the Secretariat as Job(01)/14 on 20 February 2001.

6. At the Special Sessions held in October and December 2000, the General Council had referred a number of issues to subsidiary bodies for their consideration. Some delegations had expressed their concern to him about the progress of work on these issues, and for this reason he had also carried out a series of meetings with the Chairs of the relevant bodies to discuss the progress made and the question of when they could realistically report back to the General Council. He had, of course, taken into account the input he had received from them in preparing the present report. He intended to stay in touch with the Chairs and to continue to monitor the situation, and would report back to the General Council as appropriate.

7. Since 23 February 2001, he had conducted a number of informal consultations with various delegations on some of the outstanding issues. The first set of consultations had been on issues under the following Agreements: Sanitary and Phytosanitary Measures, Agriculture, Trade in Services and Trade-Related Aspects of Intellectual Property, and he outlined his assessment of these consultations.

(a) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

8. The consultations on the issues under the SPS Agreement had taken place on 23 February 2001. Consistent with the thematic approach suggested, the focus had been first on the four outstanding tirets under paragraph 21, and later on the three tirets under paragraph 22.

9. On paragraph 21, delegations had had a good exchange of views on the outstanding tirets, but it seemed clear that further consideration and consultations were needed on these complex issues.

10. The fourth tiret, relating to the problems which had prevented developing countries from entering into equivalency agreements, had been referred to the SPS Committee. The Chairman of that Committee had invited inputs from Members and had held further discussions on this issue at an informal meeting of the Committee just prior to the consultations on 23 February. The Chairman had issued a report on these discussions on 21 March in document G/L/445, and he noted from the Chairman's conclusions that the Committee had agreed to continue its work with regard to equivalence in order to develop concrete guidance, based on contributions from Members and in close cooperation with the relevant standard-setting bodies.

11. On the three paragraph 22 tirets, there had been a first run through of the issues involved, and he believed there had been some useful clarification of what was being sought. On the second tiret, to further clarify the issue, one delegation had suggested that the Secretariat prepare a note on the use of the terms "standards", "guidelines" and "recommendations" in the SPS Agreement. The Secretariat had subsequently circulated a technical note on this on 15 March as Job(01)/36.

12. He drew attention to the Director-General's second report on his work aimed at increasing the participation of developing-country Members in the work of the relevant sanitary and phytosanitary international standard-setting organizations, further to the General Council's request to him in this respect at its October 2000 Special Session. This report had been issued as document WT/GC/45 on 7 March 2001. He also wished to mention the well-attended workshop on standard-setting processes and developing-country involvement, held on 13 March just prior to the SPS Committee meeting, which had helped to clarify the operation of the standard-setting organizations and the current participation of developing countries. Delegations could count on the Director-General and his colleagues to continue their work in this area, and to keep the General Council informed of the progress made.

(b) Agreement on Agriculture

13. The consultations on agriculture had taken place on 6 March. As there were no paragraph 22 issues in this area, the focus had been on the four outstanding paragraph 21 issues listed in the compilation document.

14. The discussion on the first two turrets, which covered subjects also under discussion in the agriculture negotiations, had indicated to him that although the proposals remained on the table at the present stage, there seemed little hope of immediate progress on them in the context of the discussions on implementation. This was clearly an area he would need to come back to.

15. Two issues were listed in the compilation as having been referred to the Committee on Agriculture, the first of which, regarding the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, had been referred to the Committee on 15 December. A new proposal on the implementation of that Decision had been submitted by the proponents on 19 March in document G/AG/W/49 and discussed at the Committee meeting held on 29-30 March. He understood that the Vice-Chairman of the Committee on Agriculture intended to hold informal consultations to address the technical aspects of the three areas of the proposal: food aid, access to financing facilities, and technical and financial assistance to increase agricultural productivity and infrastructure. The General Council would, of course, receive a progress report from the Vice-Chairman at its May meeting, as mandated in the Decision of 15 December, and this matter would be on the agenda of the next Committee meeting, scheduled for 28-29 June.

16. The second issue had been referred to the Committee on Agriculture on 18 October 2000 and concerned the implementation of Article 10.2. At the consultations on this issue, the proponents had explained their approach to the work on this issue, both in the context of the regular work of the Committee and in its Special Sessions. A proposal had since been submitted by a group of countries to both the regular Committee on Agriculture and its Special Session, and it had been discussed at the regular Committee meeting held on 29-30 March. The issue had, of course, been included as an item on the agenda of the regular meetings of the Committee, as instructed by the General Council at its October Special Session. Since this would appear to be a very complex issue, he suggested that periodic reports to the General Council on progress made on this issue would be helpful.

17. He also wished to mention the issue of TRQ administration, which appeared under turrets 3 and 4 of paragraph 21 and on which the General Council had already taken a decision on 15 December 2000. Although this issue had been transmitted to the Committee on Agriculture on the basis of the 15 December Decision, he believed that the General Council could keep in view the possible desirability of a report by the Vice-Chairman to its July meeting on the status of submissions to the Committee of addenda to notifications.

(c) General Agreement on Trade in Services (GATS)

18. In the consultations on 9 March on issues in the area of GATS, the focus had been on the two turrets under paragraph 21, since no proposals were made under paragraph 22.

19. He believed that the discussion here had been rather encouraging. He would need to come back to the first turret on another occasion, and delegations were considering some ideas put forward on the second turret. He was hopeful that it might be possible to reach a wider understanding on these issues in future consultations.

(d) Agreement on Trade-Related Aspects of Intellectual Property (TRIPS)

20. The consultations on TRIPS had taken place on 13 March. Consistent with the thematic approach, the focus had been first on the seven tirets under paragraph 21, and later the two tirets under paragraph 22.

21. On the paragraph 21 issues, he believed it had been a rather mixed picture. He would clearly need to come back to these issues, some sooner rather than later. All of these issues remained on the table at the present stage. However, he had the impression that concrete progress could be hard to achieve on a number of these issues in the time-frame the General Council had set. He feared that on some issues, the likelihood of finding ways to resolve them in the present process was quite low. He also wished to note that some of the issues were under active consideration in the TRIPS Council, including some which had not in fact been officially referred to it by the General Council.

22. The issue of the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) had been referred to the TRIPS Council on 18 October 2000, and he noted that the General Council had urged the TRIPS Council to continue its ongoing work with a view to clarifying this relationship. At the TRIPS Council meeting held on 2-5 April, he understood there had been a further discussion of Members' submissions on this issue, including three new papers, so the work on this issue in that Council was clearly progressing.

23. On the fourth issue listed in the compilation, concerning the implementation of Article 66.2, which had also been referred to the TRIPS Council on 18 October, he wished to point out that it had been on the agenda of that Council's meeting in early April. However, the Members which had previously indicated their intention to submit proposals had still not been in a position to do so at that meeting, and the Council had agreed to revert to this matter at its next meeting in June. The Council had, however, received written information on technology capacity-building from UNCTAD, WIPO, UNIDO and the CBD Secretariat.

24. He wished to note also that the TRIPS Council had agreed to devote a full day to a special discussion of intellectual property issues relevant to access to medicines during the course of its next meeting, scheduled for June.

25. At the consultations on 13 March, there had been a good first reading of the paragraph 22 issues, and he would need to come back to them on another occasion.

26. Following these various consultations, he had held an informal open-ended meeting on 16 March at which he had reported on his activities. He had informed delegations that he intended to convene a Special Session of the General Council on Implementation in April, and that he would continue his consultations on outstanding issues and also consult with delegations on how to ensure that the process evolved in the most effective way possible. He had also mentioned that one of the focal points of these consultations would be the need to inject some fresh thinking into this process.

27. Since then, he had conducted consultations on the outstanding issues under the Agreements on Technical Barriers to Trade and on Customs Valuation, as well as on the issues listed under the heading "Cross-cutting issues" on page 10 of the compilation of outstanding issues circulated by the Secretariat, and he wished to outline his assessment of them.

(e) Agreement on Technical Barriers to Trade (TBT)

28. On 22 March he had conducted consultations on the issues raised under the TBT Agreement, starting first with the one outstanding issue in paragraph 21. This tiret called for a specific mandate to be given to the TBT Committee as part of its triennial work programme to address the problems faced by developing countries in both international standards and conformity assessment. The issue had

been referred to the TBT Committee on 18 October 2000, and the Committee had issued a detailed report on its consideration of it on 29 November in document G/L/422, following the conclusion of its triennial review, a full account of which could be found in document G/TBT/9. On the basis of the discussion in the consultations, it seemed that the work in the Committee was progressing well. Thus, he encouraged the Committee to continue its work, and to keep the General Council informed of progress.

29. Four proposals were listed under paragraph 22 on TBT, and there had been an interesting discussion on all of them. The first proposal, on the effective participation of developing countries in the setting of standards by international standard-setting organisations, appeared to be an issue which was being addressed in the Committee to the satisfaction of the proponents. During its Second Triennial Review of the Operation and Implementation of the TBT Agreement which had been concluded in November 2000, the Committee had adopted a Decision on principles and procedures for the development of international standards, guides and recommendations with relation to Articles 2, 5 and Annex 3 of the TBT Agreement. The Committee had also agreed to invite the relevant bodies involved in the development of international standards to provide regular updates on their activities at Committee meetings. He believed that in this case the General Council should simply keep itself informed of the progress made in the Committee.

30. The second tiret suggested that the provisions of Article 11 of the TBT Agreement should be made obligatory so that technical assistance and cooperation was provided to developing countries, and here again the ongoing work in the Committee would also seem to be progressing well. The Committee had agreed to develop a demand-driven technical cooperation programme related to the Agreement, with the aim of achieving more effective cooperation and coordination among donors to better target the needs identified by developing-country Members. However, in the case of the third tiret on self-declaration regarding adherence to standards by developing-country exporters, although the Committee was also working on this issue and was perhaps better placed than the General Council to make progress in this area, he believed that he would need to come back to it in his consultations. It would be useful if the proponents could reflect on their proposal with a view to perhaps refining it further.

31. The last tiret concerned a longer time-frame for developing countries to comply with measures regarding products of export interest to them. Here too, he would suggest reverting to this issue in further consultations, since he did not believe that it had been possible to fully clarify the issue on 22 March.

(f) Agreement on Implementation of Article VII of GATT 1994 (Customs Valuation)

32. On 10 April he had held consultations on the issues raised under the Customs Valuation Agreement. The three issues listed in the compilation under paragraph 21 had all been referred to the Customs Valuation Committee on 18 October 2000, and the Chairman's report on the Committee's consideration of these issues had been circulated on 7 December 2000 in document G/VAL/36. The full discussion in the Committee on these issues was reflected in the minutes of that meeting in document G/VAL/M/17, in which the high level of complexity of these issues was clear. In his consultations, the discussion had also been highly complex, and he would need to return to these issues on another occasion.

33. Three further issues were listed in this area under paragraph 22, and there had been a useful first reading of the proposals they represented. Here too, there were some complex issues on the table and it would be necessary to revert to them in further consultations. Indeed, the complexity of these issues made him wonder whether technical input from the Committee would not help the General Council's work on them. For the second and third tirets, it would be useful if the proponents could reflect on how the language of these tirets could be clarified.

(g) Cross-cutting issues

34. Four turrets were listed in the Secretariat's compilation under the heading of cross-cutting issues, and at the open-ended consultations he had held on 19 April on these turrets there had been a good discussion of the issues involved. The first three turrets from paragraph 21 addressed special and differential treatment, and a large number of statements had been made on the need to convert some S&D provisions into concrete commitments. However, it would be necessary to come back to these issues again, in particular the manner in which WTO might be able to address supply-side constraints as mentioned in the first turret.

35. The fourth turret concerned the issue raised by Saint Lucia on redistribution of negotiating rights in favour of small and medium-sized exporting Members. Although the discussion had resulted in some elucidation of the proposal, it would also be necessary to come back to this issue on a future occasion after further reflection.

36. In addition to the meetings he had held with the Chairs of the bodies he had mentioned in his assessment of the consultations, he had also met the Chairs of the Committees on Rules of Origin and on Subsidies. With regard to rules of origin, the only issue referred to the Committee was turret 1 concerning the deadline for the completion of work on harmonizing non-preferential rules of origin. This issue had been referred to the Committee on 18 October 2000, and the General Council had also taken action in its 15 December Decision, whereby the remaining work would be expedited so as to complete it by the time of the Fourth Ministerial Conference, or by the end of 2001 at the latest. The Decision had also called for reports by the Chairman of the Committee to each regular General Council meeting, and the first such report had been made by the Chairman at the February General Council meeting. A further report would be made to the May meeting and he would propose that the General Council take note of the report. He would also draw the attention of Members to the need to show the flexibility and political will necessary to expedite the remaining work on harmonizing non-preferential rules of origin.

37. However, it seemed clear to him that since the establishment of a new deadline, the work had gained momentum. During the March meeting of the Committee, consensus had been reached on 23 outstanding issues. This outcome was encouraging, compared to the results of previous negotiating sessions in which consensus had been reached on only a few items. The Committee had also adopted a new working method in order to speed up the remaining work. In line with this new method, the Chairman of the Committee had recently circulated his recommendations for solutions to about 400 outstanding issues, which would serve as a basis for negotiations during the next sessions of the Committee, scheduled in May and July.

38. Turning to the area of subsidies, in its December Decision the General Council had requested the Subsidies Committee to examine two matters: (i) all issues relating to Articles 27.5 and 27.6 of the SCM Agreement, including the possibility to establish export competitiveness on the basis of a period longer than two years; and (ii) the issues of aggregate and generalized rates of remission of import duties and of the definition of "inputs consumed in the production process", taking into account the particular needs of developing-country Members. The Committee had held a special meeting on 9 February on the procedures for its consideration of these matters, and had adopted a Decision on this question which had been circulated in document G/SCM/30. In that Decision it was foreseen that the Committee would direct the Chair to provide an interim report to the General Council with a view to concluding work by 31 July 2001. In order to keep the General Council informed of the status of the Committee's work on these issues, he intended to invite the Chair to make a short oral report, on the Chair's responsibility, to the General Council at its regular meeting scheduled for May.

39. Overall, everyone had rightly devoted considerable time and effort to this exercise. In the interest of brevity, this report had not gone into all of the details. If any delegation wished to have a

fuller account, the Secretariat and he were at their disposal. No doubt delegations would also take advantage of the present meeting to make their views known on any of the issues covered by the report if they wished to do so.

40. He believed that the picture overall was somewhat mixed. In some cases real progress was being made, either in his consultations or in subsidiary bodies. In many others, while it had been possible to achieve useful clarification of the issues at hand, concrete progress was clearly some way off.

41. The Director-General and he proposed to continue to devote considerable attention to implementation matters. There were still a lot of issues to work through. As he had said at the informal meeting on 16 March, it was necessary to ensure that the process evolved in the most effective way possible, bearing in mind the time-frame and context within which the General Council was operating – that of the rapidly approaching Fourth Ministerial Conference. He had referred before to the need to inject some fresh thinking, and he had been reiterating this point in various conversations he had had in recent weeks. In referring to "fresh thinking" he meant a new approach which all could at least live with. He was still considering this himself, but he was also very much looking to delegations to offer views on how to carry this important work forward in a really effective manner.

42. By way of introduction to the second item on the agenda of the present meeting, he wished to outline how he saw the organization of work on implementation issues over the months ahead, and in so doing, he wanted to make some general points. First, the General Council was guided in its work by the 3 May Decision of the General Council and the mandate set out therein. Second, it went without saying that this was an important aspect of the WTO's work, and that it remained on a separate track. Third, as had been underlined by the then-Chairman, Ambassador Bryn, at the 3 May General Council meeting the previous year, this was an action- and results-orientated process, which meant that constructive engagement from all Members was essential.

43. In this light, he believed that the way the work was organized needed to be aimed at fulfilling the mandate of completing the process no later than the Fourth Ministerial Conference. He wished to assure delegations that this was the objective to which he would be dedicating his efforts, together with the Director-General and the Secretariat. To attain this objective, it was necessary to be clear about the future work, but also to retain a reasonable degree of flexibility.

44. He wished to outline in more specific terms how he intended to proceed. First, it was clear that formal meetings such as the present one had an important place in the process the General Council was engaged in, although it was equally clear that such meetings would require considerable preparatory work if they were to yield meaningful results. It would therefore be his intention to convene another special session towards the end of June or early July, by which time he would aim to have covered all the issues remaining to be addressed. Beyond that meeting, he believed that one should think in terms of at least one further special session, and perhaps two. It seemed highly likely that it would be necessary to have a meeting in the autumn. The key would be to schedule meetings precisely as necessary in the light of progress.

45. In between special sessions the Director-General and he would continue and intensify the informal process in which they had been working up to the present. He foresaw that this informal process would involve consultations in various configurations on specific issues, combined with regular open-ended informal meetings in which the Director-General and he would report back on their consultations. These open-ended meetings would also provide an opportunity for broadening discussions on specific issues. They attached great importance to such meetings as a key element in the transparency and inclusiveness of the process.

46. In the forthcoming consultations on specific issues, he would continue working as he had been recently, along broadly thematic lines, ensuring that all of the issues which had been raised and which were reflected in the February compilation would be considered. This meant that before the next special session, he would be taking up all of the remaining issues in the compilation which had not been addressed thus far in 2001 – namely, the GATT 1994 issues, textiles, trade-related investment measures, anti-dumping, rules of origin, subsidies and safeguards, though not necessarily in that order. In addition, he would need to find time at some stage to revisit those issues they had already reported on but which required further work.

47. Furthermore, there was important work going on in the subsidiary bodies actively considering various implementation issues. He would be keeping in close contact with the Chairpersons of these bodies, and would be carefully monitoring progress there and encouraging their efforts to come to a timely result. It was important to ensure that there were adequate and timely reporting channels to the General Council.

48. Finally, he urged delegations to approach the question of process in a pragmatic way and with a focus on achieving results. He did not believe it was in anyone's interest to engage in a lengthy debate on process.

49. Delegations thanked the Chairman for the report on the informal consultations held to date and for his efforts in this regard, and expressed confidence in his leadership.

50. The representative of Thailand, on behalf of the ASEAN Members, said that Members needed to be engaged and realistic as well as flexible in their attempts to find acceptable solutions to each issue and concern. To move the process forward, the ASEAN Members suggested the following: first, the issues and concerns on which the General Council had agreed on 3 May 2001 should not be allowed to backslide. Regarding the issues sent to subsidiary bodies, the General Council should take decisions on the issues reported back, as well as set a deadline for reports on the pending issues in order to allow the General Council to take decisions. Intensive discussions should be held on the other outstanding issues, such as anti-dumping and subsidies, as soon as possible. With a view to completing the process before the Fourth Ministerial Conference, there should be three special sessions on implementation-related issues and concerns: in early June, at the end of July and at the end of October. Before each, informal meetings should be held as frequently as the Chairman felt necessary in order to intensify the consultations and to sustain momentum. The ASEAN Members wished to see implementation issues resolved in a manner satisfactory to all, but this would not be possible without engagement in good faith by all Members. The confidence-building process and a successful Ministerial Conference would depend partly on the outcome of the present process on implementation.

51. The representative of the European Communities said the Chairman's report provided an excellent basis on which to build. His delegation was confident that the process under the Chairman's management would bring successful results on implementation, and was encouraged by the work that had taken place in the informal consultations and also in the subsidiary bodies. There seemed to be a genuine desire to move forward beyond rhetoric and tactical considerations and to get to the heart of the substance of the issues. The Community took the issue of implementation very seriously and believed it was important to show that the WTO could find practical solutions to genuine problems. It was making major efforts to help developing countries to fully implement commitments made in the Uruguay Round and more broadly to integrate into the multilateral system. Its position on implementation was part of this policy – to progressively steer the WTO and the multilateral trading system towards being more responsive to development needs and priorities. It was necessary to recognise that the more practical progress could be shown on implementation, the more an environment conducive to further negotiations in WTO would be created.



52. The Chairman's report showed that a lot had already been done. Amongst other things, a set of decisions had been taken in December, extension of transitional periods had been agreed in some Agreements such as Customs Valuation, and there had been several proposals on agriculture and services on the guidelines for the next phase of the negotiations in those areas, which was an encouraging development. In addition, autonomous measures, such as the decision by the Community to give duty- and quota-free access to products from least-developed countries, and comparable actions by other Members, were also a good signal. At the forthcoming conference on LDCs to be held in Brussels, the Community would put much emphasis on deliverables, and hoped that autonomous measures would be multilateralized at a later stage. Furthermore, specific work programmes had been started in areas such as TBT and SPS to find ways to better help developing countries participate in standards-setting, as well as work in areas such as TRIPS to ensure good implementation. A start had also been made on developing more coherent approaches to technical assistance, including through strengthened coordination with other international agencies and donors, and new contributions to the Integrated Framework Trust Fund. In fact, the whole field of technical assistance to build capacity, and thus to help full and faithful implementation, was being addressed substantively and seriously in many areas of the WTO's work. In addition, more issues might also be rapidly agreed, for example the proposed decision in the area of customs valuation aimed at more coherent technical assistance, on which his delegation hoped that any remaining reserve could be lifted quickly. His delegation wished to underline all of this, since it had been said that very little progress had been made. While it was true that more could be done, it was also true that there had already been progress, if one looked at all these decisions and actions as a whole and recognised that implementation was about much more than the list of proposals in paragraphs 21 and 22 of the 1999 draft Ministerial text. Implementation concerned also a way of looking at the integration of developing countries into the multilateral trading system. As a result of all the work that had been carried out in this area, the development focus had become more pronounced.

53. The main question at the present meeting was how to move ahead in the coming weeks and months. It should be borne in mind that the different proposals were heterogeneous and that it might not be possible to treat them all in the same way or according to a single timetable. The recent consultations between capital-based officials of some delegations had been useful in helping delegations to understand this better. Many delegations recognised that among the outstanding implementation issues, there were some of a technical, procedural or administrative nature, which it should be possible to resolve rapidly. Other issues, however, were of a more clearly political nature, carried real economic implications, or would involve amending or rebalancing existing agreements, and therefore negotiation. In many cases, proposals to modify agreements or their interpretation could necessitate changes to Members' domestic laws and require ratification procedures. Therefore, delegations should start work on determining the most appropriate course of action for the different implementation issues, recognising that some of the more difficult questions might entail more substantive negotiation. In this respect, the Community wished to offer some specific ideas, but in doing so wished to stress that this was its own initial assessment, and that it was ready to continue discussions on individual issues to see what could be achieved and within what time-frames.

54. Having done its own initial assessment, the Community was convinced there were some proposals on which additional progress should be possible in the coming weeks or months. The most important of these would be a decision to extend certain notified trade-related investment measures (TRIMs) as foreseen in the TRIMs Agreement itself and which had been outstanding for some time. The Community believed a solution was not far away and urged adoption of a decision as quickly as possible. This would give a major boost to confidence and demonstrate the WTO's ability to respond sensitively to development problems. While it was not his intention to give precise lists of issues, there were other issues on which the General Council Chairman, through his consultation process, could seek early progress. Examples of this could include: (i) asking the Anti-Dumping Committee to clarify whether and how annual reviews under Article 18.6 of the Anti-Dumping Agreement could be improved; (ii) the transparency and notification proposals made in respect of rules of origin changes; (iii) the proposal for biennial reviews of the SPS Agreement, on which perhaps the SPS

Committee could reach a view and which could be considered further by the General Council; (iv) in the areas of both SPS and TBT, considerable work programmes were underway in areas such as technical assistance, participation of developing countries in standards-setting bodies and equivalence, and it might be possible in the near future to draw conclusions from that work that could be adopted by the General Council, or further guidance given; (v) in the area of customs valuation, a decision should be possible regarding more coherent technical assistance; discussions in the Customs Valuation Committee on specific implementation proposals had also yielded a better understanding of the different measures to combat fraud, and it might be possible to draw some conclusions confirming Members' views on the most effective means to tackle fraud; (vi) in the area of TRIPS, there had also been useful work in the TRIPS Council on the question of technology transfer under Article 66.2 of the TRIPS Agreement; consultations on this were continuing, at the end of which the General Council could see if anything needed to be acted upon or any more formal or operational conclusions reached; and, (vii) there had been a proposal recognising the particular nature of the balance-of-payments provision and this could be reaffirmed.

55. Regarding the other implementation issues, some were likely to necessitate the attention of Ministers at the Ministerial Conference, since they concerned clearly political matters. Some might be conclusively decided by Ministers, but others might need to be negotiated further after Doha, especially if they necessitated amendment of Agreements or changes to Members' domestic laws. Regarding issues that could be decided by Ministers at Doha, it was perhaps too early to list them definitively. However, by way of example, certain proposals relating to subsidies, anti-dumping, and textiles and clothing would require serious attention. The Community had an open mind on these questions and wished to make progress. Regarding issues that might need negotiations, some delegations had made it clear that even if this were to be the case, there should nonetheless be a clear political commitment to do this. The Community understood that point of view, and therefore proposed that the negotiating mandates that would be adopted at Doha should explicitly include a number of generic negotiating mandates addressing outstanding implementation issues. For example, there could be a mandate to revisit the special and differential treatment provisions of existing Agreements with a view to making them more operational. This could be part of an overall mandate to review existing WTO rules. Other proposals could have similar treatment. The Community looked forward to making concrete progress on implementation in the coming weeks, of which an extension on TRIMs would be a key element and crucial to the WTO's credibility. All delegations should try to put rhetoric behind them and not to fear a real and constructive debate as they started the preparatory work for Doha, on how to make progress on some of the more difficult issues, and in particular what kind of Ministerial decisions could be taken. In doing so, it would be possible to build upon the extremely useful conclusions of the General Council Chairman, and the Community would fully support him in his further consultations. It also supported the Chairman's suggestions regarding the organization of further work, in particular that it was necessary to find practical ways to move the process forward, and that the focus should be on results and on substantive issues rather than on process.

56. The representative of Pakistan said that according to the 3 May Decision, Members recognized that implementation issues had given rise to serious concerns among many developing countries. One type of concern was that the expected benefits from the Uruguay Round Agreements had not been realized, in part due to the way in which these agreements had, or had not, been implemented. Another was that the objectives of those agreements could not be fulfilled without certain clarifications, new understandings or supplementary measures. A third type of concern was that certain agreements or aspects thereof, in operational terms, were contradictory to the interests of developing countries, for example the patentability of life-saving drugs under the TRIPS Agreement. The 3 May Decision envisaged a three-stage process: to assess the existing difficulties, to identify ways to resolve them, and to take decisions on appropriate action. This process was to be completed by the Fourth Ministerial Conference. The then-Chairman of the General Council had said at its June 2000 meeting that the process on implementation was an action- and results-oriented process. All three stages of the process had to be completed by the Fourth Ministerial Conference. The

decisions that had to be adopted were those on the ways and means to resolve the difficulties. It would not be sufficient to reach conclusions that only a few issues could be resolved before or at Doha, and Pakistan could not accept consigning the majority of implementation concerns to some post-Doha process, as this would amount to a direct abrogation of the 3 May Decision. There was no justification for linking concerns on implementation to new or further trade negotiations, as these concerns related to the Uruguay Round package which had its own internal balance and which was supposed to produce mutual benefits for all participants. The implementation process was designed to achieve that anticipated and promised balance. Developing countries could not and should not be asked to pay twice for the mutual benefits anticipated under the Uruguay Round. The special and differential treatment promised to developing countries in so many of the Uruguay Round agreements could not be linked to new negotiations regarding WTO rules as the Community had just suggested, since all that was being asked was that these provisions be made operational.

57. Regarding the report made by the Chairman, the results reflected therein were not so much mixed as meagre, since very little progress had been made. Pakistan might have an evaluation different from that in the report as to "achievable results" – which depended on the political will of all concerned – and "little hope of immediate progress" – which was dependent on positive responses to developing countries' concerns. Pakistan wanted to move away from such value judgments, and expected progressive results as anticipated in the 3 May Decision. For example, it would have expected that on the eight proposals that had been dropped at the last minute from the decision proposed by the then-Chairman of the General Council in December 2000 due to difficulties encountered in the negotiations, at least an attempt would have been made to revive them and to see whether decisions could not be reached on them at the present Special Session. There were possibilities for decision, and on a broader spectrum than what the Community had envisaged, e.g. on SPS and TBT, TRIMs extensions, Article 7 of the Customs Valuation Agreement, and services. Pakistan was concerned that decisions on such issues had not been suggested or taken at the present meeting. Second, even where decisions were not possible, ways and means to resolve these issues had to be identified, and the present meeting could have been used to discuss these. For example, in agriculture, the principle of flexibility for developing countries could be recognized and later translated into something operational at a later stage. Priority in the implementation process should not be determined solely by feasibility or achievability, but by the importance of the issues for the countries concerned and for the system. In this context his delegation was very disappointed there had been no opportunity for a substantive and open discussion on the whole gamut of issues relating to textiles and clothing. For Pakistan, the results on textiles would be the touchstone for its assessment of the success or failure of the whole exercise on implementation. The Agreement on Textiles and Clothing was supposed to have been implemented in a progressive way, and Pakistan had therefore asked for accelerated integration and for improvements in the prescribed progressive liberalization ("growth-on-growth") of trade in textiles and clothing, as means of redressing the imbalance resulting from the failure to implement these provisions. It had also asked for an assurance against anti-dumping measures once the quotas were removed.

58. Regarding the future work programme, it was clear that intensive efforts would be needed both in formal and informal sessions if there were to be concrete results and the exercise completed in accordance with the 3 May Decision. Therefore, Pakistan suggested that three, and preferably four, special sessions be convened: one in June, one towards the end of July, and one in late September or early October. These would provide important deadlines for the action- and results-oriented process envisaged, and Pakistan hoped that decisions and action would be taken at each one of these sessions. Apart from these three meetings, a further special session should be devoted solely to the issues of textiles and clothing, as this was a sector of importance to a large number of developing countries and would be an important part of the implementation exercise. He underlined the need for clarity regarding the likely nature of the conclusions on implementation-related issues before his delegation could turn to new issues being put forward for discussion by a number of delegations. It would be very difficult for Pakistan to move beyond implementation issues and the built-in agenda until and

unless there was clarity, commitment and certainty that the implementation concerns of developing countries would be addressed and decisions for their resolution adopted by, i.e. before, Doha.

59. The representative of Singapore said that as the ASEAN Members' views on how to move the process forward had already been stated, he would comment on specific aspects of the Chairman's report which were of particular interest to Singapore. On the Customs Valuation Agreement, the report said that "in our consultations, the discussion was also highly complex, and we will need to return to these issues on another occasion", suggesting that the Chairman intended to have another round of discussions at a future special session. Discussions on the three issues raised under paragraph 21 were clearly documented in G/VAL/36 and G/VAL/M/17, which reflected the intensive discussions there had already been on these issues at the technical level, and nothing more needed to be said on them. The final paragraph of the Committee Chairman's report summed up the situation clearly: "While the majority of Members acknowledged the genuine difficulties and problems experienced by the proponents of tirets 1, 2, and 3, they failed to be convinced that the tirets themselves were appropriate solutions. Indeed, some of these Members had themselves experienced the same problems but had dealt with them by using existing mechanisms and instruments while remaining within the parameters of the Agreement." As noted in that report, Members had acknowledged that while there were genuine difficulties in addressing fraud, a different solution to those suggested in paragraph 21 would be more appropriate in resolving these problems. What was needed now was engagement on possible alternative solutions to this problem. Suggestions made at the 10 April consultations, as well as other alternatives, should be explored, rather than continuing to discuss the proposals in paragraph 21, since it was clear the latter were not workable.

60. On the three tirets in paragraph 22, it would be useful, as noted in the General Council Chairman's report, if the proponents could reflect on how the language of tirets 2 and 3 could be reworded to accurately reflect the concerns that needed to be addressed. Once these revisions were available, all three tirets should be sent to the Customs Valuation Committee for technical discussions.

61. Regarding the TRIPS Agreement, the report stated that "on some issues, the likelihood of finding ways to resolve them in the present process is quite low" and that some of the issues were under active consideration in the TRIPS Council. In fact, nearly all the issues listed in paragraphs 21 and 22 had been actively discussed by the TRIPS Council as well as by other international organizations such as WIPO. Thus, it could not be said there had been no serious engagement. These issues were highly technical and complex. The dilemma was whether Members wanted to duplicate the TRIPS Council discussions in the Special Session of the General Council. Some had suggested a political discussion on some of the important issues, but this would require agreeing on which issues were important. The TRIPS Council also had its own mandate and time-frame. The General Council might want to urge the TRIPS Council to intensify its work on issues mentioned in paragraphs 21 and 22. Progress there should be monitored, and the General Council Chairman might convene an informal session of the General Council to provide political guidance on how to break the deadlock.

62. The representative of Japan said his delegation's basic position on the question of implementation was that this was an important element of work leading to the Fourth Ministerial Conference, and Japan would continue to devote time and energy to completing it by Doha, as agreed in the 3 May Decision. It would continue to address all the issues raised in this context with a view to identifying elements for appropriate decision at Doha. It had allocated, and would continue to do so, additional resources in this area in the form of capacity-building programmes and technical assistance to facilitate implementation of various agreements by developing-country Members. It had engaged seriously in discussions on the extension of transition periods in the Customs Valuation Agreement and the TRIMs Agreement, where there had been important progress, and would continue those efforts. However, implementation was not the only important element that needed to be addressed in preparations for Doha. Given the limited time available, Members had to address implementation issues in the most effective and pragmatic way.

63. The Chairman's report showed the progress made since February. Members had engaged in good faith in the thematic exercises conducted thus far, which had brought useful clarification on the issues. On SPS and GATS, Members had been able to identify possible elements for agreement. As highlighted in different parts of the report, subsidiary bodies were doing substantive work on the issues tasked to them by the General Council, and a certain momentum had been generated in these bodies. On TBT, the Committee had substantively addressed, through the triennial review, points raised in both paragraphs 21 and 22. Japan shared the Chairman's view that this matter was best dealt with in the TBT Committee with the General Council monitoring this work. On the last remaining tiret in paragraph 22 on TBT, Japan was prepared to continue the discussion if the proponents could further clarify what they were seeking.

64. On the Agreement on Agriculture, the first two tirets fell within the negotiation mandate under Article 20 of that Agreement and could be addressed in the agriculture negotiations. A proposal to this effect had been tabled at the Special Session of the Committee on Agriculture, i.e. in the context of the mandated negotiations, by one of the proponents. The other two tirets were under discussion in that Committee, the Vice-Chairman of which would make a status report on the work on these two issues at the next regular meeting of the General Council. Japan had noted that the Members who had tabled proposals on these two issues were satisfied with the progress thus far. On rules of origin, it appeared that the Committee was accelerating its work under the new Chairman and this was welcomed. On Customs Valuation, the Committee had had a useful discussion and its report showed clearly the high level of complexity and technicality of the issues. On the question of fraud, it might be possible to find a practical way to minimize such actions. Other issues would involve changes to the current Agreement. On TRIPS, the TRIPS Council was doing good work. Japan would follow closely the special discussion in June on the issue of access to medicines, and agreed that Members would have to come back to some issues. In summary, the results of both the informal consultations and the work of the relevant subsidiary bodies were positive. However, Japan agreed with the Chairman's assessment that "[w]e still have a lot of issues to work through" and that on a number of issues "[f]urther consideration and consultations are needed" or "[w]e will need to return to these issues on another occasion." Consultations on paragraph 22 issues were characterized in the report as "first run" or "first reading", which indicated the need to have a second run or reading. Furthermore, there had as yet been no consultations on textiles and clothing, anti-dumping, subsidies and countervailing measures, safeguards and rules of origin. Japan was ready to address seriously the outstanding issues.

65. Regarding the way to move forward, Japan was prepared to continue to engage in the thematic approach to address outstanding issues, building on all the relevant results of past work, and agreed that given the time constraints, there was a need to inject some fresh thinking into the exercise. Pragmatism was needed in identifying what could be achieved by Doha. While discussions should continue in order to see how far one could go on each of the items on the list, there was a need to be realistic. Implementation had to be seen in a wider perspective. Doha was an important stop but was not the terminal. While it might not be possible to resolve all of the proposals in Doha, Ministers could at least take appropriate decisions to find ways to resolve them. On the future process, ensuring progress was more important than the number of meetings. It might be useful to have two meetings of the General Council before the summer, but the focus should be on informal consultations and the work of the subsidiary bodies, for which there could be a stocktaking in June or July and a decision then on how to move from there. As for the deadlines for subsidiary bodies, some of them already had timetables set out by the General Council, and since all of them were working with the date of the Doha Ministerial in mind, it was not necessary to set deadlines which might disrupt the work of these bodies. However, the General Council could closely monitor this work.

66. The representative of Paraguay said that his delegation reserved its right to comment on a future occasion on the results of the various consultations. Paraguay supported the continuation of the consultation process and for the establishment of deadlines for reports by the subsidiary bodies that were examining certain implementation issues. Paraguay's expectations upon joining the WTO had

been high, and had included the possibility that the adoption of international trade rules would make greater and more rapid economic development possible. As a developing country, it had benefited from the five-year transition period for implementing certain agreements, but the entry into force and implementation of all the Marrakesh Agreements had produced neither full nor exemplary results. In particular, Paraguay continued to await the benefits of free trade. Much remained to be done regarding the implementation of the various agreements resulting from the Uruguay Round, and Paraguay supported many of the proposals put forward by Members, particularly those in the Latin American and Caribbean Group and other regional groups. Regarding cross-cutting issues, in particular those relating to special and differential treatment and Part IV of the GATT as well as the Enabling Clause, these were an inalienable right on which developing countries had to be able to rely. The existing imbalances among countries with advantages and those without could not be corrected without special and differential treatment becoming part and parcel of all WTO Agreements. However, special and differential treatment had to be implemented in a manner that was generalized, non-discriminatory and non-reciprocal. Regarding the future work programme and the way pending issues should be tackled, all meetings should be open-ended so that delegations themselves could decide which ones to attend. Issues to be discussed at these meetings should not be categorized or assigned any order of priority, since they were all of intrinsic interest and equally likely to have a successful outcome. It was hoped that as many of these issues as possible would be settled in the short term, i.e. before Doha.

67. The representative of Peru said that his delegation appreciated the frankness of the Chairman's report and agreed with the need for fresh thinking. However, such thinking would have to take into account the context of the world economy which was currently in a critical state. Poverty was still growing despite trade liberalization, and a recent report indicated that protectionism was at its highest level since the creation of the WTO. Implementation issues were particularly important given this scenario, and without progress on these issues, developing countries would be the losers. Priority had to be attached to the asymmetries that had arisen among Members due either to a faulty interpretation of Uruguay Round agreements or to a lack of implementation of these agreements. In agriculture, work had to start on import subsidies, domestic support and measures for net food-importing developing countries. Other areas of priority were SPS, TBT, anti-dumping and textiles. In addition, special and differential treatment was a type of soft law that had to be made more concrete. If these problems were not resolved, it would add to the discontent of developing countries, and the Doha Ministerial Conference would not succeed in reaching its objectives.

68. The representative of Bolivia said that her delegation was concerned about the progress of implementation measures. Much more substantial and faster progress was required on implementation issues. There was no need to categorise issues as those to be considered before, during and at Doha, especially given the risk that this would prejudge the outcome of the discussions. Furthermore, the criteria for such categorization were neither obvious nor fair in any respect, and could prove discriminatory. It was essential that informal meetings were conducted with all due transparency and inclusiveness, with a view to restoring confidence in WTO negotiations. However, one might consider the idea of setting participation criteria. Her delegation shared the view of several other developing countries that the slow pace of implementation was due partly to a lack of political will on the part of the developed countries. All parties should act decisively to wrap up the process prior to the Ministerial Conference, given that the little time available had to be used as productively as possible. For this reason, the work had to go forward at a faster pace and efforts had to be made to adopt different and perhaps unconventional approaches to these problems. The consideration of implementation issues could not be held up on the pretext that they had been referred to the subsidiary bodies. These bodies had to submit their reports within tight but realistic deadlines. Likewise, the value of continued discussion of these implementation issues had to be set against the need to achieve results in the shortest possible time.

69. The representative of Switzerland said that his delegation fully shared the view expressed in the report concerning the mixed results of the implementation exercise thus far. Switzerland would continue to examine these issues in a constructive spirit. This was an important process to which Members had devoted a considerable amount of interest and energy and which had already yielded a certain amount of progress. The issues raised were essential and required an appropriate process. Switzerland was committed to pursuing this process, which it hoped would yield creative and mutually satisfactory solutions. Work on implementation issues had already resulted in the adoption in December 2000 of several decisions, even though the impact of these had thus far been limited. The consultations and work in the subsidiary bodies had provided indispensable clarification of the issues raised, and the reports of these bodies – on customs valuation, SPS, agriculture, TBT and TRIPS – had been very useful in this regard. Switzerland was convinced that further progress was possible, but only on the basis of a differentiated approach to the issues in paragraphs 21 and 22 in the checklist document. Issues would be differentiated, according to possible solutions, into four categories. In one category were specific proposals which might be acceptable but which would require an amendment to WTO agreements. Here it was not realistic to expect Member governments to engage in the legislative and parliamentary procedures such amendments implied, outside of a more complete package of decisions. An alternative would be interim or provisional measures that would not involve a formal amendment, but whose effects would largely be similar on the basis of a firm political commitment. For example, the proposal in the first tier under paragraph 21 regarding the Anti-Dumping Agreement could be taken on board only through an amendment to the Agreement, which would not be possible in isolation. However, an interim or provisional measure might take the form, for example, of the text negotiated in Seattle under the chairmanship of Minister Pettigrew of Canada, and at a second stage become law once ratified by Members. Switzerland would happily work in this way on the basis of the "Pettigrew text".

70. The second category concerned specific proposals that would not require formal amendment of Agreements but could be dealt with through, for example, interpretative statements adopted by consensus. An example would be the second bullet of paragraph 21 (c) concerning Article 10.2 of SPS Agreement, where a formulation his delegation could agree to had already been worked out in 2000. The third category concerned proposals of a more general scope that would require amendment of a series of agreements in order to establish a new balance. Switzerland would discuss these issues in the context of a new round of negotiations, on the understanding that the scope, content, relevance and systemic consequences of these proposals had to be specified, in order that mutually satisfactory solutions could be found. This was the case of the cross-cutting issues contained in the first tier of paragraph 21(m) on special and differential treatment. The fourth category involved general and specific proposals for amendment of WTO Agreements, which would fundamentally call into question the content and balance of existing Agreements. It would be impossible to take these into account without putting the entire system in jeopardy, even in the context of a negotiation. An example would be the proposal in the fourth tier of paragraph 21(b) to exempt low- and middle-income developing countries from Article 3.1(a) of the Subsidies Agreement. While it might be possible, in the context of a new round of negotiations, to take up the problems that had led to such proposals, it would not be possible to take up the proposals themselves. A dialogue could not be opened on the basis of a mandate that prejudged the outcome of negotiations. In summary, it should be possible in Doha to take two types of decisions. The first concerned decisions with immediate effect that went beyond what had already been decided in December 2000, and here the implementation exercise should look into the first two categories of issues, i.e. provisional or interim measures and interpretative declarations. The second concerned those issues outlined above in the third and fourth categories that could be part of a package including them in a new round of negotiations. He reaffirmed the importance his delegation attached to implementation issues and its commitment to finding solutions.

71. The representative of Turkey said hard work was being carried out in the area of implementation, and the report showed that the implementation machinery was working. However, it also showed that progress was slow. This was due in part to the political realities that conditioned the

work and the technical nature of the issues. Nevertheless, the report was forward-looking and results-oriented. It was necessary to reflect on how to continue that work in a business-like manner, instead of repeating well-known political discussions. Although the work was progressing slowly, there was still time to make progress before Doha. A work plan should be elaborated with a view to achieving as much as possible in that time, so that the ground could be prepared for appropriate decisions at Doha. To this end, Turkey suggested the following: (i) informal consultations should continue in the same format, with priority given to subjects where progress seemed more likely; (ii) there could be two or three more special sessions, with one being convened once all issues in the compilation of 20 February were addressed; (iii) all of the issues in the compilation should have been taken up by end-June or mid-July; at that time Members should assess the situation, taking into account the forthcoming Ministerial Conference as well as other activities in the WTO. In this context, it might be advisable to categorize implementation issues as pre-Doha, Doha and post-Doha, based on the results of the conclusions, which would allow for a number of decisions before Doha. In Doha, Ministers could hopefully resolve some additional implementation issues and take appropriate decisions on how to continue to deal with the remaining ones. There was no reason to be too pessimistic about the result of this exercise as long as constructive realism and diplomatic flexibility guided Members' actions.

72. The representative of the United States said that her delegation had engaged in the discussions on implementation issues and had found many of the clarifications and suggestions informative and useful. There had been progress in deliberations on some issues such as customs valuation, TRIPS, TBT, and capacity building, which overlapped into some of the implementation proposals. In 2000 a decision had been reached on a number of items of varying interest to delegations such as the rectification sought by Honduras regarding Annex VII of the Subsidies Agreement and the rules of origin deadline all were expeditiously working to meet in light of the enormous work to do there. The United States was pleased to note that consensus had been reached in the Rules of Origin Committee on 23 outstanding issues, reflecting a new momentum in the negotiations and the adoption of a working method. The Chairman's report also recognized the steady progress in ensuring increased developing country participation in relevant standards-setting organizations related to TBT and SPS work in the WTO. In addition, there had been continued progress in the work of the Customs Valuation Committee and the Council for Trade in Goods on the treatment of requests for extensions, while at the same time ensuring that capacity building and technical assistance measures were part of the solutions.

73. In the TRIMs area, her delegation had worked persistently to find ways to resolve these issues and in 2000 had helped fashion approaches to address each request in the light of US trade concerns and those of the countries requesting extensions. It had now been a year since those extensions had expired, and the US had exercised due restraint. It remained committed to building on the proposed solutions that had gained momentum in 2000 in order to address TRIMs, without prejudice to US rights under the WTO Agreements. The Chairman's report on other specific consultations in the various sectors was accurate and included ideas on how to proceed next, including how to deal with issues not yet discussed. The US had participated in these consultations, had listened carefully, had asked questions and had learned more about the proposals. Implementation concerns were a critical issue for every Member, in particular developing countries, and the present exercise had to ensure the full and faithful implementation of the agreements. The 1998 Geneva Ministerial Declaration highlighted this as part of the General Council's work programme. The US would continue to engage positively in this work with a view to identifying and achieving what was appropriate. In many cases, the proposals had been rigorously examined and debated in the responsible subsidiary bodies. In some cases, while not all, there had been a resolution of the issues raised. The US had also suggested in the consultations that the TBT Committee and the Secretariat invite the standards-setting organizations to include, in their reporting, information about their own technical assistance available for bringing developing country representatives to their meetings. As the Chairman's report noted, the work done in that Committee in the context of the Triennial Review had resulted in a decision on principles and procedures for the development of international standards, guides and



recommendations in relation to Articles 2 and 5 and Annex 3 of the TBT Agreement. Members should be kept informed of progress on this. On certain other proposals in this category the US would examine options.

74. On agriculture her delegation had taken note of the Chairman's status report concerning net food-importing developing countries, and looked forward to the progress report concerning the additional proposal for this tiret from the Vice-Chairman of the Agriculture Committee at the General Council's May meeting. The US also supported the Chairman's suggestion that there be periodic reports on progress on work concerning implementation of Article 10.2. On TRIPS, much was still to be discussed, but the US had indicated in the TRIPS Council and the informal consultations its views on how to approach the proposals. In any case, in some instances the TRIPS Council would continue ongoing work, such as its examination of the relationship between the TRIPS Agreement and the Convention on Biological Diversity and the examination of proposals to compliment the existing implementation of Article 66.2 of the Agreement. Her delegation was also pleased to have been able to play a key role in working with the African Group to achieve agreement on its proposal to hold a special discussion in the TRIPS Council on the flexibilities inherent in the TRIPS Agreement to deal with health crises. In the informal consultation on services, Members had explored new language, which still needed to be examined, concerning Mode 4 commitments, and had discussed the proposal concerning GATS Article IV. However, Members should examine whether both these proposals had now been satisfied in the context of the agreement on Negotiating Guidelines and Procedures in the CTS. Regarding Mode 4, the US and a number of delegations had also made additional proposals in the services negotiations. Of course, the US intended to meet fully its existing commitments in Mode 4.

75. Concerning other proposals such as the Customs Valuation tirets in the Secretariat compilation, the technical discussions had helped the US to understand better the concerns underlying the proposals. It was necessary to take a step back and look at these proposals further in light of these discussions. On other issues where there had been only a first reading, the US looked forward to closer examination and assessment. The Chairman had reported on the latest developments on implementation issues being examined in sub-bodies and not yet taken up in his consultations, in particular, work in the Subsidies Committee, and there had been a report on recent progress in the anti-dumping Ad Hoc Group on Implementation. Anti-dumping experts had worked together constructively to finalize and approve a third recommendation paper outlining indicative guidelines for "best practices" in a particular area of anti-dumping law administration. This paper, on an "Indicative List of Elements Relevant to a Decision on a Request for Extension of Time to Provide Information", had been adopted by the Anti-Dumping Committee a few days earlier. It provided an indication of the factors and criteria that authorities should take into account when deciding whether to grant or deny requests by exporters to have additional time in which to supply information to investigators. This paper followed two other recommendations previously developed and approved over the past two years – one on the timing of notifications to be made to the foreign authorities prior to the initiation of an investigation, adopted in October 1998, and a second on the periods of time for the collection of dumping and injury data, adopted in May 2000. The Ad Hoc Group on Implementation had also made substantial progress recently on yet another set of recommendations, concerning the kinds of information to be included in preliminary affirmative determinations of dumping and injury. While some might claim this work was about process and procedures of anti-dumping actions rather than methodology and substance, the work undertaken had been decided by consensus, and the importance of this activity should not be undervalued. The procedures of the anti-dumping investigative process went to the heart of whether the anti-dumping authorities' actions, and the rules they followed, were based on openness and transparency, accorded full rights of participation, and assured due process. These issues mattered in terms of determining the true impact of anti-dumping actions, and helped give all Members greater confidence that legitimate interests were served regarding both market access and protection from injurious, unfair trade.

76. Members had to think carefully about how to manage the process between now and Doha, especially given the work remaining to do. As indicated in the Chairman's checklist on preparations for that meeting, implementation was integral. Even if work was organized on parallel tracks, this had to be done in a manner that would utilize resources and time effectively. The US welcomed the Chairman's proposal on this issue. The process had worked well and there was a need for discussions under the thematic approach on issues not yet examined in 2001 and on some that had already been examined. The Chairman should continue to hold a wider open-ended informal meeting following the smaller consultations for transparency purposes, as this method would help ensure inclusiveness on a topic important to all. Concerning further work, it could be useful to lay out a general idea of the further process including the number and timing of other special sessions. Given what remained to be accomplished, the US could envisage up to three such sessions, with full preparation through informal meetings before each. The spacing of these meetings should be left up to the Chairman, but there could be perhaps one in June, another in July, and another in October. The US also welcomed the suggestion that the scheduling of any implementation meetings indicate the topics to be addressed.

77. The representative of Zimbabwe, on behalf of the African Group, said that implementation was a critical subject for this Group, and that its resolution would go a long way towards instilling confidence in the multilateral trading system. There was a need to resolve all outstanding implementation issues not later than the Fourth Ministerial Conference, as envisaged in the General Council Decision of 15 December 2000. To achieve this, the Chairman should continue consulting Members with a view to resolving these issues, and the subsidiary bodies should be urged to expedite the work referred to them. The African Group appealed for the active participation of all Members, especially the developed countries, in the search for solutions to the legitimate implementation concerns contained in paragraphs 21 and 22. He said that in past sessions of the Council there had seemed to be a growing unwillingness by trading partners to engage in the debate, and suggestions for a new mechanism to address implementation issues. The African Group insisted that the special sessions of the General Council were the appropriate mechanism to address this issue, as mandated by the General Council Decision of 3 May 2000, and emphasized the critical importance of ensuring that S&D provisions in the Uruguay Round Agreements were operationalized and made binding. This would make a positive contribution to the equitable integration of developing countries into the multilateral trading system. In the same manner, trading partners needed to accept the principle of revisiting the Uruguay Round Agreements in order to bring equity, balance and mutual benefits.

78. The representative of Mauritius said the mandate on implementation was an important part of the General Council's work that had to yield results. The first set of issues that had been taken up thus far were those considered to be the most achievable, and progress could surely be made on these as well as on others currently under consideration. A number of these were extremely complex, and the reason a number of them had been referred to subsidiary bodies was their highly technical nature. Such work was now underway and the General Council should monitor progress through regular reports from the respective Chairpersons. This would also allow an assessment of how near solutions were and whether the General Council's support was needed for a final resolution. There remained a large number of issues that required collective work and the proper approach. In this regard, it might also be useful to establish a structured and focussed process, be it a work programme or road map or whatever, for the work that had to be done between now and Doha, in order to complete this work in time. Progress had been made in the thematic consultative approach, and the Chairman should intensify those consultations. Mauritius supported an inclusive approach, considering the large number of issues on the table, and hoped that the present discussion would yield a clear sense of direction.

79. The representative of Romania, also on behalf of Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Poland, Slovak Republic and Slovenia, said that given the importance Members attached to implementation, each issue raised in this area should be adequately considered. These countries therefore supported the Chairman's proposal for a road map. Given the large number and complex substance of the issues remaining to be addressed and resolved, in light of the 3 May and 15

December 2000 Decisions, they strongly supported the idea that Members should agree on a realistic approach on how to deal with the problems ahead. There were areas where progress had been made, and the focus now should be on further progress possible between now and Doha. In order to maintain the positive trend to date, and given that further reflection and political will would be needed, these countries supported a more pragmatic and results-oriented approach aimed first at determining the issues that could be resolved up to the Ministerial, thus creating a basis for results at Doha. In the meantime, Members could consider ways to address the remaining issues after Doha. The implementation process should be handled in such a way that it served as a building block, not a stumbling block, for the preparation of Doha. The Chairman should continue his consultations in order to find appropriate solutions, and could count on these countries' full support.

80. The representative of Hong Kong, China said that the Chairman's report was a faithful reflection of where things stood on the various implementation issues, and where appropriate, indicated possible ways to handle certain issues in future. This was very useful for the organization of future work. The report indicated that enormous efforts had been made in moving matters forward. Progress had been made on certain issues, and it was hoped that at least some of the outstanding issues could be addressed and resolved by the time of the next special session. One could not underestimate the difficulty and technical complexity of the issues involved. There was indeed a need for fresh thinking, but also for fresh positions and fresh action. His delegation welcomed the initiative outlined by the Community and looked forward to hearing more details from it in the coming consultations, especially on those related to textiles and clothing. The 3 May Decision required that the implementation process be completed not later than the Fourth Ministerial Conference. This was only six months away, and time was running out. His delegation wanted to emphasize the importance of the satisfactory completion of this process by the time of Doha. Failing to do so would adversely impact on other areas of the WTO's future work programme. This political reality should be recognized. On the other hand, to adopt a standstill or roll-back mode on other parts of the WTO agenda because of the current difficulties on implementation was not in the long-term interests of the system. The Chairman's suggestion on the number of meetings to be held prior to Doha seemed reasonable, but more important than the number of meetings was Members' collective ability to compromise, to address one another's concerns, and to achieve results that would further the objectives of the organization.

81. The representative of Hungary said that the Chairman's report was a fair description of the situation. His delegation could go along with the road map proposed by the Chairman. The results achieved thus far showed that progress could be made. For this it was necessary to make a certain distinction among the very different kinds of issues and problems in the implementation basket. Hungary was confident that on the basis of the Chairman's consultations and on the basis of progress made in some subsidiary bodies, it should be possible to identify certain issues of a technical, procedural or administrative nature which could be resolved relatively easily and thus create positive momentum in this delicate area. Hungary shared the view that some issues would require renegotiation of existing agreements. It had to be ensured that the negotiating mandates to be adopted at Doha would adequately address the outstanding implementation issues. Any anticipation of agreement on all implementation issues by the time of Doha was unrealistic and counterproductive. Only a reasonable and pragmatic approach would bring about the real progress in this area that would create the necessary confidence for a successful meeting in Doha, including a decision to launch further negotiations in the WTO.

82. The representative of New Zealand said that from the time of the Geneva Ministerial Conference the status and significance of implementation issues had been lifted to a new level. It was evident that these matters had been appropriately mainstreamed within the WTO. His delegation had examined thoroughly all of the proposals – had analyzed them, thought through the consequences of the ideas, and communicated openly and candidly in both informal and formal meetings on these issues. It was vital for all Members to similarly address these issues and to be clear, constructive and objective in their statements on them. The WTO would only make progress – whether on

implementation issues or on other important aspects of the future work programme – on the basis of consensus. Any proposal had to be examined, evaluated and discussed, and would not always be accepted. Alternatively, it might be modified to accommodate the needs and concerns of Members. The Chairman's report showed the in-depth nature of the discussions on the various issues over recent months. In some cases there was discernible progress, for example the heightened consciousness of the importance of progress on implementation issues reflected in the decisions and recommendations in some subsidiary bodies. The recommendations and decisions adopted by the TBT Committee regarding international standardizing bodies were testimony to this. Useful progress had been made within the CTG in respect of the TRIMs extension question, and efforts were underway to secure results in this area.

83. In his delegation's view any proposal, including on implementation, should include certain essential criteria. One was consensus, the achievement of which required a transparent and timely process to address the issues. While there had been a great deal of exchange on the topics, it was necessary to move to a more constructive approach soon. Another criterion was that changes should not weaken, undermine or confuse existing WTO provisions. This did not mean there should never be change, but change should evolve on the basis of experience. The fundamental aim for all Members had to be to strengthen and enhance the WTO Agreements. Thus, what was needed was an early consensus on exactly which areas of the implementation agenda would truly be beneficial and would add in a sound way to the economic prosperity of WTO Members. While there were differing opinions on this, hopefully there were areas where Members could agree that specific decisions or recommendations for action would move the rule-based system forward in a productive way. A further supplementary criterion was that there could be no renegotiation of elements of existing Agreements entirely on their own. Many of the implementation issues on the table had been proposed to be addressed in the context of a broader process. Renegotiation of any WTO provisions in the absence of other forward-looking and serious trade liberalizing elements of a work programme would not be possible. The crucial and prime criterion in the Geneva Declaration was that "the work programme shall be aimed at achieving overall balance of interests of all Members". Without this one would get nowhere. Members should very soon be clear about which outstanding implementation issues could be dealt with by consensus, about the steps necessary, and about the achievable time-frames in which to make progress on specific issues. The continuing detailed consultations on the outstanding issues should soon indicate which issues could be moved forward, and whether before or after the next Ministerial. While classification or categorization was a factor to consider from a preparatory point of view, what was important was to sincerely address the essential substance and content of the proposals, and workable time-frames. Before long it would be necessary to make a balanced overall assessment of what could be done and when. New Zealand looked forward to further progress reports from the Chairman. The best way forward would be to give discretion to the Chairman to hold informal open-ended consultations on implementation over the next several weeks, taking into account views expressed by Members at the present meeting, and to hold a further formal General Council Special Session on Implementation by the end of June, so as to establish the progress made and the necessary work still to be advanced. In this regard his delegation supported the Chairman's proposal. There was a need for a newly invigorated process that reflected the fresh thinking the Chairman had requested.

84. The representative of India said his statement would cover three broad aspects: the Chairman's report on the current status of consultations on implementation proposals, a response to some of the points made by other delegations, and the organization of future work. While his remarks would cover only a few of the agreements, this was due to the shortage of time and not to a lack of interest in the consultations on other agreements. India also had a keen interest in areas that had not yet been the subject of consultations, such as textiles and anti-dumping.

85. On customs valuation, the report seemed to indicate it would be necessary to return to these issues on another occasion, with a view to reaching a suitable decision. While these issues were highly complex, there was acknowledgement of the genuine difficulties and problems experienced, in

particular in respect of the first tiret on exchange of information on export values. India looked forward to further consultations in this area in order to identify solutions that could deal with the problems identified, since existing mechanisms and instruments were not at all sufficient. One delegation had said that regarding the first tiret of paragraph 21, the solutions proposed were not appropriate. The Customs Valuation Committee Chairman's report clearly acknowledged the genuine difficulties faced and problems experienced in respect of the three tirets in paragraph 21, but some Members were not convinced that the solutions proposed in the tirets were appropriate. These Members, after acknowledging the genuine difficulties faced by the proponents, were arguing that the mechanism they themselves used to deal with these difficulties should also be used by the proponents, even though the problems faced were different. A further problem was the fact that the structure of the Committee Chairman's report coupled India's introduction of its proposals and its responses to Members, and then presented questions and concerns of Members, giving the impression that not all questions/concerns could be addressed by the proponents. However, India had answered all questions. Whether Members had found those answers acceptable or convincing was another matter.

86. Regarding the paragraph 22 tiret issues under the Customs Valuation Agreement and whether these issues should be sent to the Committee for technical consideration, he noted that the next meeting of that Committee was scheduled only for October 2001. Therefore, if they were referred to the Committee there should be a clear understanding that it would meet in a special session in June and report to the General Council by the end of June. India was grateful for the Chairman's suggestion that the proponents reflect on how the language of the second and third tirets could be clarified, and would work on this. Regarding the implementation proposals on paragraph 21 issues under the TRIPS Agreement, the Chairman's report struck a pessimistic note. India, however, was of the view that with hard work, meaningful solutions could be found there. Regarding the relationship between TRIPS and the Convention on Bio-diversity (CBD), the Chairman of the TRIPS Council had submitted a report on his own responsibility in December 2000, from which it was clear that an examination of this issue had barely begun and was far from complete. The TRIPS Council should be asked to report back to the General Council after its June meeting. In this context, some of the proposals in paragraph 21, especially those relating to exceptions to patentability and access to essential drugs, were currently in the public eye. India was pleased that the question of access to drugs would be discussed in the TRIPS Council in June. That Council should be asked to make a comprehensive input to the General Council, especially on access to drugs and exceptions to patentability, as well as the relationship between TRIPS and the CBD, immediately after its June meeting. However, given the highly political nature of TRIPS issues, it might be necessary to have a special session of the General Council to deal exclusively with these issues in the light of the June meeting and the report that the TRIPS Council might submit. The implications of the TRIPS Agreement in various areas were engaging the attention of governments, NGOs and civil society, and Ministers at Doha could not ignore this issue.

87. Regarding the SPS Agreement there had been good discussions on those tirets, but India was surprised that the Chairman's report did not refer to the question of the longer time-frame requested by developing countries for complying with new SPS measures, as this was an area where there was a good prospect of reaching consensus if good faith efforts were made. Regarding the Agreement on Rules of Origin, his delegation had taken note of the US statement, and was aware that the harmonization work was supposed to have been completed by July 1998 and that the deadline had been missed twice so far. That deadline should not be missed a third time. He reminded Members that in case slippages were observed in the work in the Committee on Rules of Origin, or slippages were reported by its Chairman, India would have to seriously consider the remaining implementation issue of how to deal with rules-of-origin provisions put in place since January 1995 by various Members. Regarding the Subsidies Agreement, several issues had been referred to that Committee and India looked forward to an early report from it.

88. Regarding points made by other delegations, the EC had said its objective was to progressively steer the WTO to be more responsive to the concerns of developing countries. He

trusted that the concept of progressivity enunciated by the EC was not in any way linked to the concept of progressivity used in sectors like agriculture and textiles with unfortunate consequences for developing countries. The EC had also stated that good things had been done in December 2000 and that much had been done since then. However, even the then-Chairman of the General Council and the Director-General had described as modest the decisions taken with regard to implementation in the December Special Session. India had described the December achievement as lower than its lowest expectations. While the EC had spoken extensively on technical assistance, most of the implementation proposals were not related to technical assistance. For example, regarding the impairment of a developing-country government's ability to provide access to drugs at affordable prices to its population because of certain provisions of the TRIPS Agreement, technical assistance was not the answer. While technical assistance was important, it was not an adequate answer to implementation concerns. The concern of developing countries was that they were not receiving the benefits intended from some of the agreements, that some of the agreements required re-balancing, and that special and differential treatment provisions had no operational content or legal enforceability. Meaningful ways of addressing implementation issues and concerns raised by a large number of developing countries had to be found. India agreed with the EC's statement on the need for transparency when WTO Members made changes to rules of origin provisions during the harmonizing programme, and recalled the statement by a number of Members, including India, in the DSB regarding the changes to textiles rules of origin agreed to by two major trading partners without adequate transparency.

89. Regarding the TRIPS Agreement, India took note of the US statement with regard to the available flexibilities in that Agreement. However, it was concerned by remarks by the EC, Japan, Switzerland, Canada and New Zealand, among others, which implied that the various implementation proposals should be categorized in order to decide what could be done before Doha, at Doha and after Doha. The 3 May Decision of the General Council clearly implied that Members should resolve all implementation issues and take appropriate decisions in respect of those issues at the latest by the Fourth Ministerial Conference. Some of the suggestions for categorization, or proposals for what amounted to re-negotiations, could imply annulling that consensus-based Decision. His delegation had always said that what was needed was good-faith, serious and sincere efforts to deal with implementation issues. Any *ex ante* classification would dilute the 3 May Decision, and attempts would no doubt be made to say "everything after Doha only". Regarding the statement by New Zealand, these proposals had been on the table for over two years, and after the Seattle Ministerial the Director-General himself had said that in the absence of meaningful resolution of implementation issues and concerns, developing countries would lose confidence in the system. New Zealand had also said that the developing countries' concerns had been mainstreamed into the system, but what was needed were meaningful resolution of implementation issues and concerns. There had to be meaningful engagement on the part of major trading partners, and good-faith efforts had to be made to find solutions. Switzerland had said that the proposals would in some cases amount to amending the agreements and, therefore, they were not a question of implementation. However, once it was agreed that there was a legitimate concern or difficulty, efforts had to be made to identify solutions. He noted that during nearly 48 years, the GATT 1947 had never been amended. There had always been interpretative notes or understandings, once solutions had been identified on the basis of consensus. For example, in the maritime services negotiations the membership had found a way to deal with a ticklish issue by resorting to suspension of the fundamental MFN obligation, which stood suspended until the completion of the next round of services negotiations. The point was that to deal with the concern of a powerful Member, the membership had found a solution which was said not to constitute an amendment of the Agreement. Where there was a will, there was a way. If solutions could be identified for the implementation issues and concerns, appropriate ways of fitting them into a proper legal framework, even without amending the agreement, could be found.

90. Regarding the future work programme, the Geneva Ministerial Declaration linked implementation of individual agreements to the realization of the objectives of those agreements. The 3 May Decision clearly stated that the General Council would assess the existing difficulties, identify

ways needed to resolve them and take decisions for appropriate action. The then-Chairman of the General Council had said that this was an action- and results-oriented exercise, which implied that this was not merely a debating exercise. The Director-General had hailed that Decision as "designed to raise confidence in the multilateral trading system by addressing the needs of developing countries", and the General Council Chairman had indicated that he was fully committed to the ongoing exercise for finding solutions to implementation issues and concerns. India was also pleased that the Chairman had underscored the importance of formal meetings. The very fact of convening a formal meeting enhanced the level of preparedness and seriousness in respect of any item of work, and India endorsed Pakistan's suggestion that there should be at least four formal meetings before Doha.

91. The representative of Brazil recalled a statement by a German Minister that either the next round of negotiations would be a development round or else there would be no round. These words were directly relevant to the present process. Although it was possible to look at implementation from various perspectives, from the point of view of developing countries, implementation was about redressing the development deficit they had inherited from the past. It was not sufficient to say that everything had been negotiated, because while this was true, the result had turned out differently than anticipated. While implementation was not the only topic at present, together with the built-in agenda it was the most important topic, not only in itself, but also to determine whether there would be broader negotiations. The Chairman's suggestions for the organization of further work were commendable, in particular the details of his intentions with regard to the issues he would take up. While at the beginning of the present process there might have been a need for an exercise of categorization of issues, this was no longer the case. The success of the process would be measured against substantive issues such as subsidies – especially export credits – and anti-dumping, and not only against the number of issues. Developing countries expected more than being told the issues were difficult – they expected counter-proposals. This implied recognition that the issue of implementation was a legitimate one and that it should be addressed. It was not appropriate to talk about a development round and, at the same time, not recognize that the issues raised by developing countries on correcting the development deficit were legitimate. To suggest that these issues should be negotiated against other issues was not the way to approach a development round. The implementation process was aimed at addressing mainly the concerns of developing countries about the results of the Uruguay Round, and was not a wholesale revision of existing agreements, since most of the proposals were very specific. While perhaps not all of the issues raised would be resolved in this process, this was as yet not known. What needed to be clear at this stage was what could be done in the substantive areas raised.

92. The Chairman's report was accurate in general, but during the consultations on SPS Brazil had made suggestions orally on the question of emergency measures in the context of Article 10.2 of the SPS Agreement which were not reflected in the report. His delegation would submit these in writing as an input to further consultations. On TRIPS, Brazil concurred with others on the lack of progress in the work aimed at clarifying the relationship between the TRIPS Agreement and the CBD. It welcomed the session of the TRIPS Council in June which would allow a discussion of intellectual property issues relevant to access to medicines, and had taken note of the US statement to the effect that the TRIPS Agreement provided flexibility for measures related to health, which had always been Brazil's conviction.

93. The representative of Malaysia reiterated the importance of resolving implementation concerns before the Doha Ministerial in accordance with the 3 May General Council Decision. Whether progress had been achieved or not depended on one's perception. Any proposal that had the effect of diluting the 3 May Decision, which had been taken with the full participation of all, or any proposal calling for a categorization of the outstanding implementation issues, was unacceptable. Many of these issues, for example in the area of subsidies, had not even been taken up in any meaningful discussions. Proposals for categorization were merely attempts to circumvent the real issue of finding solutions to these concerns. Not addressing and resolving these issues before Doha could seriously impinge on the preparatory process, and could lead to grave consequences.

94. One of the proposals that had yet to be taken up, and which reflected the imbalances in the Subsidies Agreement, called for certain development programmes implemented by developing countries to be considered as non-actionable within the meaning of Article 8 of the Subsidies Agreement, or if Article 8 was considered to be a dead letter, then within the meaning of "Article 8 type" subsidies. It was common knowledge that developed countries provided a range of subsidies in the form of grants, either monetary or otherwise, to investors. These were given up front, normally in persuading a potential investor faced with the difficult choice of selecting a location for his/her investment. While one could argue that this option was also open to the developing countries, the latter had limited resources for providing such grants as incentives. Ironically, the fiscal incentives provided by a large number of developing countries were considered actionable. These incentives were provided only to help offset the inherent disadvantages faced by investors in developing countries, such as the lack of suitable infrastructure, and were not provided up front as is the case of grants. This was one example of several proposals in the area of subsidies that had to be addressed and resolved before Doha. Providing real solutions to address inequities and imbalances such as this would go a long way in boosting the confidence of developing countries in the multilateral trading system and the WTO. Regarding issues that had been relegated to subsidiary bodies for their technical inputs, an initial round of discussions had taken place in the Subsidies Committee. While the sense of engagement and commitment by trading partners in those discussions was appreciated, the questions posed by some Members were not of a technical nature and were unnecessary to finding technical solutions or recommendations. As to the organization of further work, there should be three formal sessions, and this programme should be finalized immediately so as to lend urgency and seriousness to the process.

95. The representative of Australia said that since the Seattle Ministerial, all had participated in many hours of discussion addressing implementation issues, consistent with the historical priority WTO Members as a whole accorded this issue, and with decisions taken since Seattle to address outstanding implementation issues and concerns with a view to taking decisions for appropriate action not later than Doha. Despite this there had been frustration across the membership at the results achieved so far – frustration by some demandeurs who felt that decisions to date had been modest and that few new decisions were in prospect, and frustration by those who were not demandeurs and queried whether any of the implementation proposals, as crafted prior to Seattle, could effectively be pursued outside of the specific context that had then prevailed. It seemed clear that the level of ambition and scope of demands on implementation were associated by many developing countries with their concerns over the level of ambition of some delegations for the start of new negotiations in Doha. While this defensive positioning was understandable, it had led to an impasse. Therefore, for a range of substantive and tactical reasons, positions on implementation would continue to be very difficult to bridge, and there was a need for some fresh thinking to find a way out of the current impasse. Whatever approach was taken to address implementation over the coming months should be consistent with the 3 May Decision, and should allow each proposal on the table to be addressed in sufficient detail to establish whether there was a consensus to take decisions for appropriate action by Doha. Australia remained open to looking at any constructive suggestions on how to do this.

96. In reviewing the proposals currently on the table, it should be recalled that many of them had been developed in the expectation that negotiations would be launched in Seattle, and that some Members had been pressing for those negotiations to be comprehensive and ambitious. It should also be recalled that paragraph 22 proposals had been specifically related by their drafters to the expectation that they would be addressed in the first year of negotiations. Regrettably, a round of negotiations had not been launched, thus there had not been a context in which to satisfactorily address demands that had been crafted for a new round. Encouragingly, however, decisions had already been taken on some implementation demands which, while modest in relation to the scope of the proposals, should not be discounted. However, many proposals raised technically complex issues and had been referred to the relevant technical committees for advice to help delegations develop positions on them. Furthermore, the point had been made many times, and remained true, that where proposals involved changes to WTO rules and/or relevant domestic legislation, such changes were



more easily made in the context of broader negotiations. Taking these factors into account, Australia shared the Chairman's overall assessment that the current picture was somewhat mixed: progress was being made in some areas, but in others more work was needed. Some proposals needed to be refined to make their intent and effect clearer. Members had to develop a work programme that would allow time to address outstanding issues so that decisions could be taken on all implementation-related issues by Doha. In structuring this work, the programme of meetings should not be too rigid, but should also avoid creating the impression that work on implementation was not being accorded the importance it deserved, as set out in the May 1998 Geneva Declaration. Australia supported the Chairman's suggestion in this regard.

97. The representative of Guatemala said it was important to have a fully structured work programme that would include the results of the subsidiary bodies' work. Guatemala was concerned over the slow progress of that work, and hoped that results from it would be known by July at the latest. The arbitrary categorization of implementation issues was unacceptable as it implied a prejudgement of issues that were still on the table. Regarding the consultation process, she asked that the schedule for these consultations be announced in advance so that each delegation could decide which to attend.

98. The representative of the Dominican Republic said it was apparent that on the whole no significant headway had been made on virtually any of the issues on which there had been consultations. For example, on the proposal on net food-importing countries, trading partners had stated that they were unwilling to undertake commitments in this regard. On customs valuation, and in spite of intense Committee debates, Members had rejected the proposed solutions, and the alternatives they had put forward did not resolve the problems raised. On cross-cutting issues, there had been no clear signs of a willingness to convert special and differential treatment provisions into concrete commitments. On subsidies, the preliminary reaction of certain Members to the proposals had not been at all constructive. As a result, the current status of discussion in this area was disturbing, since there had been no substantive progress and concerns had been met with only delaying tactics and indifference.

99. It was crucially important at the present meeting to agree on a clear, well-defined work programme to ensure an early solution to implementation issues. These issues had to be resolved by the time of the Fourth Ministerial Conference at the latest, as indicated in the Decision of 15 December 2000. His delegation therefore suggested that at least three formal special sessions be held, with intensive open-ended consultations taking place between each. It was of the utmost importance that the developed countries undertake to engage in serious and constructive dialogue so that a satisfactory solution could be found. Silence was not a valid response, since these were matters of the highest priority. There had been no evidence to date of the political will required to reach a satisfactory solution and help boost the confidence of developing countries in the multilateral trading system. The future work programme should produce concrete solutions involving authorized interpretations or amendments to the agreements, as stipulated in the Agreement Establishing the WTO. It should be understood that the 3 May Decision had been adopted to correct the imbalances inherent in the Uruguay Round Agreements, and that if these were not rectified, they would create a crisis situation within the WTO that would affect all Members equally.

100. Any division or hierarchical structuring of these issues was out of the question. All of these issues were important and should be tackled with adequate thoroughness. Until these problems were resolved, Members should not be expected to commit themselves to discussions on any other issues, or to accept any involvement in a fresh round of negotiations for which there was no consensus. In addition, it was of the utmost importance that a deadline be set for the submission of reports by the subsidiary bodies. The General Council should receive these reports by the end of July at the latest. In addition, his delegation considered that the principle of transparency had not been adequately applied in the consultations held to date. The Dominican Republic had consistently stressed the high priority it attached to implementation issues, had played an active role in drawing up proposals in this

field, and had been actively involved in drafting paragraphs 21 and 22 of the draft Seattle Ministerial Declaration. However, with the exception of the consultations on cross-cutting issues, it had not thus far been invited to any of the informal consultations. These practices, if continued, would produce a situation that would prove negative for the entire system. At the very least, Members had the right to be informed of meetings that were to take place. It was then up to delegations to decide whether or not to attend. His delegation could not accept any text drawn up without its concerns having been taken into account.

101. The representative of Nicaragua expressed the hope that there would be political will, transparency, a coherent work programme, and above all results in the implementation process. Nicaragua supported the statements by Guatemala and the Dominican Republic, and pledged its full support for the Chairman in his efforts to comply with the 3 May Decision, which said that results should be forthcoming prior to Doha.

102. The representative of Jamaica reiterated the importance Jamaica attached to the effective and meaningful redressal of implementation concerns in a manner faithful to the General Council Decisions of 3 May and 15 December. Of particular interest to his delegation were Annex VII of the Subsidies Agreement, the SPS Agreement, customs valuation, and cross-cutting issues such as special and differential treatment. Jamaica had proposed and co-sponsored implementation proposals on the table. With very little time left, his delegation found the Chairman's remark in his report that on many issues "concrete progress is clearly some way off", not an encouraging assessment. To make progress, a demonstration of positive political will on the part of a number of Members was needed. The resolution of implementation issues was essential to raising confidence levels before and at Doha. Furthermore, since different issues were important to different delegations, all of the issues should be tackled systematically and in good faith in the remaining time. Thus, Jamaica joined with others in encouraging the Chairman to continue and intensify his consultations between now and Doha. His delegation could broadly agree with the structure of work. At least three formal sessions between the present time and Doha would be necessary for decision-taking and to allow Members to put on record their views on the progress of this exercise. Regular informal sessions and consultations conducted in a transparent manner would be a requisite complement to these formal sessions in order for real progress to be achieved before Doha.

103. The representative of Egypt said that the lack of concrete results reflected in the Chairman's report was no fault of the Chairman. When Egypt, together with a number of developing countries, had put forward concrete proposals on implementation issues during the run-up to Seattle, the objective had been – and still was – to rebalance the Uruguay Agreements in areas of major priority and to address the inherited inequities in those agreements in a meaningful way so as to be able to move forward in future work. Two areas where promised and expected benefits had not been realized were agriculture and textiles, as well as special and differential treatment, which involved cross-cutting issues in all agreements and which remained "best endeavours" when they should be made operational. The 3 May and 15 December Decisions had been carefully negotiated, drafted, and agreed by all. They were clear and precise and left no room for misinterpretation. In accordance with those Decisions the General Council was required to address implementation issues with a view to resolving them and adopting decisions at a date no later than the Fourth Ministerial Meeting now scheduled for early November. That date was only five working months away, and the current state of play on the implementation issues and the concrete proposals made – a year and a half after the process had begun – was, to say the least, seriously disappointing. Egypt had engaged in this exercise constructively and in good faith, had shown the necessary flexibility, and had hoped that its major trading partners would be more forthcoming and would show the will needed to address issues that had been recognized as genuine and legitimate concerns of the developing countries. Such engagement had thus far been lacking.

104. However, his delegation still hoped that these special sessions, which were critical to future work, would reverse this trend and set a positive tone for future action. Egypt would also have hoped

that meaningful progress could be achieved on at least some of the priority areas, where the Chairman's report showed no progress, such as agriculture, SPS, TRIPS, services, TBT, customs valuation, and cross-cutting issues. Real progress was when the General Council had before it agreed language for adoption in the form of decisions on at least the most important of these issues. In addition, important areas such as textiles and clothing, subsidies, anti-dumping, TRIMs, rules of origin, and safeguards had not been covered in the report. Regarding work in the subsidiary bodies on implementation issues referred to them, this matter had to be addressed in a more practical manner. Thus far those subsidiary bodies which had reported had either requested more time to examine these matters – with some even scheduling meetings only a few days before Doha – or had given a factual report on ongoing work, when what the General Council sought was a technical recommendation that would enable it to adopt a decision. He recalled that the question of referring some implementation issues to subsidiary bodies was an area where Egypt had shown flexibility, given its original position.

105. Regarding the organization of future work, it was of the utmost importance that a clear road map or work programme be agreed for the period up to Doha. The objective in this work should clearly be to adopt decisions to resolve implementation issues no later than the Fourth Ministerial. Although implementation issues stood on their own and should be resolved in their own right, resolving them – or not resolving them – would undoubtedly affect Egypt's position on the WTO's ongoing work and preparations for Doha. There was a need for constructive engagement and political will from trading partners in the weeks ahead to achieve concrete results. There was nothing wrong with the process as it stood, and it did not need adjustment to yield fruitful results. Egypt supported the holding of a mixture of formal special sessions and topic-specific informal meetings up to Doha, and could agree to three special sessions, preferably in June, July, and the third week after the summer break, with informal meetings in between as the Chairman saw fit. What was important was that the informal meetings be conducted in a way that would feed into the formal meetings by preparing the ground for decisions to be adopted by the General Council. He quoted from a recent newspaper article indicating that the cost of trade barriers to developing countries was higher than the amount developed countries spent on official aid programmes, and that unless the rules were tilted more in favor of the developing world, Doha could see a re-run of Seattle.

106. The representative of Canada said that his delegation recognized the priority many Members attached to addressing issues raised in the implementation process, had given serious consideration to these concerns and would continue to work on them in a serious and constructive manner. Considerable time and energy, both in Geneva and in capitals, had been dedicated to this exercise. The work to date had produced useful results in terms of understanding the causes of concern underlying some of these issues and in identifying the means to address them. It was important for this work to continue to move forward, in keeping with the constructive progress that had been achieved in the agriculture and services stock-taking meetings at the end of April. In order to maintain a productive dialogue, it was necessary to understand the level of ambition and degree of priority the proponents attached to individual proposals, but it was also necessary to recognize the parameters of what might be doable, when, and in what context.

107. The consultation process led by the Chairman of the General Council, and previously by his predecessor, had demonstrably produced results. Some examples were: in the area of technical barriers to trade, the TBT Committee, acting under the instruction of the General Council and in the context of its triennial review, had examined problems faced by developing countries in implementing the TBT Agreement, and had decided to develop a demand-driven technical assistance programme to further assist the developing countries in implementing the Agreement. On the issue of the participation of developing countries in the development of international standards, the Director-General had followed up with the relevant international organizations, and the Secretariat was working with them to compile information on the specific TBT needs of different groups of developing countries and on the existing technical assistance activities provided by the various organizations. TBT was a good example of how referring matters to the relevant subsidiary body for technical input had contributed positively to addressing implementation concerns.

108. In the TRIPS Council, meaningful work was underway on a number of issues raised in the implementation context. For example, delegations – including Canada – had submitted papers on the possible scope and modalities of the non-violation remedy, and had wisely chosen to set aside the controversial question of the current status of the moratorium to focus instead on the substance of how, if at all, this remedy should operate in the TRIPS context. Likewise, there were ongoing discussions to further explore the incentives for technology transfer outlined in Article 66.2, including possible reporting requirements. And during the next TRIPS Council meeting, a special discussion would be held on the urgent matter of intellectual property and health, including access to essential medicines. While all these issues had yet to be resolved, Members were working constructively to move forward. Some issues were being taken up in other ways within the WTO, including within mandated negotiations. For example, the proposal that a "monitoring and notification mechanism shall be established to ensure effective implementation of Article IV". The Services Council had recently concluded its Negotiating Guidelines and Procedures in which there had been a clear undertaking to consider the extent to which Article IV was being implemented and to suggest further ways and means of promoting the goals therein. However, progress had been hampered in many areas by trying to deal with implementation proposals in isolation. For example, some of the proposals in the area of anti-dumping, such as changes to de minimis margins and negligibility volumes, would require amendment of Canadian law. Canada could not address proposals of this kind outside the context of negotiations.

109. It had to be recognized that context was important and relevant to all work in the WTO, and not only implementation. There had to be a practical and realistic recognition by all participants in this process that the context in which one tried to address these issues was an important variable in a complex equation. Most of the proposals on implementation-related issues and concerns had been developed in the autumn of 1999 in the preparatory process for the Seattle Ministerial Conference, at which time Members were operating in the context of preparations for the launch of broader negotiations. Indeed, the entirety of the issues set out under paragraph 22 in the Secretariat compilation had been defined to be engaged in the negotiations that Members had tried to launch at Seattle. Thus, it should not come as a surprise, nor should it be interpreted as indifference on the part of Canada or any other delegation, when it was said that a good number of these issues could only be addressed in that fuller context. This was a statement not on the importance of implementation issues, but on the process being used to bring to meaningful closure issues of concern to all Members. The collective commitment to results and flexibility on process, had enabled some real progress on some issues.

110. The Chairman's consultations on a thematic basis had allowed all interested parties the opportunity to examine issues in considerable detail and to explore possible solutions. The referral to the TBT Committee had demonstrated how technical experts in subsidiary bodies could help the General Council address concerns in a positive and effective manner, and the mandated negotiations on agriculture and services were proving to be an effective way to address other implementation issues. Canada wanted to ensure that all concerns were aired and understood, and that all issues were examined. His delegation continued to support the Chairman's efforts to move the process forward, and left the number and type of meetings to his good judgement. Canada believed that Members could achieve the mandate required – completing examination of all the paragraph 21 and paragraph 22 issues by the time of the Doha Ministerial. In this regard, Doha was an end point, but it was also a beginning, as it would allow Members to address the more difficult issues in a broader context that held promise for all.

111. The representative of Indonesia said his delegation agreed with the suggestion by Thailand on behalf of the ASEAN Members that there should be at least three special sessions before Doha. Formal sessions were important for transparency and to allow all Members to express their views and positions. Indonesia shared the disappointment expressed by a number of delegations that progress in the implementation process had been slow, and encouraged the Chairman to undertake further intensive consultations on the outstanding issues, given the limited time remaining before Doha.

Further, the General Council should set a deadline for the subsidiary bodies examining implementation issues to report on their work, especially where these bodies were encountering problems in their deliberations. On TRIPS, her delegation noted with satisfaction that the TRIPS Council would hold a special meeting to discuss intellectual property issues related to access to medicines. The WTO had to take measures to balance intellectual property protection and the needs of developing countries for affordable medicines. On cross-cutting issues, special and differential (S&D) treatment had to be revisited, not only to discuss how the WTO might be able to address supply-side constraints, but to address other ambiguous S&D trade-related terms that needed to be clarified. On subsidies, Indonesia urged that this work meet the deadline of 31 July, to enable the General Council to take decisions on issues related to Articles 27.5 and 27.6 of the Subsidies Agreement. Her delegation also urged the Chairman to hold consultations as soon as possible on other proposals under paragraph 21, including the proposals by Indonesia and Jamaica. Her delegation fully supported Pakistan's suggestion for a special session on textiles and clothing. For Indonesia, all implementation issues raised by developing countries were equally important and should be addressed and resolved properly in order to enable the WTO to move forward in other areas of its work.

112. The representative of Honduras that his delegation accorded the greatest importance to the concerns of developing countries regarding the difficulties of implementing the WTO Agreements. Regarding the statement in the Chairman's report that the purpose of the consultations was to prepare and adopt a work programme on implementation, his delegation was concerned that the larger trading partners had given no positive indication of agreeing to this work programme which was essential to organizing work on the subject in the manner agreed for the negotiations on agriculture and services. All implementation problems were important to his delegation, and Honduras did not support any of the proposals for categorization. An analysis of individual implementation issues revealed no sign of progress. For example, in the area of implementation of the decision on net food-importing countries, the response of certain Members had not been constructive, and their reaction to the proposal had amounted to a declaration of unwillingness to bind any commitments within the WTO. Regarding consultations on cross-cutting issues, it was disappointing that in spite of the fundamental importance of special and differential treatment for developing countries, the attitude of some Members was one of indifference. Only one meeting had been held on the matter. It was hoped that common ground on these issues could be found in order to strengthen these provisions, which should become concrete commitments within the WTO Agreements. On subsidies, there had been several consultations and another was scheduled for the following week to answer Members' questions. It could be concluded from the type of questions raised by some Members that there was in fact a lack of willingness to find ways to solve the problems raised. In spite of the fact that the work of the subsidiary bodies had failed to produce any positive results, that work should continue and a deadline should be set – perhaps July – for these bodies to report to the General Council. He encouraged Members to show political will in this work so that positive results could be achieved and decisions could be adopted at Doha. The 3 May Decision had been adopted by the General Council in a positive spirit and with the aim of correcting the existing imbalances in the WTO Agreements, but thus far there had been no movement towards compliance with that Decision. At least three General Council special sessions should take place prior to Doha, with open-ended informal meetings between them. Transparency was of the essence in this process, and all delegations should be able to choose which meetings they would attend, in accordance with their national interests. Closed consultations would not contribute to the preparations for Doha, which all hoped would be a success.

113. The representative of Cuba said that given the importance of implementation, an earlier meeting like the present one would have been useful. His delegation did not agree with the statement in the Chairman's report that on some implementation issues real progress was being made. There was need for a clear work programme that would involve all Members in seeking solutions to these issues, and for a real dialogue among Members. To date there had appeared to be only a monologue, but a dialogue seemed to be starting at the present meeting. A deadline had to be set for reports from the subsidiary bodies. Cuba shared the conviction that the political will necessary to solve these

problems would be shown. Transparency and inclusiveness should be features of any consultation held. It was a fact that the manner in which the negotiations on implementation took place would impact directly on other negotiating processes currently underway. The imbalances resulting from the Uruguay Round had continued unresolved. Any proposal for categorization was not acceptable, and all implementation issues had to be taken up before Doha.

114. The representative of Panama said that the consultations held thus far had served to clarify issues but not to take Members closer to specific decisions. The new thinking suggested by the Chairman had to be aimed at finding ways to comply with the December 2000 Decision, and not at how to re-organize the calendar proposed in that Decision. There a need was for the negotiating process to create a climate of confidence in the system, and for this, binding multilateral decisions had to be taken. This required political decisions with economic repercussions to be taken before Doha. One, and perhaps the only, example of new thinking had been the US statement regarding the need for flexibility in implementing the TRIPS Agreement, but this needed to be clarified and fleshed out. There were no specific proposals by developed countries to meet other specific concerns of developing countries. Without this, the confidence would not be instilled that would enable developing countries to accept new negotiating commitments.

115. The representative of Tanzania, on behalf of the Least-Developed Countries, said that implementation was an issue of extreme importance for the very survival of the multilateral trading system, since there was no point in undertaking obligations under that system if the problems related to implementation of those obligations could not be resolved. Regarding the Chairman's report, if progress had been made it had been in very limited areas, and there was still a lot of ground to be covered in resolving the issues identified. The LDC Members were particularly concerned with the lack of significant progress on the more substantive and fundamental issues related to SPS, TBT, TRIMs and TRIPS, and on the cross-cutting issues, especially on making S&D provisions more concrete and operational. However, the LDCs were encouraged by statements by some of the major delegations, like the US, regarding the future work programme. In cases where issues had been referred to the relevant subsidiary bodies, those bodies had to be given clear deadlines to resolve those issues, even if this involved postponing consideration of other issues under their purview. The LDCs were concerned about the progress thus far achieved because of the July deadline for agreeing on the agenda for Doha. Implementation should be one of the priority items at Doha, and if there were no agreement on what to report on implementation, it would cast a big shadow of doubt on the whole agenda for the Conference, as a number of delegations had indicated. The LDC Members wanted to see Doha succeed, and Members could ensure this by doing more to resolve implementation issues. They supported the Chairman's intention to have a clear programme of meetings and consultations that would be inclusive and transparent, and that would enable resolution of the many outstanding issues. However, as had been pointed out, merely having more meetings was not a guarantee of success. There had to be meaningful fresh thinking and a demonstration of positive political will on the part of major delegations to seriously address implementation concerns. He was optimistic that such will would be more forthcoming in the weeks to come.

116. The representative of Chile said that the process on implementation had proved to be operational, transparent, ensured the participation of all, and created working habits that generated confidence. His delegation had never felt that it had been left out in any way. The Chairman's report contained a useful assessment of the consultations held thus far, which would enable Members to identify areas where they had to concentrate their efforts. Chile fully supported the Chairman's suggestions on the organization of future work. There was no time to be wasted, and Members had to be clear in their questions and in their answers. He agreed with Brazil that each of the issues raised had to be considered seriously, so that the substance, and not just the form, of a solution could be examined. It was not enough to say that something could not be done because it would require a change in domestic legislation. There had to be a debate on the substance of the problems and of the solutions. For example, Chile would be interested in an in-depth discussion of anti-dumping issues and subsidies, where his delegation did not agree that it should be possible for certain developing

countries to subsidize their exports, thus generating new distortions. As Peru had said, the context of the economic environment had to be taken into account. Members had to act responsibly so that governments could face up to the problems. Even though implementation was on a separate track, it was part of other activities and ongoing processes in the WTO. It was only by keeping the bigger picture – the objectives of the WTO – in mind that the concerns of the developing countries would be met.

117. The representative of Korea said that the more positive mood at the present meeting was an encouraging sign. Many developed Members were now engaging in this process and there had been concrete suggestions on how to deal with implementation issues. On the organization of future work, at least one special session should be held after the summer break, and the informal process should be intensified. In principle, Korea could go along with the Community's proposal on how to deal with implementation issues. However, the focus should be on issues with the greatest chance of quick progress. It was hoped that all Members would look at these issues with courage and frankness, and devise creative solutions to break the deadlock.

118. The representative of Uganda recalled that implementation issues and concerns had been identified in 2000 as areas of focus for building confidence in the organization, and that it was recognized that this would impact on other processes. The mandate in the 3 May Decision was clear. However, as the Chairman's report indicated, there was a long way to go to build the necessary confidence, and the problems had not been adequately addressed. The subsidiary bodies had yet to make their reports, and there had not been much progress on many issues, including SPS and TBT. On TRIPS Agreement Article 66:2, which was mandatory, little progress had been made in implementing this provision. Uganda had expected the TRIPS Council to define the nature and scope of the incentives required and to set up a framework within which the developed countries could be deemed to have fulfilled their obligation under that Article. Articles 41 through 61 requiring the adoption of enforcement rules on intellectual property rights were very stringent, and the obligations under Article 66:2 should be equally stringent. It was hoped that the TRIPS Council would carefully address these issues and come up with an appropriate framework. His delegation agreed that there should be at least three special sessions. Statements by some of the major trading partners at the present meeting provided a glimmer of hope that a dialogue might develop. This dialogue should be focussed on addressing the substance of concerns and on proposing solutions, rather than on raising questions or justifying why solutions were impossible.

119. The representative of the Czech Republic said that despite all of the difficulties, there did seem to be progress, while perhaps not as much as wished. A lot of useful work had been done, some concrete decisions had been taken, delegations had exercised due restraint, and all had a better understanding of many of the issues under discussion. Furthermore, all Members remained engaged with a view to achieving more substantive progress. One should build on these elements in the further implementation discussions. However, a large number of issues remained unresolved and concrete progress on many of them was some way off, as the Chairman had indicated in his report. What was needed now was to create an environment in which most of the implementation issues could be debated in a more pragmatic and results-oriented manner, and in which delegations would be willing to show the level of flexibility required. It should also be recognized that Members were operating under certain time constraints. Priority attention should be given to those issues that had the potential to be resolved in the months ahead or at Doha and that did not require substantive changes in the existing legal texts and thus negotiations. At the same time, specific, time-bound mandates should be established at Doha for those issues remaining outstanding. His delegation pledged its full support to the Chairman's and the Director-General's efforts to find meaningful solutions acceptable to all.

120. The representative of Colombia noted that delegations had different appreciations of the work done thus far on implementation. While it was true there was much work to be done, statements like that by the Community indicated that the door was slightly open for progress. On the organization of future work, some delegations were concerned that categorization of implementation proposals would

result in postponing important issues until after Doha, but the fundamental objective of the implementation work was to balance and improve the distribution of benefits among developed and developing countries under the Uruguay Round. Thus, categorization of these issues, which would put some ahead of others, would not be the appropriate way to launch a new round or ensure the success of Doha. An effort should be made to find proposals that would be of interest to the greatest possible number of developing countries. It would be unacceptable to achieve this with proposals that would involve little or no cost to the developed countries, because this would not achieve the objectives of implementation work. All implementation proposals deserved detailed study and discussion before Doha, and work had to be concentrated on proposals with the greatest significance for the greatest number of developing countries. A group of countries which did not have substantial interests in the proposals should be asked to help determine the proposals that met these criteria. There could be consultations to set up this group, or volunteers requested. The programme for future work proposed by the Chairman should have the necessary flexibility to be adapted to the rhythm of work on implementation.

121. The representative of Costa Rica said that the Chairman's suggestion for the organization of future work was appropriate. Efforts in the area of implementation had to be considered within the context of the upcoming Ministerial Conference and the fact that a large number of Members wanted to launch broad negotiations in different areas of trade. It would not be wise to establish absolute conditions regarding the possible results of Doha. Rather, efforts should be made to achieve progress on implementation before Doha, and that meeting could also help Members to make progress on implementation, and if necessary, to identify implementation issues for subsequent negotiations. In this sense it would be useful to work on the basis of categories of issues in order to get out of the current impasse. Matters going beyond the strict area of implementation, and thus involving amendment of the agreements, should be part of negotiations to be undertaken with that objective. Any problems of possible imbalances under the Uruguay Round agreements could only be solved by means of a new negotiation in which the agreements could be amended. To compare these problems with implementation problems only made it harder to find solutions to the latter. Pragmatic and constructive work was necessary in both of these areas that would unavoidably co-exist for the remainder of the year.

122. The representative of the Philippines recalled that the Preamble of the Marrakesh Agreement clearly reflected the developmental bent of the Uruguay Round when it recognized the need for positive efforts to ensure that developing countries, and especially the least-developed among them, secured a share in the growth of international trade commensurate with the needs of their economic development. Members should give vent to this objective before plunging into another round of negotiations aimed at further liberalization and development of new rules and disciplines. Implementation issues provided an opportunity to accomplish this development objective, and should be resolved now and not at some possible date after Doha. These imbalances, which had resulted from the Uruguay Round, should be properly treated independent of any new rights or obligations flowing from a new round. Developing countries' concerns on implementation would not be adequately addressed through technical assistance and capacity-building measures alone, which did not go to the root of the problems. What was necessary was the political will to accommodate the genuine trade concerns of developing countries.

123. Of particular interest to the Philippines, as well as to many developing countries, was how the process for consideration of requests for extensions of the transition period under the TRIPS Agreement would evolve. His delegation shared the concerns expressed by India, among others, regarding the implications of patents for access to medicines, in particular essential medicines. The Philippines encouraged the Chairman to continue his intensive consultations on outstanding implementation issues.

124. The representative of Morocco said that the discussion seemed to be focussed more on procedure than on the substance of the issues covered in informal consultations, and that to continue



this way would not lead to progress on the issues. The Chairman should be trusted to determine himself the appropriate type and number of meetings necessary. There seemed to be a misunderstanding on a fundamental point, which was when, according to the 3 May General Council Decision, decisions on implementation issues were to be taken. While that Decision stipulated that the process should be completed no later than the Fourth Ministerial Conference, it contained no obligation to achieve results, but simply to make every effort to this end. It was clear there would be concrete results on some issues by that time, and only a process agreed for dealing with others. Members should do their utmost to ensure that the process chosen would be one most likely to lead to solutions on these remaining issues. The aim of such an approach was not to categorise or prejudge the issues, but simply to obtain as many practical and satisfactory solutions as possible. To do this it was necessary to decide which issues to take up first. Some issues were purely technical assistance or capacity-building issues, some would require an interpretation of existing provisions, and others involved a rebalancing of perceived imbalances in existing provisions. The point was to use a methodology that would yield solutions on the greatest number of these issues. Ministerial conferences were becoming more routine events, and Members should de-dramatise Doha and not be overly concerned with whether an issue was resolved before or after that meeting. Given that there was simply not time to resolve all issues by that time, pragmatism should be the order of the day. Following the present meeting, Members should identify issues to be taken up and proceed with small group, bilateral and plurilateral meetings in order to identify solutions and when decisions could be taken. Morocco hoped that all delegations would be flexible and would try to make Doha a success, both in the interests of the institution and, in particular, given the development dimension identified with Doha, by showing a constructive spirit in seeking consensus.

125. The representative of Pakistan said that his delegation appreciated that the EC and the US had at least made an effort to engage in a dialogue on implementation, even if it disagreed with much of what they had said. He wanted to make four points. Prior to Seattle, developing countries had said they wanted solutions to the proposals under paragraph 21 at Seattle, and solutions to the proposals under paragraph 22 after Seattle. But at no time had they agreed that the paragraph 22 issues would be part of any package of negotiations that were or were not to be launched at Seattle. Second, the agreement at Seattle to discuss implementation while other issues were being discussed was not an agreement to a package that would include implementation. At that time there was as yet no understanding on a single undertaking. Implementation issues were to be resolved in their own right. Third, there could be no categorization of these issues. Each issue was to be resolved by the time of Doha. Any decision to be taken at Doha would have to be designed to resolve the difficulties. By definition, according to the 3 May Decision there could be no post-Doha negotiations on implementation issues. Fourth, it was important to set a clear schedule of formal and informal meetings on these issues. Deadlines had to be set, and direction and momentum provided. The Chairman should hold consultations and set a timetable for the three special sessions, as well as a date for a special session on textiles issues. Pakistan hoped that at the next special session Members would be able to adopt concrete decisions on those matters on which consensus could be reached. This should be a progressive exercise, so that at each formal meeting decisions could be adopted. He hoped that the Chairman would work towards this end.

126. The representative of India said that he wanted to clarify an inaccuracy in the statements of some delegations. One delegation had said that paragraph 22 demands had been crafted for a new round of negotiations. Another had suggested that these proposals had been made in the autumn of 1999, i.e. slightly before the Seattle Ministerial. These statements were factually inaccurate. The first statement and proposals on implementation had been made in September 1998, when a round was not even being talked about. Detailed proposals had been made in the first half of 1999. India had maintained throughout that implementation issues were per se important and reflected the real problems and concerns of developing countries. In October 1999, the proposals had been reduced to bullet form and prioritized in response to a specific suggestion. This prioritization had been simply to identify issues that could be resolved before or at Seattle. The remaining issues were to have been resolved within a year after Seattle. Developing countries had always said that implementation

proposals were not in the context of a new round, but rather aimed at resolving existing problems, and without such resolution developing countries could not be expected to look at new commitments.

127. The Chairman said that the meeting, which had been very useful, had shown a strong sense of engagement. A large number of views had been expressed on specific issues, which provided important guidance on how delegations felt about various issues and where their priorities lay. Views had also been expressed on the process engaged in thus far, and ideas for fresh thinking had been aired. Perceptions of progress clearly varied – in some cases substantially – but there seemed to be a commitment on the part of all to continuing and intensifying efforts to make progress. There had been a general reaffirmation of the importance of the implementation issue and of the 3 May mandate.

128. Regarding future work, his impression was that the process he had outlined in his opening remarks struck the right balance at the present stage. That process was as follows: that Members should be guided by the 3 May Decision; that implementation remained on a separate track; that this was an action- and results-oriented process; that formal meetings had an important place in this process; that it was his intention to convene another special session towards the end of June or early July, and that Members should think in terms of at least one – and perhaps two – further special sessions; that the informal process along broadly thematic lines would continue and be intensified; that before the next special session on implementation he would have taken up all of the remaining issues in the 20 February compilation that had not yet been addressed in 2001; that he would revisit those issues on which there had been consultations but which required further work; that he would keep in close contact with the Chairpersons of the relevant subsidiary bodies, and carefully monitor progress and encourage their efforts; and that he would ensure that those subsidiary bodies reported in an adequate and timely manner to the General Council. While what he had outlined might not be as specific as all delegations might wish, it was a substantial road map of the way ahead over the coming months, which he felt struck the right balance at the present stage. He suggested that Members work on this basis, but he would certainly reflect on some of the suggestions that had been made, including Pakistan's suggestion that there be a fixed schedule of formal and informal meetings with deadlines, and a special session on textiles.

129. A number of delegations had commented on the issue of transparency, and it was his impression that the process over the past two months – that of interspersing smaller consultations with open-ended meetings – was accepted as the *modus operandi* during the course of consultations in 2000, but he would like to reflect on that and to see if he could effect some improvements. Overall the meeting had been very good, with delegations engaging, and this provided renewed impetus to efforts to close the gaps on substance, which should be the focus of work in the weeks ahead.

130. The General Council took note of the report by the Chairman and the Director-General, and of the statements.

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