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**General Council
Special Session on Implementation
3 October and 1 November 2001**

MINUTES OF MEETING

Held in the Centre William Rappard
on 3 October and 1 November 2001

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

Subjects discussed¹:

- 1. Report by the General Council Chairman and the Director-General on their consultations on the outstanding implementation-related issues and concerns; and**
- 2. Consideration of decisions for appropriate action where possible and in accordance with the Decision of 3 May 2000**

The Chairman reported that consultations had taken place on the basis of the draft Decision in Job(01)/139² of 26 September 2001, but that the General Council was not in a position to take any formal action with respect to this document at the present meeting. He proposed that Members continue to work in further informal consultations on the basis of this document, both among themselves and with the continued close cooperation of the Director-General and Deputy Director-General Mr. Rodriguez-Mendoza. He proposed that in the light of the current situation, the meeting adjourn, so that Members could continue to work substantively on these issues in an informal mode and reconvene at the first possible opportunity in order to take action. He suggested that in order to make the best use of the time available, and given that it might be premature to go immediately into further informal consultations, the General Council reconvene shortly in informal mode in order to continue to hear the many delegations who had yet to speak on the draft Decision and the draft Ministerial Declaration. The latest reports received from the subsidiary bodies would be taken into account in the further deliberations on implementation.

The General Council agreed to the Chairman's proposal and adjourned.

At the resumed Special Session of the General Council on 1 November, the Chairman presented a report by the Director-General and himself on the consultations they had been carrying out on the outstanding implementation issues and concerns. The revised draft decision in document Job(01)/139/Rev.1 was the outcome of the intensive consultation process they, together with Deputy Director-General Mr. Rodriguez-Mendoza, had conducted since the beginning of October. They had made sincere efforts to push the envelope as far as possible on all sides, and it had to be acknowledged that progress had been made, both qualitatively and quantitatively, in the short time since the end of July. The revised draft text had resulted from a painstaking re-examination of the

¹ Following a suggestion by the Chairman, the General Council agreed to address the two items together.

² Job(01)/139/Corr.1, in French only.

proposals, and represented a sincere attempt to take into account suggestions by interested delegations in earlier discussions that possibilities for compressing Annexes I and II of the previous draft text be examined, as well as fine-tuning language on some of the turrets in Annex I, while continuing to try to make progress on the remaining issues. The text also reflected elements from the reports of the subsidiary bodies on the issues referred to them, and took into account, as far as seemed possible from their consultative process, the recent proposals submitted by the least-developed countries.

He wished to acknowledge the great amount of effort that had been put into this process not only by all Members, but also by the chairpersons of subsidiary bodies, who had worked assiduously and impressively together with delegations in their respective committees and councils, to come forward with meaningful recommendations to the General Council.

The Director-General and he believed that the broad approach presented in the revised draft Decision represented the best possible basis, at the present time, for moving to a resolution of the outstanding implementation issues and concerns. It had received a good deal of support in their consultations over the past few weeks, and offered the most practical way forward, in line with the General Council Decision of 3 May 2000. It proposed immediate action on a number of implementation issues by Ministers at Doha, and provided that outstanding implementation issues would be addressed in the course of the future work programme as set out in paragraph 12 of the draft Ministerial Declaration. A list of the outstanding issues had been circulated in document Job(01)/152/Rev.1. Finally, the draft Decision also recommended related action to ensure that WTO technical assistance focussed as a priority on assisting developing countries in this area of activity.

There were three points of clarification he wished to make in regard to this draft text:

First, with regard to the work programme on special and differential treatment under turret 96, it was his understanding that delegations had noted that agreement on the date of July 2002 for General Council decisions in sub-paragraphs (i) and (ii) of that text was on the understanding that these dates were targets which all Members would make best efforts to meet, and also that this agreement was without prejudice to the nature of the decisions that might be taken at that time.

Second, with regard to the outstanding implementation issues, he wished to clarify that where a specific negotiating mandate was provided in the draft Ministerial Declaration, the relevant implementation issues would be addressed under that mandate, in accordance with paragraph 12(a) of that text. For example, turret 6 concerning agriculture would be addressed in the ongoing negotiations on agriculture in paragraph 13 of the draft Declaration; turrets 42- 44, 46-48 and 50-54 concerning the Anti-Dumping Agreement would be addressed in the negotiations on WTO rules proposed in paragraph 24 of the draft Declaration; and turrets 64-66, 69-73, 76-79 and 81 concerning the Subsidies Agreement would be addressed in the negotiations on WTO rules proposed in paragraph 24 of the draft Declaration. The other outstanding issues would be addressed as a matter of priority by the relevant WTO bodies, which would report to the Trade Negotiations Committee (TNC) by the end of 2002 for appropriate action, in accordance with paragraph 12(b) of the draft Declaration.

Third, there were also certain outstanding issues which the draft Decision instructed subsidiary bodies to consider under specific mandates and time frames, for example in the area of Article XIII of GATT 1994 and the Anti-Dumping and Subsidies Agreements. These issues, of course, remained outstanding, and they should be kept in mind when referring to the compilation of outstanding issues in document Job(01)/152/Rev.1.

The Director-General and he were confident that the large majority of the proposals in this text could find acceptance by the broad membership. At the same time, they understood that there might still be a few remaining areas of possible disagreement, particularly with regard to the proposals on Article 27.4 of the Subsidies Agreement, Article XIII of GATT 1994, and textiles and clothing. These were areas in respect of which they hoped that Ministers at Doha would be able to build on the good

work that had been done in Geneva, and create a basis for reaching agreement. For that purpose, the Director-General and he intended to transmit the draft Decision, together with the related compilation of outstanding issues, on their own responsibility to Ministers for their consideration and adoption.

Many delegations thanked the Chairman and the Director-General for their report and their considerable efforts in regard to implementation-related issues, and expressed confidence in their leadership and in their process.

The representative of Colombia said that it would be impossible for his delegation to join the consensus on the draft Decision while it contained the current text relating to Article 27.4 of the Subsidies Agreement, although it could agree to the rest of the text. The issue of implementation had originated in the need felt by a number of developing countries to rebalance the Uruguay Round Agreements in the hope of ensuring that they could benefit fully from the multilateral trading system. Implementation had been a main focus of the WTO's work for some time, the result of which was Job(01)/139/Rev.1, and his delegation had participated in this work in a constructive and flexible manner. One of the key elements in this work had been the question of extensions of transition periods, which was normal since the Uruguay Round Agreements had left open windows of opportunity for developing countries to maintain certain policies. In the case of the Subsidies Agreement, economic, financial and development needs had been the conditions determining extensions of the transition period. It had been under these rules, which were the same for all developing countries, that the implementation exercise had been undertaken on the basis of a number of problems raised by Members. First, a way had been sought to modify or clarify the definition of subsidies contained in the Illustrative List of Export Subsidies in Annex I of the Subsidies Agreement, in order to exclude certain measures from the list. Second, there had been suggestions to raise the *de minimis* level in order to minimize the recurrence of certain subsidies. Other countries had sought an increase in the levels established in Annex VII of the Agreement with the aim of maintaining the exclusion from dispute settlement procedures for those countries with a per capita income exceeding US \$1000. In this context, his delegation had made counter-suggestions aimed at favouring all developing countries equally while also resolving some implementation concerns. The Subsidies Committee had undertaken a study of the implementation of Article 27.4 with the aim of considering certain aspects of this issue relative to developing countries with a low share of world trade.

The proposal by the Chairman of the Subsidies Committee approached this issue through preferential extensions of the transition period which included the identification of certain programmes, and which therefore meant certain subsidies and certain countries. The criterion used for countries to be accorded an automatic extension was a gross national income of up to US \$20 billion or a share of world trade of less than 0.1 per cent. Both these criteria were non-technical and discriminatory against developing countries which had larger populations and sometimes also a higher relative level of poverty. Furthermore, this proposal did not recognize regional differences within countries, or the location of investments having an export component. The coverage of subsidies in the proposal, for countries such as Colombia, involved only incentives which would reduce funds available for other types of assistance. In the context in which this process had developed, there had been one essential element – the clear link between these incentives and investment, since preferential extensions were proposed for programmes applied in free zones among others, which was an instrument essential to attracting investment in several countries, and in particular in the Caribbean region. From the beginning of the process his delegation had questioned many aspects of the proposal, including in both formal and informal meetings of the Subsidies Committee as well as in meetings with the Secretariat, and it had repeatedly underlined that Colombia could not accept this proposal. His delegation had tried to avoid having to take the position it was being forced to take at the present meeting. Document G/SCM/W/471 was now part of the set of documents for the consideration of Ministers at Doha, and Colombia was surprised that this proposal had been included, since it had been questioned by a significant number of countries based on the fact that the decision would create a new category of countries, which would have serious implications in the WTO, in regional negotiations and in negotiations on the Subsidies Agreement. The proposal had

been questioned because it would lead to an imbalance in obligations between countries with the same development needs, which would occur in an area with serious implications for investment flows. A decision that would exclude Colombia but include all the other countries in the Caribbean region and central America would have a high cost for Colombia in terms of investment, employment and exports. It could also generate disinvestment, given the concentration of light manufacturing. The decision was not the same as other proposed implementation decisions, given its possible ramifications. In this case, the competitiveness of a country would be seriously compromised. This would harm the national interests of his country, and his delegation did not think that this was the aim of the implementation exercise. The draft text pretended to create a few preferential conditions and guarantee against legal uncertainty for investors from countries neighbouring his and would have negative effects on jobs and exports. These effects would be even worse if the production from the enterprises covered by these extensions competed in a major market. Colombia would have liked to support its neighbours on this issue and to continue to collaborate in the multilateral trading system and the preparations for the Ministerial Conference, but unfortunately was unable to do so when it was being asked to agree to lose jobs, investment and exports.

The representative of Pakistan said that all were well aware of the importance his delegation attached to implementation issues from the very outset, i.e. since well before Seattle. Almost 100 proposals on implementation had been on the table since then. It had been particularly difficult to accept that the progress in addressing and resolving these issues had been as slow, painstaking and painful as it had been. Pakistan had always said that progress on implementation issues would enable it to be more accommodating on the concerns and proposals of other Members. The 3 May 2000 Decision of the General Council had provided that the process of addressing the implementation issues would be concluded no later than the Fourth Ministerial Conference. That language clearly implied, and was understood to mean, that the decisions relating to all the implementation issues would be adopted before the Fourth Ministerial. Therefore, the present Special Session was the appropriate occasion for Members to take the decisions that would conclude the process on implementation begun on 3 May 2000. In this context, Pakistan was disappointed with the measures that had been proposed earlier for adoption in Annex I of Job(01)/139 as early results, as well as the provisions in Annex II to be adopted at Doha, with the remaining issues to be consigned to a process after Doha. Pakistan had hoped to enrich the Annex I package by adding to it at least the Annex II proposals. However, Annex I had been merged into Annex II, rather than the other way around. Therefore, his delegation was even more anxious that the General Council should act on the Annex I and Annex II proposals that were now in the draft Decision. These proposals clearly did not respond to Pakistan's minimum concerns, especially on textiles, where it had hoped for 50 per cent integration plus growth on growth, as well as provisions with regard to restraint on anti-dumping and other measures.

Nonetheless, his delegation had stated the previous day in a spirit of flexibility that it was prepared to accept the proposals in Annexes I and II as set forth in the revised draft Decision, and was ready to have the General Council adopt them as a package. The present meeting should adopt this package and inform the Fourth Ministerial meeting of this decision, while transmitting the other outstanding implementation proposals. Pakistan had noted the statement by Colombia with regard to Article 27.4 of the Subsidies Agreement and wished to be accommodative of any genuine problems other developing countries might face. Therefore, it suggested that this particular proposal be the subject of consultations among the concerned delegations with a view to arriving at recommendations for decision by Ministers at Doha. However, if other areas of the draft text were opened, Pakistan feared that that this would further erode the package and rob it of any significance, however little, that it might have for his delegation and others. He urged that in a spirit of flexibility and compromise, and in order to advance the larger goal of a successful Ministerial meeting in Doha, all Members accept the package as presented, even though each Member might find an area in the draft text on which it was not satisfied. He urged this action on all of the proposals except on Article 27.4. With regard to the post-Doha process, Pakistan had carefully examined paragraph 12 of the draft Ministerial Declaration and had stated its position on this the previous day. Pakistan would be

prepared to consign the other outstanding implementation proposals to a post-Doha process and to incorporate them in a single undertaking, should there be one, on other negotiating issues. The outstanding implementation proposals which related to mandated negotiations in other areas should be dealt with in those mandated negotiations, as had been suggested. However, Pakistan urged that the other remaining issues continue to be dealt with in the special mechanism of the Special Sessions of the General Council, because consigning them to subsidiary bodies had not been a good experience in the past. Pakistan also urged that all of the outstanding implementation issues be the subject of early decisions by the end of 2002, as was the position taken by the proponents of these proposals before Seattle, at Seattle and since Seattle.

The representative of St. Lucia suggested that the minutes of the present meeting be prepared as quickly as possible, as her Minister needed to know how Members had responded to issues of vital importance to St. Lucia. As long as the rules-based system of the WTO was applied in an inflexible way and disregarded the interests of the smallest Members, such as St. Lucia, there would be no new rules, because her country would not join any consensus on this. On tirt 4, St. Lucia's original proposal had been to add it to the outstanding implementation issues, because those issues also had a time frame of the end of 2002. Her delegation did not support the establishment of a Trade Negotiations Committee, and thus all of the outstanding issues would be reported on to the General Council by end-2002. She would not comment on Article 27.4 of the Subsidies Agreement, since the Dominican Republic would cover this. Tirt 97 spoke of a reaffirmation of the Enabling Clause³, paragraph 3(c) of which was of fundamental importance to St. Lucia. That Decision had an important history in terms of the decisions, procedures and customary practices followed by the Contracting Parties to the GATT 1947 and the bodies established in the framework of the GATT 1947, regarding the developing countries' claim to and the developed countries' design for special and differential treatment suited to the particular needs of individual developing countries. For example, this paragraph had been cited by the United States in the early 1980s in its request for a waiver for special preferences for developing countries in the Caribbean region. This reference was particularly important in view of the fact that tirt 98 had been included in the list of outstanding issues. The minutes of the present meeting would be very relevant to St. Lucia's ability to join a consensus on any issue on the table.

The representative of Tanzania, on behalf of the LDCs, said that the present meeting provided an opportunity to make a significant advance in dealing with the long-standing issue of implementation. Implementation issues put forward by LDCs had finally been included in the consultative process leading to the results that Members were now considering. The LDCs, as part of the family of developing countries, had also supported the resolution of implementation proposals made prior to Seattle which had remained the core of the consultations on implementation. LDC Ministers in Zanzibar had identified further LDC-specific implementation issues which needed to be resolved. The LDCs were pleased to note that the revised draft Decision reflected some of their proposals. However, in addition to the fact that a number of proposals had not been taken on board at all, the way many proposals had been reflected did not meet the intended level of efficacy proposed, and in most cases much weaker language had made the final product more of a best-endeavour commitment. Thus, in most cases, what had been referred to in the text as "LDC proposals" were not actually what the LDCs had proposed, but rather what the Secretariat had perceived to be the best response to the LDCs' original proposals.

Among the proposals the LDCs had submitted and on which, during the informal consultations, they had understood there to be consensus to resolve by the Fourth Ministerial Conference, were the following: On the Agreement on Agriculture, the LDCs sought bound, duty-free and quota-free market access conditions for exports originating in LDCs which would cover all agricultural products in all forms, i.e. primary, semi-processed and processed. This issue was not

³ "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries", Decision of 28 November 1979 (BISD/26S/203).

reflected in the draft Decision, although it was well known how fundamental market access was to the LDCs. On the Agreement on Implementation of Article VII of GATT 1994 (the Customs Valuation Agreement), apart from extension of the transition period provided for in Article 20 of that Agreement to allow LDCs to acquire the necessary technical assistance and expertise to implement the Agreement without affecting their respective comparative advantages under paragraph 2 of Annex III of the Agreement, they had sought to be allowed to continue their respective reservations concerning minimum values for a longer period. This was an issue of fundamental importance to LDCs which had been omitted in the revised text. Regarding the proposal for binding and effective operationalization of special and differential treatment provisions, the current reflection of this was of a non-committal nature and was disappointing. On the Agreements on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade, the LDCs were pleased that their proposals had been upgraded and brought forward to be resolved by Ministers at Doha, although the proposals had unfortunately been diluted. On TRIMS, whereas in the course of consultations the LDCs had had the impression that their proposals for exemption were generally supported by Members, the resulting text did not show clear commitments, and the purported extension or exemption would be subject to terms and conditions to be negotiated. On services, their proposals had been omitted in the draft text and, given the importance the LDCs attached to these proposals, they wished to see them dealt with in one way or another. These were only some of the specific concerns the LDCs had with regard to the draft Decision on implementation. However, they agreed with others on the necessity to create the necessary impetus to solve the long-standing implementation issues, and thus could support the adoption of the draft Decision as a package, but without precluding the possibility of further examination of these issues in future and with the hope that the other outstanding issues would be resolved speedily in the context of the framework proposed in paragraph 12 of the draft Ministerial Declaration.

The representative of Chile said that document G/SCM/W/471, which contained a communication from the Chairman of the General Council on the proposed procedures in respect of extensions of the transition period under Article 27.4 of the Subsidies Agreement for certain developing-country Members, was a Subsidies Committee document but was a communication from the Chairman of the General Council. There was a contrast between this communication and the report of the Chairman of that Committee, the latter having clearly indicated that, despite some progress, there had been no consensus in the Committee on this issue. Despite this lack of consensus, the communication from the Chairman of the General Council proposed a procedure. He wondered what the basis had been to propose a decision on which a number of Members had expressed concern, and in certain cases clear opposition, including in consultations held only a few days earlier. Chile's position that it could not accept this proposal had not changed, and it was unable to join a consensus on it. This issue was a question of responding to some Members' problems in applying certain subsidies under the Subsidies Agreement. Chile had a constructive attitude with regard to these problems and had tried its hardest to find a solution.

The proposed solution had a number of problems. First, it was not legally sound. Countries with certain programmes qualifying for automatic extensions of a minimum of five years under Article 27.4 of the Subsidies Agreement would acquire more rights than other Members. Furthermore, the programmes concerned had never been notified, while those Members who had complied in good time and as provided for in the rules would be left with the same rights. His delegation wondered whether the message here was that those who wished to acquire more rights should leave their obligations unfulfilled, and what the legal basis for this was. Second, the procedure proposed would operate in a vacuum, since it involved a sequence which was too easy, perhaps even dangerous, and which reversed the logic behind existing WTO procedures. The proposal defined the eligible programmes in a manner which was very general and vague, and foresaw a lapse of time during which they would be notified. After the notifications had been considered, it was foreseen that extensions would have to be granted under Article 27.4. This meant that Members were being asked to agree now to give more rights to certain Members with regard to unknown programmes. This was effectively giving a blank cheque to a group of Members. In addition, the formulation used to

determine which programmes would be eligible was vague, and would be a source of major problems when the time came to consider whether the programmes met the proposed criteria. His delegation wondered where the transparency in this was, and whether it was reasonable and prudent to ask Members to take a decision on something they were not fully aware of. Chile also wondered what the future implications of this precedent would be, and whether it was the best precedent to set for solving problems. This course of action would be an incentive to avoid fulfilling obligations, to ignore precedents and to acquire rights in an irregular manner. It was a legal and political aberration. Finally, it would establish a separate category of Members for a group of developing countries. Chile's economy was relatively weak and vulnerable. While Chile was not afraid of competition, it did not welcome the suggestion that it should compete against subsidized exports. Since it did not know which programmes would be eligible, it could not assess the effects of the subsidies involved. It was possible that as a consequence of this decision Chile's output would be affected or that its exports would be displaced in a third-country market. His delegation wondered who would face the workers that would lose their jobs. In the previous several months, the working methods and procedures used in the preparatory process for Doha had been transparent and somewhat original. As a result, and also due to the confidence all delegations had placed in the General Council Chairman and the Director-General, it had been possible to achieve good progress in the preparations for Doha and for the Chairman to produce document Job(01)/140/Rev.1. In that document, the Chairman had been able to arbitrate between diverging opinions and to present texts which represented a happy medium. However, this arbitration had been possible when it concerned a work programme which did not alter existing rights and obligations. The proposed decision on Article 27.4 would alter existing rights and obligations. For this reason, this was an area where such arbitration was not a viable approach. It was necessary to address the problems faced by some Members in this area, but the solution would have to be within the existing rules, so that a decision could be taken which did not have adverse economic repercussions on other Members.

The representative of Guatemala said that the issue of extensions of time-periods under Article 27.4 of the Subsidies Agreement was important for her delegation. A satisfactory solution was at hand as a result of intensive work in the Subsidies Committee and the efforts of the Chairman of the General Council. Document G/SCM/W/471 set out a procedure under Article 27.4 which built on the mechanism already foreseen in the Subsidies Agreement and which would allow certainty and clarity. Members would know precisely which subsidy programmes would be subject to, and which Members would benefit from, such extensions. These Members would have the security of knowing how long they would benefit from an extension, as long as they fulfilled the transparency and standstill requirements. Nevertheless, Guatemala was concerned that a time-period had been set out in the proposal, although discussions on this matter had not been successfully concluded. This was a matter which should be left for the consideration of Ministers in Doha. Her delegation agreed with a number of other delegations that the General Council should not, and could not, prejudge the result of Ministers' consideration of this matter. The question of the time-period should be left open, as it had been in the report by the Chairman of the Subsidies Committee. Guatemala would prefer to see both time-periods suggested by Members appear together in square brackets in the draft Decision.

The representative of the Dominican Republic said that his delegation could go along with the consensus on the draft Decision on implementation, although it was possible that no such consensus would exist because one of the elements of fundamental importance in this draft Decision had been challenged, which was the procedures proposed for the extensions under Article 27.4 of the Subsidies Agreement. As Guatemala had said, the Chairman's proposal on this included a date of 2005, which was not acceptable to the Dominican Republic. All of the other aspects of the proposed procedures were acceptable to his delegation as well as to Barbados, Belize, Bolivia, Botswana, Cameroon, Cuba, Ecuador, El Salvador, Gabon, Guatemala, Honduras, Jamaica, Kenya, Nicaragua, Panama, Paraguay, Sri Lanka, St. Lucia and Zimbabwe. This group of countries had met with the Chairman and had requested that further consultations be carried out in Doha in order to solve the problem of the time frame. The Chairman had promised that these consultations would be convened in Doha and that these countries' position would be included in a report that would be made to Ministers. The

Dominican Republic was certain that in the framework of these consultations Members would be able to solve the legitimate concerns that had been raised by Colombia and Chile on an issue that was of great importance to a number of Members.

The representative of the United States said that the proposed draft Decision on implementation reflected all of the substantial efforts on the part of the membership to address implementation issues in a serious and meaningful way. She had taken up her post in Geneva on the day of the June Special Session and had heard a long and thoughtful discussion that day, from which had resulted a number of consultations held throughout the summer which had seen additional hard work on these many items. The draft Decision reflected constructive engagement on the part of the membership on the broad range of subjects, as well as the proposals within the draft text in which the Chairman had suggested ways to deal with a number of thorny issues. The United States could support or accept the overwhelming majority of what was proposed in this draft Decision. However, some Members had indicated that they had difficulties with some of the specific elements in the draft text. Her delegation as well had problems with some of the proposals, but looked forward to working with others to bring this process to a successful conclusion.

The representative of Egypt said that adopting a meaningful decision on implementation in accordance with the 3 May 2000 Decision of the General Council would contribute positively to consideration of the elements of the work programme at Doha. However, Egypt was concerned over new formulations and different ideas introduced in the implementation package at the last minute, in particular on tiret 67 regarding Annex VII of the Subsidies Agreement. Since Seattle, Members had been engaged in extensive consultations on how to calculate the US \$1,000 threshold, and it had been agreed to use constant 1990 dollars in accordance with the 1992 World Bank data for 1990, which had been used when Annex VII was negotiated, in order to solve the problem of those countries covered by Annex VII. The methodology prepared and presented to Members by the Secretariat at the Chairman's request was acceptable to Egypt. The language in the draft Decision of 26 September (Job(01)/139) had also been acceptable to Egypt, and probably to many other countries, both developed and developing. Her delegation had thus been surprised to find that a proposal made in the Subsidies Committee by one country, a major partner not directly affected by this particular issue, to introduce a totally new methodology for calculating constant 1990 dollars had been included in the revised draft Decision. The effect of this proposal would be to exclude Egypt from benefitting from a solution to a problem that it had raised, and her delegation could clearly not accept this. Other tirets on which her delegation wished to see some changes included the original tiret 9 regarding the Agreement on the Application of Sanitary and Phytosanitary Measures and tirets 19 and 29 on textiles. The consultation process should continue, and in good faith, so that a satisfactory solution could be reached by the time of Doha on the current draft text, which covered no more than half of the implementation issues raised more than two years earlier.

The representative of El Salvador said that the implementation process was important to El Salvador, and his delegation had worked constructively in order to achieve positive results at the Ministerial Conference. The proposed procedure under Article 27.4 of the Subsidies Agreement was of vital importance to his country, and document G/SCM/W/471 was a good basis for Ministers to adopt a decision on this issue at Doha. Although agreement had nearly been reached on this proposal, his delegation could not accept the time-period suggested in paragraph 1 of that document and believed this should be left for the consideration of Ministers at Doha.

The representative of Honduras said that his delegation, like the Dominican Republic and others, could accept the present draft Decision. His delegation wished to thank Members for their good faith in allowing the error excluding Honduras from Annex VII of the Subsidies Agreement to be corrected, which would help his country to minimise the impact of the recent hurricane. With regard to document G/SMC/W/471 containing the proposed procedures for the extension of the time-period under Article 27.4 of the Subsidies Agreement, Honduras appreciated the Chairman's efforts to find an acceptable outcome in this area, and could agree to the proposal with the exception of the

proposed time-period. His delegation requested the Chairman to include in the communication he would send to the Chairman of the Ministerial Conference the two time-periods set out in the report of the Chairman of the Subsidies Committee. This would be a balanced way of reflecting the discussions held on this issue in the Subsidies Committee, and would allow Ministers in Doha to decide on this important matter. Proceeding in this way would allow more work to be undertaken with delegations which still had concerns on this proposal, and would allow the needs of all developing countries to be taken into account. He wished to underline that it was not the wish of the proponents of this issue to exclude any other Member from the result.

The representative of Malaysia said that after months of consultations, and after having had to reject earlier proposals tabled, Malaysia was willing to accept the current proposals, modest as they were, contained in Job(01)/139/Rev.1 in its entirety. Malaysia's acceptance of the text was premised on the understanding that there would be no dilution of the text. Malaysia urged other Members to join the consensus on the draft Decision in order to fulfill the General Council Decision of 3 May 2000. His delegation had noted the problem raised by Colombia, and understood that the Chairman would be carrying out consultations on this matter. Malaysia hoped that an amicable solution would be found on this issue within the next few days.

The representative of Panama said that his delegation could support the proposed procedure under Article 27.4 of the Subsidies Agreement set out in document G/SCM/W/471 except for the time-periods. There was no agreement thus far on this issue, and the document should reflect both time-periods contained in the report by the Chairman of the Subsidies Committee. The remaining differences could be settled by Ministers at Doha. Panama supported the statements on this issue by Guatemala, the Dominican Republic, El Salvador and Honduras.

The representative of Sri Lanka expressed her delegation's appreciation for the proposed procedures for extensions under Article 27.4 of the Subsidies Agreement for certain developing-country Members. Although the overall package on implementation issues did not meet Sri Lanka's expectations, it could accept the package and urged the General Council to adopt it in its entirety without any changes. Her delegation acknowledged the circumstances under which the Chairman had been compelled to compile the draft text which was to include a proposed procedure and a proposed decision by Ministers at Doha to address the concerns raised by a number of developing countries whose share of world merchandise export trade was quite small. As the report by the Chairman of the Subsidies Committee (G/SCM/38) noted, the proponents' main objectives were to obtain automaticity and a sufficiently long period of extension, as these two crucial elements had been lacking in the existing provisions of Article 27.4. It was therefore clear from the proponents' point of view that any decision that would come out of the extensive consultations should adequately address these two objectives. The proponents had participated in the consultations with a positive attitude and had showed maximum flexibility in agreeing to various demands of other Members. This had been acknowledged in the Subsidies Committee Chairman's report. That report captured accurately the comments and suggestions made by delegations during the consultations and drew Members' attention to the areas and issues where there were divergences. Two different time-periods had been suggested for the extension proposed, i.e. 2005 and 2018, and the Committee Chairman's report acknowledged this by incorporating them both in square brackets, thus leaving it to Ministers to take a political decision on this issue at Doha. However, the draft Decision in Job(01)/139/Rev.1 had eliminated this possibility. While Sri Lanka appreciated the Chairman's efforts to improve the language concerning the proposed procedure for granting the extensions under Article 27.4, which her delegation approved, the draft Decision failed to capture the differences of view on the time-periods for the extensions, which for Sri Lanka was the most crucial element in the draft Decision. Therefore, Sri Lanka urged the Chairman to take into account the representation, as stated by the Dominican Republic, of a group of developing countries with a small share of trade, including Sri Lanka, on this issue, and to reinstate both time-periods in the draft Decision. Since the Chairman had said that he did not intend to amend the draft Decision, her delegation suggested that the covering letter for the draft Decision convey to Ministers in Doha the alternate proposals presented by Members.

The representative of Uganda said that the present implementation process involved a number of confidence-building measures, and a positive outcome in this process would contribute to a successful Ministerial Conference. His delegation fully supported the statement by Tanzania on behalf of the LDCs on the draft Decision on implementation. The proposed texts in paragraph 3 of Job(01)/139/Rev.1 regarding SPS measures and in paragraph 5 regarding TBT measures were still best-endeavour clauses calling on Members to provide, to the extent possible, financial and technical assistance to LDCs to enable them to comply with their obligations. As a follow-up to the Brussels meeting on LDCs, his delegation hoped that there would be the goodwill to effectively implement these best-endeavour clauses. Regarding the text under tirt 90, Uganda welcomed the affirmation that the provisions of Article 66.2 of the TRIPS Agreement were mandatory, and the modalities of ensuring their effective implementation. This was a positive development. On the cross-cutting issues, he wished to reiterate that special and differential treatment was vital to his country. The original proposal had been to make such treatment binding, but it had not been possible to reach agreement on this issue at the present stage. However, his delegation looked forward to working towards this in the mechanism that would be put in place to consider it. Overall, the implementation package fell short of Uganda's ambitions, but the present text went as far as the Chairman had been able to take it, and Uganda was prepared to accept it.

The representative of Korea agreed with delegations who had said that considerable progress had been made since the summer break. His delegation hoped that with further efforts Members could come up with a package that would satisfy both developing and developed countries. Korea could go along with most of the draft Decision, but had reservations about tirt 56 as it currently stood. As Korea had repeatedly emphasized, the original proposal on tirt 56 concerning the verification of export prices was technically impracticable and administratively burdensome. Therefore, his delegation had supported the idea of a prior study on fraudulent practices in importing countries. However, as long as the cooperation remained non-mandatory, strictly confidential and within the authority of the national laws and regulations of the exporting country, Korea could show some flexibility. Nevertheless, to Korea's disappointment, its concerns had not been reflected in the revised text. On the contrary, the language had been strengthened by replacing "should" with "shall," and by replacing "if available" with "where possible". As his delegation had indicated previously, Korea supported the relevant proposal made earlier by the Chairman and the Director-General in their communication in Job(01)/112 of 13 July 2001 for a prior study on fraudulent practices. This approach was the best way to proceed in resolving this issue.

The representative of Barbados expressed his delegation's appreciation to the Chairman of the Subsidies Committee for his tireless efforts on the proposal for extension of the period in Article 27.4 of the Subsidies Agreement. Barbados had a keen interest in seeing this proposal adopted with appropriate amendments to the time frames for the extension. He associated his delegation with the statements by Guatemala, the Dominican Republic, El Salvador, Sri Lanka and others. Barbados supported the procedure outlined in G/SCM/W/471 as well as the communication to Ministers in Doha of the alternative time frames discussed in the Subsidies Committee.

The representative of Brazil reiterated his country's view that the satisfactory treatment of the implementation dossier overall was an essential ingredient for a successful Ministerial Conference. This had become evident over the past months. Unfortunately, his delegation was not sure how much reassurance it could derive from the present discussion. Members had been struggling to put together a package for adoption before Doha, and the Chairman deserved credit for having worked on implementation in a synchronised way with preparations for the Fourth Ministerial, and for having issued a proposed text on 26 September and on 27 October. This was positive in itself, but it was disappointing that Members were still not clear as to what could be done before Doha. Brazil had not given up completely, and with some of the ideas floated at the present meeting it could perhaps look at adoption of what the Chairman was proposing and continue consultations on one item which had raised some concerns. Brazil shared some of the concerns that had been raised with respect to the

proposed language in document G/SCM/W/471 relating to Article 27.4, and had made its position known in the Subsidies Committee and in the consultations carried out on this issue. Brazil was concerned with the criteria for eligibility of beneficiaries of the extension being spelled out in the document, and would have preferred that those criteria be set out in the minutes of a meeting of the Subsidies Committee, with a clear indication that they would be used for the sole purpose of the extension and would not be used as a precedent in other cases. Brazil had taken note of the replacement of the reference to small economies by the expression "certain developing-country Members". This was helpful in the sense that Members were searching for an *ad hoc* solution to a specific problem and not creating a new category of countries. Brazil understood the problems that the proponents of this mechanism faced and was ready to continue working constructively on this issue.

The representative of the European Communities said that on the implementation dossier, which was both politically important and technically highly complex, Members had made tremendous progress since July. Notwithstanding the painstaking process involved, what was on table provided the basis for a meaningful decision by Ministers in Doha. On the vast majority of subjects, the Geneva process had led to the overwhelming support by the membership for the draft Decision. The Community had been working hard to be part of this emerging consensus, and he was certain that the same applied to other developed countries which had made considerable efforts, in the face of serious domestic constraints, to move forward on this dossier. However, as the Chairman had said, there were still a number of issues which continued to raise serious concerns. While these might be few in number, at least as far as the Community was concerned, they were very important in their consequences, and Ministers would need to address them.

The Community had been amongst those delegations who had pleaded on 3 October to cash in on those issues that were ripe for consensus. However, Members had decided otherwise, and the draft Decision to be put to Ministers included a merging of Annexes I and II of Job(01)/139. Nonetheless, Ministers would need to focus only on a limited number of issues. In the Community's view, there would seem to be no objection to the Chairman indicating, in transmitting the draft Decision, that in his best judgment a vast majority of the items in that draft text were acceptable to Members. Most of the work had been done, and it was now up to Ministers to finish it. It was the Community's firm conviction that the decision to be adopted in Doha, together with a comprehensive and constructive approach to dealing with the remaining implementation issues as part of the future work programme of negotiations, constituted a meaningful and binding political response to the challenge of implementation.

The representative of Indonesia recalled that his delegation supported the merging of Annexes I and II as reflected in the revised text of the draft Decision. Indonesia joined other delegations in urging satisfactory solutions before Doha to the pending implementation issues mentioned previously by delegations. Regarding unresolved implementation issues, if negotiations were envisaged for specific implementation problems, these should be part of the single undertaking and early harvest. Other pending implementation issues should be addressed as a matter of priority under the special mechanism of the General Council. Although the revised draft Decision fell short of Indonesia's expectations, it was ready, in a spirit of compromise, to join the consensus on it.

The representative of Jamaica expressed his delegation's appreciation to the Chairman of the Subsidies Committee for his tremendous work and commendable efforts to bring the proposal concerning developing countries with a small percentage share of exports in import markets and global trade to the stage it had reached. The question had been asked as to how to face workers who would lose their jobs in domestic markets. Unless this issue were resolved in a manner that would allow a continuation of export incentives linked to import duties and internal taxes, thousands of jobs would be lost in export processing zones and other enterprises. Jamaica did not wish to see such an outcome, especially when the extent of trade distortion created by these incentives was minimal or non-existent. The text and the procedures outlined in the report by the Subsidies Committee

Chairman were in the right direction and were acceptable to Jamaica. Jamaica had met the notification requirements under the Subsidies Agreement. He associated his delegation with the statements by the Dominican Republic and others who had supported this proposal. Not to apply the rules flexibly on this critical issue would only demonstrate to many developing countries why they had to be so wary about new commitments in the WTO.

The representative of Paraguay supported the statement by the Dominican Republic with regard to document G/SCM/W/471. His delegation also supported the text on Article 27.4 of the Subsidies Agreement in the draft Decision. When talking about correcting imbalances in world trade, everyone should bear in mind that much political will would be necessary on all sides to be able to reach consensus on how to correct these imbalances. Some delegations had concerns on which countries would be eligible under the proposed procedures, but the criterion was clearly based on the share of these countries' exports in world trade. The Members seeking this extension, including his country, were simply trying to secure their share in world trade. He agreed with others that Ministers in Doha should be able to find a solution acceptable to all Members with an interest in this area. At the same time, the views expressed by Colombia and Chile would have to be duly taken into account. Some Members had concerns about the transparency of the proposed procedure, but Paraguay believed that transparency would be ensured. Regarding point 11 of the draft Decision concerning the outstanding implementation issues, the footnote referred to Job(01)/152/Rev.1 which listed these issues, many of which were far from being agreed or even sufficiently discussed. There was also a cross-reference to document Job(01)/140/Rev.1 and in that document, the second paragraph of the section on the TRIPS Agreement linked work on Article 23 of the TRIPS Agreement to the work on implementation. His delegation believed that this was dangerous, and Paraguay would have considerable difficulty in accepting this link. Since the issue of geographical indications still needed to be discussed in the TRIPS Council, it should not be linked to either of the draft texts on implementation.

The representative of Canada said that the Director-General had made implementation issues a political imperative for the organization and deserved credit for providing political leadership in this area. The Deputy Director-General, Mr. Rodriguez-Mendoza, had contributed endless hours of assistance and dedication to that political imperative. Like the other documents for Ministers in Doha that were before Members, the draft Decision on implementation represented an important achievement. This had not been an easy subject and had not lent itself to easy success. However, all Members attached to this issue the degree of importance it deserved, and all had shown good faith, despite the difficulties involved. As a result, there had been meaningful and considerable progress since Seattle. While on a number of issues Members had differed in their interpretation of what constituted an implementation issue and what would require renegotiation, the implementation exercise had demonstrated the number of areas where there were implementation difficulties for developing and least-developed countries, and at the same time had proven that there was a willingness, wherever possible under the circumstances, to find solutions to those legitimate difficulties. As a result, the draft Decision on implementation provided an integral, if not exclusive, part in what many had referred to as a real and substantive development and growth agenda that was reflected at the heart of all of the texts to be sent to Ministers. The draft text provided a solid basis for Ministers to consider, and Canada supported sending it to them. Canada could support the overwhelming number of tirets, but there were a few on which it still had some degree of difficulty, and these would require further consideration and would ultimately be decided by Ministers in Doha. This would be entirely consistent not only with the spirit but the letter of the 3 May 2000 General Council Decision, because the language in the draft text was straight-forward and met the challenge contained in that Decision.

The representative of India said that there were a few welcome additions in the revised draft Decision regarding problems faced specifically by LDCs, which India supported. He recalled that the 3 May 2000 Decision of the General Council, which had been taken by consensus, stated that the General Council would assess existing difficulties, identify ways needed to resolve them and take

decisions for appropriate action, no later than the Fourth Session of the Ministerial Conference. The revised draft Decision in Job(01)/139/Rev.1 fell short of India's expectations. This draft text had dropped some of the issues contained in the earlier draft of 26 September. For example, the tiret relating to restraint in initiation of anti-subsidy proceedings against developing countries on the basis of a higher *de minimis* level, though in the nature of a best-endeavour clause, had been dropped. India had made detailed comments on that earlier draft text and would not repeat them. However, it was disappointed that most of the points it had made had not found reflection in the revised draft text. For example, the draft text on textiles and clothing was disappointing, in that even the limited proposals made by the Chairman were not being agreed to, but no delegation had thus far explicitly rejected the draft decisions proposed by the Chairman in respect of textiles and clothing. However, India recognized that some delegations might have conveyed reservations to the Chairman even before the meeting, and this was perhaps the reason why the Chairman had indicated at the outset that there was no agreement on these proposals.

One proposal which India had been pursuing vigorously was tiret 56 on customs cooperation in cases involving under-invoicing of goods. It was common knowledge where funds siphoned off through such methods ended up, and in the current international context India had expected a better understanding of its proposal. Unfortunately, the draft Decision did not address India's concerns fully, as it made such cooperation contingent on "where possible". India suggested instead that information be shared "if available". Similarly, the value of the goods that was to be provided should be the export value, and this should be so stated in the draft Decision. India had shown a lot of flexibility in order to ensure that a decision would be taken on this tiret and trusted that Korea, who had spoken on this issue, could show flexibility. India was also particularly concerned that its core concerns relating to the Agreements on Anti-Dumping and on Subsidies had not been addressed. Some of its proposals relating to anti-dumping were to be sent to the Anti-Dumping Committee for a report within one year. Even implementation issues relating to mere procedural matters, such as limiting the countervailing duty to the excess over and above the remissionable duty, had not been addressed.

Some implementation issues were proposed to be referred to subsidiary bodies with a time frame for reporting back. It was not clear how these issues would be dealt with and when decisions would be taken on the recommendations from the subsidiary bodies. The dates currently proposed for the subsidiary bodies to report back should be the dates for decisions by the General Council. Paragraph 13 of the draft Decision stated that outstanding implementation issues would be addressed in accordance with paragraph 12 of the draft Ministerial Declaration. India had commented on paragraph 12 of the draft Declaration under item 9 of the November General Council agenda. However, the Chairman's remarks at the present meeting had created some confusion, as Brazil had said. Paragraph 12 of the revised draft Declaration suggested a two-track approach, one to deal with issues on which specific negotiating mandates had been proposed in the Declaration, and the other to deal with the remaining issues. It was proposed that the latter category of issues be dealt with in the relevant WTO bodies which would report to the Trade Negotiations Committee by the end of 2002 for appropriate action. India had already made it clear that issues being dealt with under paragraph 12(b) of the draft Declaration were also an integral part of the work programme, and that where decisions were not possible by the end of 2002, those issues should also be treated on a par with issues covered by specific negotiating mandates. Issues dealt with under paragraph 12(a) as well as 12(b) of the draft Declaration belonged to the single category of outstanding implementation issues, and no artificial differences could be created while negotiating on these issues as an integral part of the work programme. Also, the list of outstanding implementation issues circulated on 27 October should be double-checked so that no outstanding issue, in the sense of a final decision not yet having been taken, was excluded from the list. Members had worked hard for three years on implementation issues, only to find that the package being proposed for decision at Doha and the draft Declaration contemplated that remaining implementation issues would go into the negotiation package. Although India was not completely satisfied with the draft Decision in Job(01)/139/Rev.1, it could go along with the package as a whole.

The representative of Morocco said that this was a very important issue for many developing countries, and his delegation was happy to see that an earlier contribution by Morocco and six other countries had helped to move the process forward to what many Members felt was a very acceptable package. If those Members who had been pushing for many of the implementation issues could accept this kind of package, Morocco, as one of the proponents of this very important subject, would do the same. It would be a good gesture towards the developing countries and a confidence-building measure if the package on implementation could be forwarded to Ministers for adoption in Doha as it stood. All delegations had made a lot of sacrifices to bring this dossier to its current stage, and had to go only a little further to make sure that the package as a whole was adopted on all the subjects it covered. Many of these issues were of great importance to developing countries, and adoption of this package would foster confidence in the organization that implementation problems of developing countries were being addressed. The clarification sought by Brazil, India and others on the treatment of the remaining implementation issues would clearly have to be addressed in a satisfactory manner along the lines of paragraph 12 of the draft Declaration, and along the lines of what India had outlined.

The representative of Mexico said that his delegation was concerned for systemic reasons as well as for economic reasons by the present discussion of the extension under Article 27.4 of the Subsidies Agreement. Subsidies could not and should not be a source of competition. It was difficult for Mexico to accept the type of programme proposed, while in agriculture it was fighting for the elimination of subsidies that affected developing countries so negatively. Many of the subsidies that many developed countries currently granted in particular regions were taking away investment opportunities for developing countries. Mexico was a country of contrasts that suffered from poverty that was as serious as in the poorest countries of the world, and had decided many years earlier to use its resources to promote investment in education, health and nutrition, and not to promote the production of manufactured goods. The southern part of Mexico clearly competed with North and Central America and the Caribbean, and thus had a very direct interest in the possibility of granting export subsidies to these areas. Mexico had no problems if these countries granted domestic subsidies or other internal subsidies. If the draft decision on extensions under Article 27.4 was taken to Doha it would be a sign of failure for which all would be to blame, because Members had been unable to solve this problem. Mexico welcomed the proposal by Pakistan to make one last effort to find a mutually satisfactory solution. Regarding implementation in general, his delegation was pleased that Members were close to a final solution, as this would be an additional element that would allow Members to launch a new round of negotiations at Doha. A study published recently by the Financial Times and based on a World Bank report indicated that a new round of negotiations might lead to an increase in world trade of US\$2.8 billion, of which US\$1.5 billion would go to poor countries. Members should not lose the historic opportunity they would have in the next few days to launch a new round of negotiations.

The representative of Uruguay said that his delegation had often underlined the enormous importance of this subject and the need to find an adequate response in the framework of the WTO. The submission by the G-7 countries had allowed a complicated situation to be unblocked after a long period. The Chairman's proposals contained in the two draft texts and the draft Ministerial Declaration were in line with the G-7 proposals and would allow a package of measures to be adopted in Doha which corresponded to many of the implementation concerns raised by developing countries, while at the same time initiating negotiations on all outstanding matters as an integral part of the work programme. It would have strengthened the mutual trust between delegations had it been possible to adopt the draft Decision on implementation at the present meeting. However, this was not possible since there were still difficulties to be addressed. His delegation, as in the past, was ready to continue its cooperation with others in the search for constructive and, in particular, realistic solutions to all the issues raised.

The representative of Cuba said that the present process was aimed at rebalancing the existing agreements to allow developing-country Members to fulfill their obligations and to participate fully in

the multilateral trading system. Her delegation regretted that the draft text, despite the efforts undertaken, did not contain the concrete measures needed in order to attain the balance developing countries were looking for. Her delegation also regretted that the present process would not be completed before Doha in accordance with the 3 May 2000 Decision of the General Council. This would create uncertainty for some Members about their participation in the multilateral trading system. Cuba had serious concerns about some of the issues addressed in the present draft text and wished to highlight a few examples. The time-periods which had been proposed under the Agreement on Sanitary and Phytosanitary Measures had been reduced by half in the text, as also in the case of the Agreement on Technical Barriers to Trade. The text proposed on Annex VII of the Subsidies Agreement completely cancelled out the original proposal, which was not even mentioned. Under the agriculture heading, the text proposed for tiret 5 merely urged restraint in challenging measures notified by developing countries, which fell far short of what Cuba was looking for. Other important issues had been left out of the draft text, such as those under customs valuation and subsidies. With regard to the draft text on geographical indications, Cuba was not in a position to accept it. Work among interested Members was continuing in the hope of submitting a new text to the Chairman shortly. Cuba supported the statement by the Dominican Republic on the procedures for extensions of the transition period under Article 27.4 of the Subsidies Agreement set out in document G/SCM/W/471.

The representative of Venezuela expressed appreciation to the Chairman and the Director-General for the transparent procedure that had been used for the consideration of implementation issues. This process had involved a sustained effort and had brought positions closer together on a matter of great importance to developing countries. The gap in positions several months earlier had been quite large. While Venezuela was not completely satisfied with the draft Decision in certain areas, it was a balanced proposal and was a good basis for the consensus it was hoped Ministers would achieve in Doha. Venezuela was ready to accept the draft text as a whole and supported Pakistan's proposal that a last effort should be made to reach a satisfactory result. His delegation would contribute to that effort. The draft Decision on implementation as a whole, together with paragraph 12 of the draft Declaration, was very close to a balance, and it would be dangerous to change it. Any weakening of paragraph 12 of the draft Declaration or of the draft Decision on implementation that would water down the latter would completely modify the positive attitude Venezuela had shown regarding an enlarged negotiating agenda.

The representative of Japan said that the draft Decision reflected the maximum results achievable through sincere efforts made by all to respond as positively as possible, and under various constraints, to the implementation proposals. With the exception of one or two turrets on which Japan still had some reservations, his delegation could basically support the draft Decision for adoption by Ministers at Doha. Paragraph 12 of the draft Declaration provided a clear procedural proposal to allow Members to continue to seek appropriate solutions to remaining implementation issues after Doha. Japan was prepared to continue to work for appropriate solution to the remaining issues in accordance with the suggested procedures.

The representative of Switzerland expressed his delegation's satisfaction that the seeds which had been sown several months earlier were beginning to bear fruit, and hoped that the full harvest could be gathered in Doha. His delegation would support the draft text, although some of the elements in it were not quite satisfactory to Switzerland. An agreement on implementation issues was being reached that should not be viewed as anything but substantial. Members would see the effects of this decision develop once it, and the decisions to negotiate the outstanding issues, had been taken. The approach proposed regarding the outstanding issues was practical and realistic. Switzerland did not make a substantive difference, in terms of negotiations, between the two categories indicated in paragraph 12 of the draft Declaration. His delegation's basic assumption was that both categories of issues would be negotiated. It would be foolish to prejudge at the present time the outcome of these negotiations. All Members would seek to find an appropriate solution. It was clear that the subjects raised under these outstanding implementation issues might be related to other elements in the

activities of the WTO. Switzerland would make all efforts to find appropriate and realistic solutions to these outstanding issues.

The Chairman, in summing up, noted that several delegations had referred to the fact that work had been going on for three years on implementation issues, and expressed appreciation to all those who had worked hard on this subject. These included the proponents of the various issues, who had done an excellent job in putting forward their proposals clearly and tenaciously and in explaining the importance of this issue. Those responding had sometimes been placed in a difficult position although, at the end of the day, very genuine efforts had been made, sometimes in difficult circumstances, to bring this difficult exercise to a satisfactory conclusion. Special thanks went to those delegations who had tried consistently to build bridges and to find ways out of the various impasses in which Members had found themselves from time to time in this process. He wished particularly to mention the G-7 countries who earlier in the year had managed to find a circuit breaker for the rather circular situation Members had been in at the time. He wished to thank again the Secretariat, the Director-General and particularly Deputy Director-General Mr. Rodriguez-Mendoza, who had been a hero in this effort, as well as the Chairpersons of subsidiary bodies, in particular the Chairpersons of the TRIPS Council, the Agriculture Committee, the Subsidies Committee, the SPS Committee, the Rules of Origin Committee, the Market Access Committee, the Customs Valuation Committee and the Committee on Trade and Development. These individuals had done sterling work in an effort to satisfy the appetite of the General Council on implementation issues.

Of course, there were different views on the draft texts currently before Members. Some Members would be disappointed, and others would perhaps feel that things had gone a little farther than they had intended. But he felt that by any standard it was an incredible package when viewed as a whole. It was a remarkable achievement to have come up with this package, given all of the genuine constraints involved, and given, in particular, that Members had not been in a negotiating phase when this had been dealt with. It said something positive about the organization that at the end of the day, and after great difficulty, Members had been able to produce something quite respectable. He proposed that the Director-General and he transmit the document to the Ministerial Conference on their own responsibility. As with the draft Declaration, the draft Decision would be sent with a covering letter which would explain the process and convey that there was a very large measure of agreement on this package of issues, but that there were still a few points of difference. On the latter, the Director-General and he would try to craft something so as to enable differing points of view on some important issues to be appreciated by Ministers, and would recommend that Ministers focus on the very few points of difference that still remained.

The representative of Brazil recalled that Brazil and India had asked for a clarification from the Chairman, but said that this would not be necessary if Members concluded on the understanding that any singling out of any tirets for inclusion under sub-paragraphs (a) or (b) of paragraph 12 of the draft Declaration would be premature until it had been decided exactly on which of the items negotiating mandates would exist. Although his delegation had not noted all of the items mentioned by the Chairman in his introduction, it had noted that some items were missing from areas that were foreseen for negotiations in the draft Declaration. In order to ensure that there was no misunderstanding, he asked for confirmation that the Chairman's introduction had no status in terms of where the tirets would be forwarded. The present discussion had revealed some difficulties with the proposed package, but this in itself should not be reason for great distress, since Members could continue consulting and were very near agreement on the package. However, whereas delegations that had certain difficulties had made these explicit, such as Colombia and certain other delegations, including Brazil, it was not clear as to why other delegations that had expressed difficulty with the package could not adopt it as a whole. It would be very useful in planning for Doha if those delegations could indicate exactly what problems they had with the package.

The Chairman said that, in relation to his introductory statement, he had wished to clarify that where a specific negotiating mandate was provided in the draft Ministerial Declaration, the relevant

implementation issues would be addressed under that mandate, in accordance with paragraph 12(a) of the draft Ministerial Declaration. He had then used the term, "for example", and had thus not meant to convey a concrete categorization of the tirets he had listed. He had simply tried to provide an illustration to delegations of what might happen. He hoped that this provided a sufficient clarification on this matter. The listing of the tirets he had made provided no status to any of these tirets, and had been designed merely to illustrate the situation to delegations.

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