

GENERAL COUNCIL

Annual Report (2005)

The present report has been prepared in pursuance of the Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO (WT/L/105), and sets out the actions taken by the General Council in the period since its previous annual report.

In carrying out its tasks, the General Council has held 10 meetings and since the period covered by the previous report. The minutes of these meetings, which remain the record of the General Council's work, are contained in documents WT/GC/M/91 – 100.¹

The following subjects are included in the report²:

| | |
|---|----------|
| 1. Work under the Doha Work Programme..... | 3 |
| (a) Trade Negotiations Committee – Reports..... | 3 |
| (b) Report by the Director-General on his consultations on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration | 5 |
| (c) Implementation of Paragraph 11 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Statement by the Chairman of the TRIPS Council | 6 |
| (d) Review under Paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Report of the Council for TRIPS | 8 |
| (e) Work Programme on Small Economies – Reports | 8 |
| (f) Rules of Origin – Harmonization Work Programme – Statement by the Chairman..... | 9 |
| (g) Work Programme on Special and Differential Treatment | 10 |

¹ WT/GC/M/100 is to be issued.

² Prior to the start of the General Council meeting on 29 July, Mr. Pascal Lamy, Director-General-designate, as well as Mr. John C. Tsang, Secretary for Commerce, Industry and Technology of Hong Kong, China, and Chairman of the Hong Kong Ministerial Conference, addressed the General Council. Their statements are reproduced in Annexes I and II respectively of the minutes of that meeting (WT/GC/M/97). Also, prior to the close of the 29 July meeting, the Chairman and Members bid farewell to the outgoing Director-General, Dr. Supachai Panitchpakdi. Their statements, as well as that by Dr. Supachai, are reflected in Annex III of the minutes (WT/GC/M/97).

At the General Council meeting on 1, 2 and 6 December, the Chairman of the Hong Kong Ministerial Conference addressed the Council. The full text of his statement was circulated subsequently as document JOB(05)/317. Also at that General Council meeting, the Minister of Industry, Commerce and Employment Promotion of Benin, addressed the Council. This statement will be reproduced as an Annex to the minutes of that meeting (WT/GC/M/100).

| | | |
|------------|---|-----------|
| (i) | <i>Reports by the Chairman of the Special Session of the Committee on Trade and Development</i> | <i>10</i> |
| (ii) | <i>Reports by Chairpersons of other WTO bodies to whom special and differential treatment proposals have been referred</i> | <i>11</i> |
| (h) | Work Programme on Electronic Commerce | 12 |
| (i) | Follow-up to the July 2004 General Council Decision on the Doha Work Programme – Report by the Director-General on the Development Assistance Aspects of Cotton | 13 |
| 2. | China – Transitional review under Section 18.2 of the Protocol on Accession to the WTO Agreement..... | 13 |
| 3. | Committee on Budget, Finance and Administration - Reports and recommendations | 14 |
| 4. | Review of the Exemption Provided under Paragraph 3 of GATT 1994 | 15 |
| 5. | Non-recognition of rights under Article XXIV:6 and Article XXVIII of GATT 1994 – Communication from Honduras and Guatemala | 16 |
| 6. | Proposed Modification to Schedule CXL – European Communities: Prolongation of Rights under Article XXVIII of GATT 1994 | 17 |
| 7. | Enlargement of the European Union – Communications from the European Communities..... | 18 |
| 8. | Procedure for the introduction of HS 2002 changes to schedules of tariff concessions using the Consolidated Tariff Schedules (CTS) Database | 19 |
| 9. | Preparations for the Sixth Session of the Ministerial Conference..... | 19 |
| (a) | Election of officers..... | 19 |
| (b) | Attendance of observers from Governments | 20 |
| (c) | Attendance of observers from International Intergovernmental Organizations | 21 |
| (d) | Attendance of an observer from the Palestinian Authority | 23 |
| (e) | Attendance of non-governmental organizations | 23 |
| (f) | Statements by the Chairman | 23 |
| (g) | Administrative Arrangements | 24 |
| (h) | Draft Ministerial Text – Statement by the Chairman..... | 24 |
| 10. | Commodities..... | 26 |
| 11. | Digital archiving and derestriction of GATT official documents | 26 |
| 12. | Appointment of the next Director-General | 26 |
| 13. | Accession Matters | 27 |
| (a) | Afghanistan | 27 |
| (b) | Iran | 27 |
| (c) | Montenegro | 28 |
| (d) | Sao Tome and Principe | 29 |
| (e) | Saudi Arabia | 29 |
| (f) | Serbia and Montenegro | 30 |

| | | |
|------------|---|-----------|
| (g) | Serbia | 30 |
| (h) | Viet Nam..... | 31 |
| 14. | International Trade Centre UNCTAD/WTO..... | 31 |
| 15. | Waivers | 32 |
| (a) | Albania – Request for a waiver to extend the staging period of implementation for a number of products | 32 |
| (b) | Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions | 32 |
| (i) | <i>Argentina, Malaysia and Panama</i> | 32 |
| (ii) | <i>Israel</i> | 32 |
| (c) | Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions | 32 |
| (d) | United States – Requests for waivers for African Growth and Opportunity Act, Caribbean Basin Economic Recovery Act and Andean Trade Preference Act..... | 33 |
| (e) | Review of waivers pursuant to Article IX:4 of the WTO Agreement | 33 |
| 16. | WTO Pension Plan..... | 34 |
| (a) | Management Board of the WTO Pension Plan..... | 34 |
| (b) | Annual Report..... | 34 |
| (c) | Amendments to the Regulations and Administrative Rules of the Pension Plan..... | 34 |
| 17. | Appointment of Officers to WTO bodies..... | 35 |
| 18. | Chairmanship of the Special Session of the Committee on Agriculture and the Sub-Committee on Cotton..... | 36 |
| 19. | Review of WTO Activities | 37 |
| 20. | Election of Chairperson..... | 37 |

1. Work under the Doha Work Programme

- (a) Trade Negotiations Committee – Reports (WT/GC/M/92, 95, 97, 98, 100)

Ministers at Doha established a Trade Negotiations Committee under the authority of the General Council to supervise the overall conduct of the negotiations (WT/MIN(01)/DEC/1). In accordance with the Principles and Practices endorsed by the Trade Negotiations Committee at its first meeting on 28 January and 1 February 2002, the TNC reports to each regular meeting of the General Council (TN/C/M/1).

At the General Council meeting on 15 February 2005, the Director-General, as Chairman of the Trade Negotiations Committee, reported on the TNC's activities since his last report to the General Council, and indicated that he had made a further interim report to the TNC on his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits. This process was being undertaken in accordance with the July 2004 Decision of the General Council on the Doha Work Programme.

The representatives of Rwanda (on behalf of the African Group), Benin (on behalf of the ACP Group) and Zambia (on behalf of the LDCs) spoke.

The General Council took note of the Director-General's report and of the statements.

At the General Council meeting on 26 May 2005, the Director-General, as Chairman of the Trade Negotiations Committee, reported on the TNC's activities since his last report to the General Council, including an account of the TNC's 28 April and 19 May meetings. He also briefly highlighted the status of progress in the negotiations in some specific areas.

The representatives of Rwanda (on behalf of the African Group), Benin (on behalf of the ACP Group), Australia, Zambia (on behalf of the LDCs), Djibouti, Philippines, Kenya and Barbados, and the Chairman spoke.

The General Council took note of the Director-General's report and of the statements.

The Chairman, referring then to the chairmanship of the Special Session of the Committee on Agriculture, said that all Members would have seen a communication she had received on 23 May from the New Zealand authorities informing her and the membership as a whole that Mr. Tim Groser had stepped down as New Zealand Permanent Representative, following his decision to become a candidate for election to his country's legislature. This communication had been circulated to all Members at the request of New Zealand. She was sure all Members would join her in welcoming the offer of the New Zealand Government to supply the necessary resources to enable Mr. Groser to continue to carry out his functions as Chair of the Agriculture Special Session and Cotton Sub-Committee until the summer break. This showed a strong sense of responsibility and commitment to the WTO system, and Members thanked New Zealand for it. Concerning the position after July, it would be necessary for the membership to reflect on what was in the best interests of the negotiating process as one approached the Hong Kong Ministerial. Members had time to consider this before the next General Council, and she would be ready to conduct consultations as necessary.

The General Council took note of the statement.

At the General Council meeting on 27 and 29 July 2005, the Director-General, as Chairman of the Trade Negotiations Committee, reporting on the TNC's activities since his last report to the General Council, drew on a written report issued on his own responsibility as TNC Chair in TN/C/5 in order to provide his overall assessment of where participants currently stood in the negotiations and his views on the key challenges ahead.

The representatives of the Bolivarian Republic of Venezuela, United States and Nigeria, and the Chairman spoke.

The representatives of Argentina, Bangladesh for the LDCs, Barbados, Bolivarian Republic of Venezuela, Brazil (including on behalf of the G-20), Chile, China, Costa Rica, Cuba, Dominican Republic, Egypt for the African Group, El Salvador, Guatemala, Honduras, Indonesia for the G-33, Jamaica, Korea, Lesotho, Mauritius, Nepal, Norway, Pakistan, Peru, Philippines, Singapore, Saint Kitts and Nevis, Chinese Taipei, Tanzania, Thailand, Trinidad and Tobago, Uganda and United States asked that their statements at the 28 July meeting of the TNC be included in the records of this meeting.

The General Council took note of the Director-General's report and of all the statements.

At the General Council meeting on 19 October 2005, the Director-General, as Chairman of the Trade Negotiations Committee, reporting on the TNC's activities, noted that the TNC had held two meetings since the July General Council meeting and that his remarks at both meetings had been

circulated in documents JOB(05)/183 and 248. Regarding implementation, he had informed the TNC that he was undertaking a consultative process on all outstanding paragraph 12(b) implementation issues in line with the mandate given the Director-General in the July 2004 Decision, which had been renewed by the General Council in July 2005. This process was being carried out in his capacity as Director-General, and he would be assisted by a number of the Chairpersons of concerned WTO bodies acting as his Friends and by two of his Deputies – Mrs. Rugwabiza would take up the TRIMs issues and Mr. Yerxa would take up the issues of GIs and TRIPS/CBD. He would report to the TNC and to the General Council on progress in this process at their upcoming meetings.

The representative of Mali and the Chairman spoke.

The General Council took note of the Director-General's report and of the statements.

At the General Council meeting on 1, 2 and 6 December 2005, at the Chairman's suggestion, the report by the Chairman of the Trade Negotiations Committee was taken up together with the draft Ministerial text (under Point 9(h) below) and the discussion is reflected accordingly in this Report and the Minutes of the meeting.

- (b) Report by the Director-General on his consultations on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration³ (WT/GC/M/95, 97)

In Section 1(d) of its Decision of July 2004 (WT/L/579), the General Council, without prejudice to the positions of Members, had requested the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits. The General Council had agreed that the Director-General would report to the TNC and the General Council no later than May 2005.

At the General Council meeting on 26 May 2005, the Director-General, recalling that at a meeting of the TNC the previous week he had made a detailed report on his consultative process on these issues, which had subsequently been circulated in Job(05)/83, highlighted some important aspects of that report.

The representatives of Peru, India, Dominican Republic, Ecuador, Benin (on behalf of the ACP Group), Bolivia, Paraguay, Brazil, Colombia, China and Costa Rica spoke.

The General Council took note of the Director-General's report and of the statements.

At the General Council meeting on 27 and 29 July 2005, the Director-General, recalling that at the July meeting of the TNC he had provided an update on his consultative process since his most recent report in May, and that his report had been circulated immediately following that meeting in Job(05)/156, highlighted some important aspects of that report.

The representatives of Cuba, India, Brazil and Peru spoke.

The General Council took note of the Director-General's report and of the statements, and agreed to request the Director-General's successor to continue the consultative process after the summer break.

³ Some discussion relating to this matter is also carried under Point 1(a) above.

- (c) Implementation of Paragraph 11 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Statement by the Chairman of the TRIPS Council (WT/GC/M/95, 97, 98, 100)

In August 2003, the General Council adopted a Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1). Paragraph 11 of that Decision foreshadowed work by the TRIPS Council on the preparation of an amendment to the TRIPS Agreement. In June 2004, the TRIPS Council agreed to continue its work on the preparation of the amendment with a view to making a recommendation by the end of March 2005, so that the General Council could conclude its work on the amendment at its first meeting thereafter. In July 2004, the Chair of the TRIPS Council informed the General Council of these arrangements.

At its meeting on 26 May 2005, the Chairman of the TRIPS Council informed the General Council of the status of the TRIPS Council's work on the preparation of an amendment to replace the provisions of the Decision on Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

The representatives of Rwanda (on behalf of the African Group), Zambia (on behalf of the LDCs), Uganda, Benin (on behalf of the ACP Group), Turkey, Brazil, Botswana, Kenya, Canada, India, Jamaica, Switzerland, United States, Norway, Brazil and Lesotho, and the Chairman spoke.

The General Council took note of the statement by the Chairman of the TRIPS Council and of the other statements.

At its meeting on 27 and 29 July 2005, the General Council again considered this item.

The Chairman of the TRIPS Council, reporting further on the status of the TRIPS Council's work on this matter, said that some more time was still necessary before the Council would be in a position to make a recommendation, and that he was hopeful Members might be able to make progress soon after the summer break. The TRIPS Council would revert to this matter at its meeting in October, and he stood ready to continue to keep the General Council informed of developments.

The representatives of Kenya (on behalf of the African Group), Cuba, Brazil and the United States spoke.

The General Council took note of the statement by the Chairman of the TRIPS Council and of the other statements.

At its meeting on 19 October 2005, the General Council again considered this item.

The Chairman of the TRIPS Council provided an update on the status of the TRIPS Council's work in this regard.

The representatives of Cuba and Kenya, and the Chairman spoke.

The General Council took note of the statement by the Chairman of the TRIPS Council and of the other statements.

At its meeting on 1, 2 and 6 December 2005, the General Council again considered this matter.

On 1 December, the Chairman made a statement, following which the Chairman of the Council for TRIPS, reporting on developments in recent consultations on this matter, noted that

additional consultations were planned over the coming days with a view to reaching agreement on a proposal for a decision on an amendment to the TRIPS Agreement to replace the provisions of the August 2003 Decision.

The Chairman proposed, in the light of the report, that the General Council suspend its consideration of this item and agree to reconvene at short notice, but not later than 5 December, with a view to taking action on the basis of any recommendations that would be forthcoming from the Council for TRIPS. It would be understood that if the General Council was not reconvened by 5 December, the discussion on this item at that meeting would be considered closed.

The General Council took note of the statements and so agreed.

At a resumed meeting on 6 December, the Chairman of the Council for TRIPS reported that following an intensive series of consultations the Council had approved a proposal in document IP/C/41 and had agreed to forward it to the General Council for adoption. The TRIPS Council had also approved forwarding to the Chairman of the General Council the texts of two Statements, in Job(05)/319 and Corr.1 and Job(05)/320, to be read out by the Chairman of the General Council prior to adoption of the Decision.

The Chairman then invited any Members wishing to make statements with respect to paragraph 1(b) of the proposed Annex to the TRIPS Agreement to do so.

The representatives of Mexico; Korea; Turkey; Singapore; Macao, China; Chinese Taipei; Israel; and Hong Kong, China spoke.

The Chairman then read out for the record the Statements forwarded to her by the TRIPS Council in Job(05)/320 and Job(05)/319 and Corr.1.

The General Council took note of the statements and, in the light of the statement in Job(05)/319 and Corr.1 read out by the Chairman, adopted the draft Decision in document IP/C/41.⁴

The Chairman then said that Members had asked her to state, on their behalf, that they reaffirmed the statements they had made following the adoption of the General Council Decision of 30 August 2003, and proposed that the General Council consider this done.

The General Council so agreed.

The Chairman then advised delegations of a modification proposed to be made to paragraph 34 on TRIPS and Public Health of the draft Hong Kong Ministerial text (JOB(05)298/Rev.1) in order to reflect the Decision that the General Council had just taken on this matter, under which the second sentence of that paragraph would read as follows: "In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement."

The General Council agreed that this amendment be included in the draft text it had agreed on 2 December to transmit for consideration by Ministers at the Sixth Session of the Ministerial Conference.⁵

⁴ The Decision was subsequently circulated in WT/L/641.

⁵ See under Point 9(h) below.

- (d) Review under Paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Report of the Council for TRIPS (WT/GC/M/100)

Paragraph 8 of the General Council Decision of August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and Corr.1) provides that the TRIPS Council shall review annually the functioning of the system set out in the Decision with a view to ensuring its effective operation, and shall annually report on its operation to the General Council. The Decision also provides that the review by the TRIPS Council shall be deemed to fulfil the review requirement of Article IX:4 of the WTO Agreement.

At its meeting on 1, 2 and 6 December 2005, the General Council considered a report by the TRIPS Council on its second review under Paragraph 8 of the General Council Decision (IP/C/37).

The Chairman of the TRIPS Council introduced the report.

The General Council took note of the report of the TRIPS Council in IP/C/37.

- (e) Work Programme on Small Economies – Reports (WT/GC/M/92, 95, 97, 98, 100)

Ministers at Doha agreed to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies, with a mandate to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system and not to create a sub-category of WTO Members. (WT/MIN(01)/DEC/1, paragraph 35). At its meeting in February and March 2002, the General Council took note of a framework and procedures for the conduct of the Work Programme on Small Economies, under which this Work Programme would be a standing item on the General Council's agenda. The framework and procedures also provided that the Committee on Trade and Development would report regularly to the General Council on the progress of work in its Dedicated Sessions on this subject.

At the General Council meeting on 15 February 2005, the Chairman of the Dedicated Session of the CTD reported on the work in the Dedicated Session regarding the Work Programme.

The representatives of Guatemala (also on behalf of Bolivia, Honduras, Nicaragua, Paraguay and the Dominican Republic), El Salvador, Cuba, Jamaica and Fiji (also on behalf of Papua New Guinea and the Solomon Islands) spoke.

The General Council took note of the report by the Chairman of the Dedicated Session of the Committee on Trade and Development and of the statements.

At the General Council meeting on 26 May 2005, the Chairman of the Dedicated Session of the CTD provided a further report on the work in the Dedicated Session regarding the Work Programme.

The representatives of Barbados (on behalf of the small-economy Members), Guatemala, Bolivia, Honduras, El Salvador, Dominican Republic, Paraguay, Cuba, Jamaica, Benin (on behalf of the ACP Group), Mauritius, Nicaragua, Antigua and Barbuda (on behalf of the Eastern Caribbean Members), Solomon Islands (also on behalf of Papua New Guinea), Australia, Zambia (on behalf of the LDCs), and the European Communities spoke.

The General Council took note of the report by the Chairman of the Dedicated Session of the Committee on Trade and Development and of the statements.

At the General Council meeting on 27 and 29 July 2005, the Chairman of the Dedicated Session of the CTD provided a further report on the work in the Dedicated Session regarding the Work Programme.

The representatives of Barbados (on behalf of the small-economy countries), Bolivia, Honduras, Guatemala, Dominican Republic, El Salvador, Saint Kitts and Nevis (also for Antigua and Barbuda, Dominica, Grenada and Saint Vincent and the Grenadines), Paraguay, Solomon Islands, Jamaica, Trinidad and Tobago, Mauritius, Cuba, Ecuador, Chile and Colombia spoke.

The General Council took note of the report by the Chairman of the Dedicated Session of the Committee on Trade and Development and of the statements.

At the General Council meeting on 19 October 2005, the Chairman of the Dedicated Session of the CTD provided a further report on the work in the Dedicated Session regarding the Work Programme, and indicated his intention to intensify work in the Dedicated Session in the coming weeks in order to make solid progress on its input to the draft Ministerial text and on its report to the General Council.

The representatives of Barbados (on behalf of the small-economy countries), El Salvador, Guatemala, Cuba, Jamaica and Honduras, and the Chairman spoke.

The General Council took note of the report by the Chairman of the Dedicated Session of the Committee on Trade and Development and of the statements.

At its meeting on 1, 2 and 6 December 2005, the General Council considered a report from the Dedicated Session of the CTD in document WT/COMTD/SE/4.

The Chairman of the Dedicated Session of the Committee on Trade and Development introduced the report.

The representatives of Barbados, El Salvador, Guatemala, Dominican Republic, Honduras, Nicaragua, Paraguay, Jamaica, Antigua and Barbuda (also for Dominica, Grenada, St. Kitts and Nevis and St. Vincent and the Grenadines), Trinidad and Tobago, and the European Communities spoke.

The General Council took note of the statements and of the report in WT/COMTD/SE/4, and that the report would be forwarded to the Sixth Session of the Ministerial Conference.

- (f) Rules of Origin – Harmonization Work Programme – Statement by the Chairman (WT/GC/M/92, 97)

In July 2004, the General Council agreed to further extend to July 2005 the deadline for completion of negotiations on the core policy issues identified in a report by the Chairperson of the Committee on Rules of Origin to the General Council in July 2002 and also agreed that, following resolution of these core policy issues, the Committee on Rules of Origin complete its remaining technical work, including the work referred to in Article 9.3(b) of the Agreement on Rules of Origin, by 31 December 2005.

At the General Council meeting on 15 February 2005, the Chairman recalled that since the December 2002 meeting of the General Council, at the request and on behalf of the Chair of the General Council, this work had been pursued in informal consultations by the Chairperson of the Committee on Rules of Origin. He informed the General Council that the Chairperson of the Committee on Rules of Origin had reported to him on the progress in her consultations since 2004. On the basis of the report and advice he had received from the Chair of the CRO – following consultations with members of her Committee – he believed that, to move this work forward, the

"implications issue" should be taken up in consultations by the Chairpersons of the Committees relating to trade remedy measures, rather than in the origin context. This change of work environment might provide a new opportunity in which experts on trade remedy measures, based on their own experience and expertise, could negotiate this matter in a more focused manner. With this in mind, he informed Members of the steps he proposed to take as a purely practical means to advance work on the Harmonization Work Programme, in view of the tight deadline Members were facing.

The General Council took note of the statement.

At its meeting on 27 and 29 July 2005, the General Council again considered this matter.

The Chairperson of the Committee on Rules of Origin reported on the consultations she had held, at the GC Chair's request and behalf, on the core policy issues.

The Chairman proposed, in the light of the report from the CRO Chair and the views of delegations in the consultations held by the latter, that the General Council continue its work with a view to completing the negotiations on the core policy issues identified in document G/RO/52 by July 2006. She also proposed that this work would be pursued, at her request and behalf, by the CRO Chair. She further proposed that following resolution of these core policy issues, the Committee on Rules of Origin complete its remaining work concerning the overall architecture and technical issues, as well as the overall coherence exercise referred to in Article 9.3(b) of the Agreement on Rules of Origin, by 31 December 2006.

The General Council took note of the statement and agreed to the Chairman's proposals.

(g) Work Programme on Special and Differential Treatment

(i) *Reports by the Chairman of the Special Session of the Committee on Trade and Development (WT/GC/M/97, 100)*

In Section 1(d) of the July 2004 Decision on the Doha Work Programme (WT/L/579), the General Council instructed the Special Session of the Committee on Trade and Development to expeditiously complete the review of all the outstanding Agreement-specific proposals on special and differential treatment and to report to the General Council, with clear recommendations for a decision, by July 2005.

At the General Council meeting on 27 and 29 July 2005, the Chairman of the Special Session of the Committee on Trade and Development reported *inter alia* that the Special Session was not in a position to make specific recommendations on any of the Agreement-specific proposals Members had entrusted it to consider, and that it would need to continue to work on the remaining Agreement-specific proposals and report to the General Council with clear recommendations for a decision by the Hong Kong Ministerial Conference. The Special Session would also need to continue to monitor and coordinate its efforts with that of the negotiating groups and other WTO bodies to which the Category II proposals had been referred by the General Council. As mandated by the July 2004 General Council, the Special Session should also continue, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in document TN/CTD/7, and report, as appropriate, to the General Council.

The representative of Cuba spoke.

The General Council took note of the report by the Chairman of the Special Session of the Committee on Trade and Development and of the statement, and agreed to the course of action proposed by him.

At the General Council meeting on 1, 2 and 6 December 2005, at the Chairman's suggestion, the report by the Chairman of the Special Session of the Committee on Trade and Development was taken up together with the reports by Chairpersons of other WTO bodies to whom special and differential treatment proposals have been referred (carried in Point 1(g)(ii) below), and the discussion is reflected accordingly in this Report and in the Minutes of the meeting.

The Chairman of the Special Session of the Committee on Trade and Development noted, *inter alia*, that his report to the TNC in TN/CTD/14 highlighted the work carried out in the Special Session since July 2005, which had focused mainly on the five remaining LDC Agreement-Specific proposals. The results of this work and the remaining differences, which he hoped could be resolved at Hong Kong, were reflected in the revised draft Ministerial draft, Annex F. He had also recently held a meeting with Chairpersons of other WTO bodies to whom Category II proposals had been referred and had reported in detail to Members in the CTD in Special Session.

The Chairs of the Special Session of the Committee on Agriculture, the Committee on Agriculture, the Special Session of the Council for Trade in Services, the Council for TRIPS, the Committee on Safeguards, the Committee on SPS Measures and the Committee on TRIMs reported on the further consideration in their respective bodies of the special and differential treatment proposals referred to them in 2003.

The Chairman said that in order to assist delegations in their work, the statements by the Chairs would be circulated as a General Council document and, as with other reports on the Agenda of that meeting, forwarded to the Sixth Session of the Ministerial Conference. Reports from the Chairs of the Special Session of the Dispute Settlement Body and the Negotiating Group on Rules, who had been unable to be present at the meeting, would be circulated as part of this document. In the absence of the Chair of the Committee on SPS Measures, a report from the latter had been circulated as document G/SPS/39.

The representatives of Tanzania, Kenya, Cuba and Zambia (on behalf of the LDCs) spoke.

The General Council took note of the statements, and that the statements by the Chairs would be circulated as a General Council document⁶ and, as with other reports on the Agenda of that meeting, forwarded to the Sixth Session.

(ii) *Reports by Chairpersons of other WTO bodies to whom special and differential treatment proposals have been referred (WT/GC/M/97, 100)*

In Section 1(d) of its Decision of July 2004 on the Doha Work Programme (WT/L/579), the General Council instructed all WTO bodies to which special and differential treatment proposals had been referred in 2003 to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005.

At its meeting on 27 and 29 July 2005, the General Council considered this matter.

The Chairs of the Special Session of the Committee on Agriculture, the Committee on Agriculture, the Negotiating Group on Rules, the Special Session of the Council for Trade in Services, the Council for TRIPS, the Committee on Safeguards, the Committee on SPS Measures and the Committee on TRIMs reported on the consideration in their respective bodies of the special and differential treatment proposals referred to them in 2003.

⁶ Subsequently circulated as WT/GC/102.

The Chairman said she had been advised that the Chairman of the Special Session of the Dispute Settlement Body had nothing to add to his report to the General Council in document TN/DS/13.

The representatives of Kenya, India, Jamaica, Benin, Bangladesh and Cuba spoke.

The Chairman recalled that under the previous sub-item of the Agenda (see Point 1(f)(i) above) the Chair of the CTD in Special Session had stated that the Special Session would need to continue to monitor and coordinate the efforts of the Special Session with that of the negotiating groups and other WTO bodies to which the Category II proposals had been referred. The General Council under that sub-item had agreed to this proposed course of action. She invited the General Council to take note of the statements and to request the relevant Chairs to continue to keep the General Council informed of progress in this work.

The General Council so agreed.

The representative of Kenya spoke.

The Chairman, in response to a suggestion from Kenya that Members could perhaps make more progress by concentrating their work on S&D in the CTD in Special Session, said this was a matter on which she would wish to consult before recommending any action to the General Council. She would take up this matter after the summer break in order to find out if this was a decision the General Council wished to take. Kenya's point had been well taken, and the support for its proposal had been noted, and it was on this basis that she would be consulting.

The General Council took note of the statements.

At the General Council meeting on 1, 2 and 6 December 2005, at the Chairman's suggestion, the reports by Chairpersons of the other bodies to whom special and differential treatment proposals have been referred were taken up together with the report by the Chairman of the Special Session of the Committee on Trade and Development (under Point 1(g)(i) above), and the discussion is reflected accordingly in this Report and in the Minutes of the meeting.

(h) Work Programme on Electronic Commerce (WT/GC/M/98, 100)

At the General Council meeting on 19 October 2005, the representative of the United States, noting that pursuant to paragraph 34 of the Doha Declaration provision had been made for dedicated discussions under the auspices of the General Council related to e-commerce, said that given developments in this area, including with respect to software, the United States believed that another such dedicated discussion in early November would be warranted.

The General Council took note of the statement.

At its meeting on 1, 2 and 6 December 2005, the General Council considered the state of play of work on the work programme. In so doing, it heard a report from the Chairman on the state of play of the e-commerce discussions in the Councils for Goods, Services and TRIPS, as well as reports by the Chairpersons of the Committee on Trade and Development and the Dedicated Discussions on cross-cutting issues under the auspices of the General Council on work in their respective areas. The General Council also had before it a report from the Dedicated Discussions in WT/GC/W/555.

The representative of Cuba spoke.

The Chairman said that in order to assist delegations in their work, the statements by the Chairs would be circulated as a General Council document⁷ and, as with other reports on the Agenda of that meeting, forwarded to the Sixth Session of the Ministerial Conference.

The General Council took note of the statements and of the report in WT/GC/W/555, and that the statements by the Chairs would be circulated as a General Council document and, as with other reports on the Agenda of that meeting, forwarded to the Sixth Session.

- (i) Follow-up to the July 2004 General Council Decision on the Doha Work Programme – Report by the Director-General on the Development Assistance Aspects of Cotton (WT/GC/M/100)

In Paragraph 1.b of the July 2004 Decision on the Doha Work Programme (WT/L/579), the General Council, *inter alia*, took note of the bilateral and multilateral efforts to make progress on the development assistance aspects of the Cotton Initiative, and instructed the Secretariat to continue work with the development community to provide the Council with periodic reports on relevant developments. The Council also instructed the Director-General to consult with relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre, to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

At the General Council meeting on 1, 2 and 6 December 2005, the Director-General introduced a second report on the development assistance aspects of cotton (WT/GC/97 and Add.1).

The representatives of Benin, United States, Paraguay, Tanzania, Uganda, Zimbabwe and Djibouti spoke.

The General Council took note of the statements and of the Director-General's report in WT/GC/97 and Add.1, and that the report would be forwarded to the Sixth Session of the Ministerial Conference.

2. China – Transitional review under Section 18.2 of the Protocol on Accession to the WTO Agreement (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council conducted its fourth review of China's implementation of the WTO Agreement and the provisions of the Protocol of Accession. In so doing, the General Council considered a communication from China (WT/GC/99) which provided information required under Sections I and III of Annex 1A of the Protocol of Accession, as well as reports from subsidiary bodies on their respective reviews (G/L/764, S/C/25, IP/C/39, WT/BOP/R/80).

The representatives of China, United States, European Communities, Djibouti, Japan and Chile spoke.

The General Council took note of the statements and of the report submitted by China as well as the reports of subsidiary bodies on the conduct of their respective reviews, and agreed that the fourth review by the General Council of China's implementation of the WTO Agreement and the provisions of its Protocol of Accession had been concluded.

⁷ Subsequently circulated as WT/GC/103.

3. Committee on Budget, Finance and Administration - Reports and recommendations (WT/GC/M/95, 97, 98, 100)

At its meeting on 26 May 2005, the General Council considered a report by the Committee on Budget, Finance and Administration on its meetings of October, November and December 2004 (WT/BFA/76).

The Chairman of the Committee introduced the report.

The General Council took note of the statement and adopted the Budget Committee's report in document WT/BFA/76.

The General Council then considered a report by the Committee on Budget, Finance and Administration on its meetings of March 2005 (WT/BFA/77).

The Chairman of the Committee introduced the report.

The representative of Zambia spoke.

The General Council took note of the statements, approved the specific recommendations in paragraphs 17 and 20 of the Budget Committee's report in WT/BFA/77, and adopted the report.

At its meeting on 27 and 29 July 2005, the General Council considered the recommendations of the Committee resulting from the Committee's meetings of June and July 2005 (WT/BFA/78).

The Chairman of the Committee introduced the recommendations.

The General Council took note of the statement and approved the Budget Committee's specific recommendations in document WT/BFA/78.

At its meeting on 19 October 2005, the General Council considered the report of the Committee on Budget, Finance and Administration on its meetings of June and July 2005 (WT/BFA/79).

The Chairman of the Committee introduced the report.

The representative of Zambia spoke.

The General Council took note of the statements and adopted the Budget Committee's report in WT/BFA/79.

At its meeting on 1, 2 and 6 December 2005, the General Council considered a report by the Committee on Budget, Finance and Administration on matters considered at its meeting of September 2005 (WT/BFA/80).

The Chairman of the Committee introduced the report.

The General Council took note of the statement, approved the Budget Committee's specific recommendations in paragraphs 16 and 18 of its report in WT/BFA/80, and adopted the report.

The General Council then considered the recommendations of the Committee resulting from the Committee's meetings of October and November 2005 (WT/BFA/82).

The Chairman of the Committee introduced the recommendations. Referring to the situation of WTO Members in arrears, covered under an item at this meeting of the Committee, he recalled that Members under any category of administrative measures for those in arrears were precluded from being nominated to preside over WTO bodies. This was important for the upcoming Ministerial Conference where a Vice-Chair was from a Member falling under these administrative measures.

The General Council took note of the statement, approved the Budget Committee's specific recommendations in paragraphs 1, 2, 6, 7, 9 and 10 of WT/BFA/82, including the draft Resolutions referred to in paragraphs 9 and 10, and adopted the draft Resolutions on the Revised Expenditures of the WTO in 2006 and 2007, and the Ways and Means to Meet Such Expenditures, contained in paragraphs 9 and 10 of WT/BFA/82.

On 6 December, Mr. Deelen (Netherlands), on the Committee Chairman's request and behalf, confirmed that the full amount of arrears from the Member referred to by the Committee Chair on 1 December having been cleared, that Member was no longer precluded under the terms of the administrative measures from taking up the position of Vice-Chair at the upcoming Ministerial Conference.

The Chairman spoke.

The General Council took note of the statements.

4. Review of the Exemption Provided under Paragraph 3 of GATT 1994 (WT/GC/M/92, 100)

Paragraph 3(a) of GATT 1994 provides an exemption from Part II of GATT 1994 for measures under specific mandatory legislation – enacted by a Member before it became a contracting party to GATT 1947 – which prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. On 20 December 1994, the United States invoked the provisions of paragraph 3(a) with respect to specific legislation that met the requirements of that paragraph. Paragraph 3(b) of GATT 1994 calls for a review of this exemption five years after the date of entry into force of the WTO Agreement, and thereafter every two years for as long as the exemption is in force, in order to examine whether the conditions which created the need for the exemption still prevail. The General Council last considered this matter at its meeting in December 2003, at which it took note that under the two-yearly cycle provided for in paragraph 3(b) of GATT 1994, the next review would normally be held in 2005.

At the General Council meeting on 15 February 2005, the Chairman, recalling the background to the Council's discussion on this matter, proposed that for the purposes of the conduct of the review in 2005 Members proceed in a manner similar to that in 2003. He would, accordingly, invite all interested delegations to speak for the record at that meeting with regard to the review under the current cycle. He would also invite interested delegations to submit comments and questions to the United States regarding the operation of the legislation under the exemption, to which the United States would be invited to respond. These statements, questions and responses, together with the annual report provided by the US under paragraph 3(c) of GATT 1994, would form the basis for the present year's review. For the purposes of the review, this matter would be on the agenda of subsequent General Council meetings in the course of 2005 as the Chairman deemed appropriate, or at the request of any Member. The General Council would, furthermore, consider this matter again at its last meeting of the year. At that meeting, the Council would take note of the discussions held in the course of the review until then, and take any other action it might agree on. It would also take note that the subsequent review would normally be held in 2007. Regarding the exemption, he invited Members to note that, as provided in paragraph 3(e) of GATT 1994, the exemption was without prejudice to solutions concerning specific aspects of the legislation covered by this exemption.

negotiated in sectoral agreements or in other fora. He then drew attention to the annual report circulated by the United States in document WT/L/600.

The representatives of the United States, Japan, Norway, Australia, European Communities, Chile and Korea spoke.

The General Council took note of the statements.

At its meeting on 1, 2 and 6 December 2005, the General Council again considered the exemption provided under paragraph 3 of GATT 1994 for review. The General Council had before it a recent communication from Japan in document WT/GC/W/558, as well as a communication from the United States containing information relating to the operation of the exemption (WT/L/600), which had been considered in February.

The representatives of the United States, Japan, Norway, Australia, European Communities, Korea and Hong Kong, China spoke.

The General Council took note of the statements and also took note that the subsequent review under the two-yearly cycle provided in paragraph 3(b) of GATT 1994 would normally be held in 2007.

5. Non-recognition of rights under Article XXIV:6 and Article XXVIII of GATT 1994 – Communication from Honduras and Guatemala (WT/GC/M/92, 95, 97, 98, 100)

In December 2004, at the request of Honduras and Guatemala, the General Council considered the question of non-recognition of rights for the processes under Article XXIV:6 and Article XXVIII of GATT 1994 in connection with the enlargement of the EC, and agreed that the Chairman would reflect on how best to proceed on this matter and on possible ways forward in consultation with delegations, and that the General Council would revert to this matter at its next meeting, as appropriate.

At its meeting on 15 February 2005, the General Council again considered this matter, and heard a report from the Chairman on consultations he had held.

The representatives of Honduras, Guatemala, Brazil, Ecuador, the Philippines, Uruguay, Colombia, Costa Rica, Panama, the European Communities and Jamaica spoke.

The Chairman proposed, in view of the statements, that he request his successor as Council Chair to take this matter up in consultations with delegations on an informal basis before the next meeting of the General Council, in order to find the best way forward, and that the General Council revert to this matter at its next meeting.

The General Council took note of the statements and so agreed.

At the General Council meeting on 26 May 2005, the Chairman reported on consultations she had held to provide a further opportunity for the Members concerned to seek clarifications and to see if she, as Chair, could facilitate a satisfactory resolution to the concerns raised. In connection with the consideration of this matter, she also drew attention to a recent communication from Honduras in WT/GC/90 and Corr.1.

The representatives of Honduras, Guatemala, Costa Rica, Brazil, Panama, Colombia, Argentina, Ecuador, El Salvador, Mexico, Uruguay, Nicaragua and the European Communities spoke.

The General Council took note of the statements and agreed to revert to this matter at its next meeting, and that the Chair would hold further consultations in the meantime with the aim of moving this matter forward.

At the General Council meeting on 27 and 29 July 2005, the Chairman reported on her further consultations on this matter.

The representatives of Honduras, Guatemala, Argentina, Brazil, Uruguay, Ecuador, Colombia, Mexico, Costa Rica, Peru, Indonesia, Philippines, Paraguay, El Salvador, Panama, Bolivarian Republic of Venezuela, Bolivia and the European Communities spoke.

The General Council took note of the statements and agreed to revert to this matter at its next meeting, and that the Chair would hold further consultations in the meantime with the aim of moving this matter forward.

At the General Council meeting on 19 October 2005, the Chairman reported on her further consultations on this matter. She aimed to convene further consultations after the second arbitrator's award on the EC's banana concession had been circulated, and would continue to talk with individual delegations as much as possible between that meeting of the Council and the next.

The representatives of Guatemala, Honduras, Venezuela, Ecuador, Panama, El Salvador, Brazil, Uruguay, Colombia, Costa Rica, Philippines, Paraguay, Mexico, Nicaragua and the European Communities spoke.

The General Council took note of the statements and agreed to revert to this matter at its next meeting, and that the Chair would hold further consultations in the meantime with the aim of moving this matter forward.

At its meeting on 1, 2 and 6 December 2005, the General Council again considered this matter, and heard a report from the Chairman on consultations she had held.

The representatives of Honduras, Guatemala, Brazil, Uruguay, Nicaragua, Panama, Ecuador, El Salvador, Paraguay, Colombia and Costa Rica spoke.

The General Council took note of the statements and agreed to revert to this matter at its next meeting, and that the Chair would hold further consultations in the meantime in the hope of moving this matter forward.

6. Proposed Modification to Schedule CXL – European Communities: Prolongation of Rights under Article XXVIII of GATT 1994 (WT/GC/M/93)

At the General Council meeting on 28 February 2005, the Chairman drew attention to a communication from the United States (WT/GC/87) requesting a prolongation of its rights under Article XXVIII of GATT 1994 in connection with the modification of concessions by the EC on husked rice and semi-milled and milled rice. Since the circulation of the US communication, she had held consultations with all Members who had been involved directly in the Article XXVIII negotiations with the EC, as well as those who had expressed a view on the subject of extensions of this nature on an earlier occasion in the General Council. The EC had also engaged in further bilateral discussions with both the United States and other interested delegations. She invited the United States and the EC to introduce this matter, as well as a revised text that was now being proposed for consideration following the consultations that had been held (WT/GC/89).

The representatives of the United States and the European Communities spoke.

The Chairman proposed that the General Council adopt the proposed decision as read out by the European Communities, and which had been circulated to delegations in document WT/GC/89.

The General Council took note of the statements and so agreed.

The representative of the Philippines spoke.

The General Council took note of the statement.

7. Enlargement of the European Union – Communications from the European Communities (WT/GC/M/94, 96, 100)

In October 2004, the General Council, on the basis of a communication from the EC, adopted an agreement reached in the Goods Council to extend the deadline in Article XXVIII:3 of GATT 1994 for the withdrawal of substantially equivalent concessions from six months to twelve months following the EC's modification of concessions in connection with the accession to the European Union on 1 May 2004 of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia.

At the General Council meeting on 31 March 2005, the Chairman drew attention to a communication from the EC in G/L/695/Add.1/Rev.1 in which it indicated it would not assert that Members who had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurred later than six months after the EC's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than fifteen months after the EC's modification of concessions.

In the absence of the Chairman of the Council for Trade in Goods, and on the latter's request and behalf, the Chairman reported that the Goods Council on 11 March had considered this matter and agreed on the extension of the deadline for withdrawal of concessions under Article XXVIII:3 from six months to fifteen months, as set out in the EC's communication, and had forwarded this agreement to the General Council for adoption.

The General Council took note of the communication from the EC in G/L/695/Add.1/Rev.1 and adopted the agreement reached in the Goods Council on the extension of the deadline for the withdrawal of concessions referred to in Article XXVIII:3 of GATT 1994 from six months to fifteen months following the EC's modification of concessions, on the understanding that Members who found themselves still in need of a further extension might raise the matter at the 10 May meeting of the Goods Council for consideration.

The representatives of the Philippines and Indonesia spoke.

The General Council took note of the statements.

At the General Council meeting on 29 June 2005, the Chairman drew attention to a communication from the EC in G/L/695/Add.2, in which it indicated it would not assert that Members who had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurred later than six months after the EC's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than twenty-one months after the EC's modification of concessions.

The representatives of Canada, Colombia, United States, Costa Rica, Ecuador, Argentina, Thailand, Chinese Taipei, India, Australia, Malaysia, Philippines, Brazil, Singapore, Japan, Indonesia and Pakistan spoke.

The General Council took note of the statements and of the communication from the EC in G/L/695/Add.2, and agreed on the extension of the deadline for the withdrawal of concessions referred to in Article XXVIII:3 of GATT 1994 from six months to twenty-one months, i.e. until 1 February 2006.

At the General Council meeting on 1, 2 and 6 December 2005, the Chairman drew attention to a communication from the EC in WT/GC/98, in which it indicated it would not assert that Members who had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurred later than six months after the EC's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than twenty-seven months after the EC's modification of concessions.

The representatives of the European Communities, United States, Japan, Colombia, Ecuador, Costa Rica and Panama, and the Chairman spoke.

The General Council took note of the statements and of the communication from the EC in WT/GC/98, and agreed on the extension of the deadline for the withdrawal of concessions referred to in Article XXVIII:3 of GATT 1994 from six months to twenty-seven months, i.e. until 1 August 2006.

8. Procedure for the introduction of HS 2002 changes to schedules of tariff concessions using the Consolidated Tariff Schedules (CTS) Database (WT/GC/M/92)

At the General Council meeting on 15 February 2005, the Chairman drew attention to a draft decision in document G/MA/W/65/Rev.2 regarding a procedure for the introduction of HS 2002 changes to schedules of tariff concessions using the Consolidated Tariff Schedules Database, which had been approved by the Committee on Market Access in December 2004. He proposed that the General Council adopt the draft decision.

The General Council so agreed.⁸

9. Preparations for the Sixth Session of the Ministerial Conference

(a) Election of officers (WT/GC/M/95, 97)

The Rules of Procedure for Sessions of the Ministerial Conference provide that during the course of each regular session a Chairperson and three Vice-Chairpersons shall be elected from among the Members to hold office from the end of that session until the end of the next regular session (WT/L/161, Rule 12). At the Fifth Session of the Ministerial Conference in Cancún, Ministers requested the General Council to hold consultations with a view to determining the presiding officers of the Ministerial Conference to hold office until the end of the Sixth Session.

At the General Council meeting on 26 May 2005, the Chairman said that in keeping with customary practice, the General Council would elect a representative of the host Government – in the present case, Hong Kong, China – to chair the Conference. With regard to the election of the three Vice-Chairpersons of the Conference, she proposed that she hold consultations on this matter, and that the General Council revert to it at its next meeting, in order that the full slate could be agreed at the same time.

⁸ The Decision was subsequently circulated in document WT/L/605.

The General Council so agreed.

At the General Council meeting on 27 and 29 July 2005, the Chairman informed the General Council that on the basis of consultations with representatives of broad regional groupings, who had themselves suggested consensus candidates to her regarding the three Vice-Chairpersons, she was in a position to propose that the General Council elect the following presiding officers for the Sixth Session:

| | |
|--------------------|---|
| Chairperson: | Mr. John C. Tsang Secretary for Commerce, Industry and Technology Hong Kong, China |
| Vice-Chairpersons: | H.E. Dr. Martin Bartenstein Federal Minister for Economic Affairs and Labour Austria |
| | The Honourable Dame Billie Antoinette Miller Senior Minister and Minister of Foreign Affairs and Foreign Trade Barbados |
| | H.E. Mr. Idris Waziri Minister of Commerce Nigeria |

The General Council agreed to elect the above presiding officers for the Sixth Session.

The representative of Nigeria spoke.

The General Council took note of the statements.

(b) Attendance of observers from Governments (WT/GC/M/95, 98)

At the General Council meeting on 26 May 2005, the Chairman recalled that 38 Governments had participated as observers at the Cancún Ministerial Conference in accordance with the Guidelines contained in Annex 2 of the General Council's Rules of Procedure (WT/L/161). A list of these Governments was set out in document WT/MIN(03)/INF/5/Rev.1. Of these 38 Governments, two had since acceded to the WTO, namely Cambodia and Nepal, and were no longer observers. Also, following the accession proceedings that had been initiated for the Governments of Iran, Iraq, Montenegro and Serbia, these Governments had observer status in the General Council and would therefore be invited to attend the Ministerial Conference as observers in keeping with the agreed Guidelines. Furthermore, six Governments had at their request previously been granted observer status only at Ministerial Conferences: Comoros, Cook Islands, Eritrea, Liberia, Niue and San Marino. She proposed that these Governments also be invited to the Hong Kong Ministerial Conference as observers. Requests from any other Governments for observer status – either at the General Council or at the Ministerial Conference – would be considered on their merits in accordance with the Guidelines when they were received.

The General Council took note of the statement and so agreed.

At its meeting on 19 October 2005, the General Council considered requests for observer status at the Hong Kong Ministerial Conference from the Governments of Timor-Leste (WT/L/622) and Tuvalu (WT/L/623).

The General Council agreed to invite Timor-Leste and Tuvalu to attend the Sixth Ministerial Conference as observers.

- (c) Attendance of observers from International Intergovernmental Organizations (WT/GC/M/95, 97, 98, 100)

At the General Council meeting on 26 May 2005, the Chairman recalled, *inter alia*, the Guidelines for observer status for IGOs in Annex 3 of the General Council's Rules of Procedure (WT/L/161) and also that prior to each of the past sessions of the Ministerial Conference, the General Council had agreed to invite IGOs as observers to the Ministerial Conference on the basis of the following elements: (i) organizations that were observers to the General Council would be automatically invited; (ii) organizations that were observers to subsidiary bodies would be invited if they requested to attend; and (iii) consultations would be held to determine which other organizations that were not observers to the WTO, and who requested attendance at the Ministerial Conference, should be invited. A list of the IGOs that had been invited to attend the Cancún Ministerial Conference on the basis of these elements was set out in WT/MIN(03)/INF/5/Rev.1. She proposed that these organizations also be invited to the Ministerial Conference in Hong Kong as observers, in keeping with the agreed Guidelines. Requests from any other IGOs that had not already been observers at the Ministerial Conference in Cancún, and who were neither observers in the General Council nor in other WTO bodies, would have to be considered on their merits in accordance with the Guidelines.

The General Council took note of the statement and agreed to follow the procedure outlined by the Chairman.

The Chairman then informed delegations that a request for observer status at the Hong Kong Ministerial had been received from the League of Arab States, which currently did not have observer status in any WTO body. With regard to this request, she proposed that Members proceed in exactly the same way as it had in the past with regard to requests from IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she proposed that, unless any objection was received by the Secretariat from any Member by 15 June 2005, the League of Arab States be granted observer status at the Hong Kong Ministerial. As in the past, she would inform the General Council at its next meeting of the status of this request. Delegations would have an opportunity at that meeting to engage in a discussion on this request if an objection were received by the deadline of 15 June.

The General Council took note of the statement and so agreed.

At its meeting on 27 and 29 July 2005, the General Council reverted to the request for observer status at the Hong Kong Ministerial Conference from the League of Arab States.

The representatives of Israel, United States and Egypt (on behalf of the Arab Group) spoke.

The General Council took note of the statements.

The Chairman then informed delegations that a request for observer status at the Hong Kong Ministerial had been received from the Agency for International Trade Information and Co-Operation (AITIC) which currently did not have observer status in any WTO body. She proposed that the General Council proceed in exactly the same way as it had in the past regarding requests from other IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she proposed that, unless an objection was received by the Secretariat from any Member by 15 August 2005, the AITIC be granted observer status at the Hong Kong Ministerial. As in the past, she would inform the General Council at its next meeting of

the situation with regard to this request, and delegations would have an opportunity at that meeting to engage in a discussion on this request if an objection were received by the deadline of 15 August.

The representative of Benin spoke.

The General Council took note of the statements and agreed to the Chairman's proposal.

At its meeting on 19 October 2005, the General Council reverted to the request for observer status at the Hong Kong Ministerial Conference from the Agency for International Trade Information and Co-Operation (AITIC).

The representatives of Egypt (on behalf of the Arab Group) and Switzerland spoke.

The General Council took note of the statements.

The Chairman then informed delegations that requests for observer status at the Hong Kong Ministerial had been received from the Technical Centre for Agricultural and Rural Co-Operation ACP-EC (CTA), the Basel Convention, the Council of Europe Development Bank and the African Development Bank, which currently did not have observer status in any WTO body. She proposed that the General Council proceed in exactly the same way as it had in the past regarding requests from other IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she proposed that, unless an objection was received by the Secretariat from any Member by 5 November 2005, these organizations be granted observer status at the Hong Kong Ministerial. As in the past, she would inform the General Council at its next meeting of the situation with regard to these requests, and delegations would have an opportunity at that meeting to engage in a discussion if an objection were received by the deadline of 5 November.

The General Council took note of the statement and agreed to the Chairman's proposal.

At the General Council meeting on 1, 2 and 6 December 2005, the Chairman reported on consultations she had held recently on the overall question of observership for IGOs in WTO bodies, following the statement by Egypt on behalf of the Arab Members at the October Council meeting. The General Council then reverted to the requests for observer status at the Hong Kong Ministerial Conference from the Technical Centre for Agricultural and Rural Co-operation ACP-EC (CTA), Basel Convention, Council of Europe Development Bank, and African Development Bank.

The representative of Egypt (on behalf of the Arab Group) spoke.

The General Council took note of the statement.

The Chairman then informed delegations that a request for observership at the Hong Kong Ministerial Conference had been received from the Andean Development Corporation (CAF). She proposed that the General Council proceed in exactly the same way as it had in the past regarding requests from other IGOs for observer status at Ministerial Conferences who were neither observers in the General Council nor in other WTO bodies. Accordingly, she proposed that, unless an objection was received by the Secretariat from any Member by 7 December 2005, this organization be granted observer status at the Hong Kong Ministerial. Since there would not be an occasion to revert to this request in the General Council prior to the Ministerial Conference, she would inform delegations in a written communication as to the situation regarding this request after the deadline of 7 December.

The General Council took note of the statement and agreed to the Chairman's proposal.⁹

⁹ On 7 December, the Chairman notified Members that a reservation having been received by the Secretariat on behalf of a group of Members within this deadline, there was no consensus at this stage to grant the request from the Andean Development Corporation (WT/GC/104).

(d) Attendance of an observer from the Palestinian Authority (WT/GC/M/100)

At the General Council meeting on 1, 2 and 6 December 2005, the Chairman drew attention to a request for observer status at the Hong Kong Ministerial Conference from the PLO on behalf of the Palestinian Authority (WT/L/631), and proposed that the General Council agree to grant this request.

The General Council so agreed.

(e) Attendance of non-governmental organizations (WT/GC/M/95)

At the General Council meeting on 26 May 2005, the Chairman proposed, with regard to attendance of non-governmental organizations (NGOs) at the Sixth Ministerial Conference, that Members adopt similar criteria to those which had been adopted by the General Council for the five previous Ministerial Conferences. Following this practice, NGOs that wished to attend the Sixth Ministerial Conference would be requested to supply, in detail, all the necessary information indicating how they were concerned with matters related to those of the WTO. The large and growing number of NGOs with WTO-related activities had made the registration procedure for WTO Ministerial Conferences more and more burdensome. In order to facilitate the registration process for NGOs and the WTO Secretariat – and following similar arrangements agreed by the General Council for Cancún – she proposed that the detailed presentation of activities be waived for those NGOs who were duly registered for at least two previous Ministerial Conferences, and that registration for them be granted automatically. NGOs that qualified for this waiver would still be obliged to officially request registration and would be subject to all other procedures and deadlines that applied to NGOs requesting to attend the Sixth Ministerial Conference. Concerning deadlines, she suggested that all NGOs be invited to submit their requests for registration not later than 29 July 2005. Registration forms would be available by 31 August to all NGOs that fulfilled the registration criteria. The registration forms should be duly completed by 30 September. Based on the information provided, the Secretariat would process a list of registered NGOs. She proposed that in line with past practice, this list be circulated to all Members for information during the course of October. Confirmation of registration would then be sent to the NGOs as from mid-October. She proposed that Members agree to follow the procedure she had outlined in order to allow sufficient time for the NGOs to be informed and to make the necessary arrangements for their attendance at the Sixth Ministerial Conference.

The General Council took note of the statement and so agreed.¹⁰

(f) Statements by the Chairman (WT/GC/M/97, 98)

At the General Council meeting on 27 and 29 July 2005, the Chairman made a statement on her assessment of the state-of-play in the negotiations, the full text of which was subsequently circulated in document WT/GC/95.

The General Council took note of the statement.

At the General Council meeting on 19 October 2005, the Chairman informed delegations of consultations she, in close co-operation with the Director-General as TNC Chair, had recently started with delegations – in particular the coordinators of regional and other WTO groupings – as well as with Chairs of relevant WTO bodies to begin thinking collectively about the nature and content of texts to be put to Ministers in areas of the Doha Work Programme not under the remit of the TNC, with the aim of developing convergence on these texts in a "bottom-up" approach before Hong Kong. The full text of the statement was subsequently circulated in document JOB (05)/254.

¹⁰ The agreed procedure was subsequently circulated in document WT/MIN(05)/INF/6.

The General Council took note of the statement.

(g) Administrative Arrangements (WT/GC/M/100)

At the General Council meeting on 1, 2 and 6 December 2005, the Chairman informed delegations about arrangements for meetings at the Ministerial Conference.¹¹ Regarding arrangements for plenary meetings, a Proposed Order of Business for these meetings had been circulated in WT/MIN(05)/3, providing an outline of how work in the plenary meetings was proposed to be organized. Also, an Information Note on the delivery of statements and the distribution of the texts of statements had been circulated in WT/MIN(05)/INF/11. With regard to statements to be made at the Opening Session on 13 December, she informed the General Council that the UN Secretary General, who had been scheduled to attend and to speak, would be unable to do so. Regarding arrangements for informal consultative meetings that would be organized throughout the conference by the Chairman of the Ministerial Conference, the latter had already advised delegations at the present meeting regarding the designation of a number of Ministers to assist him as Facilitators in the conduct of the substantive proceedings, and their areas of responsibility.¹² He had also indicated to her that he intended to advise all delegations about the overall organization of the informal process as early as possible. In broad terms, the informal consultative process at Hong Kong would mirror the Geneva preparatory process – in order to ensure both transparency and a sense of continuity – and would be centred on open-ended informal meetings of all Heads-of-Delegations. Delegations would be kept informed of these meetings through every means possible at the Conference centre. Building on the practice at the Doha and Cancún Ministerials, on each day of the Conference, an hour in the morning and an hour in the afternoon would be set aside during which no informal meetings would be scheduled. The purpose of this was to allow delegations time to consult among themselves and in regional groupings as necessary. The Chairman of the Ministerial Conference would provide greater details subsequently on the scheduling and organization of all meetings in this informal process.

The General Council took note of the statement.

(h) Draft Ministerial Text – Statement by the Chairman (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council considered a revised draft Ministerial text circulated by the Chairman and the Director-General which incorporated views expressed by Members in their consultations and in recent Heads of Delegation and TNC meetings (JOB(05)/298/Rev.1).¹³ At the Chairman's suggestion, the revised draft Ministerial text was taken up together with a report by the Chairman of the Trade Negotiations Committee (referred to in Point 1(a) above), and the discussion is reflected accordingly in this Report and in the Minutes of the meeting.

The Director-General, as Chairman of the Trade Negotiations Committee, reported on the most recent meeting of the TNC on 30 November as well as on two informal meetings, on 3 and 10 November. In conjunction with the Chair of the General Council, two informal Heads of Delegation meetings on 26 November and 28 November had also been convened to present and discuss the first draft Ministerial Text (Job(05)/298). The TNC on 30 November had provided an opportunity for delegations to hear from Negotiating Group Chairs on work in their respective areas before a revised draft text was submitted to the General Council for consideration, and for delegations to place their views and comments on record. He and the General Council Chair had intensified consultations over the past few days with the aim of collectively improving the quality of the work to be presented to Ministers, resulting in the revised text. He then described the basis on which the revised draft had been produced and the main focus of work in the revision. Consultations had also

¹¹ The statement was subsequently circulated as document JOB(05)/313.

¹² The statement by the Chairman of the Ministerial Conference was subsequently circulated as document JOB(05)/317.

¹³ A first overall draft text was circulated on 26 November as JOB(05)/298.

been held on the formulation of a number of basic questions in key areas that might be useful to the Ministers, which he read out. He and the Council Chair intended to convey the questions to the Chair of the Ministerial Conference, to use as appropriate, as part of a letter early the following week, which would be copied to all Members, along with the draft Text. The letter would, *inter alia*, make clear that significant differences persisted among Members in various areas of the text.

The Director-General then reported on his work on implementation, on which he had reported in detail to the TNC. The situation had clearly not evolved significantly since July. Therefore, with the aim of ensuring that Members could fulfil the commitment undertaken at Doha, paragraph 33 of the revised draft Ministerial text proposed continuing this process and reiterated the instructions given in July 2004 to all relevant bodies to find appropriate solutions as a priority. Members would need both flexibility and creativity in their approaches in order to respect their mandate.

The Chairman, presenting the revised draft text for consideration, noted that it had incorporated amendments made in light of the views expressed in consultations and in the recent Heads of Delegation and TNC meetings. She and the Director-General, and all delegations, had been fully committed to a "bottom-up" approach and the revision had been undertaken in full respect of this principle with the aim of developing a workable basis to focus the deliberation of Ministers in Hong Kong. The text, which remained a draft, was a faithful reflection of the current situation which no one was completely satisfied with. It nevertheless reflected substantial progress overall since the July 2004 Framework, and she and the Director-General could only urge all to further work on it at Hong Kong with a view to improving on it.

The representatives of Brazil for the G-20, Japan, Paraguay for the Informal Group of Developing Countries, Canada, India, European Communities, Argentina, Egypt for the African Group, Bolivarian Republic of Venezuela, Switzerland, Chinese Taipei, Mauritius for the ACP Group, Bolivia, United States, Moldova, Indonesia for the G-33, Cuba, Philippines, Kenya, Thailand, Rwanda, Jamaica, Tanzania, Nigeria, Ecuador, Uganda, Benin, Zimbabwe, Uruguay, Nepal, Solomon Islands, Nicaragua, Pakistan, Zambia and Korea spoke.

The Chairman said it was her sense from the discussion that delegations generally believed the text had been taken as far as it could in Geneva. She and the Director-General would faithfully convey the substance of the cover note to the text to the Conference Chairman. One change nevertheless appeared necessary at that stage, namely, to harmonize the status of the Services Annex as clarified in the cover note with the relevant wording in paragraph 21, and there appeared to be a convergence among the membership to do so. In concrete terms, this would mean bracketing the following words in paragraph 21 of the text: "and the objectives, approaches and timelines set out in Annex C to this document".¹⁴

The representatives of the European Communities, Chinese Taipei and Korea, and the Director-General and the Chairman spoke.

The General Council took note of the statements and agreed to transmit the draft text in document JOB(05)/298/Rev.1, with the amendment in paragraph 21 bracketing the words "and the objectives, approaches and timelines set out in Annex C to this document", for consideration by the Sixth Session of the Ministerial Conference.¹⁵

¹⁴ An earlier change, suggested by the Director-General in his statement, concerned the removal of square brackets around the second sentence in paragraph 53 on Accessions to reflect the completion of Tonga's accession negotiations, and adjusting the number of the ongoing accessions accordingly to 29 in the second following sentence.

¹⁵ On 6 December, in connection with the discussion reflected in Point 1(c) above, the General Council agreed that an amendment to paragraph 34 also be included in the draft text to be transmitted to Ministers at the Sixth Session. The draft text, with these amendments, was circulated as WT/MIN(05)/W/3.

10. Commodities (WT/GC/M/98)

At the General Council meeting on 19 October 2005, the representative of Uganda (also on behalf of Côte d'Ivoire, Kenya, Rwanda, Tanzania and Zimbabwe) said that their countries had tabled two papers on the issue of commodities, and wished to see this issue feature in the preparations for Hong Kong and in the report to Ministers. Outlining three areas relating to trade in commodities identified by these countries on which work should focus, he indicated their keenness to have Ministers in Hong Kong provide a clear mandate on these issues.

The General Council took note of the statement.

11. Digital archiving and derestriction of GATT official documents (WT/GC/M/98)

At the General Council meeting on 19 October 2005, the Chairman read out a statement on the request and behalf of the Director-General regarding the digital preservation of GATT official documents and the question of GATT official documents that still remained restricted, and suggested that the General Council revert to these issues early in the new year when all Members would have the opportunity to discuss them further.

The General Council took note of the statement.

12. Appointment of the next Director-General (WT/GC/M/91, 95)

In October 2004, the Chairman informed Members in a communication that in accordance with the Procedures for the Appointment of Directors-General adopted by the General Council in December 2002 (WT/L/509), the process for appointment of the next Director-General would begin on 1 December 2004. Members would have until 31 December 2004 to nominate candidates who would have until 31 March 2005 to make themselves known to Members and to engage in discussions on the pertinent issues facing the organization. Also, as early as possible after the close of the one-month nomination period, candidates were to be invited to meet with Members at a formal General Council meeting at which they would be invited to make a brief presentation, including their vision for the WTO, to be followed by a question-and-answer period. In keeping with the Procedures, a decision on the appointment of a new Director-General would have to be taken not later than 31 May 2005.

At the General Council meeting on 26 January 2005, pursuant to paragraph 14 of the Procedures in WT/L/509, Members met formally with each of the four candidates nominated for the post of the next Director-General¹⁶, on the basis of modalities for the conduct of the meeting communicated in a fax to all delegations on 18 January and recalled by the Chairman at the beginning of the meeting.

At the General Council meeting on 26 May 2005, the Chairman recalled that in keeping with the Procedures for the Appointment of Directors-General adopted in December 2002 (WT/L/509), the process for the appointment of the next Director-General had been started on 1 December 2004 with a notification from the General Council Chair to the membership. Following the close of the one-month nomination period on 31 December 2004, the four candidates nominated had been invited to meet with Members at a formal General Council meeting held on 26 January 2005 (WT/GC/M/91). In keeping with the Procedures, they had also been allowed a three-month period, i.e. until 31 March, to make themselves known to Members and to engage in discussions on the pertinent issues facing the organization. Subsequently, following an informal meeting of Heads of Delegation on 31 March at

¹⁶ The candidatures received, in the order in which they were received, were as follows: Mr. Carlos Pérez del Castillo (Uruguay), Mr. Jaya Krishna Cuttaree (Mauritius), Mr. Luiz Felipe de Seixas Corrêa (Brazil) and Mr. Pascal Lamy (France).

which she had announced arrangements for the further process, as well as the start of the consultation process stipulated in the Procedures, she and her colleagues in this exercise – Mr. Glenne (Norway), Chair of the Dispute Settlement Body, and Mr. Stephenson (Canada), Chair of the Trade Policy Review Body, acting as Facilitators – had conducted three successive rounds of consultations with Members starting on 4 April. In accordance with the process outlined on 31 March and the 2002 Procedures, she and the Facilitators had reported back to the membership at informal Heads of Delegation meetings at each successive stage of the consultation process. Her statements at each of these informal HODs meetings – on 31 March, 14 and 29 April, and 13 May – had been circulated to Members in documents JOB(05)/49, 56, 69 and 81, respectively. Pursuant to paragraph 19 of the 2002 Procedures, she had announced to Members at an informal HODs meeting on 13 May, the recommendation of the Facilitators and herself that at that Council meeting Members appoint Mr. Pascal Lamy as the next Director-General of the WTO following the expiry of Dr. Supachai's term of office on 31 August 2005. She accordingly recommended formally that the General Council agree to appoint Mr. Lamy as the next Director-General of the WTO for a period of four years as from 1 September 2005.

The General Council so agreed.

The representatives of France, European Communities, Rwanda (also on behalf of the African Group), Tunisia (on behalf of the Arab Group), Japan, Argentina (on behalf of GRULAC), Zambia (on behalf of the LDCs), Benin (on behalf of the ACP Group), Korea, Senegal, Pakistan, Singapore (on behalf of the ASEAN Members), Costa Rica, Chinese Taipei, Kyrgyz Republic, Mauritania and Croatia (on behalf of the CEFTA-plus countries), and the Chairman spoke.

The General Council took note of the statements.

13. Accession Matters

(a) Afghanistan (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the Chairman informed the General Council that Mr. De Jong (Netherlands) had agreed to chair the Working Party.

The General Council took note of this information.

(b) Iran (WT/GC/M/92, 95)

A communication from Iran requesting accession to the WTO Agreement (WT/ACC/IRN/1) was first considered by the General Council in May 2001 at the request of Egypt on behalf of the Informal Group of Developing Countries, and taken up at each regular meeting of the General Council since then.

At its meeting on 15 February 2005, the General Council again considered this matter.

The representatives of the United States, Paraguay (on behalf of the Informal Group of Developing Countries), Venezuela, Turkey, Pakistan, Malaysia, Indonesia, China, Cuba, Oman, European Communities, Singapore, India, Djibouti, Norway, Switzerland, Uruguay, Chile and New Zealand spoke.

The Chairman said he trusted that in view of the many statements at the present meeting, his successor as Council Chair would take this matter up in consultations with delegations before the next General Council meeting.

The General Council took note of the statements.

At its meeting on 26 May 2005, the General Council again considered this matter.

The Chairman, reporting on further consultations she had held recently with all delegations who had spoken on this subject at previous Council meetings, as well as others who had expressed an interest in attending, said that there now appeared to be a consensus in favour of establishing a working party to examine Iran's request. With this in mind, she proposed for Members' consideration that the General Council agree to establish a working party, with standard terms of reference and composition that she read out.

The General Council so agreed.

The Chairman then invited the representative of Iran to consult with the Accessions Division of the Secretariat as to further procedures, in particular with regard to the basic documentation to be considered by the Working Party. She also invited Iran, on behalf of the General Council, to attend meetings of the General Council and, as appropriate, meetings of other WTO bodies as an observer during the period when the Working Party was carrying out its work.

The representatives of Iran (as an observer) and Paraguay (on behalf of the Informal Group of Developing Countries), and the Chairman spoke.

The General Council took note of the statements.

(c) Montenegro (WT/GC/M/92, 95)

At its meeting on 15 February 2005, the General Council considered a communication from the Republic of Montenegro in document WT/ACC/CGR/1 concerning its interest in acceding to the WTO Agreement pursuant to Article XII. The Chairman made a statement in connection with Montenegro's status as a separate customs territory, and said that consultations carried out by the Secretariat on his behalf indicated broad acceptance among the membership of the decision of the Government of Montenegro to apply for accession pursuant to Article XII of the WTO Agreement. The support for Montenegro's application was based on the understanding that the conditions stipulated in Article XII would be adhered to during the accession process, and that the Republic of Montenegro would be fully responsible for the implementation of obligations arising from accession to the WTO. As the current constitutional structure of Serbia and Montenegro granted international personality to the State Union Serbia and Montenegro, it was also understood that for the purposes of accession to the WTO, the Republic of Montenegro would be considered a separate customs territory. Accordingly, he proposed that the General Council agree to establish a working party to examine the request with standard terms of reference and composition, which he read out.

The General Council agreed to establish a Working Party with the terms of reference and composition as read out by the Chairman.

The Chairman then invited the representative of Montenegro to consult with the Accessions Division of the Secretariat as to further procedures, and in particular with regard to the basic documentation to be considered by the Working Party. He also invited Montenegro, on behalf of the General Council, to attend meetings of the General Council and, as appropriate, meetings of other WTO bodies as an observer during the period in which the Working Party was carrying out its work.

The representatives of Montenegro (as an observer), the European Communities and Croatia (on behalf of the informal group of CEFTA-plus countries) spoke.

The General Council took note of the statements.

At its meeting on 26 May 2005, the Chairman informed the General Council that following consultations with Members and the authorities of Montenegro, and in accordance with usual WTO practice, the nomination of Mr. Gosnar (Slovenia) as Chairman of the Working Party on the Accession of Montenegro had been proposed.

The General Council took note of this information.

(d) Sao Tome and Principe (WT/GC/M/95)

At its meeting on 26 May 2005, the General Council considered a communication from Sao Tome and Principe (WT/ACC/STP/1) concerning its interest in acceding to the WTO Agreement pursuant to Article XII.

The representatives of Sao Tome and Principe (as an observer), Angola, Chinese Taipei, Brazil, Rwanda (on behalf of the African Group), Benin (on behalf of the ACP Group), Zambia (on behalf of the LDCs) spoke.

The Chairman proposed that the General Council take note of the statements and of the expressions of welcome and support, and agree to establish a working party with standard terms of reference and composition which she read out.

The General Council so agreed.

The Chairman then invited the representative of Sao Tome and Principe to consult with the Accessions Division of the Secretariat as to further procedures, in particular with regard to the basic documentation to be considered by the Working Party.

The General Council took note of the statement.

(e) Saudi Arabia (WT/GC/M/99)

In July 1993, the GATT 1947 Council established a working party to examine Saudi Arabia's request for accession to the General Agreement on Tariffs and Trade (GATT 1947). Subsequently, having regard to the decision regarding requests for WTO accession adopted by the WTO General Council on 31 January 1995¹⁷, the GATT 1947 Accession Working Party was transformed into a WTO Accession Working Party.

At its meeting on 11 November 2005, the General Council considered the Report of the Working Party on the Accession of Saudi Arabia (WT/ACC/SAU/61 and Add.1 and 2).

The Chairman of the Working Party spoke.

The General Council approved the text of the Protocol of Accession of Saudi Arabia (WT/L/627) and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decision on the Accession of Saudi Arabia (WT/L/627). The General Council then adopted the Report of the Working Party as a whole (WT/ACC/SAU/61 and Add.1 and Add.2).

The Chairman and the Director-General spoke, following which the representatives of Saudi Arabia (as an observer), Jordan (on behalf of the Arab Group), China, Bahrain, Australia, Djibouti, European Communities, Argentina (on behalf of the GRULAC), Egypt (on behalf of the African Group), Japan, India, Korea, Pakistan, Tunisia, Chinese Taipei, Morocco, Norway, United States,

¹⁷ See WT/GC/M/1, Item 4(g).

Dominican Republic, Paraguay (on behalf of the Informal Group of Developing Countries), Thailand (on behalf of the ASEAN Members), Burkina Faso, Senegal, Cuba, Mauritania, Bangladesh and Jamaica spoke. The representative of Canada also wished to be placed on record as welcoming and supporting the accession of Saudi Arabia.

The General Council took note of the statements and of the expressions of welcome and support.

(f) Serbia and Montenegro (WT/GC/M/92)

In February 2001, the General Council established a Working Party to examine the application for WTO accession from the Federal Republic of Yugoslavia. In February 2004 – following the promulgation and adoption of the Constitutional Charter of Serbia and Montenegro in 2003, through which the name of the State of the Federal Republic of Yugoslavia was changed to "Serbia and Montenegro" – the Working Party was renamed the Working Party on the Accession of Serbia and Montenegro.

At the General Council meeting on 15 February 2005, the Chairman drew attention to the communications from the State Union Serbia and Montenegro (WT/ACC/SCG/3 and Add.1) in which the Government of the Republic of Serbia and the Government of the Republic of Montenegro informed Members that they had now decided to apply individually and separately for accession to the WTO. At the level of the State Union, the Council of Ministers of Serbia and Montenegro had taken note of the decisions of the two Governments, and confirmed that the Republic of Serbia and the Republic of Montenegro possessed full autonomy in the conduct of their external commercial relations. In the light of the individual applications for WTO membership, the Council of Ministers of Serbia and Montenegro had requested that the application lodged by the Federal Republic of Yugoslavia in 2001 be considered withdrawn.

The Chairman proposed that the General Council take note of the communications from the State Union Serbia and Montenegro in document WT/ACC/SCG/3 and Add.1, and agree to dissolve the Working Party on the Accession of Serbia and Montenegro with immediate effect.

The General Council took note of the statement and so agreed.

(g) Serbia (WT/GC/M/92, 95)

At its meeting on 15 February 2005, the General Council considered a communication from the Republic of Serbia in document WT/ACC/SRB/1 concerning its interest in acceding to the WTO Agreement pursuant to Article XII. The Chairman made a statement in connection with Serbia's status as a separate customs territory, and said that consultations carried out by the Secretariat on his behalf indicated broad acceptance among the membership of the decision of the Government of Serbia to apply for accession pursuant to Article XII of the WTO Agreement. The support for Serbia's application was based on the understanding that the conditions stipulated in Article XII would be adhered to during the accession process, and that the Republic of Serbia would be fully responsible for the implementation of obligations arising from accession to the WTO. As the current constitutional structure of Serbia and Montenegro granted international personality to the State Union Serbia and Montenegro, it was also understood that for the purposes of accession to the WTO, the Republic of Serbia would be considered a separate customs territory. Accordingly, he proposed that the General Council agree to establish a working party to examine the request with standard terms of reference and composition, which he read out.

The General Council agreed to establish a Working Party with the terms of reference and composition as read out by the Chairman.

The Chairman then invited the representative of Serbia to consult with the Accessions Division of the Secretariat as to further procedures, and in particular with regard to the basic documentation to be considered by the Working Party. He also invited Serbia, on behalf of the General Council, to attend meetings of the General Council and, as appropriate, meetings of other WTO bodies as an observer during the period in which the Working Party was carrying out its work.

The representatives of Serbia (as an observer), the European Communities and Croatia (on behalf of the informal group of CEFTA-plus countries) spoke.

The General Council took note of the statements.

At its meeting on 26 May 2005, the Chairman informed the General Council that following consultations with Members and the authorities of Serbia, and in accordance with usual WTO practice, the nomination of Mr. Roux (Belgium) as Chairman of the Working Party on the Accession of Serbia had been proposed.

The General Council took note of this information.

(h) Viet Nam (WT/GC/M/92)

In January 1995, the General Council established a Working Party to examine the request of Viet Nam for accession to the WTO Agreement.

At its meeting on 15 February 2005, the Chairman informed the General Council that following informal consultations, and in accordance with usual WTO practice, it had been agreed that Mr. Eirik Glenne (Norway) would replace Mr. Seung Ho (Korea), the outgoing Chair of the Working Party. He then paid tribute to Mr. Seung Ho for the latter's long service in chairing this Working Party since its establishment.

The General Council took note of this information.

14. International Trade Centre UNCTAD/WTO (WT/GC/M/95)

At its meeting on 26 May 2005, the General Council considered a report of the Joint Advisory Group of the International Trade Centre UNCTAD/WTO on its Thirty-Eighth Session (ITC/AG(XXXVIII)/204).

The Chairman recalled that, in keeping with customary practice, this report had been considered initially by the Committee on Trade and Development at its meeting on 11 May.

The Chairman of the Committee on Trade and Development reported on the Committee's consideration of the report of the Joint Advisory Group.

The representatives of Switzerland, Pakistan, Djibouti, El Salvador, Canada, Costa Rica, Benin (on behalf of the ACP Group), Guatemala, Mexico, Rwanda, Kyrgyz Republic, Egypt, Zambia, Jamaica, Cuba and Mauritania, and the Chairman spoke.

The General Council took note of the statements and adopted the report of the Joint Advisory Group in document ITC/AG(XXXVIII)/204.

15. Waivers

- (a) Albania – Request for a waiver to extend the staging period of implementation for a number of products (WT/GC/M/95)

At the General Council meeting on 26 May 2005, the Chairman drew attention to a request from Albania for a waiver to extend the staging period of implementation for a number of products, and to the draft Decision in documents G/C/W/507 and Corr.1.

In the absence of the Chairman of the Council for Trade in Goods, and at the latter's request and behalf, the Chairman reported on the consideration of this request by that Council.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decision (WT/L/610).

- (b) Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions

- (i) *Argentina, Malaysia and Panama (WT/GC/M/97)*

At its meeting on 27 and 29 July 2005, the General Council considered requests for waivers from Argentina (G/L/735/Rev.1), Malaysia (G/L/734) and Panama (G/L/736) for the introduction of Harmonized System 1996 changes into schedules of tariff concession, and related draft decisions in documents G/C/W/514/Rev.1, 512 and 515, respectively.

In the absence of the Chairman of the Council for Trade in Goods, and at the latter's request and behalf, the Chairman reported on the consideration of these requests by that Council.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decisions (WT/L/618 – Argentina, WT/L/619 – Malaysia and WT/L/620 – Panama).

- (ii) *Israel (WT/GC/M/100)*

At its meeting on 1, 2 and 6 December 2005, the General Council considered a request for a waiver from Israel (G/L/744) for the introduction of Harmonized System 1996 changes into its WTO schedule of tariff concessions, and a related draft decision in document G/C/W/528.

The Chairman of the Council for Trade in Goods reported on the consideration of this request by that Council.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decision (WT/L/639).

- (c) Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council considered a draft decision (G/C/W/533) to waive obligations under Article II of GATT 1994 for a number of Members with regard to the introduction of HS2002 changes into WTO schedules of tariff concessions.

The Chairman of the Council for Trade in Goods reported on the consideration of the draft decision by that Council.

The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the Decision (WT/L/638).

- (d) United States – Requests for waivers for African Growth and Opportunity Act, Caribbean Basin Economic Recovery Act and Andean Trade Preference Act (WT/GC/M/97)

At the General Council meeting on 27 and 29 July 2005, the Chairman read out a statement, at the request and behalf of the Chairman of the Council for Trade in Goods, regarding the consideration in that Council of requests for waivers from the United States with regard to the African Growth and Opportunity Act (G/C/W/509 and Add.1), the Caribbean Basin Economic Recovery Act, as amended (G/C/W/508 and Add.1), and the Andean Trade Preference Act, as amended (G/C/W/510 and Add.1).

In the light of that statement, and a request by the Goods Council as reflected therein, the Chairman proposed that the General Council agree to allow the Goods Council to continue consideration of the three requests from the United States and to report back to the General Council once it had completed this work.

The General Council took note of the statement and so agreed.

- (e) Review of waivers pursuant to Article IX:4 of the WTO Agreement (WT/GC/M/97, 100)

Under Article IX:4 of the WTO Agreement "[a]ny waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates."

At its meeting on 27 and 29 July 2005, the General Council considered the following waivers for review under Article IX:4:

- (i) LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products (WT/L/478);
- (ii) Preferential Tariff Treatment for Least-Developed Countries (WT/L/304);
- (ii) Kimberley Process Certification Scheme for Rough Diamonds (WT/L/518).

The Chairman recalled, with regard to the waiver in sub-item (i) for LDCs under the TRIPS Agreement, that in connection with the approval of this draft waiver at the meeting of the TRIPS Council in June 2002, the Chairman of the TRIPS Council had noted that it was understood, in regard to the review foreseen in paragraph 2 of that waiver, that the exceptional circumstances justifying the waiver would continue to exist for least-developed country Members until its expiry date of 1 January 2016.

The General Council took note of the Chairman's statement, and that the General Council would revert to the review of multi-year waivers under Article IX:4 of the WTO Agreement at its meeting in December.

At its meeting on 1, 2 and 6 December 2005, the General Council considered the following waivers for review under Article IX:4:

- (i) United States – Caribbean Basin Economic Recovery Act (WT/L/104)

- (ii) Canada – CARIBCAN (WT/L/185)
- (iii) United States – Former Trust Territory of the Pacific Islands (WT/L/183)
- (iv) EC – Autonomous preferential treatment to the countries of the Western Balkans (WT/L/380)
- (v) EC – Transitional regime for the EC autonomous tariff rate quotas on imports of bananas (WT/L/437)
- (vi) EC – The ACP-EC Partnership Agreement (WT/L/436)
- (vii) Cuba – Article XV:6 of GATT 1994 (WT/L/440)

In so doing, the General Council considered reports on the implementation of the waivers submitted by Canada (WT/L/634), Cuba (WT/L/630), European Communities (WT/L/635 and 636) and the United States (WT/L/632 and 633).

The representative of Cuba spoke.

The General Council took note of the statement and of reports contained in documents WT/L/630 and WT/L/632 through 636.

16. WTO Pension Plan

- (a) Management Board of the WTO Pension Plan (WT/GC/M/95)

Article 4 of the Regulations of the WTO Pension Plan (WT/L/282) provides for the establishment of a Management Board comprising, *inter alia*, a Chairman, four members and four alternates elected by the General Council, each for a three-year term.

At its meeting on 26 May 2005, the Chairman informed the General Council that the term of office of the current membership of the Management Board expired in July 2005. Following consultations held on this matter, she proposed that the General Council agree to the election of the candidates whose names had been submitted to Members in document WT/GC/W/544 to serve in these positions on the Board for a three-year term.

The General Council agreed to the election of the individuals in WT/GC/W/544 to the Management Board of the WTO Pension Plan for a three-year term.

- (b) Annual Report (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council considered an Annual Report of the Management Board of the WTO Pension Plan for 2004 (WT/L/628).

A Member of the WTO Pension Plan Management Board introduced the report.

The General Council took note of the statement and of the Annual Report of the Management Board for 2004 in WT/L/628.

- (c) Amendments to the Regulations and Administrative Rules of the Pension Plan (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council considered recommendations from the Management Board of the Pension Plan for amendments to the Regulations and Administrative Rules of the Pension Plan following a recent review of procedures governing the treatment of requests for determination of total and partial disability (WT/GC/W/522).

A Member of the WTO Pension Plan Management Board introduced the amendments proposed by the Board.

The General Council took note of the statement, adopted the draft amendments to the WTO Pension Plan Regulations, and took note of the amendments to the Administrative Rules as set out in Annexes 1 and 2 of WT/GC/W/552.

17. Appointment of Officers to WTO bodies (WT/GC/M/92, 100)

At the General Council meeting on 15 February 2005, the Chairman said that in accordance with the Guidelines for appointment of officers to WTO bodies approved by the General Council in December 2002 (WT/L/510), he and his colleague, Mrs. Mohamed (Kenya), the serving Chair of the Dispute Settlement Body, had conducted consultations with delegations on a slate of names for the appointment of Chairs to the bodies listed in Groups 1, 2, 4 and 5 in the Annex to the Guidelines. As he had announced at the December 2004 General Council meeting, since the three working groups on the Singapore issues were inactive at the present time, they had not consulted regarding their chairpersons. On the basis of these consultations, he informed delegations that there was a consensus on the following slate of names:

| | |
|---|---|
| General Council | Ms. Amina Chawahir MOHAMED (Kenya) |
| Dispute Settlement Body | Mr. Eirik GLENNE (Norway) |
| Trade Policy Review Body | Mr. Don STEPHENSON (Canada) |
| Council for Trade in Goods | Mr. Vesa Tapani HIMANEN (Finland) |
| Council for Trade in Services | Ms. Claudia URIBE (Colombia) |
| Council for TRIPS | Mr. CHOI Hyuck (Korea) |
| Committee on Trade and Environment | Mr. Shree Baboo Chekitan SERVANSING (Mauritius) |
| Committee on Trade and Development | Mr. Gomi THARAKA SENADHIRA (Sri Lanka) |
| Committee on Balance-of-Payments Restrictions | Mr. Víctor ECHEVARRÍA UGARTE (Spain) |
| Committee on Regional Trade Agreements | Mr. Ronald SABORÍO SOTO (Costa Rica) |
| Committee on Budget, Finance and Administration | Mr. Jan-Meinte POSTMA (Netherlands) |
| Working Group on Trade and Transfer of Technology | Mr. Manuel Antonio J. TEEHANKEE (Philippines) |
| Working Group on Trade, Debt and Finance | Mr. KWERONDA-RUHEMBA (Uganda) |

The General Council took note of the statement and of the consensus on the slate of names for the appointment of officers.

The Chairman of the Council for Trade in Services and the Chairman (on behalf of the Chairman for Trade in Goods) spoke.

The General Council took note of the statements.

At the General Council meeting on 1, 2 and 6 December 2005, the Chairman announced, pursuant to the Guidelines for Appointment of Officers to WTO Bodies agreed in December 2002 (WT/L/510), that she would be starting the selection process for the appointment of chairpersons to the bodies outlined in Groups 1, 2, 4 and 5 of the Annex to the Guidelines. In accordance with Paragraph 7.1(b) of the Guidelines, she would be assisted in the selection process by the serving Chairperson of the Dispute Settlement Body, Mr. Glenne (Norway). In keeping with paragraph 7.1(d), she and Mr. Glenne would communicate, as early as possible, a specified time-period in which they would be available to hear the views and suggestions of Members, individually and/or in groups. As provided for in Paragraph 7.1(c) of the Guidelines, the Secretariat distributed to delegations in the meeting Room a list of past Chairs of major bodies in order to provide some structure for Members' subsequent deliberations on the possible distribution of chairs based on past practice and the need for balance.

With regard to Chairmanships of bodies under the TNC, the Chairman recalled that at its first meeting in 2002, the TNC had endorsed certain principles and practices to guide its work, including that the Chairman of the General Council would consult on the chairmanships of the bodies established by the TNC. At the February 2004 Council meeting, on the basis of consultations carried out by the General Council Chair, Members had taken note of a consensus on a slate of names for Chairmanships of bodies under the TNC and had invited the Chairs to serve until the Sixth Session of the Ministerial Conference. A similar term of office had been agreed for the Chair of the Negotiating Group on Trade Facilitation established in the August 2004 Decision of the General Council. Since the term of office of these Chairpersons would come to an end after the Hong Kong Ministerial, she and Mr. Glenne would also take up the question of these appointments in their consultations prior to the February 2006 General Council. In the meantime, and keeping in mind the need for maintaining continuity in the process, she proposed that these Chairpersons be requested to continue in office until the Council meeting in February.

The General Council to take note of the statement.

18. Chairmanship of the Special Session of the Committee on Agriculture and the Sub-Committee on Cotton (WT/GC/M/97¹⁸)

At the General Council meeting on 27 and 29 July 2005, the Chairman recalled that at the May Council meeting, under the agenda item on the report by the Chairman of the TNC, she had referred to a communication from New Zealand informing her and the membership as a whole that Mr. Groser had stepped down as New Zealand Permanent Representative with effect from 23 May following his decision to become a candidate for election to his country's legislature. At that meeting, she had welcomed the offer of the New Zealand Government to supply the necessary resources to enable Mr. Groser to continue to carry out his functions as Chair of the Agriculture Committee in Special Session and the Cotton Sub-Committee until the summer break. She had stated that, concerning the position after July, it would be necessary for the membership to reflect on what was in the best interests of the negotiating process as Members approached the Hong Kong Ministerial, and that she would be ready to conduct consultations as necessary. On the basis of this background, and the consultations she had conducted, she informed Members that the name of

¹⁸ Some discussion relating to this matter is also carried under Point 1(a) above.

Mr. Crawford Falconer (New Zealand) had emerged as a consensus candidate to replace Mr. Groser as Chairman of the Committee on Agriculture in Special Session and of the Sub-Committee on Cotton as from 1 August.

The General Council took note of this information.

19. Review of WTO Activities (WT/GC/M/100)

At its meeting on 1, 2 and 6 December 2005, the General Council considered annual reports for 2005 from WTO bodies that had been drawn up in pursuance of the Decision concerning procedures for an annual overview of WTO activities and for reporting under the WTO (WT/L/105).

The Chairman spoke.

The General Council took note of the statement, adopted the report of the Committee on Trade and Development (WT/COMTD/55), and took note of the reports of the other WTO bodies, including the reports of the bodies under the Plurilateral Trade Agreements, in documents WT/DSB/39 and Add.1, WT/TPR/173, G/L/763, S/C/24, IP/C/38 and Add.1, WT/CTE/12, WT/BOP/R/81, WT/BFA/81, WT/REG/15, WT/WGTDF/4, WT/WGTTT/7, GPA/85 and WT/L/629. The General Council also took note that these reports would be forwarded to the Sixth Session of the Ministerial Conference.

The General Council then adopted the draft annual report for 2005 of the General Council (WT/GC/W/554 and Corr.1), on the understanding that the Secretariat would make the necessary adjustments to it so as to include matters considered at that meeting. The report would then be circulated and also forwarded to the Sixth Session.

20. Election of Chairperson (WT/GC/M/92)

At the General Council meeting on 15 February 2005, the Chairman, as the outgoing presiding officer of the General Council, made a brief statement.

The General Council then unanimously elected Ms. A. Mohamed (Kenya) to the Chair.

The representatives of Rwanda (on behalf of the African Group), Nigeria, Zambia (on behalf of the LDCs), Benin (on behalf of the ACP countries), Argentina (on behalf of GRULAC), Morocco, Singapore (on behalf of the ASEAN Members), Kenya, Barbados (on behalf of the CARICOM Group), India, Djibouti, Egypt, Jamaica, Honduras, Senegal, Tanzania (also on behalf of Uganda), Oman and Cuba, and the Director-General and the newly-elected Chairman spoke.

The General Council took note of the statements.
