

**General Council  
25, 26 and 30 August 2003**

**MINUTES OF MEETING**

Held in the Centre William Rappard  
on 25, 26 and 30 August 2003

*Chairman: Mr. Carlos Pérez del Castillo (Uruguay)*

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## **1. Iran – Request for Accession (WT/ACC/IRN/1)**

1. The Chairman drew attention to the communication from Iran in document WT/ACC/IRN/1 requesting accession to the WTO Agreement pursuant to Article XII, and recalled that the General Council had last considered this matter at its meeting in July and had agreed to revert to it at the present meeting.

2. The representative of the United States said that the issue of Iran's accession to the WTO continued to be under review by his Government, and his delegation had nothing to add to its statement at the July meeting of the General Council.

3. The representative of Tanzania, on behalf of the Informal Group of Developing Countries, said that these countries had taken note of the statement by the United States. They hoped that the United States would complete its review soon and would be able to provide a positive response on the issue of the accession of Iran at the next meeting of the General Council.

4. The General Council took note of the statements and agreed to revert to this matter at its next meeting.

## **2. Committee on Budget, Finance and Administration – Recommendations of the Committee following its meetings of 11 July and 14 August 2003 (WT/BFA/67)**

5. The Chairman invited Mr. Law (Hong Kong, China), Chairman of the Committee on Budget, Finance and Administration, to introduce the report in document WT/BFA/67.

6. Mr. Law (Hong Kong, China), Chairman of the Committee on Budget, Finance and Administration, introducing the Committee's report, said the recommendations contained in document WT/BFA/67 covered the meetings held on 11 July and 14 August 2003. Due to time constraints, the full report on these meetings would be submitted to the next meeting of the General Council. He recalled the decision of the General Council in December 2002 on the review of the salary methodology, in particular the “alpha” adjustment from 1 July 2003 to restore parity with equivalent grades in the UN for all WTO employees in light of the results of a review of UN professional staff salaries. The “alpha” adjustment necessitated amendment to Annex 2 of the WTO Staff Rules. Consequently, the Committee recommended that the General Council approve the amendments to Annex 2 of the WTO Staff Rules in accordance with document WT/BFA/W/102.

7. He also wished to recall that at its meeting in December 2002 the General Council had taken note of the Committee's intention to study the feasibility of a move to biennial budgeting and to make a recommendation in that respect to the General Council. Since early 2003, the Committee had been discussing the various implications and ramifications of such a move. It was felt that biennial

budgeting would allow better planning and strategic thinking for the organization, and would provide both Members and the Secretariat with greater predictability with regard to the financial requirements of the organization. At the same time, it was recognized that it would be necessary to address questions of transparency, flexibility, and the provision of adequate resources in any move to a biennial process. The Committee had subsequently reached a consensus on a biennial process which would meet the specific needs of the WTO. This process was set out in detail in document WT/BFA/W/105/Rev.1

8. The Committee recommended as follows to the General Council: that the Director-General be requested to present to the Committee on Budget, Finance and Administration two estimated budgets covering a biennial period, with effect from the time of the estimates for 2004 and 2005, along the lines outlined in document WT/BFA/W/105/Rev.1; that the General Council, in consequence of the above, approve the revised Financial Regulations contained in the annex to document WT/BFA/W/105/Rev.1.; and that the Committee be requested to examine at the time the budgets for the second biennium were to be considered, how the process had been implemented and to determine whether adjustments should be introduced. As appropriate, the Committee would make relevant recommendations with respect to such adjustments.

9. The General Council took note of the statement, approved the Budget Committee's specific recommendations in paragraphs 1 and 2 of the report in WT/BFA/67, and adopted the report.

### **3. Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health**

10. The Chairman invited the Chairman of the Council for TRIPS to report on this matter.

11. Mr. Menon (Singapore), Chairman of the Council for TRIPS, said that as delegations were aware, and as he had informed the Council for TRIPS, since being appointed as Chair in February he had remained in close contact with delegations on the issue of implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. His intention had been to resume consultations as soon as there were indications that they would lead to positive results. He had also urged delegations to continue to dialogue with each other, so that a solution could be found on the basis of the text circulated by his predecessor on 16 December 2002. Furthermore, he had expressed his hope that a solution could be found before the Cancún Ministerial Conference and preferably in time for the present meeting of the General Council. He was pleased to inform the General Council that he was now in a position to make some suggestions as to how this difficult question might be settled. To this end, he was making available for delegations' consideration, in the three working languages, a draft statement to be made by the Chairman of the General Council which he hoped would enable all Members to join in a consensus and adopt unchanged the proposed decision tabled by his predecessor in December 2002.

12. Before being in a position to forward any recommendations in this regard from the TRIPS Council to the General Council, he would need some further time to consult with all Members of the TRIPS Council on the proposal he was circulating, first in an informal context and then in a formal meeting of the TRIPS Council. An open-ended informal meeting of the TRIPS Council would be convened later that evening at the level of Heads of Delegation plus one, and it was his hope that the proposal he was submitting would find favour with Members. The TRIPS Council would then meet in formal session shortly thereafter in order to approve these recommendations to the General Council. In the light of this situation, the Chairman of the General Council might wish to propose that the General Council suspend its present meeting and be ready to reconvene at short notice with a view to taking action on the basis of any recommendations that would be forthcoming from the TRIPS Council.

13. The Chairman thanked the Chairman of the TRIPS Council for his report and for all his efforts on this issue. In the light of the report by the Chairman of the TRIPS Council, he proposed that the General Council suspend its discussion on this item and agree to reconvene at short notice with a view to taking action on the basis of any recommendations that would be forthcoming from the Council for TRIPS.

14. The General Council so agreed.

15. At its resumed meeting on 30 August, the Chairman recalled that the General Council had suspended its meeting on this item in order to allow time for consultations to yield results. Since then, in the Council for TRIPS as well as in the General Council, Members had held informal consultations in order to consider a draft Decision resulting from the process of consultations. He drew Members' attention to the draft Decision which had been circulated as document IP/C/W/405, and invited the Chairman of the Council for TRIPS to report on the Council's deliberations.

16. Mr. Menon (Singapore), Chairman of the Council for TRIPS, said he was pleased to inform Members that, following renewed consultations, the Council for TRIPS had on 28 August approved the draft Decision in document IP/C/W/405 and had agreed to forward it to the General Council for adoption. The TRIPS Council had also approved his forwarding to the Chairman of the General Council the text of a Statement, contained in document Job(03)/177, to be read out by the latter prior to the adoption of the draft Decision by the General Council. Furthermore, a number of delegations had informed him that it was their intention to make statements regarding Paragraph 1(b) of the draft Decision. He wished to take this opportunity to put on record his appreciation of the constructive and cooperative spirit shown by all delegations which had enabled him to be in a position to put these recommendations to the General Council.

17. The Chairman thanked the Chairman of the TRIPS Council for his report and for all the work the latter had done on this highly important issue. This was a considerable achievement. He was aware that some delegations had felt that they had not been as fully consulted as some others in the earlier phases of the consultations, and that this had left them with questions that needed clarification before they could fully join the consensus, and with the need to consult fully their capitals. He believed that the consultation process that had taken place over the past 24 hours had enabled them to seek the clarifications they needed and to fully join the consensus.

18. He wished to make clear that in the earlier informal discussions and consultations no delegation had indicated any intention of preventing the adoption of the draft Decision of 16 December 2002 in the light of the proposed Statement by the General Council Chairman. He believed that Members had all been moved by the urgency of the needs of the African countries, in particular, for an early resolution of the issue and had fully identified with the plight of Africa.

19. He added that one delegation had asked him to say that the Chairman's Statement was without prejudice to the constitutional rights of Members. Before reading out that statement, he invited Members wishing to make statements with respect to Paragraph 1(b) of the draft Decision in IP/C/W/405, on the use by Members of the system contained in the draft Decision, to do so.

20. Delegations who made statements below, both with respect to Paragraph 1(b) of the draft Decision as well as following adoption of the Decision, expressed appreciation to the current and preceding Chairmen of the Council for TRIPS, the Chairman of the General Council, the Director-General, and the delegations of Argentina, Brazil, China, EC, Canada, Cuba, El Salvador, Hungary, India, Indonesia, Kenya, South Africa, Switzerland, United States and Venezuela, among many others, as well as to the Secretariat, for their commitment, contribution, determination and tireless efforts in bringing the negotiations on this important political and humanitarian issue to a satisfactory conclusion.

21. The representative of Israel said that although the process had been long and complex, delegations had never lost sight of the final goal and the objectives behind it, while knowing always the consequences of failure for the WTO and, more importantly, for those Members in need of access to medicines covered by the draft Decision. At Doha, Ministers had given clear instructions to find an expeditious solution for WTO Members with insufficient or no manufacturing capacity in the pharmaceutical sector that could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. Israel had regarded these instructions as a positive step forward in solving the specific humanitarian crisis in certain regions of the world. His delegation had always supported this initiative before Doha, and like others was satisfied with the final results that had come out from Doha. According to instructions received from Ministers it was clear that Israel, under normal circumstances, would not use the solution agreed upon as an importing country. From the draft Decision before Members today, the situation had not changed. Israel would only use this system as an importer in situations of national emergency or other circumstances of extreme urgency. His delegation wished once again to stress the humanitarian importance of the draft Decision before Members today and fully supported it. It also wished to thank all Members for the flexibility they had shown in reaching this solution, especially since this decision gave hope to many people around the world.

22. The representative of Hong Kong, China said he sincerely hoped that the resolution of this long-standing issue would contribute to the creation of a more conducive atmosphere for the Cancún process. He was pleased to confirm that his authorities had taken the decision that Hong Kong, China would only use the system as an importer in situations of national emergency or other circumstances of extreme urgency.

23. The representative of Chinese Taipei joined others in welcoming the consensus on this extremely important humanitarian issue. With this decision, Members were entering a new era in the multilateral trading system where international trade rules were humanized and trade negotiations took on broader human concerns. Members could now truly add the word "development" into the Doha Round. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would use the system set up under the draft Decision as an importer in no more than situations of national emergency or other circumstances of extreme urgency. His delegation sincerely hoped that all Members would now be able to obtain in a timely and cost-effective manner much needed medication for their citizens.

24. The representative of Singapore said his delegation was pleased that the WTO had arrived at this solution mandated under paragraph 6 of the Doha Declaration on TRIPS and Public Health, and was happy to join in the consensus to adopt the statement in document Job(03)/177 together with the 16 December text. Singapore was the first developing country Member to indicate, in November 2002, that it would use the system in a restricted way as an importer under the eventual paragraph 6 solution. This reflected its view that the system should be tailored to benefit those countries who lacked the requisite means to respond effectively to public health problems. His delegation wished to reiterate its position and formally affirm that Singapore would only use the system as an importer in situations of national emergency or other circumstances of extreme urgency. He believed that the solution gave real meaning to the DDA and had every confidence that it would provide an effective mechanism in responding to public health problems facing many developing countries.

25. The representative of Mexico said his country wished to join in the consensus on this issue and, as a token of its solidarity with the membership of the WTO and in particular with its friends in Africa, it agreed to make use of this system as an importing Member only in situations of national emergency or other circumstances of extreme urgency.

26. The representative of Turkey said that the resolution of this issue finally manifested to the outside world that the WTO was indeed capable of addressing problems affecting its developing and least developed Members. He was certain that this would also give the necessary impetus to the

ongoing DDA negotiations. He confirmed that Turkey wished to be included in the list of eligible importing countries which might partially opt out to utilize the paragraph 6 mechanism, as foreseen in the Doha Declaration on the TRIPS Agreement and Public Health, under national emergency or other circumstances of extreme urgency.

27. The representative of Korea said that the adoption of the draft Decision would represent a major achievement for the WTO, not only in the sense of restoring global confidence in the institution, but also in making a meaningful difference which would literally touch, and indeed save, the lives of many millions. His delegation was pleased to announce that Korea would use the system as an importer only in situations of national emergency or other circumstances of extreme urgency. This decision was being made on a voluntary basis, in view of the humanitarian purpose involved, and in order to facilitate the adoption of the draft Decision before Members.

28. The representative of Poland, speaking also on behalf of Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, the Slovak Republic and Slovenia, said that in full understanding of the gravity of health problems arising in many countries and expressing great sympathy with them, these countries particularly looked forward to the adoption of the draft Decision by the General Council on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. By doing so, they were making their contribution and demonstrating their flexibility. These countries agreed that they would only use the system as importers in situations of national emergency and other circumstances of extreme urgency. Furthermore, these countries agreed that upon accession to the European Union, they would opt out of using the system as importers.

29. The Chairman then read out for the record the following statement, which had been forwarded to him by the Chairman of the Council for TRIPS on the approval of the TRIPS Council:

"The General Council has been presented with a draft Decision contained in document IP/C/W/405 to implement paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. This Decision is part of the wider national and international action to address problems as recognized in paragraph 1 of the Declaration. Before adopting this Decision, I would like to place on the record this Statement which represents several key shared understandings of Members regarding the Decision to be taken and the way in which it will be interpreted and implemented. I would like to emphasize that this Statement is limited in its implications to paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

"First, Members recognize that the system that will be established by the Decision should be used in good faith to protect public health and, without prejudice to paragraph 6 of the Decision, not be an instrument to pursue industrial or commercial policy objectives.

"Second, Members recognize that the purpose of the Decision would be defeated if products supplied under this Decision are diverted from the markets for which they are intended. Therefore, all reasonable measures should be taken to prevent such diversion in accordance with the relevant paragraphs of the Decision. In this regard, the provisions of paragraph 2(b)(ii) apply not only to formulated pharmaceuticals produced and supplied under the system but also to active ingredients produced and supplied under the system and to finished products produced using such active ingredients. It is the understanding of Members that in general special packaging and/or special colouring or shaping should not have a significant impact on the price of pharmaceuticals.

"In the past, companies have developed procedures to prevent diversion of products that are, for example, provided through donor programmes. "Best practices"

guidelines that draw upon the experiences of companies are attached to this statement for illustrative purposes.<sup>1</sup> Members and producers are encouraged to draw from and use these practices, and to share information on their experiences in preventing diversion.

"Third, it is important that Members seek to resolve any issues arising from the use and implementation of the Decision expeditiously and amicably:

- "To promote transparency and avoid controversy, notifications under paragraph 2(a)(ii) of the Decision would include information on how the Member in question had established, in accordance with the Annex, that it has insufficient or no manufacturing capacities in the pharmaceutical sector.
- "In accordance with the normal practice of the TRIPS Council, notifications made under the system shall be brought to the attention of its next meeting.
- "Any Member may bring any matter related to the interpretation or implementation of the Decision, including issues related to diversion, to the TRIPS Council for expeditious review, with a view to taking appropriate action.
- "If any Member has concerns that the terms of the Decision have not been fully complied with, the Member may also utilize the good offices of the Director-General or Chair of the TRIPS Council, with a view to finding a mutually acceptable solution.

"Fourth, all information gathered on the implementation of the Decision shall be brought to the attention of the TRIPS Council in its annual review as set out in paragraph 8 of the Decision.

"In addition, as stated in footnote 3 to paragraph 1(b) of the Decision, the following Members have agreed to opt out of using the system as importers: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom and the United States.

"Until their accession to the European Union, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia agree that they would only use the system as importers in situations of national emergency or other circumstances of extreme urgency. These countries further agree that upon their accession to the European Union, they will opt out of using the system as importers.

"As we have heard today, and as the Secretariat has been informed in certain communications, some other Members have agreed that they would only use the system as importers in situations of national emergency or other circumstances of extreme urgency. These are the following: Hong Kong, China; Israel; Korea; Kuwait; Macao China; Mexico; Qatar; Singapore; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey and the United Arab Emirates."

30. The Chairman then proposed that the General Council take note of the statements and, in the light of the Chairman's Statement he had just read out, adopt the draft Decision contained in document

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<sup>1</sup> Reproduced as Annex I.

IP/C/W/405 in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93).

31. The General Council so agreed.<sup>2</sup>

32. The Chairman thanked all Members for having adopted this very important Decision.

33. The Director-General said that the Decision just taken was an historic agreement for the WTO, and Members could now claim that the agreement reached at Doha on the TRIPS Agreement and Public Health was complete and fully operational. The final piece of the jigsaw had fallen into place. He found a special satisfaction in the fact that the Decision would be of particular value to the smaller and poorer country Members of the WTO in Africa and elsewhere. These were the countries who most lacked domestic manufacturing capacity and in many cases were the most affected by the public health problems recognized at Doha. It would enable them to make full use of the flexibilities in the WTO intellectual property rules in order to deal with the diseases that ravaged their peoples.

34. He also found a special satisfaction because Members' action today in completing the Doha Declaration on the TRIPS Agreement and Public Health demonstrated for all to see that the WTO was committed to pursuing its trade mandate in a way which fully respected and protected humanitarian concerns. He joined others in expressing his appreciation to the current and preceding Chairmen of the Council for TRIPS and for the work they had put in which had enabled the General Council to take this Decision. He thanked the Chairman of the General Council and the Ambassadors of South Africa, India and Kenya for their efforts to bring Members to this point. A debt of gratitude was also owed to the Ambassadors of the United States and Brazil, among many others. The appeals from many African Ambassadors the previous day had been particularly moving. However, he wished to go further and express his appreciation for the constructive and cooperative spirit which had been shown by all delegations in enabling the WTO to reach this outcome on this critical issue.

35. He was aware that for many Members this had not been easy and success that day had only been possible because of the quality of leadership Members had shown. He believed this was evidence that the WTO system was working, could produce important results on critical issues, and would give Members confidence in dealing with challenges in other areas, both at the Cancún Ministerial Conference and thereafter. He was sure that the momentum which this Decision had generated would enable Members to tackle the challenges ahead with renewed vigour in the weeks and months to come.

36. The representative of Morocco, on behalf of the African Group, said that this was an historic moment and would no doubt be an important step in the Doha process. Like the Director-General, he was very pleased to express the satisfaction of the African Group at the Decision that had finally been taken on this important humanitarian issue. He commended everyone for their efforts which, through intensive consultations, had allowed this agreement to be reached. He also thanked all for responding to the appeal of the African Group to their humanism, solidarity, conscience and international obligations. He expressed the hope that this achievement might help open the way towards other, even more important, achievements in Cancún for the international community, and in particular for developing countries.

37. The representative of Mauritius said this consensus was a clear example of how Members could all move together when a collective commitment to understand one another existed. This example being given to the international community should trigger a similar movement on all other issues on which Members faced difficulties. On several issues of interest to developing countries, Members needed to exercise the same kind of understanding and compromise if they wished to move the DDA forward. This was an important trigger destined to solve not only the long-standing

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<sup>2</sup> The Decision was subsequently circulated as WT/L/540.



problems of millions of people who were dying every day from deadly diseases on the African continent, but also issues where the developmental dimensions were clearly visible. He was referring to S&D treatment, implementation-related and market access issues and hoped that this message sent to the world was a harbinger which would make the Cancún Ministerial Conference a success.

38. The representative of Cuba said that with this Decision Members had come to the end of a very long road. It had been an arduous process which had revealed the lack of political will on the part of certain highly industrialized countries to address and find a permanent and expeditious solution to the problems facing developing countries. It had also led to misinterpretations – intentional or not – of quite legitimate positions held by some delegations, particularly in the final phase, which had not been marked by either transparency or inclusiveness. The process had also shown that the interest of some highly developed countries was to call into question what had been proposed and agreed by all Ministers in Doha. During the preparatory phase, proposals had been made undermining the Ministerial Declaration and even directed at adding new obligations to the already burdensome obligations of the TRIPS Agreement. All this had, of course, affected the Decision just adopted. Cuba was not entirely satisfied with this solution. However, because it supported the countries most in need, mainly in Africa, and in the hope of giving even the smallest impetus to what had been achieved in Doha, it did not oppose its adoption. Nevertheless, Cuba wished to place on record its comments on certain aspects of the text of the Decision to which it attached great importance. As regards scope of diseases, Cuba believed that Paragraph 1 of the Doha Declaration on the TRIPS Agreement and Public Health should be read and interpreted in the context of the Declaration as a whole and especially in the light of Paragraphs 4 and 5, which emphasized the right of Members to protect public health and the flexibilities afforded for this purpose by the TRIPS Agreement.

39. Cuba deplored the limited definition of the term "pharmaceutical products" in Paragraph 1(a), since it excluded vaccines, which inherently belonged in this category in view of their very nature and the role they played when public health problems arose. Cuba hoped that, under the definition of the term "eligible importing Member" in Paragraph 1(b), the notification made by such a Member to the Council for TRIPS of its intention to use the system as an importer was solely for information purposes, and that the same applied to the terms established in Paragraph 2(a). Although the waiver was not the permanent solution Cuba had hoped for, it considered that it should remain as it stands as long as the appropriate solution was not found. Finally, as regards Paragraph 11, the solution offered did not correspond to the Doha mandate. No one could expect the waiver solution, along with an amendment without any specification of what was to be amended, to provide the best option. This was a solution that had been pushed through, and one that Cuba believed would give rise to differing interpretations in the future. His delegation reiterated that the only possible and correct solution in this area had to be permanent, sustainable, secure and applicable in legal terms. This had not been the case with the present Decision.

40. The representative of Brazil said the General Council was finally in a position to abide by Ministers' instructions in Doha regarding the implementation of Paragraph 6 of the Declaration on the TRIPS Agreement and Public Health. The Doha Declaration was a milestone. By elevating humanitarian concerns to the forefront, the adoption of the Doha Declaration had placed the WTO on a high moral ground. It was an extraordinary achievement for the WTO and Brazil was proud to have played a pivotal role in that process. The Doha Declaration had been and would continue to be a very important instrument of Brazil's public health policy. Its provisions guaranteed that all countries – those with manufacturing capacity, those with limited capacity and those with no capacity at all, or in other words, potential exporters, importers or both – now disposed of further flexibilities in order to face public health problems.

41. Brazil's experience was a case in point. Its national AIDS program was a tremendous success. Although Brazil believed that the Doha Declaration itself already provided all the necessary flexibilities for countries to use it in a responsible manner, the approval of the Decision on

Paragraph 6 would further enhance Brazil's ability to cope with situations that existed or might arise justifying its use for public health purposes. He was pleased that Members had now been able to fulfill the mandate given by Ministers on Paragraph 6 in a manner that was fully respectful of the integrity of the Doha Declaration. As Members adopted this Decision on paragraph 6, the significance of the Doha Declaration was preserved and enhanced, and the success in arriving at a consensus-based decision on this matter showed that the Doha spirit remained alive in the WTO.

42. The Doha Declaration fully and unequivocally recognized the rights of WTO Members to grant compulsory licenses and to determine the grounds upon which such licenses were granted. The Decision just adopted would effectively enable all Members to use, to the full, the flexibilities contained in the TRIPS Agreement to face public health problems, as reaffirmed by the Doha Declaration. The solution that had finally allowed all Members to accept the Decision – the Chairman's Statement – had taken care of the concerns that had been expressed about the 16 December text. The Chairman's Statement was strictly limited in its implications to Paragraph 6 and did not in any way change, qualify or undermine the integrity of the Doha Declaration. It was a further restatement of Members' commitment to utilize the system in good faith to face public health problems, as laid down in the Doha Declaration. The Chairman's Statement was not intended to overburden the operation of the Paragraph 6 mechanism, nor was it meant to place additional hurdles in the way of countries who might find themselves compelled to use provisions of the TRIPS Agreement to protect public health.

43. As recognized by the Doha Declaration, Members had the right to determine upon what grounds compulsory licenses were granted. Members also had a sovereign right to determine whether they had insufficient or no manufacturing capacity in the pharmaceutical sector for the purposes set out in the Decision. This should be done in good faith and in a transparent manner, as stated in the Chairman's Statement. This process should not constitute a burden for the importing countries under the Decision. With regard to the attachment to the Chairman's Statement on "best practices guidelines" to prevent diversion of products, the examples set forth in the list did not correspond to real Paragraph 6 situations, and were purely illustrative. These were to be taken into account only inasmuch as they actually might apply to pertinent Paragraph 6 situations. The use of special packaging, labelling and/or colouring should be feasible and not have a significant impact on price. The mechanism set out in the Decision should operate in a manner that was fully consistent with the spirit of the Doha Declaration. The serious public health problems confronting developing countries should be squarely faced, otherwise Members would not be living up to the expectations of the international community.

44. The representative of South Africa said that, despite Members' differences in economic interests, they were willing and capable of putting these aside in the greater interests of humanity. This Decision would begin the process of fully implementing Paragraph 6 of the Doha Declaration on TRIPS and Public Health, as Ministers had instructed in Doha. Of the 30 million people affected with HIV/AIDS in Sub-Saharan Africa only 30,000 were being treated. This Decision would contribute to making pharmaceutical products more accessible and affordable and save many lives. It was a fundamental obligation of a government, and certainly a democratic one, to ensure the public health of its people. Multilateral agreements should support and facilitate this obligation. He paid tribute to the determination and steadfastness of his country's Minister and the intellectual and political energy the latter had personally committed to this effort. Great credit also had to go to a group of developing-country TRIPS negotiators, notably those from the African Group, whose energy and passion had fuelled his own commitment to work for a successful resolution to this issue. The words of the Vatican representative at the 20 December 2002 General Council meeting had inspired all. He also thanked participants at the previous day's informal consultations. He took some responsibility for some delegations not having being fully informed and briefed on the issues where further clarification had been needed. The WTO should learn from this process and ensure that sometimes Members might need to go slower in order to go faster.

45. The representative of Djibouti said that he was not satisfied but very pleased that a Decision had been taken. This showed that the organization was capable of dealing with humanitarian problems. Members were in the WTO to discuss rules for the multilateral trading system, and yet there was a sense of solidarity, and when a matter as urgent as the present one was involved, it was clear that all were capable of finding solutions. He paid tribute to all who had participated actively in this important matter for the African countries. In conclusion, he reiterated that he was not satisfied, but still happy, and believed that this Decision would help Members find important solutions for other matters still under discussion.

46. The representative of Barbados welcomed the adoption of the Decision that would allow Members to implement and operationalize Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health after many months of delay and hard work. This important and historic Decision would help alleviate the dire health situation of millions of people in Africa and throughout the world. The Caribbean countries could fully identify with the plight of Africa for many reasons, but particularly because the Caribbean region had the second highest incidence of HIV/AIDS in the world. The populations of the Caribbean countries also shared other health problems, and within CARICOM, they had been trying to devise regional approaches to the management of health scourges afflicting their peoples. Therefore, while warmly welcoming the adoption of the Decision in document IP/C/W/405, she felt obliged to register Barbados's disappointment and concern that Paragraph 6 of the Decision would place restrictions on the ability of CARICOM – a regional integration and trade arrangement -- to adopt a regional approach to the implementation of Paragraph 6 of the Doha Declaration.

47. The representative of Kenya said that the Doha Declaration on TRIPS and Public Health was a major victory for all people of goodwill and conscience the world over, and had marked a turning point in the work of this organization by putting a human face on it. Her delegation was glad to have been involved in the search for common ground to resolve this issue. Members had come together in solidarity to breathe life into Paragraph 6 of the Doha Declaration, which was intended to address the concerns of the poorest countries with inadequate or no manufacturing capacities. The Decision at the present meeting gave hope to those among her people that were ravaged by life threatening diseases and who had asked only for the opportunity not to live forever but for just a little longer, to fend for their infants and children, and perhaps long enough to see them through primary or high school, and to mark some of the milestones in their children's lives that were so important to them and their children as they were for all. On behalf of all the people in Kenya who would benefit from this Decision, she thanked those that had been involved, and paid tribute to those who late the previous evening had patiently listened, contributed and constructively engaged in a lively discussion. The test of the success of the Decision just taken would ultimately be the accessibility and affordability of the medicines that her people needed. That had always been, and remained, the common objective and primary concern. She asked that the statement by her delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>3</sup>

48. The representative of Argentina said that in Doha, while recognizing the serious public health problems afflicting, and which still afflicted many developing countries and least-developed countries, Ministers had agreed that the TRIPS Agreement should be interpreted and implemented in such a manner as to support the right of WTO Members to protect public health and in particular to promote access to medicines for all. This affirmation was one of the most important political definitions for WTO Members as regards access to medicines and to the implementation of public health policies. Although the process of convergence towards a solution to the problem raised in Paragraph 6 of the Doha Declaration on TRIPS and Public Health had been a very difficult one, Members had finally been able to take a Decision. At this important moment, Argentina wished to join the expressions of satisfaction at this great achievement, and to thank all those who had worked intensively to overcome difficulties. Argentina wished also to state that the shared understandings in

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<sup>3</sup> See Annex II.

the Chairman's Statement did not detract from the terms and conditions of the Decision that had just been adopted. In particular, the reference in the Statement that "any Member may bring any matter related to the interpretation or implementation of the Decision, including issues related to diversion, to the TRIPS Council for expeditious review, with a view to taking appropriate action" was consistent with footnotes 2 and 8 of the Decision. Therefore, notifications referred to in those footnotes were made only for transparency purposes and did not need to be approved by a WTO body in order to use the system set out in the Decision.

49. The representative of Venezuela said that Members had to congratulate themselves for this major example of collective leadership, as reflected in this shared understanding to guarantee health as a universal right on a non-discriminatory basis and medicine as an input easily accessible to one and all. Members were thereby taking the first step towards achieving the social vision embodied in the Doha Declaration and in its work programme, and demonstrating that trade could indeed go hand in hand with development processes and, as in the case at hand, with the development of health as a social right. She asked that the statement by her delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>4</sup>

50. The representative of India said that his country had always been of the view that the Doha Declaration on TRIPS and Public Health constituted a major landmark in the short history of the WTO because it recognized the primacy of public health needs and the sensitivity of this organization to the problems faced by the poor in the less developed countries. It was unfortunate that it had taken Members so long to reach a solution in respect of one segment of the Declaration, namely, the mechanism to be put in place to meet the requirements of developing and least-developed countries with insufficient or no manufacturing capacities in the pharmaceutical sector. He was pleased that one was finally seeing the end to this problem. The apprehensions of some sections of the pharmaceutical industry had been largely misplaced. The Declaration clearly indicated that it was intended to address public health problems afflicting many developing and least developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics. While it recognized the importance of intellectual property protection for the development of new medicines, it emphasized the fact that the TRIPS Agreement did not and should not prevent Members from taking measures to protect public health and, in particular, to promote access to medicines for all. The Doha Declaration recognized the right of each Member to grant compulsory licences, the grounds for granting such licences and also the right to determine what constituted a national emergency or other circumstances of extreme urgency.

51. There were no grounds for doubts regarding the manner in which the system established under paragraph 6 of the Declaration would be utilized. This system was intended for use by WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector to address public health problems. India had always maintained that countries with some manufacturing capacity would resort to use of this mechanism only when their domestic industry was unable to meet their needs. There was already existing flexibility under the TRIPS Agreement for issue of compulsory licences, and wherever the domestic industry could fully meet, at reasonable cost, public health needs arising as a consequence of the kind of problems alluded to in the Decision, it would make no commercial sense to import products. However, such countries would need to use this facility whenever their domestic industry was incapable of meeting their requirements at reasonable cost or when it was found that domestic capacity was insufficient. India was also of the view that sufficient safeguards had been provided in the draft Declaration of 16 December 2002 to deal with problems of possible diversion of products and the misuse of the mechanism, and that therefore there was really no ground for any doubts regarding the operation of the system. The 16 December text was sufficient in itself to deal with all such problems. He noted also that this was intended to be a temporary mechanism until amendment of the TRIPS Agreement and that work on preparation of

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<sup>4</sup> See Annex II.

such an amendment was to commence by the end of 2003 with a view to its adoption within six months.

52. With reference to the Chairman's Statement, India noted that in order to promote transparency and avoid controversy, notifications under paragraph 2(a)(ii) of the Decision would include information on how the Member in question had established, in accordance with the Annex, that it had insufficient or no manufacturing capacity. It had been clarified during the consultations that this did not involve provision of a great deal of technical or other information but only the brief and concise indication of the methodology for determination of insufficient capacity and the conclusions that were drawn on the basis of available data. With regard to the reasonable measures taken to prevent diversion of medicines, special packaging, labelling and/or colouring should be used to distinguish products under the Decision, provided such distinction was feasible and did not have a significant impact on price. With regard to packaging of active ingredients, it had been clarified to India that special labelling including indication of the destination country would meet the requirements. While this was essentially an attempt to respond to special circumstances, any production process would necessarily have a commercial dimension since it involved buying and selling of products. India expected pharmaceutical companies in all parts of the world to contribute to this noble cause by paring their costs and making available pharmaceutical products at the lowest possible cost to their ailing brethren. India also expected that the results accruing from this mechanism would not be negated by the creation of cumbersome systems that would lead to huge delays in getting medicines across at reasonable cost to those that needed them or discourage Members from using the system for the benefit of the people. In order to make this system successful, a sincere collective effort was required on the part of all Members and the entire pharmaceutical industry.

53. The representative of Jamaica said his delegation was pleased at the breakthrough on this Decision. Even though Members had missed the deadline given by Ministers to find a solution by 2002, a late Decision was better than none at all. Jamaica was also pleased at the flexibility displayed during consultations on the Decision, particularly since all had had to make compromises in the spirit of accommodating the concerns of all. Jamaica supported the Decision in IP/C/W/405 as the best possible solution, even though there were aspects of the text with which it was dissatisfied, and which were well-known to Members. Jamaica was concerned that CARICOM was not covered under Paragraph 6 of the Decision which related to RTAs. The needs of the region in the area of access to pharmaceuticals were considerable even though CARICOM only consisted of one LDC. Despite the concern that Jamaica was not covered by this provision, it supported the Decision in the spirit of flexibility and with the understanding that the criteria under Paragraph 6 of the Decision would not prejudice the normal applicability of measures under a regional patent system.

54. The representative of Guinea said her delegation was pleased at the adoption of this historic Decision, which would have an impact on millions of Africans and give them access to necessary medicines. She supported the statement by Morocco on behalf of the African Group. This Decision showed that the WTO was still a reliable system capable of finding solutions to problems facing developing countries in general, and the most vulnerable Members of the multilateral trading system in particular. She thanked all those concerned for their efforts, and particularly the US Ambassador who had spared no efforts in consulting with the African Group to explain the text to be adopted, as well as South Africa and Kenya for having represented Guinea during the negotiations and having defended its interests so well.

55. The representative of El Salvador welcomed that a solution had been found to an issue of great importance to many developing countries with populations that were or could become seriously affected by epidemics. El Salvador hoped and believed that, in accordance with the rights and obligations under the TRIPS Agreement, the step Members had just taken would enable them to strike a proper balance between their trade and development policies, in particular with regard to an issue as

critical as health. He paid tribute to all who had endeavoured to pave the way for this successful outcome.

56. The representative of Benin associated his delegation with the statement by Morocco on behalf of the African Group. In taking this Decision, Members had taken a major step forward towards finding appropriate solutions to the serious public health problems facing many developing countries -- in particular the least-developed and African countries whose capacity to produce medicines, including essential medicines, was either insufficient or non-existent. This was the first piece of really good news that Members had sent out to the world before the Cancún Ministerial Conference. While the task had not been easy, the results were satisfactory. Benin hoped that the spirit of cooperation just witnessed would continue to prevail and contribute to the effective, harmonious and consistent implementation of the provisions of this Decision in the field within the affected countries. He expressed gratitude to all who had worked so hard to achieve this result, and hoped that the positive momentum that had been initiated would continue on in Cancún so that Members would be able to find appropriate solutions to other major problems of development and survival facing certain WTO Members.

57. The representative of Nicaragua asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August be reflected in the records of this meeting.<sup>5</sup>

58. The representative of Uganda recalled that, about three years earlier, Zimbabwe on behalf of the African Group had tabled African proposals regarding TRIPS and Public Health. At that time the WTO, and the TRIPS Agreement in particular, was being perceived as part of the problem instead of the solution to public health. However, at Doha, Members had been able to adopt the Declaration on TRIPS and Public Health which had clarified that the TRIPS Agreement could also be a facilitator instead of a problem. He was pleased with the compromises that had been made at the time, and that Ministers had instructed the TRIPS Council to find an expeditious solution to the problem of countries with little or no manufacturing capacity and to report to the General Council before the end of 2002. Members had come a long way since then, and had been able now to adopt this Decision. He particularly welcomed Paragraph 6 of the Decision, which was intended to harness economies of scale and enhance purchasing power for, and facilitating the local production of, pharmaceutical products, as well as Paragraph 7 which paid special attention to transfer of technology and capacity-building in this sector. He was pleased with the Decision that had been adopted, and thanked all those who had participated in building a consensus. Although he had initially had misgivings about the secretive manner of the consultations, success had been achieved and he commended all who had been involved. As he had argued previously, procedures could be very useful, but they could also become a problem if the spirit was not willing. However, where there was a will, the spirit could lead to useful solutions, and he hoped that the Decision would be implemented in spirit and not necessarily following the letter.

59. The representative of Canada said he joined in the sense of pride that all felt that morning. He wished to reemphasize his thanks in particular to the current and preceding Chairmen of the TRIPS Council, notwithstanding the fact that everyone in the organization deserved thanks. Hindsight was always 20-20. A number of colleagues had considered that the process could, and should, have been a little better. However, things often worked in ebbs and flows in this organization – they got off track and then they got back on track. So delegations should not charge the TRIPS Council Chairman's enthusiasm, but rather thank him for wanting pragmatically to get the job done and to get it done before Cancún. Thanks were also due to the US, which had to build some important bridges at home, which was always complex and difficult, and then had to build bridges internationally with its partners. Credit was due also to a number of delegations who had responded to an appeal to share their experiences and insights and to discuss with their colleagues how they had overcome their concerns to support the text. This had helped others overcome some of their concerns. Finally, he

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<sup>5</sup> See Annex II.

offered special thanks to Africa who had spoken with one voice, and who had been strong as well as moving, and very patient over the past year in such life and death circumstances. They had again they demonstrated how some of the poorest, smallest and most troubled Members in the WTO could make such a difference and impact on the decisions that Members made and also give this organization a bit of heart and soul. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>6</sup>

60. The representative of Indonesia welcomed the Decision just adopted, and hoped it would contribute to more affordable-priced medicines and to relieving the suffering of millions of the world's poorest. The number of lives that had been uselessly lost in Africa due to the lack of access to medicines had greatly undermined the fundamental human rights of the African people. While fully acknowledging that public health problems in Africa were critical and incomparable, Members could not overlook the fact many people in Asia – where governments could only afford to spend less than one dollar per capita on medicines – were also very susceptible to public health problems. It was Members' collective responsibility to ensure that this Decision was fully implemented, and one that all were committed to. While he understood that the Chairman's Statement represented some key shared understandings of Members, it was without prejudice to the rights, obligations, and flexibilities that Members had under the Decision on the Implementation of Paragraph 6 of the Doha Declaration on TRIPS and Public Health, as well as to the TRIPS Agreement itself.

61. Indonesia was fully committed to using the system established under this Declaration in good faith, and acknowledged that the system should be used to pursue public health policy objectives and not for industrial or commercial policy objectives. While Indonesia recognized that safeguards were needed to prevent diversions, they should however not have a significant impact on price and should not be implemented in such a way as to discourage potential exporting Members from providing needed pharmaceutical products to importing Members under the system. Countries such as Indonesia, with some manufacturing capacity, intended to use the system only when its domestic industry was incapable of producing the needed pharmaceutical products at a reasonable cost. In this regard, the issue of assessment of manufacturing capacities was an important element of the Decision for his delegation. It was his understanding that approval was not needed from any WTO body for Members to use the system. Finally, he thanked all those who had given his delegation encouragement over the past few days, as well as those who had provided it with further clarifications which had helped to ease its concerns.

62. The representative of Japan joined others in congratulating all those delegations who had made this result possible, as well as the Chairman of the General Council who had been instrumental in coming to this conclusion, and the Director-General and the Secretariat. He also paid tribute to the African delegations who had movingly appealed to everyone's conscience to respond to the critical needs of their people and communities. The African continent's plight and the appeal of its members was one of the major forces that had driven this process, and it was this which had touched all Members in a spirit of solidarity to move to arrive at this very happy result. Japan was privileged and pleased to be a part of this historic Decision.

63. The representative of China said the solution on this public health issue was not just a minor success, but demonstrated that Members shared the common understanding that, while protection of intellectual property rights was important, it could not be put ahead of fundamental humanitarian considerations. No one could tolerate seeing millions of patients in poorer countries suffering on the verge of death while no action was taken to save their lives because of tight intellectual property protection disciplines. In this respect, China fully concurred with the statements by Brazil, Argentina and India on the implementation of this Decision. China faced similar situations as those found in Africa, with more than one million people who were HIV-positive, and had recently overcome the serious attacks by the previously unknown SARS disease. This Decision was a success for the WTO,

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<sup>6</sup> See Annex II.

the peoples of developing countries and the whole of mankind. It would certainly have a positive impact on the ongoing Doha Development Agenda negotiations, and he hoped that this spirit would prevail in this organization for future work.

64. The representative of Norway welcomed the Decision just taken, which was timely, important and of great humanitarian value. Norway had followed this process closely. Its point of departure had been, and continued to be, that it wanted the WTO to contribute to solving the crucial health problems in many parts of the world, in particular on the African continent. The contribution from the WTO at the present meeting was only one element in the efforts to solve the health crisis at hand. It was still an important factor both politically and as a practical tool. Norway hoped that this Decision would be a workable solution, and that it showed that this organization had the ability to solve humanitarian as well as development issues when faced with them. He thanked all those who had contributed constructively to this process.

65. The representative of Switzerland said his delegation was extremely pleased that Members had taken a major decision for this organization and for multilateral cooperation. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>7</sup>

66. The representative of Senegal associated his delegation with the statement by Morocco on behalf of the African countries, and thanked all those who had participated in this historic Decision, in particular the General Council Chairman and the current and preceding Chairmen of the TRIPS Council. He hoped that the Decision would be implemented collectively by Members, by the pharmaceutical industry, by national administrations in both developed and developing countries, by NGOs and the peoples concerned, and that it would be implemented to the benefit of all. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>8</sup>

67. The representative of Costa Rica said his delegation was very pleased that the General Council had finally been able to adopt this Decision. There was no question that this was, as the Director-General had stated, a historic moment. At Doha, Ministers had acknowledged the seriousness of the public health problems faced by many developing countries, notably African countries. His delegation was satisfied that this acknowledgement had now been placed on a formal basis, although this should not be taken to mean that Members' intense discussions on this issue in the interim failed to reflect its gravity. He paid tribute to all delegations who, in one way or another, had played a part in achieving a positive outcome on this issue, which was of such great importance on both an individual and global level. He paid tribute too to the current and preceding Chairmen of the TRIPS Council, and to the General Council Chairman for his final efforts and leadership. In concluding, he stressed the great significance to the organization of having resolved this issue prior to the Cancún Ministerial Conference: first, because it was a critical matter for developing countries; second, because Members were thereby injecting momentum into the negotiations, which was vital in view of their current status; and, finally, because Members were helping to instil confidence in the organization and preventing its reputation from becoming tarnished by showing that they could indeed resolve, albeit somewhat belatedly, a humanitarian issue and were thus doing their bit towards dealing with such a serious problem.

68. The representative of Uruguay joined all those who had expressed their appreciation to the current and preceding Chairmen of the TRIPS Council, the Director-General and the General Council Chairman. All delegations had also worked intensively in order to reach this compromise solution. Uruguay was very satisfied that at long last Members in this organization had been able to contribute to a reply to the humanitarian problems afflicting so many. The very fact that Members had reached

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<sup>7</sup> See Annex II.

<sup>8</sup> See Annex II.



an understanding before Cancún was a very important political signal which hopefully would have positive repercussions on other aspects of the ongoing negotiations.

69. The representative of Ecuador expressed appreciation to the Chairman for his efforts in the General Council, as well as to all those who had made it possible for Members to reach this Decision, which he hoped would benefit the neediest of those who really needed these medicines. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>9</sup>

70. The representative of the Philippines said that, while the mention of public health issues would perhaps bring forth a general and universal concern, the massive deaths arising from the scourge of HIV/AIDS and epidemics of a similar nature, afflicting Africa in particular, had deeper human, personal and family implications. The Philippines was deeply pleased and relieved to have completed the present process with a successful conclusion so that Members could now fully implement the Doha Declaration on TRIPS and Public Health. This was the embodiment of the collective will and abiding concern of this organization, and its individual Members, to embrace the nobler cause of humanity even as it struggled with commercial issues. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>10</sup> However, he had particular instructions from his capital to reiterate that upon further reflection, particularly on the moving plight of the African countries, and the deep yearning that this solution would ameliorate the prolonged and continued health crisis with its debilitating implications on a large part of this single universe, the Philippines fully supported the consensus on this Decision and the Chairman's Statement without reservation.

71. The representative of Malaysia joined others in welcoming adoption of the Decision. He was pleased that Members had finally brought this exercise to a successful conclusion as this could only contribute to complementary efforts under way to overcome public health problems. He wished to thank all those involved for their efforts in bringing this exercise to a successful conclusion, and in particular the current and preceding Chairmen of the TRIPS Council, the General Council Chairman, the Director-General and the Secretariat. In addition to expressing appreciation to the key Ambassadors who had assumed a proactive role in this exercise, he wished to commend also the efforts of all Members in exercising flexibility and compromise. This was an example that all should try to emulate in dealing with the other issues of the Doha Work Programme.

72. The Decision was a very carefully crafted document that operationalized paragraph 6 of the Doha Declaration, allowing the issue of compulsory licences to third countries for the manufacture and export of medicines, yet containing sufficient safeguards to contain diversion and misuse. Malaysia recognized that the Chairman's Statement was meant to provide a certain level of comfort needed for a consensus on the Decision, and welcomed the assurance in the Statement that it was limited in application and implication only to the paragraph 6 solution under the Doha Declaration on TRIPS and Public Health. Malaysia also recognized that the Chair's Statement was without prejudice to Members' rights under the Decision, or the rights provided under the TRIPS Agreement and the Doha Declaration on TRIPS and Public Health. This had also been highlighted in paragraph 9 of the Decision. It was a sovereign right of Members under the TRIPS Agreement to decide on the grounds to issue a compulsory license as well as to make a self-determination that it had no or insufficient manufacturing capacity. It was also understood that a notification which contained information on the intention to use paragraph 6, as well as on how insufficient manufacturing capacity in the pharmaceutical sector was established, did not need to be approved by any WTO body in order for the system to be used. This was clearly reflected in footnotes 2 and 8 of the Decision. Further, the Annex to the Decision clearly stated that examination of capacities undertaken by the Member concerned and the information to be provided could be concise. In Malaysia's understanding, the Chair's Statement

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<sup>9</sup> See Annex II.

<sup>10</sup> See Annex II.

would not contradict the Decision just adopted, and it was very pleased to have joined in the consensus to accept the Chair's Statement and to adopt the Decision. In concluding, he hoped that the same spirit and consideration as was shown in dealing with this issue would also be shown on other issues that also constituted the heart and soul of many developing countries.

73. The representative of Chile joined others in expressing satisfaction that consensus had been reached on this matter. There had been many heroes in this long journey, and he shared in the tributes expressed in this regard by Canada. He was pleased too that the previous TRIPS Council Chair's name would be associated with this success. While Members had been successful, they had to recognize that this solution had been late in coming, and that this was because of the ways in which they worked. While Members might get things right, they were sometimes too late and this could undermine their credibility as well as the political and public support they needed throughout the current negotiations and beyond. They therefore had to reflect on the ways in which they made decisions. It was satisfying to see that even though Members had not been able to reach a consensus in December 2002, they had never lost the will nor sight of the need to act, and had kept a high sense of the need to make good public policies at the global scale. He trusted this political will and momentum would be maintained into Cancún to face other trade issues. He expressed disappointment at some of the reactions to this Decision from some NGOs. They seemed to understand little, and their positions did a disservice to the interests of the poor whom they professed so much to protect.

74. The representative of Australia joined others in welcoming this historic Decision. He welcomed too that the WTO had been able to send this important signal of its determination to assist, in areas within its competency, the grave situation faced in Africa and other parts of the world afflicted by AIDS and other serious epidemics. He thanked all those who had been closely involved in this matter, including the current and preceding Chairmen of the TRIPS Council, the US, as well as the Members of the African Group for whom this Decision and outcome was of such significance. It had been said many times that resolving the TRIPS and Public Health issue was a vital first step to ensuring a successful Cancún meeting. Having now achieved this, Members moved forward to Cancún in the hope that a similar spirit of good will and cooperation would ensure a successful meeting there and the realization of the other Doha goals that were so vital to future world economic growth and development.

75. The representative of Bangladesh said he was delighted at the adoption of this Decision by consensus in the light of the Chairman's Statement. He congratulated all, including the Secretariat, whose efforts had contributed to this process, and in particular the current and preceding Chairmen of the TRIPS Council for their outstanding contributions. Paragraph 6 of the Doha Declaration on TRIPS and Public Health was designed to address the problems of those with insufficient or no manufacturing capacities. He hoped a solution had now been found to meet the needs of the particularly disadvantaged countries, and that Members would cooperate to make the Decision and the accompanying Chair's Statement operational, thereby making the Declaration adopted at Doha effective. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>11</sup>

76. The representative of Colombia said the Decision just adopted was of great importance for humanitarian and systemic reasons. From the humanitarian standpoint, his delegation would have wished to see a decision reached some months earlier. However, he welcomed the fact that Members had managed to conclude an issue that was of such importance for many Members. From the systemic standpoint, the Decision was also very important because it showed that this organization, despite the fact that it sometimes had difficulties taking decisions, was able to respond positively to the needs of developing countries. With this Decision, Members had ensured that the Doha Development Agenda was not just a name but also one which reflected real decisions. The Decision would also be very helpful in creating a good atmosphere for discussions at Cancún, and he hoped

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<sup>11</sup> See Annex II.

that Members would actually be able to make the decisions necessary at that meeting on a number of different trade issues which required completion. He thanked all colleagues who had taken an active part in this process, and in particular the current and preceding Chairmen of the TRIPS Council, as well as the General Council Chairman and the Director-General.

77. The representative of Rwanda welcomed the Decision, which represented a milestone in the history of multilateral trade. Indeed, the Doha Declaration on TRIPS and Public Health was a political interpretation of the TRIPS Agreement, designed to enable poorer countries to resolve grave public health problems by circumventing the patents system. In particular, paragraph 6 of the Decision afforded special treatment for Africa, which was beset by grave public health problems on a scale unacceptable in the 21st century. She thanked all Members for making this solemn commitment. The Decision showed that delegations had finally heeded the African delegations, who had spoken loudly and clearly in describing the disastrous realities facing their countries. Rwanda, which was recovering from the aftermath of genocide, intended to make proper use of the Decision in order to forge ahead with its development plan, for without health there could be no development. In this regard, she expressed renewed gratitude to the US for undertaking to assist Africa in overcoming grave public health problems, in particular those related to HIV/AIDS. This Decision should be viewed as a stage in a process. While Africa indeed enjoyed a form of special treatment under paragraph 6 of the text, it was also true that the appropriate response should come from the effective implementation of Article 66.2 of the TRIPS Agreement on the transfer of technology which her continent so sorely lacked. That being said, the step just taken was already highly significant. She extended her thanks to all those who had made every possible effort to ensure the successful outcome of this final phase. With this historic Decision, the WTO had given new meaning to multilateral trade, and she trusted that the spirit in which it had been adopted would guide all at Cancún and beyond.

78. The representative of Zambia expressed gratitude to all those who had made it possible to arrive at this historic Decision, including the current and preceding Chairmen of the TRIPS Council, the General Council Chairman and the Director-General, as well as to the representatives of a number of key delegations for their commitment to the cause of Africa and the world at large. He hoped that the spirit of understanding and the commitment to humanity shown by all WTO Members in arriving at this Decision would continue at Cancún and beyond.

79. The representative of Czech Republic said that this was an important day for all, and in particular for those who had struggled. The WTO had shown once more that it was not only sensitive to the needs of its Members but could also provide them with the appropriate tools to pursue their legitimate policy concerns and address the major problems they faced. Members had been striving for some time to have an institution that was sufficiently responsive to the pressing challenges of the present world and could contribute to the search for global solutions to global problems, and were trying to promote freedom, growth and development through multilateral cooperation and through the Doha Development Agenda. He expressed gratitude to all those who had shown sufficient good will and a sincere desire to find a solution to this important humanitarian issue. Without the great flexibility demonstrated by everyone, Members could not have had any convergence towards an agreement. Like others, he thanked the current and preceding Chairmen of the TRIPS Council, the General Council Chairman and the Director-General and his staff for their great work.

80. The representative of Sri Lanka said this Decision was a historic one which fulfilled a key element of Doha Declaration on TRIPS and Public Health. It would facilitate and ensure affordable medicines to millions of needy people in Africa and elsewhere. His delegation therefore joined others in thanking the Chairman of the General Council and the current and preceding Chairmen of the TRIPS Council, as well as all other delegations who had contributed to this exercise, in particular the

untiring efforts by the US delegation. He asked that the statement by his delegation at the informal Heads of Delegation meeting on 29 August also be reflected in the records of this meeting.<sup>12</sup>

81. The representative of the United States said she was pleased that all Members had come together to resolve this very complex and important issue. Over the past eight months, many participants from her Government, other countries and the pharmaceutical industry had worked together to find a constructive balance that ensured access to medicines by those most in need, while not undermining intellectual property rights that fostered the research and development necessary to produce life-saving drugs. The Decision just adopted struck that appropriate balance, and would ensure that patent rules did not prevent a country that lacked capacity to produce medicines itself from obtaining them from abroad. At the same time, it would put appropriate safeguards in place to ensure that the solution would be used only for its intended purposes. The United States recognized the leadership and diplomatic skills that the current and preceding Chairmen of the TRIPS Council had shown, as well as the support and counsel provided by other representatives with whom her delegation had worked closely to devise this solution. They all richly deserved the praise and gratitude they had received from all delegations earlier in the week as well as that day, and that appreciation was especially heartfelt from herself. Members had travelled a long road together from the pre-Doha discussions on this subject to the conclusion at the present meeting, but none had lost the vision of the original concerns in responding to the horrific ravages that HIV/AIDS, tuberculosis, malaria and other epidemics had brought to the world, and particularly to the continent of Africa. All had been touched the previous day when African delegations had reminded them of how this Decision had been all about their urgent needs, and she was pleased that they had all found the means to reach out and help address those needs. She thanked them personally for their understanding and support. The action at the present meeting demonstrated how WTO Members could and did come together to promote the greater good. She could think of no finer way to finish work in Geneva as Members prepared to head off to the Cancún Ministerial Conference.

82. The representative of the Slovak Republic said that a day before the informal TRIPS Council meeting, he had been struck by the constructive positive atmosphere among delegations, which had been missing throughout the past several months. He was happy to be present at this historic moment, and joined other in expressing appreciation to those who had participated most, in particular the current and preceding Chairpersons of the TRIPS Council and the General Council Chairman, who had shown almost unlimited optimism and a commitment to seek a solution. Their efforts had been complemented by the tireless engagement of the US Ambassador and others to convince those who had been most concerned. He also paid tribute to the many others who had also contributed to this successful result, but who were less often mentioned. This Decision was hopefully the breakthrough for building bridges for Cancún, and he hoped this spirit would be ever present.

83. The representative of the European Communities joined others in welcoming this Decision. He recalled that his delegation was one of those which had contributed actively to the work that had led to the text of 16 December 2002. He thanked all those who had made great efforts in the past few weeks leading to adoption of the present Decision, and wished to underscore, like others, that this Decision was an excellent signal for the Cancún Ministerial Conference.

84. The representative of Mexico said the Decision just taken had been a difficult one to reach, and showed a great commitment to flexibility by all delegations in this organization. Members were thereby sending a very important signal to the world – a signal that they were all committed to the multilateral trading system. They were also sending a very important signal to those countries in greatest need, particularly the countries in Africa. He believed that now that the Decision had been taken, it was the obligation of Members to defend it. It would certainly be attacked on all sides outside the organization, by pharmaceutical companies, NGOs and many sectors of society, and he believed Members now had a collective responsibility to defend it.

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<sup>12</sup> See Annex II.

85. The representative of Nigeria joined others in thanking all those who had made this Decision possible. With it, Members had collectively succeeded in resolving a key issue on their agenda. He hoped that the positive spirit which had made the Decision possible would continue to guide Members so they could make breakthroughs in other areas. Nigeria was pleased with this Decision.

86. The representative of Panama wished to reiterate Panama's statement to the Council for TRIPS on 27 August in which it had expressed Panama's strong support for the adoption of the draft decision in IP/C/W/405, and for the Statement by the Chairman of the General Council in JOB(03)/177. By that support, Panama's Government confirmed its contribution to solidarity with and responsibility *vis-à-vis* the international community. In a small country such as Panama, with a population of just under three million, they were aware of and distressed by the fact that millions of people suffering from harmful diseases around the world – more than the entire population of Panama – died each year. Consequently, Panama had called on delegations concerned to agree to adoption of the draft decision by consensus in order to send a strong signal to the international community and to provide a constructive framework for the negotiations ahead in Cancún.

87. The representative of the Holy See, speaking as an observer, expressed her delegation's congratulations and gratitude to the organization, the Director-General, the Chairman of the General Council, the current and preceding Chairmen of the TRIPS Council, as well as to all the political leaders in Geneva who had unstintingly worked to find a Decision that was acceptable and viable for all. This was an historic turning point and a decisive sign showing the world that trade could open itself to the needs of humanity and respond to the broadest well-being of the individual. The Holy See sincerely hoped that this realistic and historic turning point would be a promise of success for the very hard work ahead in Cancún.

88. The Chairman of the Council for TRIPS said that the Decision just taken was the outcome of months of intensive and difficult negotiations since Doha. He was pleased that Members had arrived at this solution as mandated under paragraph 6 of the Doha Declaration on TRIPS and Public Health. It would send a strong message to the international community that this organization was willing and able to respond effectively to the health problems faced by many countries. He hoped that this success would generate confidence in and add momentum to negotiations in other areas. Many had paid tribute to him for this success. In expressing his thanks, he believed that the credit should rightly go to the entire membership. All had shown flexibility, and had helped him in one way or other. He was particularly grateful to colleagues from the African Group for their staunch support throughout the difficult process and for their solid endorsement of this consensus. He was also grateful to the Ambassadors of South Africa, India, Kenya and Brazil, all of whom he had used as a sounding board in preparing the General Council Chairman's statement. They had been extremely patient and had displayed remarkable negotiating skills throughout the process, and he thanked them for their political courage and flexibility, especially in making every possible effort to overcome differences and work out an outcome acceptable to all. He paid special tribute to the US Ambassador for her tireless and constructive efforts in forging this consensus. It was no secret that her role had been critical in bringing her Government and industry on board, and her commitment to the issue, her tireless efforts in reaching out to various delegations, and the patience she had displayed throughout the negotiations had been exemplary. Ultimately, Members owed their success to the foundations laid down by his predecessor, and without the latter's immense contributions to the negotiating process they would not be where they were. His predecessor's commitment to work of the TRIPS Council needed no further elaboration. Credit was due to the latter for the draft text of 16 December 2002, which had served as the basis for Members to bring their work to a successful conclusion at the present meeting. For many, the 16 December text that had just been adopted would always be known as the "Motta" text, in honour of his predecessor's name. The latter's skill and leadership had been instrumental in narrowing differences and helping Members make significant progress in 2002. He owed his predecessor a personal note of thanks for the valuable advice the latter had provided since he had taken over the TRIPS Council Chair. His gratitude went also to the Secretariat for their unwavering commitment and professionalism. He also wished to thank the Director-General, as well as the General Council

Chairman for the latter's support and confidence in him. He hoped also to be able to speak to as many delegations as possible following the meeting to thank them personally for their role in this success.

89. The General Council took note of the statements.<sup>13</sup>

#### **4. Preparations for the Fifth Session of the Ministerial Conference**

(a) Attendance by International Intergovernmental Organizations as Observers – Requests by the League of Arab States, Council of Europe Development Bank, North American Commission for Environmental Cooperation, and United Nations Human Settlements Programme

90. The Chairman recalled that at its meeting in February, the General Council had agreed that in keeping with past practice and the agreed Guidelines for observer status for IGOs in Annex 3 of the General Council's Rules of Procedure, the Organizations invited to attend the Doha Ministerial Conference would also be invited to attend the Ministerial Conference in Cancún. The General Council had also agreed that consultations would be held on requests for observer status at the Cancún Ministerial Conference from any other IGOs that were not already observers at the Doha Ministerial Conference, and who were neither observers in the General Council nor in other WTO bodies.

91. He recalled that the request from the League of Arab States had first been considered at the May General Council meeting, where he had proposed that the General Council proceed in exactly the same way on this request as it had in the past with regard to requests for observer status at Ministerial Conferences from IGOs who were neither observers in the General Council nor in other WTO bodies. Accordingly, he had proposed that, unless any objection was received by the Secretariat from any Member by 15 June 2003, the League of Arab States be granted observer status to the Cancún Ministerial Conference, and that he would, as in the past, inform the General Council at its next meeting of the situation with regard to this request. However, in the light of a reservation expressed by Egypt to following past practice in regard to this request, the General Council had agreed to revert to the request by the League of Arab States at its meeting in July. At the July meeting, the General Council had again considered this request, and had agreed to revert to it at the present meeting. He asked if delegations were in a position to approve the request for observer status from the League of Arab States.

92. The representative of Israel said that his delegation was unable at the present time to agree to the participation of the League of Arab States at the Fifth Session.

93. The representative of the United States said that his delegation was also not in a position to agree to the request by the League of Arab States.

94. The representative of Egypt, on behalf of the Arab Members, expressed disappointment over the previous two interventions that would in effect not allow the League of Arab States to attend the Fifth Session for merely political considerations. As he had stated on previous occasions, the request by the Arab League was based on economic and trade grounds, in conformity with existing WTO rules, and hence it should have received a positive response from the General Council. At a time when most Members were striving to find a solution to the overall issue of observer status for IGOs, it seemed that this goal was not shared by all Members. He regretted this, and hoped that there would be a positive attitude during consideration of the League's pending request for observer status in six standing bodies of the WTO.

95. The representative of Jordan regretted that the request from the League could not be granted given that it was the body that monitored and administered the free-trade area among all countries in the region and all of the economic relations and cooperation among the Arab countries in the region.

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<sup>13</sup> Including the statements reflected in Annex II.

96. The representative of Cuba said her delegation too regretted that it was not possible to reach a positive solution to this matter, and supported the statement by Egypt. Cuba regretted that elements of a political nature were being brought into the organization.

97. The General Council took note of the statements.

98. The Chairman then recalled that at its meeting in July, the General Council had considered the requests from the Council of Europe Development Bank, North American Commission for Environmental Cooperation and United Nations Human Settlements Programme for observer status at the Cancún Ministerial Conference. In keeping with customary practice, he had invited delegations wishing to consult the communications sent by these organizations to contact the External Relations Division of the Secretariat, and had proposed that unless an objection was received by the Secretariat from any Member by 15 August, these organizations be granted observer status to the Cancún Ministerial Conference. He had also proposed that, as in past, he would inform the General Council at its next meeting of the resulting action with regard to these requests. However, the delegation of Egypt had suggested that it would be more appropriate to deal with all pending requests in the same manner, and the General Council had agreed to revert to these requests at the present meeting. He asked if delegations were in a position to approve the requests for observer status from these four organizations.

99. The representative of Egypt, on behalf of the Arab Members, expressed these countries' wish to see all IGOs which had an interest in the WTO's work attend the Ministerial Conference. However, they were not in a position to agree to a selective approach in agreeing to the pending requests from IGOs. They stood ready to engage constructively in any further discussion on this issue.

100. The representative of Kenya expressed her delegation's full support for the request from the United Nations Human Settlements Programme (UN-Habitat). This was a UN agency with headquarters in Kenya and with a mandate to promote the sustainable development of cities and other human settlements in an increasingly urbanizing world. Examples of specific programmes undertaken by UN-Habitat included monitoring urban economic development, employment, poverty reduction and urban investment. It also helped strengthen rural-urban linkages, infrastructure development, and public services delivery. In this respect, the activities of UN-Habitat had relevance to the wider perspective of the Doha Development Agenda. In fact, UN-Habitat's functions were more supportive of trade than some of the organizations that already had observer status in the WTO. As a UN agency, UN-Habitat could not be placed at the same level of regional organizations. It was therefore important that its request be granted, in order to enable it to follow events at the Ministerial Conference as well the outcome and the implications for its work programme. Kenya urged Members to fully support the request and not to treat UN-Habitat in the same way as the other three organizations requesting observer status at Cancún.

101. The representative of Egypt said that her delegation agreed in principle on the importance of UN-Habitat, but could not take a selective approach. Egypt wished to highlight the importance it attached to the attendance of UN-Habitat as well as other regional organizations at the Cancún Ministerial Conference. The requests before Members were confined to that Ministerial Conference, which could be considered as just a mid-term review of the Doha agenda. Egypt remained ready to work with other delegations, especially Kenya, in order to find an appropriate solution to the overall issue of observers that would respect the existing rules of the WTO.

102. The representative of Canada said that his delegation respected the huge sensitivities involved in this issue. At some point in the future, the issue of observership perhaps merited greater reflection and political consideration. The current treatment of the broad issue of observership in the WTO was seen outside the organization as childish and amateurish, and the organization did not gain anything from this. While Ministers got together to launch, move forward and conclude trade rounds, at some point they should also reflect on the way the organization dealt with issues like observership, the

budget, and governance. While Ministers should not be burdened with day-to-day issues, some of these issues – if not attended to at a political level – could begin to corrode the effectiveness and image of the organization. A number of issues could be bundled that Heads of Delegation, or even Ministers, could reflect on. In the long term, these issues were ignored to the peril of the way the organization operated, particularly as the membership and the agenda grew.

103. The representative of Morocco supported the statement by Canada regarding observership and fully endorsed the view that it was high time for the organization to show political maturity and to finally settle this matter by agreeing on a certain number of principles that would govern observership matters, particularly for regional and international organizations. As things currently stood, a certain number of organizations had been taken hostage by highly political considerations. A number of organizations had been left outside WTO activities when they could have given logistical and intellectual support as well as research and analysis support for delegations. This matter should either be sent on to Ministers or looked into by the Secretariat and delegations together so that certain principles and rules of conduct could be set down on paper. Observership, particularly as Members reached certain milestones such as Cancún, should have been dealt with to the satisfaction of all organizations wishing to participate. In a number of countries, particularly in the Arab world, it could not be understood why an Arab organization representing tens of millions inhabitants and that had a role to play and a contribution to make, should be left outside unable to participate and to transmit the economic concerns and interests of the countries it included. Morocco had always agreed that the WTO was an economic negotiating body that should prepare rules and support liberalization for world trade. However, political aspects had slipped in and were hampering Members' work. Morocco hoped this issue could be resolved as soon as possible and placed its trust in the Director-General and the General Council Chairman that this matter would be dealt with squarely.

104. The representative of Kenya supported the statement by Canada. It would be pointless to ask the WTO to work with relevant organizations if it continued to block their observership, and UN-Habitat was a clear example of the type of organization the WTO should work with. UN-Habitat was an agency of the UN, in which many if not all WTO Members were members. Therefore, it should not be accorded the same treatment as other organizations.

105. The representative of Djibouti agreed with the statements by Canada, Morocco and Kenya. The WTO worked on the basis of consensus, and if political considerations were allowed in, this could hamper its proper functioning. IGOs seeking observership should be dealt with on an equal footing and Members should avoid politicizing this issue. As Canada and Morocco had said, if Members allowed politics to infiltrate the organization, this would harm its functioning. No distinctions should be made among organizations that wished to be observers in the WTO in order to make a contribution in the economic and development areas.

106. The Chairman said that on the issue raised by Canada – which he personally also considered important since Members had been pursuing this issue without resolution for some time, and which had an impact on the functioning and credibility of the organization – there was no time prior to Cancún to devote to it the time and attention that it deserved. However, he intended to reflect with the Director-General as to how best to deal with this issue after Cancún and would report to Members on their thinking as soon as possible. He proposed that, in view of the present situation and the fact that it had not been possible to reach a consensus on any of these requests, the General Council take note of the statements and revert to this issue in the broader context of its implications in the near future.

107. The General Council so agreed.



- (b) Implementation and adequacy of technical cooperation and capacity-building commitments in the Doha Ministerial Declaration – Report by the Director-General pursuant to paragraph 41 of the Doha Ministerial Declaration (WT/MIN(03)/3)

108. The Chairman recalled that paragraph 41 of the Doha Ministerial Declaration called on the Director-General to report to the Fifth Session of the Ministerial Conference on the implementation and adequacy of the commitments on technical cooperation and capacity building identified in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43 of the Doha Declaration. At the General Council meeting in July, the Director-General had informed Members that his report in WT/MIN(03)/3 would be circulated shortly, and had made a substantive oral presentation highlighting the main elements of the report. The General Council had taken note that delegations would have an opportunity to comment on the written report at the present meeting.

109. The representative of the United States asked that before the document was forwarded to Cancún it be updated to reflect contributions that had been received since it was circulated.

110. The representative of Bangladesh, on behalf of the LDCs, said that as a preliminary reaction these countries wished to state that they welcomed the contents of the report which contained many paragraphs that were extremely well written and many excellent elements.

111. The representative of Mauritius welcomed the report and wished especially to thank the Director-General and his staff for translating the requirements of paragraph 41 into reality. However, while the report focussed on this collective undertaking involving the WTO and other partner institutions of international organizations as well as regional development banks, he wished to underscore the collective contribution of his country's partner Members who had helped make it possible to proceed with this implementation programme. In his delegation's view the programme had been quite balanced, although there were still some shortcomings that were unavoidable in programmes of such breadth and scope. Mauritius could only hope that useful lessons would be drawn that would guide the course of future delivery of such programmes with greater efficiency. He also wished to underscore that in Mauritius's view, the interests of all Members had been taken into consideration, particularly the LDCs, the small, vulnerable and transition economies, as well as non-resident Members and Observers. The WTO had continued to innovate and improve on its operation of these programmes with the establishment of the Institute for Training and Technical Cooperation, and there were possibilities for further progress. The Secretariat had recently announced its intention to introduce the trade policy clinics, and Mauritius hoped that this programme would fulfil all its promises to truly bring Members concerned to grapple with the complex issues on the WTO agenda. The Technical Cooperation Audit should remain an integral part of the technical assistance programme as it would ensure that quality and efficiency were maintained in the delivery of technical assistance, that slippages would be avoided, and that the lessons drawn from past errors and shortcomings would lead to further improvement. The programme should continue on its useful course and note should be taken of what the Secretariat had already earmarked in terms of product development, quality and sustainability of activities.

112. The representative of Kenya welcomed the report and congratulated the Director-General and the Secretariat for the excellent work carried out thus far in the delivery of technical assistance and capacity building and wished to encourage them to continue to provide this very useful service. Like Mauritius, Kenya too felt it would have been appropriate to include a short line in the report commending donor countries for their contributions. Given that continued support was being sought, perhaps there should be a sentence to the effect that countries were very grateful for what had been received thus far and commended the donors for that support.

113. The representative of Canada said his delegation agreed with the sentiments expressed by Bangladesh and others who had welcomed the report and who felt it was a very solid report that spoke to the increase in activities, energies and time that Members had collectively devoted to technical

assistance since Doha. Canada also felt that the WTO-OECD database in and of itself was a huge accomplishment. This was a very good new story that Members should promote and ultimately build upon.

114. The representative of Djibouti said that this area was very close to his delegation's heart, and he could only express appreciation for the way this report had been drafted, and also wished to express thanks to the donor countries. The programme would evolve over time depending on the needs of countries. As an African LDC, Djibouti could only congratulate the Director-General. After Cancún, there would be other events that had to do with technical assistance, and his delegation welcomed this.

115. The representative of South Africa said his delegation wished to add its voice to the support for the report of the Director-General, and wished to encourage the inclusion in the section on technical cooperation the increased collaboration that countries had begun to develop, particularly with sister institutions such as the ITC and UNCTAD. Although the IF and JITAP programmes had been mentioned, his delegation would suggest mentioning the progress made in building joint programmes with UNCTAD on a number of the capacity-building programmes and ITC, particularly regarding training and capacity-building in collaboration with the private sector in a number of countries throughout the world. This should be mentioned in order to build on it and to begin to work towards a much broader integrated programme building on the coherence mentioned in paragraph 27 in order to begin to tackle some of the deeper problems of capacity building in developing countries.

116. The representative of Barbados said that in his delegation's view, the WTO had taken a serious and positive approach to the implementation of the Doha mandates on trade-related technical assistance and capacity building. The Secretariat had worked assiduously to develop and deliver innovative and appropriately tailored programmes. It should also be recognized that the membership had made great efforts to make available the funding that would be necessary to meet the objectives identified. His delegation was happy to note that these two elements complemented each other well. Barbados thanked the Director-General, the Secretariat, the donors and the institutional partners for their efforts and contributions. Based on the positive results to date, Barbados was hopeful that its expectations for the implementation of the Doha technical cooperation mandates would continue to be met. These expectations were simple: Barbados expected that the priorities outlined in paragraph 38 of the Doha Ministerial Declaration for the delivery by the WTO of technical assistance and capacity building activities would continue to be respected, that no new conditionalities would be applied to the use of technical assistance funds, and that the Secretariat would continue to exhibit flexibility and responsiveness to the needs identified by developing countries.

117. The General Council took note of the statements and of the report by the Director-General in document WT/MIN(03)/3, which would be updated and forwarded to the Ministerial Conference.

118. The Director-General expressed his appreciation for the remarks and thoughtful recommendations made regarding the execution of the trade-related technical assistance programme. He had taken note of these and would certainly follow up on the recommendations that had been made. One could not thank enough the donor countries who had so generously and consistently contributed to the Global Trust Fund. At the same time, he wished to thank the recipient countries for their understanding and cooperation in the kinds of programmes jointly executed with them. These programmes could not have been carried out without the donor and recipient countries working closely with the Secretariat. He also wished to pass on the thanks from Members to the staff for their efforts in implementing these programmes, particularly Deputy Director-General Mr. Rana and his team. He had taken note of the need to work as closely as possible with other related international organizations. The Secretariat had been working with an array of such organizations and had signed Memoranda of Understanding with a number of them, and would be signing others so that the Secretariat could deliver these programmes in the most efficient manner in future.

119. The General Council took note of the statement.

(c) Issues affecting least-developed countries – Report by the Director-General pursuant to paragraph 43 of the Doha Ministerial Declaration (WT/MIN(03)/1)

120. The Chairman recalled that paragraph 43 of the Doha Ministerial Declaration called on the Director-General, following coordination with Heads of the other Agencies in the Integrated Framework for Trade-Related Technical Assistance to LDCs, to provide a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs. At the General Council meeting in July, the Director-General had informed Members that his report in WT/MIN(03)/1 would be circulated shortly, and had made a substantive oral presentation highlighting the main elements of the report. The General Council had taken note that delegations would have an opportunity to comment on the written report at the present meeting.

121. The representative of Bangladesh, on behalf of the LDCs, said that these countries welcomed the report by the Director-General, which took a comprehensive look at WTO activities in favour of LDCs and also the needs and concerns of LDCs in the face of their growing marginalization in the WTO system. There was a recognition of the special needs of the LDCs, and there were many initiatives that the Director-General had himself taken, for example the establishment of the LDC Unit within the Secretariat, which was now regularly assisting LDCs in their work on coordination in the WTO within the LDC Consultative Group. The review of activities was balanced, comprehensive and took on board many of the concerns expressed by LDCs from time to time. The section on developments since the Fourth Ministerial Conference was good, because it reflected correctly, in the LDCs' view, the major events that had taken place. The LDCs hoped that Members had noted the message in the report, which was pro-development and sought an outcome in the current process of negotiations that was pro-development. The report also called upon Members to give real meaning to the Doha Development Agenda. The LDCs thanked the Director-General for his report and for his special attention to the participation of the LDCs in the trade negotiations.

122. The representative of Djibouti expressed his delegation's sincere appreciation to the Director-General. What was important was that he had understood the needs of the LDCs when he became Director-General and, as Bangladesh had said, had endeavoured from the outset of his term to set up a special unit dealing with LDCs. His delegation also wished to thank Deputy Director-General Mr. Rana and his staff. Djibouti felt that gradually the LDC Unit would be expanded and would have more staff dealing specifically with the needs of the LDCs.

123. The representative of Burkina Faso said his delegation wished to endorse what Bangladesh had said and to join in thanking the Director-General and his staff for their attention to the needs of LDCs and for their enlightened leadership. He particularly wished to thank the 28 Members who had taken specific measures to promote market access for products exported by LDCs. This was a clear sign of solidarity and was the right path to take. Burkina Faso hoped that in the months and years to come other countries would follow this example so that the LDCs would be fully integrated in international trade.

124. The representative of Zambia thanked the Director General for his report and said that his delegation appreciated the Director-General's work.

125. The General Council took note of the statements and of the report by the Director-General in document WT/MIN(03)/1, which would be forwarded to the Ministerial Conference.

(d) Draft Ministerial Text – Statement by the Chairman

126. The Chairman drew attention to the draft Ministerial Text that had been circulated in document Job(03)/150/Rev.1. A corrigendum to this text had also been circulated earlier that day to

reflect an involuntary omission in the text of the chapeau Annex A regarding non-trade concerns. In introducing the text for discussion, he recalled the opening remarks of both the Director-General and himself in presenting this text for consideration at the Informal Heads of Delegation consultations the previous day. These remarks, as well as his closing remarks, had both been circulated for the information of delegations in documents Job(03)/174 and Add.1. He would not recall all the points he had made the previous day. Delegations had had quite a full discussion on the text the previous day – and in his view, an extremely useful one – and it would make little sense to repeat the same statements in the General Council. Delegations who so wished could request the Secretariat to include their statements at that informal HODs meeting in the records of the present General Council. He would do the same with his remarks from that meeting.<sup>14</sup> He wished to listen to delegations, and considered that the focus of the present meeting should be to try to seek as much common ground as possible on the key issues of divergence, as a means of assisting Ministers in their heavy tasks at Cancún. It had been with this in mind that he had announced at the close of the HODs discussion that he was going to leave delegations additional time before the present meeting, in order to enable them to receive instructions, to continue consultations among themselves, and to reflect on the different positions expressed. He hoped, therefore, to hear some progress towards convergence.

127. All delegations who spoke thanked and commended the Chairman, the Director-General, the Friends of the Chair, the Chairpersons of the Negotiating Groups and the Secretariat for their hard work and dedication. They particularly thanked the Chairman for his considerable effort in preparing the draft Ministerial text, and expressed appreciation for the positive contributions of the Director General and others who had assisted him in this process.

128. The representative of the Philippines commended the Chairman for his courage, decisiveness and persistence in pursuing certain options against others. Despite his delegation's worst fears that a viable draft could not arise from a time- and transparency-constrained process, the Chairman had produced a draft no one could reject outright and which, in the Chairman's judgement, came nearer to the four-fold objective of (i) adherence to the Doha text, (ii) full account of the development dimension, (iii) overall balance, and (iv) a successful Cancún Ministerial, to which the Philippines was fully committed. His delegation would work closely with the Chairman to achieve this four-fold objective. However, his delegation was of the view, in all candour, that with the current draft text Members were no closer to the Doha mandate now than they had been immediately after the Doha Ministerial Conference. To explain this he would address four issues. First, on agriculture the draft text did not capture the ambitions of the Doha mandate. The Chairman had opted to follow the structure and substance of the joint EC/US paper and therefore had placed the interests of these two superpowers in the forefront of the negotiations. While it was essential for these two Members to provide the momentum for these negotiations, it was a reality that they had conspired to a lower level of ambition on all pillars of the reform mandate. The draft text left vague the objective and timeframe for elimination of export subsidies, and left open the amount of reduction in trade-distorting domestic support through the re-instrumentation of these policies in the form of a new category of such support measures. The disciplines on Green Box measures were not fully addressed. The text resurrected the debates on such non-negotiating issues as the Peace Clause and geographical indications, which were not contemplated in the Doha mandate.

129. It should be of concern to Members that the European Communities and the United States had chosen to take the road of lower ambitions. More ambitious alternatives had been provided by the Group of 17 developing countries – now consisting of 20 Members and a large number of supporters. For the Community to complain that these submissions disturbed the relationship forged between the Community and the United States was very disturbing. His delegation hoped it would not hear any more of this, and that the Chairman would consider the G-20 paper, as the Philippines firmly believed that this brought Members closer to the Doha mandate and reflected the development concerns in this negotiation and in the organization. On NAMA, what the United States had said in the HODs

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<sup>14</sup> See Annex III.

meeting about the text being replete with S&D and less-than-full-reciprocity provisions was true. However, the real operational part of these provisions – paragraphs 3, 4 and 6 on the formula and sectoral initiatives – would require developing countries to submit to sweeping and very ambitious levels of tariff liberalization beyond what their trade, financial and developmental capacities could sustain. On the other hand, developed countries with already relatively low duties would contribute very little. In contrast to the shortfall on the agricultural reform mandate, developing countries viewed with the deepest concern the imbalance created by open markets in industrial goods through the following three particular objectives in NAMA: the use of the non-linear formula in paragraph 3 – a simple, single, harmonizing coefficient which would uniformly bring developed and developing countries' tariffs to a common range at a low level and eventually to zero; the lack of differential base rates, or a differential methodology for determination thereof, for unbound tariff lines – the technical assistance component of the formula; and the sectoral approach which developed countries wanted to be mandatory. In the meantime, continued domestic support and export subsidies nullified the striving for competitiveness of developing countries in global agricultural trade.

130. Regarding S&D and less-than-full reciprocity, developing countries were still fighting for clear, precise and really operational provisions in the area of NAMA. Regarding the S&D portion of the text on agriculture, his delegation welcomed the inclusion of the S&D submissions of the G-17 paper, which were present in all three pillars, although some of these still needed to be enhanced and negotiated. However, viewed in tandem with the low level of ambition on the three reform pillars, it was doubtful whether the S&D elements would translate into meaningful flexibility and address the developmental concerns of developing countries. He wished to stress that no amount of S&D would be effective if the necessary substantive reforms were not delivered. On trade and environment, his delegation was glad that the text had put to rest those long-lived proposals of the Community that had continued to appear in different forms, at different levels of discussion, and lately in different dressings. He was referring to the issues of observership, information exchange and voluntary labelling. While one could never be sure that the Community would not raise these issues in Cancún, his delegation hoped this would not be the case, as they distracted Members from more fundamental work.

131. On the Singapore issues, the Philippines welcomed the two options in the main text, and clearly preferred the second option. However, it objected to the Annexes pretending to be modalities on all four Singapore issues, which had no basis for existence because they had been pulled out of thin air. This was the first time his delegation had seen the modalities on trade facilitation, and on transparency in government procurement the modalities had apparently been drafted by the Friends of the Chair without any consultation or consensus. On investment, the modalities had been introduced by the Chairman of that Working Group only at the HODs meeting the previous week and had been soundly rejected by a large number of developing countries. On competition policy, they had been introduced by the Chairman of that Working Group as one of three options. He asked whether the General Council Chairman, having opted to append all of the four modalities, honestly thought they conformed to the expectations of Ministers at Cancún on the modalities mandated at Doha to be a basis for decision by explicit consensus. This situation left a continuation of the ongoing work as the only viable alternative, if the proponents of these issues wished to see them kept alive in the WTO. In order to achieve balance in the draft Ministerial text, he asked whether the Chairman could agree to include a submission currently being prepared by more than a dozen developing countries and with a large number of supporters, that listed the elements these countries believed were still open for clarification and study. His delegation urged the Chairman to consider this submission as a fair and equitable presentation of the state of play of work in these areas. The Philippines did not link the Singapore issues to any part of the negotiations. These were not negotiating issues and were not part of the single undertaking, but the draft text gave the impression that, in a worst-case scenario in which Ministers agreed by explicit consensus to start negotiations on these issues after Cancún, they would immediately fold into the DDA negotiating schedule with the same date for completion. His delegation could not assume this to be the case. The Philippines would continue to work with the Chairman and other delegations during the remaining days in Geneva, in Cancún and thereafter, to

achieve the Doha development objectives and to have a truly balanced and equitable outcome. Members owed this to themselves, to the organization and to its various stakeholders.

132. The representative of Mexico asked that his delegation's statement at the informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>15</sup>

133. The representative of Bangladesh, on behalf of the LDCs, said that from the perspective of the LDCs, the revised text was a considerable improvement over the earlier text. Attempts had been made to develop convergence by narrowing down the differences. However, as the LDCs were painfully aware, much more work was necessary to achieve the unanimity required. He would limit his comments to only those issues of direct interest to the LDCs. Before commenting on those specific issues, he wished to highlight some general perspectives as Members went to the Cancún Ministerial. Successive rounds of trade negotiations had tried to address the needs of LDCs. This had been done in recognition of the special concerns of this group of countries, and to prevent their further marginalization in world trade. The WTO membership recognized that the fruits of trade liberalization had to be equitably shared by the LDCs. The membership could not allow a situation where trade liberalization benefited one group or another, without commensurate benefits to the weakest Members. It was precisely in recognition of this need that special measures were provided for the LDCs, who did not look upon such measures as a derogation from the rule-based system. Rather, if special measures could help this disadvantaged group, and their trade expanded appropriately, the world as a whole would benefit and the multilateral system would be further strengthened. His delegation's comments should be interpreted in the context of these special needs.

134. Agriculture was fundamental to all LDCs. An overwhelming proportion of people in LDCs were dependent on agriculture for their survival. When these countries saw the context of the negotiations, they could not but be aware of the manner in which the changes would affect the LDCs, and others who were the major players. The LDCs deeply appreciated the acceptance by Members that they should not have to make any reduction commitments in agriculture. But this was valid only for market access. LDCs had not been able to contemplate the luxury of export subsidies or domestic support. What deeply worried the LDCs was the weakening of the text in regard to duty- and quota-free market access. The text in the draft produced by the Chair of the Special Session of the Committee on Agriculture was good, on the understanding that the acceptance of the word "shall" would make such facility binding. In the negotiations, either in the open-ended meetings, or in small groups, there had not been a single comment that any Member opposed that text – in fact, there had been explicit statements of support. Unfortunately, the text had been weakened. The revised draft text was not acceptable to the LDCs, and they would like a reversion to the earlier text on this issue. Two other issues were of great interest to the Group. On cotton, where subsidies in the developed countries were adversely affecting the growth prospects of some LDCs, the concerns of the cotton growing and exporting members of the Group had to be attended to. In a similar vein, the LDCs also supported measures to help countries dependent on one or a few commodities for their exports and livelihood. The secular deterioration in the terms of trade of commodities was one of the main causes of the LDCs' marginalization in trade, and this issue needed to be addressed.

135. On NAMA, the Group thanked the Chair of this Negotiating Group for being sensitive to the LDCs' concerns. The text of the framework proposed by the Chair, in cooperation with the membership, was acceptable. The Group urged the membership to grant duty- and quota-free treatment to LDCs at an early date. Very soon, with the lowering of tariffs and the removal of quotas, this demand would have little meaning. The LDCs urged the membership to help them avail themselves of this limited period to develop their industries. It also urged that the issue of erosion of preferences for LDCs be tackled meaningfully, in the WTO as well as in other relevant organizations. There were many measures the WTO itself could take to address this issue, and the membership should not shy away from them. In the services negotiations, the Group's primary goal had been to

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<sup>15</sup> See Annex IV.

establish the modalities for the special treatment of LDCs. The Group appreciated the efforts of the Chair of the Special Session of the Services Council to conclude this work prior to Cancún. The LDCs had the General Council Chairman's commitment that the paragraph on services would include a suitable text, instead of what was currently shown in italics. Services was one of the most important subjects before Members. All knew that the potential for gain from complete liberalization in services was much greater than the gain from complete liberalization of all trade in goods. This was one area where the LDCs had something to offer, in the form of less-skilled service providers under Mode 4.

136. On S&D treatment, the new paragraph 11 in the draft text was an improvement over the earlier version. The Group noted the desire for an early harvest. The LDCs have to had an acceptable package that was of economic value. Even if all proposals could not be resolved prior to Cancún, there had to be an explicit understanding on how these issues were to be dealt with. For this purpose, the LDCs considered that Annex C was still open and subject to further improvement. The LDCs were prepared to work with the Chairman and with other delegations to finalize a package that would be meaningful for the LDCs. In their view, a package of proposals that did not have real value would not help them and would create misunderstanding. On the Singapore issues, despite the preponderance of views expressed by the membership, the draft text tended to tilt in one direction. While two diametrically opposed options were presented, one version had an annex. In some cases, these annexes had not even been considered by the general membership. If the LDCs were to be confronted with such stark options, they had no choice but to opt for the text stating that the situation did not provide a basis for commencing negotiations. They had an interest in each of these issues and would like the process of further clarification to be accelerated.

137. On TRIPS and Public Health, the LDCs wished to see a decision taken prior to Cancún. Affordable medicines were essential for LDCs. Furthermore, this issue had high political visibility, and Members could not delay settling it. On accession, the Group was happy with the prospect that two LDCs might become Members in Cancún. This was an important step, but much more remained to be done to facilitate the early accession of remaining LDCs that had applied. It was vital that these countries got the technical assistance they required in the accession process. Paragraph 24 was the most important paragraph in the draft text for LDCs. This paragraph should reflect the sum total of the views of the membership regarding the LDCs. This paragraph was not part of the single undertaking, and provided a general direction in which the membership would focus attention. At the same time, it should provide guidance for the work elsewhere embodied. From this perspective, the text was a greatly watered-down version of the language the LDCs had submitted. The LDCs would not accept any further weakening or dilution of this language. Existing brackets should be removed, and the language within them should become part of the text. On the other hand, the LDCs would welcome constructive suggestions. They were currently working with some of their development partners to strengthen the language in regard to the operation of the Integrated Framework. The LDCs were prepared to work under the Chairman's leadership and to build on the revised text, and hoped the membership would address their needs and concerns.

138. The representative of Argentina asked that his delegation's statement at the informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>16</sup> Beyond the comments of a more general nature that his delegation had made at the informal HODs meeting, Argentina wished to refer more specifically to some aspects of the draft text. On domestic support in agriculture, since no modalities would be agreed in Cancún, Members had to be more specific on certain parameters. Argentina, as a member of the G-20, had detected some issues. First, there had to be product-specific reduction commitments. The possibility of Members concentrating their resources in any particular product had to be foreclosed, as otherwise this process would provide distorting market signals. Second, since domestic support was provided to products that were exported, it was critical to have stronger reduction commitments on support of the so-called "subsidized export products" which currently disrupted international markets. Third, products with increasing levels of support – that is,

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<sup>16</sup> See Annex IV.

with a higher level of support than the average in recent years – needed to be subject to deeper cuts. On the Blue Box, Argentina proposed eliminating Article 6.5 of the Agreement on Agriculture. However, this did not imply that it was requesting elimination of those disbursements. In Argentina's view, these would be included in the Amber Box and subject to cuts to be determined in the negotiations. Summing up, he said that the only sure footing Members had were the base levels of the Amber Box of the Communities and the United States of US\$72 billion and US\$19 billion per year respectively. Adding a new Blue Box would imply increasing those numbers by around US\$10 billion. Moreover, the draft text did not provide significant reductions of support in terms of applied support, but dealt only with bound levels. This was why it gave the appearance that something had changed, but in fact, nothing had changed. The opportunity left for box shifting in the draft also called for the need for capping in the Green Box. Domestic support was one of the crucial issues of the mandate. Unless Members generated a real impact on the current status of this issue, agricultural trade would continue to be very distorted. Argentina's constituency would not permit it to accept an agreement that implied this reality would remain unchanged.

139. On market access, Argentina wished to stress that its objective was to achieve a substantial improvement. Nevertheless, he wished to point out that paragraph 2.4. of the draft text indicated that the use of the special agricultural safeguard remained under negotiation. He recalled that this instrument had been created in the Uruguay Round as a transitional measure to address the concern of the elimination of non-tariff barriers that might have caused significant import surges affecting production or internal prices. This mechanism had been used only by a small number of developed Members, mainly the US, EC and Japan. Based on this experience, there was no justification for its continuation. On export subsidies, there was enough ambiguity to allow Members to avoid the Doha mandate. The partial reforms on domestic support would still leave excess production that needed to be placed in foreign markets. Clear market signals should be given. In addition, paragraph 6 of the draft text was unbalanced, because it implied an invitation to discuss issues outside of the mandate, such as geographical indications and the Peace Clause. Any reference to non-trade concerns had to be quoted in accordance with the Doha mandate, that is, by adding the phrase “as provided for in the Agreement on Agriculture”. Since there was substantial disagreement on positions in agriculture, in Argentina's view the G-20 submission continued to be on the table.

140. Regarding NAMA, the framework in Annex B of the draft Ministerial text fell short of the Doha mandate with respect to the principle of “less than full reciprocity”. In particular, the proposal on mandatory sectoral initiatives was clearly in opposition to that mandate. Sectoral agreements could only be a supplementary approach. They had to be voluntary and agreed only after consensus was reached on the core modality for tariff reduction. The approach of making this kind of initiative mandatory implied ignoring structural problems of developing countries and putting at risk the industrial capacity of these countries. In the same way, the option of a formula, as set out in paragraph 3, did not contemplate the concept of less than full reciprocity, and resulted in tariff reductions by developing countries much higher than those of developed Members. For this reason, any proposal for a non-linear formula should include what was proposed in document WT/GC/W/35/Rev.1 as the basis for continuing the work in this Negotiating Group. Even without concrete figures, the combination of paragraphs 3 and 6 reflected a much higher level of ambition in this area than in the negotiations on modalities in agriculture. For that reason, Members had to avoid including specific figures, particularly in paragraph 7. The level of flexibility in the application of the formula that Argentina would request would be related to results in the other areas of the negotiation. As his delegation had already said, the concept of parallelism should be applied.

141. There had been references to the need for a high level of ambition and in favour of harmonizing industrial tariffs. In the context of this negotiation, Argentina was also ambitious. However, its desires were determined by development goals. Although he was personally in favour of tariff harmonization, he had to say that the only clear mandate was for “less than full reciprocity” in the reduction commitments and for S&D treatment. These two elements had to be built in as integral parts of the process. Regarding the Singapore issues, Argentina considered that each of these issues



had to be assessed on its own merits. For that reason, it understood that decisions and final outcomes in Cancún should not necessarily be the same for all of these issues. Taking into account that each issue dealt with different matters and that they had different implications for developing countries, the possibilities of achieving convergence varied, depending on the merits of each issue. Regarding modalities on the issue of investment, as proposed in Annex G of the draft text, paragraph 4 merely listed the elements contained in paragraph 22 of the Doha Declaration. This approach did not allow an evaluation of whether the general architecture of a multilateral framework would preserve sufficient room for the implementation of development policies at national level. The text equated the concept of flexibility to that of S&D treatment. Argentina considered that such an approach was inadequate. The experience arising from the implementation of the TRIMS Agreement showed that transitional periods were insufficient to allow developing countries to achieve developmental goals in order to provide answers to the challenges of a dynamic international economic environment. The text did not contain any reference to the “development provisions”, as provided in paragraph 22 of the Doha Declaration. In addition, his delegation noted that the concept of investor obligations had been omitted.

142. Regarding the issue of trade facilitation, Argentina recognized the case for further expediting the movement, release and clearance of goods, including goods in transit. This was a valuable objective that would benefit all. Nevertheless, his delegation was concerned about the possibility that an agreement on trade facilitation could only result in obligations for developing countries. Developed Members already had the infrastructure, mechanisms and technologies that would be used as reference points to establish the standards of an agreement. In order to resolve these asymmetries, a non-binding agreement had been proposed. The debate on this issue had been probably the most intense in the Council for Trade in Goods, and remained unresolved. The possibility of a two-stage approach emerged as a clear alternative. In the first phase, Members should agree on a set of non-binding guidelines, together with a technical assistance programme, so as to allow developing countries to acquire the capabilities needed to accept binding rules in a second phase. Argentina recognised that any possible modalities should include considerations on implementation, with special attention to the legal implications that emerged from these commitments.

143. Regarding the issue of competition policy, Argentina regretted that the current draft text did not include a third, intermediate option, as suggested by the Chairman of the relevant Working Group. In the context of scarce ambition in key areas of the negotiations, such as agriculture, it could be useful to have this third alternative available, i.e. the option of having modalities oriented towards an agreement of limited scope, encouraging voluntary cooperation and establishing a peer review system. Such a system would entail a review of national competition policies and the exchange of information, and would not include binding obligations or dispute settlement. In addition, this alternative seemed to command an important degree of convergence of views among developing countries that still had doubts with respect to elements mentioned in paragraph 25 of the Doha Declaration, and which would not otherwise agree to negotiations on this issue. Regarding transparency in government procurement, as on the other Singapore issues, Argentina considered that the modalities in Annex F were insufficient because they were only procedural in nature. This situation precluded a clear appreciation of the scope of any possible commitments. In particular, Argentina was concerned about the scope of the concept of transparency, and was not convinced regarding the implications this concept could have in terms of market access. His delegation considered that any agreement on this issue had to preserve Members' capacity to administer national legislation and procedures. There was merit in the argument against the applicability of the DSU in the framework of a possible agreement on this issue. Argentina considered that the launching of negotiations on the Singapore issues should be based on a decision to be taken by explicit consensus on the modalities of such negotiations. His delegation was ready to continue working on such modalities as far as there was also substantive progress in the overall negotiations, and was prepared to continue working constructively, as it had been doing. However, the outcome of Cancún would require that Argentina's considerations be adequately reflected, in order for his delegation to be able to join any consensus.

144. The representative of the European Communities asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>17</sup> A tremendous amount of work had been accomplished over the past several weeks. This had led to the emergence of new ideas, new approaches and, in at least a few cases, to compromises between previously apparently irreconcilable positions, that had led to the emergence of new alliances and alignments. Some of these were undoubtedly of a short-lived character, while others were based on fundamentally shared values and problems. All of this was perfectly healthy and useful to help Members move their work ahead. For its part, the Communities had contributed, for example, on agriculture by abandoning, at least for the time being, previously intransigent positions – to put it frankly and openly – on all three pillars of market access, domestic support and export subsidies, and called on others to demonstrate their capacity to move away from their intransigent positions. However, his delegation regretted that there had been little sign of this yet. All movements, including those that the Communities had demonstrated, and proposals, including those it had made, had a certain shelf life, a certain "to be agreed by" date, until they were challenged or invalidated or withdrawn for external or internal reasons. His delegation sensed that the possibility of a major positive breakthrough at Cancún on the DDA in the interests of all might be within reach. What was potentially doable was the adoption of concrete ambitious frameworks, modalities for negotiations that would definitively unblock negotiations on agriculture and NAMA and would lead to truly comprehensive results across the board. However, it took two to tango. Most, or many, delegations had made proposals on the key issues over the past several weeks or months, orally or in writing. These proposals and their discussion had led the Chairman to distil from them what he considered to be a useful basis for Ministerial discussion, negotiation and decision-making. His delegation saw no viable alternative to the draft text presented by the Chairman. However much Members disagreed, sometimes vehemently, as had been seen the previous day, the Communities considered that all contributions by Members in the preparatory process, including its own, were still – in practical terms, and he assumed even in formal terms – on the table and would provide Ministers with a full range of views. He said that while normally his delegation did not speak about internal EC matters, he wished to inform Members that this position, stated at the informal HODs meeting the previous day, had been unanimously supported by all 25 current and future member States of the European Communities.

145. The representative of Bulgaria said that his delegation understood the difficulties which had had to be overcome in order to reach a result that was acceptable to all Members. He regretted to say that like other delegations, Bulgaria was not able to accept the revised draft text as a basis for work at Cancún, and did not agree to have the Chairman send it, on his own responsibility, to Ministers. To do so might be interpreted as implying some status of this text, which had not been agreed to by Members and would therefore be, in Bulgaria's view, an attempt to undermine the Member-driven character of the WTO. Ministers would be informed by their own delegations on the draft text prepared by the Chairman of the General Council, so there was no need to formally send this text to Ministers. The views expressed at the HODs meeting the previous day could be summarized in a report to the General Council which would be at the disposal of delegations, together with the minutes of the present meeting, so that delegations could inform their Ministers about the positions of participants throughout the preparatory process in Geneva. Bulgaria believed that the text to be adopted in Cancún had to be acceptable not just to the majority of Members, the major participants in world trade or the most important groupings of countries, but also to each individual Member. This meant that an overall balance could not be constructed to the detriment of the interests of any single participant in the negotiations. From the point of view of Bulgaria's own interests, his delegation did not think the draft text in JOB(03)/150/Rev.1 was balanced, and his delegation could not, therefore, agree that it fulfilled the criteria for overall balance.

146. One issue to which Bulgaria attached particular importance was the extension to all products of the additional protection for geographical indications (GIs) under Article 23 of the TRIPS Agreement. The way this issue was treated in the draft text was in evident contrast to the excessive

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<sup>17</sup> See Annex IV.

levels of ambition in other areas of negotiation. On this issue, which he said was the only implementation issue explicitly noted in the Doha Declaration, the draft text did not fulfil the mandate established for implementation issues by Ministers in paragraph 12 of the Doha Declaration, i.e. to address these issues "as a matter of priority", to "find appropriate solutions to them", and to take "appropriate action" by the end of 2002. Bulgaria could not accept any substantive package to be agreed in Doha that did not contain adequate substantive treatment of the issue of extension to all products of the additional protection for GIs under Article 23 of the TRIPS Agreement. The merely procedural provision in paragraph 12 of the draft text – that the Director-General would continue his consultations on this matter – was clearly insufficient. Instead of this text, Bulgaria supported the drafting suggestions submitted by Cuba, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Pakistan, Sri Lanka, Tanzania, Uganda and Zimbabwe on paragraph 12, which provided for the setting up of a negotiating group on implementation. On the issue of extension of GIs, his delegation proposed the inclusion of the following text: "We agree to extend the additional protection for geographical indications under Article 23 of the TRIPS Agreement to all products. Possible exceptions under Article 24 of the TRIPS Agreement and other details shall be negotiated in the Negotiating Group on Implementation by March 2004."

147. Agriculture was a particularly sensitive area for Bulgaria. The draft text did not take into account Bulgaria's particular concerns or the specificity and vulnerability of its agriculture, and did not reflect the proposals it had formulated, jointly with others, in its position paper in document JOB(03)/167. The text in Annex A of the draft Ministerial text was very far from the absolute maximum of reduction commitments Bulgaria was prepared to undertake and which were contained in its position paper. Therefore, Bulgaria could not agree to the inclusion of that Annex in the draft text. More specifically, in market access a reduction formula, or a combination of formulae, on its own could not guarantee improved market access for Bulgaria's products and would result in an unbalanced outcome. His delegation could not, therefore, agree with a blended approach if it did not contain an adequate possibility for negotiated elements on non-trade concerns, in particular the possibility to negotiate improved market access for products of particular export interest to Bulgaria, e.g. for products protected by GIs. Any blended approach should also provide sufficient flexibility, so that each participant could be in control of the balance between the tariff reductions to be undertaken and the benefits from improved access to the markets of other participants. Bulgaria could not accept a mandatory application of the Swiss formula, mandatory tariff rate quota increases and mandatory reductions of tariffs to zero.

148. On the issue of domestic support, Bulgaria did not agree on reductions from base levels and capping the Blue or Green Box, or a combination of boxes. If some participants were allowed to use a particular instrument, like the Blue Box, Bulgaria too should be allowed to use that instrument, even if it had not been able to do so to date. The reductions of domestic support from base levels could put some Members in a disadvantaged position, compared to that of others, and were therefore unacceptable. Reductions of the *de minimis* levels were also not acceptable. Regarding the legal form of reduction commitments, as a matter of principle these should be reflected in national schedules only, and not through changes in the Agreement on Agriculture. Therefore, Bulgaria could not accept any provision for modifying the Agreement on Agriculture, such as the one on Article 6.5 in paragraph 1.3 in Annex A of the draft Ministerial text. Regarding the status of the Revised First Draft of Modalities (TN/AG/W/1/Rev.1) referred to in paragraph 6 of Annex A of the draft Ministerial text, it had not been possible to achieve consensus on these, and it would therefore be inappropriate for them to be the only source of reference mentioned in the framework text. Bulgaria could agree to a reference to these draft modalities only together with inputs by Members. If there were no consensus on the text of Annex A, his delegation would be prepared to accept that it be used in the negotiations after Cancún as a working document, together with the inputs by Members.

149. The representative of India said his delegation appreciated the difficulties the Chairman had faced in trying to bring together different strands and viewpoints of Members in the key areas. He would concentrate on the proposed framework for establishing modalities in agriculture and on

NAMA, and would also cover the Singapore issues and touch on services, S&D treatment and implementation issues, as well as a few of the other paragraphs in the draft text. On agriculture, Ministers at Doha had highlighted their commitment "to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets." They had further agreed that S&D treatment for developing countries "shall be an integral part of all elements of the negotiations ..., so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development." It was quite clear from these statements that the three pillars of domestic support, export subsidies and market access were closely interlinked. If substantial reductions in domestic support did not take place and if export subsidies were not eliminated, the distortions in international agricultural trade could not be removed. Unfortunately, the revised draft Ministerial text did not provide the necessary levels of comfort for developing countries to be in a position to make major contributions in market access. India, along with the Group of 17 – now 20 – developing countries in their paper on the framework to be adopted for agriculture, had clearly indicated the level of ambition regarding the reduction required in both these areas. On domestic support, these included product-specific reduction in the Amber Box, elimination of Article 6.5, capping of Green Box direct payments, and incorporation of additional disciplines, among others. These elements had not been included in the revised draft Ministerial text. On export subsidies, India did not have much confidence in the formulation provided – that export subsidies would be eliminated soon or in the near future. It was further concerned that the peace clause, which was not even under negotiation and was set to expire on 31 December 2003, had been listed in paragraph 6 of Annex A as one of the issues for consideration. He asked how, if the sum of developed countries were not in a position to have a high level of ambition in the reduction of subsidies, they could expect the developing countries to ambitiously reduce the levels of their tariffs, which was the only instrument available to them to protect their farmers.

150. For India, with over 650 million people dependent on agriculture for their livelihood, it became all the more important that the agricultural negotiations did not become a tool to impoverish them further. In their statement, some Members had mentioned the two categories of commitments being taken by Members on market access. It should be realized that in any case, there were two categories of Members – one category which had deep pockets and which subsidized its agriculture heavily, leading to trade distortions, and the other category which had no financial resources to provide support to its farmers even when required. Moreover, the framework for tariff reduction worked out by the Community and the United States was tailor-made to suit those two Members' particular tariff structure and enable them to make minimal contributions to market access, while on the other hand, this would place an inordinately high burden on many developing countries. Therefore, a different structure of tariff reduction for developing countries was absolutely essential. His delegation understood that the revised draft text provided that developing countries could choose one of the two options provided under paragraph 2.6 (ii) and (iii) of Annex A. India wished to add further that paragraph 2.6(i) indicated that a proportion of tariff lines to be subject to an average cut, with a minimum cut for import sensitive tariff lines under which the market access increase would result from a combination of tariff cuts and tariff rate quotas (TRQs). With regard to TRQs for import-sensitive tariff lines, his delegation noted that import sensitive tariff lines in developed countries generally had high tariffs. Therefore, developed countries could improve market access for these sensitive products by introducing new, or increasing existing tariff quotas while reducing tariffs by the minimum. On the other hand, he stated that sensitive tariff lines in developing countries were generally subject to low tariffs and, therefore, the possibility of creating new TRQs did not exist. Thus, there should be no obligation to create new TRQs for import-sensitive tariff lines in developing countries.

151. On S&D treatment, the Chairman of the Special Session of the Committee on Agriculture, in his First Draft of Modalities for the Further Commitments of 17 February 2003 and an initial limited revision of certain elements of 18 March 2003, had covered the different elements for developing

countries. A number of these elements were covered in the draft Ministerial text, and India expected that these, along with the elements mentioned in the above Chairman's text, would ultimately form a part of the modalities.

152. On NAMA, India appreciated the efforts made by the Chairman of the relevant Negotiating Group to come up with a fair and balanced draft text to accommodate the interests of the developing countries. However, India still had concerns with both paragraphs 3 and 6 of the draft text. On the issue of the non-linear formula referred to in paragraph 3, his delegation's understanding was that further negotiations would take place on the basis of the formula put forward in document TN/MA/W/35/Rev.1. On the sectoral tariff negotiations, India recognized that paragraph 6 had been drafted after several rounds of consultations. Many Members had serious reservations on a mandatory approach to sectoral negotiations. India's understanding was that the developing countries would have adequate provisions for flexibility in this respect, in line with the concept of less than full reciprocity. On services, India expected to submit its offers very shortly, and was looking for substantial improvements from its trading partners in Mode 4, which was of substantial commercial interest to the developing countries. His delegation hoped for active engagement after Cancún at both the bilateral and multilateral levels.

153. On the Singapore issues, India appreciated the text presented by the General Council Chairman which portrayed the reality of the discussions on these issues. India believed that the second option was the best option. However, his delegation was constrained to point out that it was premature for the draft modalities on each of the four issues to be annexed to the draft Ministerial text, when the clarification process was not yet over. India considered that these Annexes, which reflected only the proponents' position, would prejudice the position at Cancún of those Members holding a different view. In this respect India, along with a number of other countries, would be submitting shortly a detailed list of issues for further clarification in the respective Working Groups and the Council for Trade in Goods. His delegation requested that these be annexed to the draft Ministerial text, as had been done for the proposal submitted by some other Members. On the issue of S&D treatment, Ministers had agreed at Doha that all S&D provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. Further, Members were to identify those they considered should be made mandatory and to report to the General Council with recommendations for a decision. A deadline of July 2002 had also been agreed. However, despite repeated extension of the deadline, Members were nowhere near completing the work on S&D issues. He recalled that what was being addressed were existing provisions in the current WTO agreements, and not new rules that might be agreed at the end of the Doha work programme. There had to be a clear understanding and explicit provision that the remaining agreement-specific proposals would be addressed as a matter of priority after Cancún, and recommendations for decision should be submitted to the General Council by March 2004.

154. On the issue of implementation, it had been agreed in Doha that negotiations on outstanding implementation issues shall be an integral part of the Doha work programme. India was surprised that some Members seemed to attach a different meaning to the word "negotiations" in paragraph 12 of the Doha Declaration than they did to the same word in the rest of that work programme. It was necessary to put in place a suitable mechanism to address all the remaining outstanding implementation issues and to report by a specified deadline, with recommendations for decision. His delegation was surprised that the paragraph on implementation issues had been relegated to a lower spot in the draft text, and strongly urged that the order of the work programme, as reflected in the Doha Declaration, be followed for the Cancún text as well. For his delegation, all outstanding issues were equally important, and disproportionate importance should not be given to any one issue. On TRIPS and the Convention on Biological Diversity, in the hectic activities in which the Chairman had been engaged, he seemed to have overlooked the requirement to report to Ministers under paragraph 52 of the Doha Declaration in respect of the progress made on issues contained in paragraph 19 of that Declaration – in other words, the progress made under the mandate given to the TRIPS Council to pursue its work programme, *inter alia*, under the review of Article 27.3(b) and the

relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and so on, which should be reported to Ministers in order to enable them to give suitable directions for accelerating this work. The Community had talked about alliances and their nature. Whether an alliance was short-lived or not, and which alliance was short-lived and for what reason, only time would tell. There could be alliances that served only the respective Members' interests and were formed only to strike at others, particularly the poorest and the weakest. His delegation had no doubt that there would be a firm determination on the part of developing countries to ensure that the development dimension was not cast aside in this process of negotiations. India would continue to engage constructively to move the process forward both at Cancún and beyond.

155. The representative of Malaysia asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>18</sup> On agriculture, his delegation wished to highlight one point with respect to export credits – to stress the need to provide flexibility to developing countries to provide export credits for their exports to other developing countries. On the Singapore issues, Malaysia supported India's proposal that annexes listing elements for further clarification be attached to a revised draft Ministerial text. This was a fair and reasonable proposal, as it would help establish the appropriate balance in respect of those Members opting for Option 2 in the current draft text.

156. The representative of Indonesia said that his delegation had been guided by the spirit and effort to agree on the draft Ministerial text on the basis of Ministers' instructions from Doha, the development issues and the overall balance of the negotiations. The revised draft text covered a range of issues which tracked with the Doha work programme. That work programme in itself provided for early action on such development-related issues as implementation, agriculture, non-agriculture market access, strengthening S&D, and addressing the difficulties faced by Members with insufficient or no manufacturing capacity in the pharmaceutical sector in making effective use of compulsory licensing under the TRIPS Agreement. As all were fully aware, none of these issues had yet been resolved. This was a cause for serious concern among Members, who had contributed in the best way they could to the ongoing negotiations, including reaching an understanding on the draft Ministerial text. Regarding domestic support in agriculture, while his delegation appreciated the Chairman's serious effort in providing a draft framework, Indonesia was deeply disappointed that there were no commitments for developed countries to reduce their overall support. In fact, the Blue Box subsidies had been extended, and there was no discipline whatsoever on Green Box subsidies. The road was thus open for continuation of, or even increases in, overall domestic support in developed countries. With regard to export competition, his delegation was deeply disappointed by the lack of commitment for developed countries to eliminate their export subsidies and export credits. It was regrettable that a deal had been struck that both export subsidies and export credits could continue in parallel to each other for the same products. Members should revert to the Doha mandate and ensure that all export subsidies were eliminated within a very few years, and that likewise, concessional export credits were similarly disciplined.

157. He then made the following comments on behalf also of Jamaica, Trinidad and Tobago, Dominican Republic, Honduras and Panama. These countries recognized the difficulties the Chairman had encountered in producing a text that accommodated the various needs and interests of all Members, whose differences of view on the pace, depth and scope of further commitments in agriculture continued to be significant. The results of the agriculture negotiations would impinge on the living conditions of millions of farmers in developing countries that depended on agricultural production for their subsistence income and basic food needs. On this basis, these countries had insisted that developing countries be allowed enough flexibility in the negotiations to participate in the reform process in a way that did not jeopardize the livelihood of their vulnerable and poor farmers, their food security or their rural development. These countries appreciated the Chairman's

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<sup>18</sup> See Annex IV.

efforts to reflect some of their concerns in the draft Ministerial text, and especially welcomed the provisions on Special Products and the Special Safeguard Mechanism for developing countries.

158. However, they were concerned by the approach proposed on Special Products, which seemed very restricted, in particular considering that Members were currently working on just a framework to be further developed into detailed modalities at a latter stage. On this basis, these countries considered that modifications needed to be introduced in the Chairman's draft framework on agriculture before this was forwarded to Ministers at Cancún. Special Products should constitute a stand-alone category, which developing countries should self-designate according to their food/livelihood security and rural development needs. Regarding the proposed treatment for Special Products, it was a matter of great concern to these delegations that tariff reductions were envisaged for these products. They strongly insisted that Special Products be exempted from tariff reductions and from new commitments on TRQs. These countries were of the view that Special Products should not be subject to tariff ceilings, and therefore encouraged the Chairman to delete paragraph 2.7 of Annex A of the draft text regarding tariff ceilings for developing countries. Special Products were fundamental not just for food security and rural development, but also to the continuing existence of these countries' small and vulnerable resource-poor farmers. While they viewed the inclusion of Special Products in the current draft Ministerial text as a positive step forward, they were aware that this would only be useful if it constituted true flexibility for developing countries to address their food security and rural development concerns. In this regard, these countries encouraged the Chairman to reflect their concerns and take them into account in the current draft text.

159. Speaking again for Indonesia, he thanked the Chairman of the Negotiating Group on NAMA for his tireless effort in trying to develop framework for establishing modalities for these negotiations. The Doha mandate in this area contained clear flexibility for developing and least-developed Members. All Members were bound to implement this mandate. However, Indonesia was concerned that this flexibility had been questioned and scrutinized by some Members. The framework as it currently stood still contained some divergent views among Members, especially in paragraphs 3 and 6. In addition, his delegation was not comfortable with the listing of elements in paragraph 4, which it found too detailed at the present stage. Indonesia would prefer to leave this issue in the context of negotiation in Geneva. With regard to paragraph 3 on the formula approach and paragraph 6 on the sectoral approach, his delegation appreciated the Chairman's effort to strike a balance. However, this should be improved, since paragraph 3 left open whether Members would follow the Chairman's formula or another non-linear formula. Paragraph 6 prejudiced Member's ability to implement the sectoral approach as part of the core modalities. To create a more balanced approach, Members could either fix paragraph 3 by adding the words "linear formula", or delete the words "non-linear formula", or adjust paragraph 6 by removing the phrase "participation by all participants". If the latter was done, the question of participation in the sectoral approach would be subject to further negotiation in the post-Cancún period.

160. Regarding the Singapore issues, the revised draft text provided two options in brackets. The first option endorsed the launch of negotiations and, on each issue, the relevant Annex on modalities was referred to. The second option reflected developing countries' position that the situation did not provide a basis for commencement of negotiations and that clarification should continue. The problem, however, was that the text, while fleshing out the vague modalities of negotiations in separate annexes for each of these issues, did not elaborate in equal detail on the second option. If Ministers arriving in Cancún were to be put on an equal footing, it was important that developing countries' positions also be elaborated in the draft text. Much of the discussion on this matter could be found in the minutes of the respective Working Group meetings. He noted that in recent weeks, a significant number of developing countries had jointly made it clear that there should not be any launch of negotiations on the four Singapore issues. For his delegation, the modalities contained in Annexes D through F were too vague. Indonesia had already said that any discussion on modalities had to be detailed, so that it would be known from the outset what the demands would be in the course of the negotiations. Indonesia supported the statement by the Philippines that it would be desirable if

the concerns by developing countries, as stipulated in Option 2, would also be fully reflected in Annexes.

161. Regarding the services negotiation, paragraph 6 of the revised draft text did not fully respond to the appeals expressed by developing countries during the consultations. A group of developing countries had conveyed the concerns they wished to be incorporated in the draft text. However, this had not been fully reflected in the draft text. His delegation was critical on this issue because the services negotiations were of little value to developing countries, since the latter – apart from Mode 4 which was fraught with non-transparent barriers in the developed countries – had no export capacity. On the issue of paragraph 12 on implementation, his delegation believed that Ministers in Doha had considered all implementation issues as being of utmost importance. While they had created two categories of implementation issues, they had not highlighted some issues as being more important than others. In this regard, the issue of the extension of the protection of GIs should not be specifically mentioned in paragraph 12 of the draft Ministerial text, and thus had to be deleted. On the implementation issues, developing countries had been promised that their implementation issues – righting the imbalances of the Uruguay Round – would be addressed if developing countries entered into a new Round. Almost two years after Doha, work on a solution to these pending implementation matters was still very slow. During the discussions of these issues, his delegation had observed that developed countries had shown a lack of interest, even though developing countries had repeatedly appealed to them to show political will in these areas. The draft Ministerial text asked Members to agree to the establishment of another work programme and deadline on implementation issues. The proposal submitted by a group of developing countries could be used as the basis for further discussion on this issue. In this regard, Indonesia agreed with the deadline proposed and strongly hoped that all Members would intensify their efforts and political will to reach a prompt resolution of all implementation-related issues.

162. Among the highly important but less contentious issues facing Members in Cancún were those stipulated in paragraphs 8 and 21 on TRIPS negotiations, and paragraphs 9 and 20 on environment. While his delegation had strong views on these issues, it was willing to go along with the current draft text for these paragraphs. However, it should be kept in mind that Ministers would still have to fill in the dates. This flexibility in Indonesia's position reflected its effort to ensure that Cancún was a success. Indonesia did not want to jeopardize the success of Cancún or further burden Ministers with issues on which the draft text gave a fair picture of current developments. With the current polarization of positions on agriculture, NAMA, and the Singapore issues, Indonesia envisaged that Ministers in Cancún would spend much of their time trying to resolve the current deadlock on these issues. In this connection and without undermining the importance of the issues in paragraphs 8, 9, 20 and 21 in the draft text, his delegation encouraged all Members to show flexibility and to accept the balance the General Council Chairman had struck.

163. The representative of Ecuador said he wished to record his country's position in the negotiating process leading up to Cancún, which reflected a commitment to make progress on the matters agreed at Doha. Ecuador recognized that despite the General Council Chairman's tireless efforts to produce an operative text containing a balanced and harmonious presentation of the main aspects of the negotiations, the present situation was still marked by conflicting positions which prevented preparing a consensus text for consideration by Ministers in Cancún. Areas of dispute were commonly found in any negotiating process. Hence, the importance of establishing agreements that reflected substantive progress on critical issues of vital importance to the majority of Members, in order to obtain concessions that would facilitate the achievement of results beneficial to all WTO Members. In this connection, Ecuador considered agriculture to be the most crucial aspect of the negotiations, the results of which held the key to the convergence of positions in other areas of negotiation. The new commitments on agriculture, given all their implications for Ecuador's development and the well-being of its population, could not be a secondary element in the negotiations, nor be limited to a text which, like the one contained in the draft Ministerial text, did not include relevant aspects raised by a significant number of countries which together accounted for



more than 60 per cent of the global population dependent on agriculture. Ecuador's participation in the WTO accession process and the level of its income in 1996 had given rise to significant concessions in the area of trade liberalization, with wide-ranging domestic effects. Consequently, any call for further trade liberalization by his country, unaccompanied by substantial progress in the field of agriculture, was difficult to accept.

164. His delegation wished to make the following comments on the revised draft text. Regarding agriculture, the revised draft text circulated on 25 August still contained many elements his delegation found difficult to accept. In this connection, Ecuador maintained the view that the text submitted by a group of countries – which was now supported by 20 Members – constituted a sound basis for negotiation. Furthermore, as was well known, that text already contained a set of concessions that would make it acceptable to various countries. For these reasons, the text in question, of which Ecuador was a co-sponsor, was an important element that could not be left aside and had to remain under consideration in order to achieve the Doha Ministerial objective of negotiating modalities and not reducing the levels of ambition. Consequently, his delegation hoped the Chairman would be able to transmit the text of this proposal to Cancún, in the form deemed most appropriate. He added that it was highly irregular for elements that were assumed not to form part of the negotiations to be included in the text of Annex A, for example points 2.9 and 6. Regarding NAMA, Annex B concerning the structure of future modalities could constitute the basis for these negotiations, inasmuch as it established a frame of reference whose different elements were to be adjusted by Ministers in Cancún. On the basis of the cross-cutting principles specific to this negotiation, the formula approach should be the chief overall modality of negotiation, while the sectoral approach, as had been reiterated on various occasions by a large number of countries, should be a voluntary component supplementary to the formula approach. The level of ambition and flexibility in these negotiations should provide for the principle of less than full reciprocity and should necessarily be linked to the levels achieved in the agriculture negotiations. The revised draft Ministerial text clearly provided for unequal treatment in the agricultural and NAMA negotiations, and significant and balanced progress would have to be made on these commitments in order to ensure the integrity of the multilateral trading system.

165. Regarding services, the current text was an improvement over the original text. In this connection, his delegation considered that before setting a deadline for improved offers, priority should first be given to the establishment of clear rules on safeguards, subsidies, national regulations and government procurement. This would enable the specific commitments agreed by Members to have a clear and substantive commercial value based on knowledge of the precise definition of the rules of the game. Concerning Mode 4, taking into account the provisions of GATS Article IV, Ecuador considered that the Chairman's text should explicitly state that this was a mode of service supply of particular interest to developing countries, and not merely take note of that interest. It would also be necessary to establish mechanisms for compliance with paragraph 15 of the Guidelines and Procedures for the Negotiations (S/L/93), which was also mentioned in the Doha Declaration. Regarding the reference in the text to TRIPS and Public Health, his delegation was unaware of any consultations or negotiations having been carried out for the incorporation of a text of the type indicated by the square brackets inserted for that purpose. To his delegation's knowledge, there had been no discussions designed to resolve the problem raised in paragraph 6 of the Doha Declaration on public health. The proposed compromise of 16 December 2002 had not received the necessary support, although it could possibly be improved. Nevertheless, any new element introduced on this topic would need to be discussed in the same way as had been done for other topics. His delegation wished to be included in such consultations and possible negotiations. Solutions to health problems affecting vast groups of poor people were of crucial importance to countries like Ecuador.

166. Regarding non-violation complaints under the TRIPS Agreement, the relevant paragraph in the draft text did not come close to meeting Ecuador's wishes. As other countries, particularly in the Andean area, had shown, these questions were clearly not applicable to the TRIPS Agreement. Ecuador had demonstrated great flexibility and noted that there had been a gradual reduction in the

levels of ambition. However, Ecuador had joined the consensus on this issue on the understanding that recommendations were to be made in the context of the Ministerial Conference. Regarding trade and environment, his delegation had participated constructively in these negotiations with the aim of fulfilling the objectives of paragraph 31 of the Doha Declaration. The criteria and scope of participation in Multilateral Environmental Agreements (MEAs) and information exchange should be established in the negotiations to be conducted by the Committee on Trade and Environment, as should the definition of the categories of environmental goods and services, before these negotiations were resumed. Regarding paragraphs 32 and 33 of the Doha Declaration, Ecuador considered it necessary to continue the balanced treatment of these important topics, without prejudice to their relevance to other WTO Committees. Regarding S&D treatment, a more forceful and reinvigorated approach to these provisions would greatly benefit the developing countries. It was necessary to establish clearly the importance of this subject and the need to give new impetus to the work, to reinforce the tasks carried out by the Committee on Trade and Development, and to set a deadline facilitating the speedy achievement of definitive results conducive to development, consistent with the aims of this Round of negotiations.

167. Regarding implementation-related issues, in terms of extent and form, the necessary progress had not been made, given all the hopes placed in these matters before and during the Doha Conference. Unfortunately, this subject had been hijacked by the obstinate search for a convenient single topic, which was of rather little interest to developing countries, as in the case of the extension of GIs to products other than wines and spirits – a hobby horse of European countries. Other subjects of vital interest to developing countries should not be held hostage by this approach. Therefore, Ministers should clearly stress the need for progress on this matter in order to meet the real and genuine aspirations of developing countries. Regarding the Singapore issues, Ecuador noted that the Chairman had prepared two texts reflecting the current conflicting positions on each of these issues. On investment, Ecuador had maintained a flexible position with regard to the progress of the negotiations, but this – like the issues of competition, government procurement and trade facilitation – would be subject to the progress made on matters of interest to the developing countries, particularly agriculture and NAMA, as well as S&D treatment and TRIPS and Public Health. His delegation also considered that each of the Singapore issues should be dealt with separately on its own merits, and not as a single negotiating package. Regarding Annexes D through G attached to the revised draft Ministerial text, Ecuador was surprised that these had been included despite the lack of agreement on modalities, as in the case of investment, or without prior discussion by Members of the texts concerned relating to competition, government procurement and trade facilitation. In the circumstances, his delegation proposed that these discussions be suspended at Cancún, subject to a prior analysis of the impact on developing countries of the possible adoption of such multilateral agreements. While it was true that the fundamental objective of the current Round of negotiations was the further reform and liberalization of global trade policies, it was also true that one fundamental principle, among others, as ratified by all Members, was the recognition that the requirements and interests of developing countries were the main focus of the negotiations and should therefore be safeguarded during the conduct of the negotiations. Ecuador would continue to support all efforts and initiatives to ensure that the Doha work programme met the objectives outlined by Ministers, and that the Cancún Ministerial Conference yielded the expected results.

168. The representative of Morocco, on behalf of the African Group, said that the revised draft text unfortunately was not the kind of text these Members had hoped to be able to send to Ministers. However, the situation being what it was, and in view of the enormous differences between delegations on key issues, the text could not go beyond the necessary threshold that would facilitate work for Ministers in Cancún. While some comments had been reflected faithfully in the draft text, others had been left aside. The African Group nevertheless recognized the difficulty of the Chairman's job and the Herculean mission he had had to accomplish. However, the revised draft text at first sight did seem to have major imbalances regarding the ambitions in various areas. In NAMA, the level of ambition was much higher than in agriculture. For the African Group, it was fundamental to reflect the Doha mandate, and in the light of the difficulty in responding to the requests of some

delegations who wanted to delete the Annexes and keep only the main part of the draft text, the African Group proposed that the draft text be improved upon by including other annexes, in order to better reflect the spirit of the work and the intensive consultations that had been going on for several weeks.

169. Regarding specific comments on the draft text, on agriculture he had already, in the HODs meeting the previous day, expressed this Group's general views on Annex A where elements of S&D treatment were included. These were positive elements and needed to be followed up and considered further by introducing other components, such as erosion of preferences. These matters had been dealt with appropriately in the Revised First Draft of Modalities, and the African Group would have liked the revised draft text to have used a different basis for work than just the joint EC/US text, on which he had given the Group's comments the previous week. Paragraph 25 of the draft text regarding the proposal by Benin, Chad, Burkina Faso and Mali on cotton should refer to the draft decision submitted to the Secretariat. This draft decision took into account substantial elements to solve the problem faced by cotton producing LDCs affected by cotton subsidies. This text should be annexed to the draft Ministerial text, as this was the best way to faithfully reflect the spirit of the debate and the support many Members had given to this proposal. On NAMA, the text had a higher level of ambition than the agriculture text, but the African Group was still concerned that its views on certain areas which were important for the African continent were not reflected. This concerned mainly the tariff reduction formula and the sectoral approach, as well as the matter of preferences. The Group did not see a reflection of the debates held in these areas. On S&D treatment – and while thanking the Chairman sincerely for his efforts and commitment to facilitating consensus on most of the proposals – the Group noted that paragraph 11 of the draft text did not take into account the views of many developing countries, and particularly of the African group, regarding the timeliness of taking a decision in Cancún for an early harvest. On TRIPS and Public Health, the African group had earlier that day met with the Chairman of the TRIPS Council and the United States, who had communicated to the Group information which was very promising regarding an imminent consensus. The African Group therefore hoped that the long-awaited solution would materialize before the end of the week and thus open the door to the unblocking of other areas in Cancún. The African Group reaffirmed its confidence in the Chairman and would support his untiring efforts to ensure the success of the draft Ministerial text.

170. The representative of Botswana, on behalf of the ACP Group, acknowledged the particular difficulties the Chairman had faced in view of the disparate positions of delegations on many of the subjects being negotiated. At the outset, he wished to draw attention to the ACP Declaration on the Fifth Ministerial Conference of the WTO, which had been circulated in document WT/MIN(03)/4. During the Group's Ministerial meeting held in Brussels on 31 July and 1 August 2003, the ACP Ministers of Trade had adopted this Declaration, which detailed the ACP's position on the various issues to be tabled at Cancún. The Declaration highlighted priority issues for the ACP Group, which included among others, agriculture, NAMA, trade preferences, implementation issues, S&D treatment, TRIPS and Public Health, and regional trade agreements. On substantive issues, ACP delegations had reviewed the revised draft Ministerial text and on the whole found it an improvement over the initial draft text. The text and annexes concerning agriculture and NAMA had undergone significant modification, especially regarding the inclusion of Annexes A and B. The lack of certainty in those provisions was a cause for concern for ACP delegations. It went without saying that agriculture was an area of fundamental importance to the ACP Members, who would like to see provisions in the draft modalities that addressed such issues as preferences, the Special Safeguard Mechanism, Special Products, and the special needs of Net Food Importing Developing Countries, among other things. The final text on NAMA should allow developing countries to choose their own rate and extent of future import liberalization, so as to minimize the adverse impact on local industries.

171. Regarding the Singapore issues, he first wished to draw attention to document WT/GC/W/513 entitled "Proposals on the Singapore Issues for Inclusion in the Draft Text for Cancún", circulated on

behalf of some members of the ACP Group as well as a number of other like-minded countries. The substance of the text was a merger of the positions expressed in the ACP, Mauritius and Dhaka Declarations. The second option reflected in brackets in the draft Ministerial text contained some of the elements outlined in the aforementioned document and was therefore favourable to the ACP Group. Additionally, this second option seemed to have the support of an overwhelming number of delegations. Against this backdrop, the ACP countries were concerned about the inclusion of Annexes D through G in the revised draft text. These Annexes had not been the subject of extensive discussion during the past two weeks of negotiations. Their inclusion created an imbalance in the draft text both optically and substantively. The ACP Group welcomed the inclusion of the sections on the Sectoral Initiative on Cotton and Commodity Issues, as these were subjects that had an impact in particular on the members of the ACP Group. The revised text on LDCs was a substantial improvement over the first draft. However, this text could be further refined, as evidenced by the fact that some of the text was still in square brackets. The ACP Group was of the view that the revision of the sections on small economies, technical cooperation, implementation and S&D treatment on the whole represented positive steps in these areas.

172. Being amongst the worst affected by the HIV/AIDS, tuberculosis, malaria and other pandemics, members of the ACP Group had a strong interest in the resolution of the TRIPS and Public Health issue. Effective implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health would enable ACP countries to have access to generic drugs, and would thereby save many lives currently being lost on a daily basis. The Group was encouraged to learn that agreement on this issue was foreseen possibly before Cancún. These countries were waiting with eager anticipation and would offer whatever support was necessary to the Chairman of the TRIPS Council. Finally, Cancún was approaching, and it was vital that Members address the issue of the decision-making process for that Ministerial Conference. In this context, the ACP Group reiterated the importance of having a transparent, democratic and all-inclusive decision-making process at the Fifth Ministerial Conference. Of paramount importance to this Group were the procedures facilitating the carrying out of work at Cancún. It was imperative that in Cancún, the procedures for the elaboration, amendment and adoption of the draft Ministerial text were transparent and inclusive. The ACP Group sought to improve the process of decision-making during the Ministerial Conference. In that vein it proposed the adoption of procedural rules in order to enhance transparency and inclusiveness in the decision-making process. These rules should ensure that all Members decided on the appointment of the Chairpersons of Working Groups formed at the Ministerial Conference, that the draft text forming the basis of negotiations reflected the proposals of all Members or groups of Members, that all Members were informed of consultations and were entitled to participate in them, and that all issues of importance – including consideration of any proposal to extend the Conference – were put before Members as a whole for a decision. The ACP Group hoped that the WTO membership would favourably consider these proposals. Given the seriousness of the issues that would constitute the agenda of the Ministerial Conference, procedural considerations were as essential as those on substantive matters. The ACP Group stood ready to participate actively and constructively at the upcoming Ministerial Conference so as to ensure a successful outcome.

173. The representative of Hungary said that as his delegation had commented quite extensively on the draft text the previous day, he would deal with just two general issues. The first was the negotiating process and Members' present situation, of which the case of the agriculture negotiations was illustrative. As all were aware, up to early August there had been blockage on this key issue and it had seemed that this would undermine any progress towards a successful outcome at Cancún. The EC/US joint proposal clearly represented a major breakthrough. It showed the flexibility of the major players and the giving up of long held positions. Thus, a chance had been provided to give impetus to the whole negotiating process and to move ahead in this area, as in others. In response, however, there had been the paper from the G-20, which those countries had said was a good compromise. The question was, compromise between what? Hungary saw this paper as representing a rather extreme position and as stepping back towards bipolar thinking. Due to the reasons stated the previous day, Hungary thought this was even a step backwards from the rather ambitious positions of the Cairns

Group, by creating obligations just for developed countries and proposing almost no obligations for developing countries. It seemed that one step forward by some important participants was reciprocated by three steps backwards by another group. While this had not been unexpected, it was nevertheless not a positive phenomenon in the context of the discussions. The agriculture negotiations were just one example of the situation in which Members found themselves. In the run-up to Cancún, his delegation had seen more hardening of positions instead of increasing flexibility. The negotiating process in Geneva could not fulfil its task, as Members were at the end of the road, and matters needed to be considered at a political level.

174. The second issue his delegation wished to address was what this meant for the future and status of the draft Ministerial text. Many different opposing views had been expressed at the present meeting, which were in most cases mutually exclusive. At the HODs meeting the previous day, Hungary, along with other European countries, had also pointed out what it saw as shortcomings in the draft text, while other participants had praised the draft text for exactly the same reasons for which some had criticised it. As his delegation saw it, there had been no change regarding any consensus on this text, and there were only two alternatives. The first had been proposed by a group of participants at the present meeting – that in the absence of consensus, Members give up their efforts in Geneva, report to Ministers that there had been no outcome from the Geneva process, and leave it to Ministers to decide how to come to an agreement. The second alternative was to send the revised draft text as the Chairman's proposal under his responsibility to Cancún, as the result of Members' best efforts. Ministers would then look at the various issues contained in the text and decide how they could come to an agreement among themselves.

175. The representative of Japan asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>19</sup> Japan's basic stance was that in order for the Round to conclude as scheduled, it was imperative to make progress at Cancún. In this sense, the draft Ministerial text was of critical importance. All had to make their utmost effort to transmit to Ministers a document that would serve as a sound basis for constructive discussions among Ministers so as to achieve tangible results. While Japan highly appreciated the tremendous effort behind it, the revised draft text contained room for further improvement. He wished to make some general remarks before going into specifics comments. First, Japan recognized the objective of the Round to be expansion of trade to develop the world economy, especially the economies of developing countries. From this point of view, his delegation saw certain problems on the road to reaching agreement after Cancún on modalities that would achieve a high level of ambition in market access for developing countries, both in agriculture and NAMA. While appropriate S&D treatment was of course necessary, excessive employment of S&D treatment would not contribute to, but rather compromise, the long-term objective of development, by having a negative effect on strengthening the competitiveness of developing countries' economies and expansion of trade among their economies, which would benefit developing-country Members most. On the other hand, Japan placed much importance on the need to allow for S&D treatment in a way that would assist developing-country Members to be further integrated into multilateral trading system, and that would promote development while taking into account different stages of development of respective developing-country Members. Japan also attached importance to technical assistance and capacity building. From this perspective, it had been actively engaged in the work related to S&D treatment aimed at carrying out the Doha mandate. Japan welcomed the fact that certain progress had been achieved in this area, thanks to the efforts of the Chairman as well as the Chairman of the Committee on Trade and Development in Special Session. In order to make further progress in this process, it was extremely important that at Cancún, Members reaped the fruit of the work undertaken so far. In this context, Japan appreciated the revised draft Ministerial text, and had dropped its reservation on the item on page 5 of Annex C in that text.

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<sup>19</sup> See Annex IV.

176. Regarding the Singapore issues, Japan placed considerable importance on maintaining the relevance of the WTO vis-à-vis the new challenges posed by current world trade. In this respect, Japan recognized the Singapore issues to be an important element of the overall package of the Round, together with agriculture, NAMA and others. While it was regrettable that consensus was yet to be achieved among Members for launching negotiations in these four areas, Japan would continue to make efforts towards forming a consensus through discussions at the level of Ministers. His delegation was fully aware of the concerns of developing-country Members, such as those related to their limited capacity to respond to new issues or those relating to the perceived effect of new rules limiting the scope of development policies. Japan was willing to address the concerns of developing countries and wanted to launch negotiations on rules in all four areas on a basis acceptable to all. Japan appreciated that the current draft text indicated alternatives for Ministers, as consensus was yet to be formed, thus providing a basis for promoting the discussions at Cancún. In the areas of agriculture and NAMA, especially with regard to the frameworks for establishing modalities contained in the respective annexes, some of the comments Japan had been insisting on had not been reflected. His delegation thus intended to continue its engagement in the discussions, with a view to incorporating its views before the text was sent to Ministers. In order to reach consensus in the General Council to send the text to Ministers, Japan needed to see its views reflected.

177. His delegation wished to comment on the following areas of great importance in a more concrete manner. Regarding paragraph 4 and Annex A relating to agriculture, the objective of the current process should be to establish trade rules on agriculture that enabled the co-existence of various types of agriculture. Accordingly, the structure to be established should be well balanced to properly address the concerns of food importing Members who had to share the main burden of reform in agriculture. It should make possible continuous reform and provide enough flexibility to address non-trade concerns. The balance among the three pillars was also crucial. Unfortunately, the required balance was not there, and too heavy a burden was imposed on importing Members. Any framework package which included such notions as tariff capping and TRQ expansion would not provide a balanced basis. In this regard, it was regrettable that account had not been taken of the views clearly presented in the three papers submitted respectively by Japan, Switzerland joined by five countries, and Norway. Judging from this perspective, Japan's basic view of the draft text on agriculture was that it had serious difficulties. Any package which failed to respond to the points his delegation had made was not acceptable. Regarding some of the basic points necessary to bring better balance to the draft text, paragraph 4 should call for modalities that were comprehensive, covering all rules and disciplines, in order to properly address the interests and concerns of all Members, including non-trade concerns. To reflect this, in addition to an explicit reference to non-trade concerns, paragraph 4 should also be modified by moving the reference to "rules and disciplines" from its latter part to the earlier part of the sentence. On the issue of non-trade concerns, Japan looked forward to the corrigendum mentioned by the Chairman.

178. Since it was vital that non-trade concerns be properly taken into account in the three pillars as provided for in paragraph 13 of the Doha Declaration, Japan was of the view that the reference to non-trade concerns should be made not only in the chapeau of Annex A but also in paragraph 4 of the draft Ministerial text. Accordingly, paragraph 4 should read in part, "We direct the Special Session of the Committee on Agriculture to conclude its work on establishing modalities for further commitments, including rules and disciplines, and with non-trade concerns duly taken account of, with the provisions for special and differential treatment, by [...]" Regarding Annex A on domestic support, in order to facilitate reform, the basic framework of the disciplines should consist of Amber, Green and intermediate boxes. Therefore, the proposed text retaining this basic framework was reasonable. Green Box measures should remain exempt from capping and reduction commitments, in light of the Doha mandate which called for substantial reduction of trade-distorting subsidies. Regarding market access, substantial improvements should be achieved through tariff reduction with a formula whose outcome was equivalent to the Uruguay Round formula. Japan, like other countries, was providing sufficient market access through TRQs. The blended formula should be a pure hybrid of the Uruguay Round and harmonising formulas. The notion of possible expansion of TRQs in the first category was

excessive. Accordingly, the sentence in paragraphs 2.1(i) and 2.6(i), "for these import-sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQs", should be deleted.

179. Japan reiterated that in the area of agriculture, there was no room for accepting the idea of tariff capping, since it negated the basic concept of the tariffication package under the Uruguay Round Agreement and disregarded the tremendous diversity in production conditions among Members. Accordingly, paragraphs 2.2 and 2.7 should be deleted. Special safeguards should remain in place both for developed and developing-country Members in order to facilitate reform. Regarding export competition, while his delegation welcomed the reference to the need to strengthen disciplines on export prohibition and restrictions, this reference should include disciplines on export taxes. Paragraph 3.7 should be amended to clearly address this issue. This was of vital importance for importing Members from the viewpoint of ensuring food security and redressing the imbalance between importing and exporting countries. On S&D treatment provisions, his delegation had earlier expressed its general concern over the way S&D considerations were reflected in the market access provisions of the draft text, not only in the respective Annex but elsewhere as well. While there was a need to address the interests and concerns of developing-country Members through appropriate provision of S&D treatment, this should not be done in such a way as to create a two-tier system within the organisation, which would be detrimental for the future of the multilateral trading system. While his delegation had taken note of India's remarks on this notion, it remained concerned from a systemic point of view. Both developing as well as developed Members needed to undertake reform. As a matter of principle, the same reduction formula should be the common basis for both developed and developing Members.

180. On other issues in Annex A, in paragraph 6 there were some issues set out in the preceding paragraphs which were not consistent with the core elements of the framework, such as "product-specific concerns in domestic support." Second, Japan wished to make clear that negotiating proposals from Members remained on the table, and that the questions and issues referred to in the Chairman's report referred to were not exhaustive. Therefore, paragraph 6 should be amended in part to read, "... and the related question and issues specified in the report of the Chairman of the Committee on Agriculture Special Session to the TNC (TN/AG/10 refers), as well as negotiating proposals from Members, would serve as reference documents for the further work on modalities, ...." His delegation wished to reiterate its position that in the area of the framework on agricultural market access, there should be no tariff capping or TRQ expansion, and that balance in the three pillars as well as between importing and other Members was vital. In this context, Japan reserved the right to seek further modifications of disciplines on domestic support, export competition and S&D provisions, depending on developments on the market access pillar. Japan also wished to point out that the whole negotiation under the DDA should be conducted in a comprehensive manner. In this connection, it was very important to attain an overall balance.

181. On paragraph 5 on NAMA, Ministers in Cancún should give clear guidance on the subsequent work in order to arrive at a formula that would allow Members to attain their ambitions for further market access, as agreed at Doha. Discussions on the formula, as well as on sectoral tariff elimination and harmonization – two core elements of NAMA – had revealed there were still severely diverging opinions among Members. At Cancún, Ministers should iron out these differences and agree on a framework that would allow Members to achieve the ambitious aim set out in the Doha Ministerial Declarations. While the formula had to be more ambitious than non-linear and line-by-line, the sectoral approach should be mandatory in nature. Japan shared the concern of the United States that the current Annex B was weak in those areas. Further, on Annex B, Japan firmly believed that limited flexibility through a less than formula cut for all Members was a necessary tool to achieve maximum overall trade liberalization. This point had been raised at the recent informal meeting held in Montreal at Ministerial level. Members had carefully taken note of the intervention by a major participant at that meeting who had stated that "a limited degree of flexibility should be available to all countries through less than formula on a limited number of tariff lines/value of trade, which were

balanced by greater than formula cuts of an equal magnitude". This remark was an important element to move Japan to advocate a simple, single ambitious formula. Japan strongly hoped that these elements would be reflected in the text Ministers would agree in Cancún.

182. Japan wished to add two further remarks out of a number of its concerns. Regarding binding tariffs on an *ad valorem* basis, Japan urged further careful deliberation because there were a limited number of cases in which it was more appropriate to apply non *ad valorem* duties. Concerning the newly-acceded Members, the commitments these countries had made to accede to the WTO had been carefully negotiated in order to be commensurate with the prevailing MFN tariff levels attained by other Members, through a series of negotiating Rounds. The consideration of tariff reductions of these newly-acceded countries should be limited to factors such as longer implementation periods. Japan wished to reiterate one of its concerns that sustaining a high level of ambition was extremely important, and that to this end a limited degree of flexibility should be accorded all Members on limited tariff lines and trade through the less than formula cuts. Japan fully supported the proposal by Korea in the consultation process the previous week. On services, in order to realize meaningful liberalisation that would benefit all Members, including developing countries, it was necessary for the draft text to set a specific benchmark for initial offers. His delegation urged those Members who had not yet submitted their initial offers to make their utmost efforts to do so before Cancún. As for the quality of offers, improvements should be made in the sectors and modes of supply of interest to all Members. In this regard, and also in regard to Mode 4, which was important to all Members, including developing countries, the bracketed part of paragraph 24 should be modified consistent with the present text of paragraph 6. Concerning the wording on the negotiations on rule-making, the revised draft text was well balanced and reflected positions of all Members impartially, without prejudging the outcome of future negotiations.

183. On modalities for the LDCs, Japan looked forward to the continued consultations, which should result in a simple and encouraging message that would not prejudice the outcome of the negotiations on specific commitments and rules. On Trade, Debt and Finance and on Trade and Transfer of Technology in paragraphs 18 and 19, Japan could go along with the revised draft text, provided that the last sentences in both paragraphs did not *a priori* mean the continuance of the two respective Working Groups. On the question of commodities, although Japan understood the concerns of many developing countries, due to the complexities of this issue, Japan's view was that it needed to be discussed at the level of the General Council and other relevant bodies before being raised at the Ministerial level. On the paragraph on accessions, Japan welcomed the fact that both Cambodia and Nepal were mentioned as the first two LDCs to complete the accession process under Article 12. Japan supported this paragraph wholeheartedly.

184. His delegation had made the above comments in order to contribute to arriving at a result in Geneva that would enable Ministers in Cancún to more effectively deal with the enormous task before them. His delegation was prepared to work hard with the Chairman, the Director-General and the entire membership in the days and hours which remained. He reiterated his delegation's firm commitment to the Doha Development Agenda, and its will to work closely with the Chairman and other Members to make Cancún a success. With a collective sense of four key notions: ambition, balance, flexibility and realism – in alphabetical order – Members could collectively fulfil their immediate task for a success at Cancún.

185. The representative of Bolivia recalled that at the informal HODs meeting the previous day, Bolivia had expressed preliminary reactions to the draft Ministerial text – a text which, as the Chairman himself had pointed out, represented neither partial nor full agreement. Elements of this text had been the subject of innumerable consultations in practically all areas, many of them with Bolivia's direct participation, while his delegation had been kept periodically informed of other consultations by the Chairman – a point Bolivia wished to emphasize and gratefully acknowledge, given the transparency and inclusiveness which should prevail in this process. The revised draft text had been received under the same conditions, and had undergone further overall development and



included a greater number of topics. However, an assessment of the overall content of the revised draft text revealed that there was still no balance in the proposed guidelines for each of the topics. The development dimension, which Ministers in Doha had instructed Members to safeguard, was not being taken into account, and in some cases the mandate clearly established at Doha was being reinterpreted, with the risk of initiating a process of questioning which jeopardised the expectations of the developing countries on whose behalf the Round had been launched. With these remarks in mind, his delegation wished to express some concerns regarding the points covered in the draft text, or those not clearly reflected, which Bolivia considered important to be included in the final text.

186. Regarding the framework document on agriculture – the ambit of which in general represented a lower level of ambition than that mandated at Doha – as Bolivia had stated, together with 19 other countries, substantial reductions in domestic support could not be envisaged without the elimination of trade-distorting measures. Bolivia also considered it necessary to establish disciplines on measures exempt from the reduction commitment. In order to substantially improve market access for agricultural production and to convey a clear message reflecting the tireless efforts of many governments, the framework document should keep to language that did not imply backtracking on existing commitments, and thus should expressly include the provision contained in the preamble to the Agreement on Agriculture concerning the need for developed countries to provide for the fullest liberalization for trade in tropical agricultural products and for products serving to diversify production away from the growing of illicit narcotic crops. Bearing in mind the existing discrepancies among Members, the use of emergency mechanisms such as special safeguards should be available only to developing countries. The text "[r]eductions of, with a view to phasing out, all forms of export subsidies", constituted a mandate that should govern the disciplines to be adopted in the future. Concerning other matters included in Annex A, Bolivia considered that Ministers should issue clear guidelines to the negotiators, excluding matters with a period of application for which the scheduled and agreed deadline was the end of 2003, as well as topics relating to other areas of negotiation. With regard to the second framework document on NAMA, his delegation noted that this was more fully elaborated and hence reflected a higher level of ambition than in the area of agriculture. Nevertheless, Bolivia still had difficulty supporting the proposed wording on the sectoral tariff component, a negotiating topic on which, in Bolivia's view, it would be difficult to make progress.

187. Regarding the provisions on S&D treatment in Annex C, Bolivia considered that they represented a step forward, which would constitute an important part of the Ministerial message from Cancún. At the same time, his delegation believed that this principle should be included in each of the modalities to be adopted, and that it would be the developing countries which ensured it was applied. With regard to the four Singapore issues, his delegation – as had already been mentioned in other WTO subsidiary bodies – did not object to the mandates contained in the Doha Declaration, which effectively called for the elaboration of modalities to be adopted by explicit consensus. For various reasons, this situation was not part of the present stage of proceedings. Consequently, the decisions to be taken by Ministers in Cancún on these issues had to take these factors into account, and Members had to be cautious in their recommendations and submit alternatives consistent with the balance of the negotiations, in order for the final text to be approved by all Members.

188. The representative of Australia asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>20</sup> His delegation wished to make three additional points on agriculture. First, with respect to the proposed framework, Australia accepted forwarding this, but wished to state clearly that if this was the state of the agricultural modalities at the end of Cancún or towards the end of Cancún, it would not be an acceptable basis to proceed. Second, one element that had been highlighted in the past few days was export subsidies, and not just in the context of agriculture, but more generally. His delegation expected that, building on the Chairman's proposed modalities, Cancún would produce a firm date for the elimination of

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<sup>20</sup> See Annex IV.

export subsidies, so that Members could put this issue to rest. He said that in addition – and largely in response to Japan's comments – his delegation was not surprised that Japan was concerned about the issue of TRQ's in the context of the agriculture modalities. From work Australia had done, including running some numbers overnight, it was increasingly clear that without substantial TRQ expansion, any blended tariff formula could far too easily be managed in such a way as to achieve minimal market access outcomes. For Australia, and for many other countries, any blended approach to market access had to clearly and substantially provide for the expansion of tariff-free quotas.

189. The representative of Kenya asked that her delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>21</sup> The preparatory process for the Fifth Ministerial Conference that the Chairman and the Director-General had initiated earlier in 2003 had been transparent, and her delegation wished to commend them both for that. Kenya also wished to note with appreciation the manner in which the Chairman had been reporting to Members on the progress in his consultations. This had been done in a very timely and factual manner. While the difficulties the Chairman had faced had been immense, Kenya believed that the end product could have better reflected the state of play, and thus took comfort in the Chairman's statement that the draft text did not purport to be agreed in any part at the present stage and was without prejudice to any Member's position on any issue. Therefore, her delegation saw the draft text as a work in progress. Kenya wished to see the divergent views that had been expressed so often clearly and unequivocally reflected, in order to enable Ministers to take the decisions they had to, on an informed basis – a basis that tallied with their instructions to representatives in Geneva.

190. Given that Members had placed the interests and needs of developing and least-developed countries at the heart of the WTO work programme at Doha, and recognizing the importance of agriculture, her delegation urged the Chairman to consider incorporating in the draft text the proposals Kenya had submitted on S&D treatment in agriculture, which her delegation believed would ensure adequate flexibility to developing countries to participate flexibly in the reform programme. This included, and Kenya had said this several times, exempting a category of countries from undertaking further reduction commitments because of their particular economic situation. Kenya's paper and a paper that would be submitted by the Informal Group of Developing Countries would point in this direction and would inject some balance into the text on agriculture. Kenya noted that in paragraph 6 of Annex A, the report of the Chairman of the Committee on Agriculture in Special Session would serve as one of the reference documents in the future negotiations. However, Kenya would prefer that, in addition to the first draft revised modalities, the text also include the overview paper as a reference document.

191. Her delegation noted that on NAMA, Ministers were expected to adopt the framework for modalities for negotiations, while in the case of agriculture – and this point had been made by others – Ministers would only be expected to adopt the framework set out in Annex A. Kenya proposed that the style of the language used in the text on agriculture also apply to the NAMA negotiations. While no agreement had been reached on the entire Annex B, paragraphs 3 and 6 continued to pose problems for her delegation, but of particular importance was paragraph 5, for which Kenya had repeatedly requested a redrafting of the first sentence and a reformulation of the second sentence to reflect the development needs of developing countries. The way the paragraph was currently worded would not provide the flexibility required to induce industrialization and to meet the development challenges of the Doha Development Agenda. On services, her delegation had already expressed its views on Articles IV and XIX of the GATS, and would not repeat them. On Rules, Kenya wished to see a clear detailed elaboration of the development aspects of regional trading agreements. While Kenya noted some progress had been made in meeting the Doha mandate on S&D treatment and thanked the Chairman for his efforts in this area, it was still concerned about the value of some of the language in the relevant Annex. For example, regarding the proposal on the Enabling Clause, "The General Council confirms that the terms and conditions of the Enabling Clause shall apply when

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<sup>21</sup> See Annex IV.

action is taken by Members under the provisions of this Clause." This did not add anything to the language already contained in the GATT 1994, and was one of the proposals Kenya wished to see deleted from any text forwarded to Ministers. On the same issue, Kenya wished to see a deadline inserted, within which this work would be concluded. The instructions from Ministers were clear in the Doha Declaration, and Members were supposed to have concluded this work. The deadlines had been allowed to slip, but this should not deter Members from agreeing on a different deadline.

192. On implementation-related issues, there was a need to state clearly what had been achieved. It would be very difficult to convince Ministers that Members had accomplished what they had instructed, without showing them the results. There was also a need to indicate the balance of work remaining and the time required to complete the work. Regarding the Singapore issues, her delegation welcomed the inclusion of the two options in paragraphs 13-16. Kenya had all along associated itself with Option 2 on all four subjects, which called for further clarification to be undertaken, taking into consideration the work done so far in the relevant Working Groups. Her delegation had been disappointed that the proposed modalities – which had hardly been discussed – had been included in the draft text as Annexes, thus creating the impression that they had a certain privileged status. Both options should be accorded equal treatment in the draft text. For this purpose, Kenya, together with a number of developing countries, had prepared elements for clarification which her delegation hoped would inject balance into the paragraphs on the Singapore issues, and invited the Chairman to consider their inclusion in the draft text. Regarding the communication from Botswana on behalf of the ACP Group of countries and others in document WT/GC/W/513, the footnote should either be deleted or include all ACP countries, as 55 ACP countries were WTO Members. Kenya welcomed the inclusion of the paragraphs on commodity issues and on cotton, as well as the suggestion that these issues be discussed in the Committee on Trade and Development. However, her delegation would hasten to add that there were certain components of the problem that could be dealt with appropriately only in other WTO subsidiary bodies. These two issues were of critical importance to LDCs and developing countries. Kenya would have liked to see a deadline within which some of the work would be accomplished, but would not insist on this. Her delegation hoped that its contributions would help the Chairman to come up with a text that was balanced, development-oriented and acceptable to the entire membership. Kenya looked forward to a successful Ministerial Conference and remained ready to continue to work in a constructive manner.

193. The representative of Zambia said his delegation strongly supported the statement by Bangladesh on behalf of the LDCs, and also the statement by Botswana on behalf of the ACP Group. If the Doha Declaration was about development, this meant the interests of developing countries, especially the LDCs, had a special place and had to be at the centre of all Members' deliberations and actions, in order to bring the desired development to such countries as soon as possible. It was in this light that his delegation welcomed the Director-General's report in document WT/MIN(03)/1. As had been clearly stated by many Members and emphasized in the informal HODs meeting the previous day, the revised draft Ministerial text fell far short of expectations. However, the text did have some positive sections. Regarding paragraph 23 under the heading "Technical Cooperation", his delegation proposed two amendments. First, in accordance with the proposal by South Africa the previous day, his delegation was suggesting adding on the twelfth line from the top, the following text after the sentence ending with the word "Programme": "and agree to strengthen this relationship financially, particularly with ITC and UNCTAD". Second, at the end of the paragraph, Zambia was suggesting adding a new sentence as follows: "We also recognize the strong and worthy efforts of the International Trade Centre to involve the business communities of developing and transitional economics in the context of the DDA and encourage the continuation of these efforts as well." On the Singapore issues, Zambia's position had been well articulated by India, Kenya, the Philippines, Botswana and Malaysia, and he had nothing to add. There were many other important issues the WTO could concentrate on before taking up the Singapore issues, such as implementing existing WTO commitments, abolishing export subsidies in agriculture, reducing trade barriers and ensuring fair access to markets, recognizing the overriding right to health and food security, and finding a resolution to the debt crisis that was ravaging the economies of many developing countries. Thus,

there was much the WTO could be involved in before the question of Singapore Issues was dealt with, after clarification and negotiations, and following explicit consensus.

194. The representative of Senegal said that on the issue of TRIPS and Public Health, which was very sensitive both for the WTO and for the entire international community, his delegation welcomed the efforts currently under way to reach a satisfactory solution on the basis of the text of 16 December 2002. Senegal reaffirmed its strong conviction that the integrity of this text had to be preserved at all costs. Regarding negotiations on agriculture, while Senegal welcomed the proposal whereby the LDCs would not assume reduction commitments, the draft text had shortcomings that should be remedied. First, the text had taken a step backwards on the modalities to be established, as Members were now speaking of a "framework" for Cancún. This framework remained somewhat succinct and imprecise on a number of issues that were sensitive for Senegal. Such an approach would inevitably entail intensive work after Cancún to fill in the gaps, and this was Senegal's concern with respect to the erosion of preferential margins. Unless Members considered this question to be settled by the blended tariff reduction formula, and this had not yet been established, this remained an important pending issue on which Ministers had to be asked to provide guidance. His delegation was concerned by the same shortcomings with respect to duty-free and quota-free market access. Senegal continued to believe that one way to improve market access for LDCs was for the developed countries to grant LDCs duty-free and quota-free access on a mandatory basis. Regarding export subsidies, Senegal was among those Members which defended their elimination in all forms and with respect to all products concerned. The attempted nuance in the draft text with respect to products of particular interest to the developing countries would merely add to the complexity of this issue when it came to selecting the products concerned, not to mention the particularly harmful distorting effects of these export subsidies.

195. In the area of NAMA as well, Members were faced with a framework for modalities in the absence of actual modalities, although his delegation acknowledged that considerable work had been done in this area. The proposed framework did not satisfy Senegal with respect to non-reciprocal preference erosion. Senegal, which was not a demandeur in these negotiations, could not understand that this important issue was being neglected and pushed aside in the name of liberalization. Many LDCs and developing countries had repeatedly stressed their misgivings at the prospect of negotiations being conducted in this area without taking this issue into consideration. In fact, the mandate clearly stated that these negotiations "shall take fully into account the special needs and interests of developing and least-developed country participants". In Senegal's view, it would be appropriate, even at the stage of this framework for modalities, to specify the manner in which preference erosion would be addressed, namely, the establishment of appropriate mechanisms to deal with the negative consequences for the beneficiaries of such preferences that could result from liberalization. On services, Senegal attached great importance to establishing modalities for special treatment of LDCs in these negotiations. Rather than simply renewing, in this area, the non-operational and ineffective S&D provisions LDCs were accustomed to, Members should be ensuring true market access for LDCs, flexibility regarding their commitments and, above all, effective technical assistance to enable them to take advantage of the opportunities offered in the rapidly expanding area of trade in services. An alternative course would not benefit the LDCs and would undermine their capacity to participate effectively in the negotiations on services. In this connection, it was important that before Cancún, the ongoing work of the Council for Trade in Services resulted in an agreement on the modalities for special treatment of LDCs under the GATS that was meaningful and reflected genuine progress.

196. Regarding the negotiations on rules, Senegal appreciated Members' willingness to take account of developmental aspects in the effort to clarify and improve the disciplines applicable to the regional trade agreements of developing countries and LDCs. His delegation hoped that the regional and inter-regional integration process under way in several developing countries and LDCs would find its place in the WTO multilateral rules as a complementary element that could only reinforce the multilateral trading system. On S&D treatment, in the light of the objective of improving these

provisions, his delegation doubted whether the draft decisions in Annex C that Members were being asked to adopt would truly help make S&D treatment provisions more precise, effective and operational. Even if they did, it was difficult to speak of progress in this area, given all of the other issues that did not appear in Annex C. Rather, Ministers should be asked to note the lack of substantial progress and to urge Members to complete this work as quickly as possible. The same was true for the implementation-related issues and concerns, where the negotiations had not thus far produced satisfactory overall results. On the Singapore issues, Senegal favoured the second option proposed for the four issues, i.e. to continue the clarification work. For several reasons, *inter alia* the lack of true progress in addressing development issues and the excessive workload involved after Cancún, his delegation did not think it wise, as matters stood, to consider initiating negotiations on these issues. In this respect, he associated his delegation with the communication by Botswana on behalf of the ACP States and a number of developing countries. Regarding the sectoral initiative on cotton, Senegal reiterated its full support for this initiative and believed that an appropriate procedure for finding a satisfactory solution to this problem would be to provide Ministers, in an annex, with a copy of the modalities proposed by the co-sponsors of the initiative. This approach would enable the initiative to be dealt with promptly in Cancún, bearing in mind the urgency of settling this issue. Priority had to be given to this matter in Cancún in order to avoid subsequent drawn-out discussions to determine the modalities for dealing with it. His delegation encouraged the Chairman in the pursuit of the work at hand and assured him of its full cooperation towards success in Cancún.

197. The representative of Venezuela said his delegation wished to endorse the criteria, expressly mentioned by the Chairman and the Director-General, of respecting the ambition of the Doha mandates, respecting the development dimension and seeking overall balance. It was useful to look at the global social and economic context that would be the backdrop to the Cancún Ministerial Conference and which posed certain challenges to the commitments undertaken by Members at Doha. According to the Food and Agricultural Organization, 826 million human beings suffered from hunger and other forms of malnutrition. Agriculture had become a dominant variable in the trading process, which had to, of necessity, ensure food security. Unemployment in the rural sector stood at three million. According to the International Organization for Migration, there were 175 million "active" migrants, who suffered discriminatory treatment on the labour market and whose remittances to their countries of origin amounted to no more than 50 per cent of what the United Nations assigned to developing countries. Meanwhile, the world economy had registered slow average growth and had been marked by uncertainty, growing demands for more flexibility on the part of developing countries and commitment to comply with the Doha mandates, while average growth in trade had gone from 6.7 per cent in the last decade to a scant 2.5 per cent in 2002 with little prospect of improvement in 2003.

198. Mindful of this context and the obvious difficulties encountered by Members in trying to reach consensus on the adoption of balanced modalities for trade, Venezuela wished to make the following observations. Regarding the nature of the draft Ministerial text, this text was not so much an operational text, as it had been termed, as a document reaffirming the Doha mandates, which took up the first 11 paragraphs: liberalization of trade policies to avoid a global economic slow-down; the role of international trade in the promotion of economic development and the alleviation of poverty; increased opportunities and welfare gains for the peoples of Member countries; growth of world trade commensurate with the economic needs of developing countries; enhanced market access; balanced rules; technical assistance and capacity-building programmes; coherence with the Bretton Woods institutions in global economic policy-making; commitment to sustainable development through an open and non-discriminatory multilateral trading system allowing national environmental assessments of trade policies on a voluntary basis with a view to the protection of human, animal and plant life; and commitment to the WTO as the unique multilateral forum for global trade rule-making, and the collective commitment to internal transparency and the effective participation of its Members. Accordingly, Cancún had to be a forum for reaffirming commitments, the scope and workability of which had been discussed in formal plenary meetings, country group consultations, working sessions on specific subjects, and regional and multilateral consultations which had led to an overall, but as yet

incomplete, enrichment that Members had to allow to mature before embarking on balanced negotiations with sights set on development.

199. As to the nature of the annexes, these came over as operational texts which could be useful as reference documents in developing modalities or negotiating mechanisms through multilateral workshops to analyse trade categories and concepts as yet not fully understood, to which could be added all the other proposals by countries or groups of countries designed to seek out common ground in the diversity inherent in the WTO membership. It would be advisable in this connection to delete from paragraphs 4 and 5 of the draft text the words "we adopt" and to replace them with "we present", since – quite apart from the fact that there was no consensus on the matter – a significant number of countries felt unable to be held to adopting these annexes. In the paragraph on S&D treatment, "recall" should be replaced by "reiterate" and the subject treated as a cross-cutting issue of trade negotiations in the WTO, in keeping with the Doha mandate. On TRIPS and Public Health, access to a health system that was equitable for all was perhaps the greatest challenge of modern times. No state could have its role as guarantor of public health affected by future disciplines or commitments which might compromise its sovereignty in this matter. The issue of patents had to be dealt with in depth until balanced modalities were found that complied with the concepts of intellectual property protection and resolved the matter of access to these essential inputs by large groups of the population. Excessive restriction arising from protectionist practices might ultimately eliminate what all sought so earnestly – greater market access based on fairness and equity.

200. In Venezuela, health was protected by the Constitution. Thus, this issue had to be treated with the utmost openness and inclusion. Accordingly, his delegation reiterated its wish to be informed of any new texts submitted by developing countries, and whether Members were continuing to take as a basis the document of 16 December which, in its view, could still be improved, or if new options had been put forward. Regarding the Singapore issues, in paragraphs 13-16 of the draft text, his delegation suggested eliminating the dualism, which was a reflection of the differing views on these issues which precluded meeting the requirement of explicit consensus set forth in paragraphs 20, 23, 26 and 27 of the Doha Declaration. It would be appropriate to include a paragraph stating expressly that there had to be explicit consensus on modalities in respect of these issues, that these issues had to be treated individually according to their merits, and that there was need for a more rigorous analytical process that lent greater clarity to the trade concepts that came into the negotiating process. There was a need to reaffirm the commitments agreed in Doha, and to analyse the annexes, enriching them with the proposals made by countries or groups of countries in regional meetings and in multilateral analysis workshops designed to produce trade modalities in the disciplines that warranted them. Members should maintain the analytical and specific discussion on modalities for the Singapore issues that were already in process, with a view to achieving explicit consensus that would enable Members to start negotiations. Account should be taken of the food security commitment throughout the negotiations on agriculture. Intellectual property should be made an active component of development. S&D treatment, technical cooperation and capacity building should be treated as cross-cutting issues of the WTO negotiations, and this approach had to apply to the disciplines, geographical areas and trade requirements dictated by the specific development needs of each country. Venezuela stood ready to take an active part in producing a text that was understandable, simple and easily digested by Ministers, while maintaining the ambitions agreed jointly and pursuing attainment of these objectives by 2005.

201. The representative of the United States asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>22</sup> His delegation had indicated that there were a number of troublesome elements in the current draft text as the United States saw it. Further review had confirmed this assessment, despite the best efforts of the Chairman and his team. The United States was disappointed that there had not been further convergence on the main issues Ministers would need to address at Cancún. Like others, his delegation was disappointed

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<sup>22</sup> See Annex IV.

that some of its strongly held positions had not found their way into the text, as proposed. At Doha, the challenge Ministers had given Members was to ensure that trade liberalization made a significant and central contribution to economic growth, poverty reduction and development. The challenge Members were now giving to Ministers was to provide the guidance necessary to meet their original expectations. His delegation's assessment was that, taken cumulatively, the results to date in the draft text did not meet the original mandate from Doha. However, Cancún was still ahead. The United States had been troubled by some comments made the previous day in the course of the discussion. Members had a shared responsibility to ensure that they succeeded. This meant all had to contribute, and the United States understood that some had to contribute more than others. However, the days of a great North/South divide in the organization were behind Members. Alliances were now forged based on interests rather than geography. When Members arrived at Cancún, this sense of shared responsibility would have to be more evident than had been the case thus far.

202. Regarding the draft text itself, at the HODS meeting the previous day his delegation had focused on agriculture, NAMA, services, S&D-related issues, implementation, rules and the Singapore issues. He wished to supplement those comments in order to respond to the discussion at that meeting on the following: agriculture; NAMA; implementation, and specifically GIs; proposals to broaden the DDA mandate to include commodities; the Working Groups on Trade, Debt and Finance and on Technology Transfer; and the subject of coherence. The United States wished to underscore that for it, agriculture was at the heart of the DDA and the key to development. By offering a possible framework intended to help move the process forward, the United States had signalled its readiness to compromise, as well as to take difficult decisions. The United States was committed to an ambitious outcome in the negotiations, and if the right framework was agreed at Cancún, it would enable Members to have the opportunity to negotiate an ambitious outcome. The key at Cancún, beyond the question of agriculture, was to establish frameworks that provided opportunities to negotiate ambitious significant liberalization. Members were not completing the negotiations, but rather setting up the conditions under which successful ambitious negotiations could be completed. On NAMA, many concerns had been expressed in the HODs meeting about the current level of ambition on the text on NAMA as being too high, or too high relative to the agriculture text. There had also been a number of proposals to further curtail this ambition, despite the numerous points of flexibility already provided in the text. The text as currently drafted was low on ambition. This was a major concern for the United States. If Members did not set ambitious goals for themselves, they would be doing nothing to stimulate the global economy or to keep global business committed to the multilateral trading system as an engine of growth. The United States' aim for Cancún was to improve the text to retain the high level of ambition all needed.

203. On S&D treatment, his delegation wished to reiterate a point it had made the previous day. The greatest gains to development would be in what could be achieved in the areas of agriculture, NAMA and services. Members needed to keep this perspective in mind. At the HODs meeting, a few Members had taken exception to the suggestion that Ministers adopt the decisions worked out thus far on S&D. All had worked long and hard to come to those decisions, on the understanding that they were working on a package for adoption by Ministers at Cancún. While there might be outstanding issues that other Members felt were important and wished to be addressed, Members had been told by the sponsors of the proposals that each and every one was a priority. His delegation did not see what purpose would be served by putting off definitive resolution of priority issues. On implementation, at the informal HODs meeting there had been a number of comments on the specific reference to geographical indications (GIs), and whether this issue should be singled out. His delegation joined others in noting that there was no agreement to negotiate on the extension of the coverage of GIs beyond wines and spirits. The United States understood the Chairman's effort as merely maintaining the status quo, by suggesting that the Director-General continue his consultations. Like others, his delegation thought the question had been answered on whether to launch negotiations as part of the DDA. Its preference remained to show that the question of extension had been reviewed, that there had been no consensus, and that Members were finished with this implementation issue. However, the United States recognized that others did not

share this view. In sum, the facts were that Members had worked carefully on all the implementation issues outlined by Ministers, consistent with the mandates given at Doha. Members needed to be careful about raising expectations that a number of issues, for example in rules, would be completed in advance of the negotiations, or suggestions that mandates that had been completed were being re-opened. On rules, the United States was prepared to live with the current text, but as his delegation had noted earlier, should others have additional improvements to make, the United States would as well. This was an area that had been very difficult for the United States, and yet it had worked in good faith with others to move the negotiations forward. Some might say that relative to other areas of the negotiations, this work was too advanced. He was not suggesting any changes to the text, but it did give one pause compared to other areas.

204. On the Singapore issues, his delegation wished to emphasize that in the areas of trade facilitation and transparency in government procurement, the texts did reflect substantial consultation and discussion among Members that addressed specific concerns about potential negotiations. Therefore, the United States saw a qualitative difference between the options that had been provided for negotiations in these areas, as compared to the other areas, and did not believe that they were extreme ends of the spectrum, as had been suggested. His delegation was ready to find the right modalities to permit a launch of negotiations on all the Singapore issues. The United States had some concern with proposals to add an annex of proposed "issues for clarification" on the Singapore issues. Discussion thus far had led his delegation to believe that there was a difference of appreciation among Members on what issues needed to be resolved in the modalities, and which were really part and parcel of any negotiations. On the Working Groups on Trade, Debt and Finance and on Technology Transfer, in consultations on the text suggested by a group of countries, his delegation had pointed out that the existing Doha mandate in paragraphs 36 and 37 had to remain undisturbed. It did not accept that the proposed amendments were mere clarifications of existing mandates. However, the United States was willing to consider the suggestion from this group of countries to include a report from the General Council to the next Session of the Ministerial Conference, which was reflected in the revised draft Ministerial text. On commodities, while the United States appreciated and recognized the concerns of the Members that had raised this issue, it did not believe this paragraph belonged in the Ministerial text. That text should focus exclusively on the specific work set out for Members by Ministers under the DDA. That being said, his delegation could agree to this paragraph being included as it stood, without change. The United States would not support modifying this paragraph to call for work beyond the mandate of the WTO, to change mandates of existing groups or to suggest reviving failed efforts at price controls. On coherence, his delegation thought it was appropriate to have something in the text on this matter, given the adjustment issues that had been raised in the negotiations, particularly in agriculture, NAMA and the various work on S&D in terms of tariff liberalization, as well as the work on technical assistance. However, his delegation believed Members needed to be mindful of the respective roles of the institutions in what they could and could not deliver in terms of assistance, financial or otherwise. His delegation had listened carefully to concerns raised by a few delegations about past experience with some of these institutions, but the fact was that Members could not recreate the function of these institutions within the WTO. Nevertheless, a more activist and combined effort of the Director-General and the Heads of the other institutions could help to be more responsive to the concerns and interests of Members, and the United States would support that.

205. The United States had indicated where it saw major points of contention in the text. His delegation trusted that the Chairman would take its views, and those of others, into account in leading Members forward to Cancún. This might be a lonely job, but it was extremely important if Members were to ensure that the DDA delivered major trade liberalization to foster economic growth and development. The Chairman and the Director General had mentioned the need for all to focus on their collective responsibility to advance the work sufficiently for Ministers to succeed in Cancún. The United States saw that Members' collective responsibility was to work with the Chairman and with all of its colleagues in the organization, using this text as a vehicle to find solutions that worked for all Members and that would propel the organization forward into substantial liberalization that was



essential for the growth of the world economy and the development of Members' individual economies, and the fulfilment of the Doha Development Agenda. With the present meeting, it was clear that Members were at the end of the Geneva process. Members needed to change their focus from their disappointments with the draft text to how to use Cancún to improve the substance of the text and to establish an operating plan. The text had to have mileposts to ensure that Members met their goal of finalizing agreements by 1 January 2005. Members' collective aim had to be to create the needed momentum for the negotiations and to secure guidance in a direction that would achieve the high ambitions Ministers had set out in Doha. The stakes for the WTO, for Members' individual economies and for the global economy could not be higher. If Members were to deliver on the promise of liberalization as a powerful force for economic growth, poverty alleviation and development, they could do no less than make Cancún a success.

206. The representative of Uruguay asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>23</sup>

207. The representative of Brazil asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>24</sup> His delegation wished to offer some further thoughts on the process and substance of the draft text. The Chairman had done what he had had to do, carefully crafting a draft Ministerial text, and Brazil thanked him for that. A single, comprehensive, relatively clean draft text was easier to handle than a collection of reports or a multi-bracketed proposal. Ease of handling, however, was not necessarily the test, especially when one had to decide on difficult options between finding the lowest common denominator and the promotion of meaningful progress. Of course, there remained the theoretical possibility that all brackets in the draft text would be filled in, so as to fulfil the promises of Doha. Perhaps the optimistic interpretation was the right one, and the subsidizing countries did envisage an end date for phasing out all forms of export subsidies within the scale of earthly time. The revised draft Ministerial text did not preclude such a positive outcome. However, it did relegate it to the fringes of the range of possible outcomes, and thus pointed to a watering-down of the Doha mandate. If Ministers were to choose to split the differences over the current draft, or simply fill in the missing dates with two constants, the result would be a new, weaker, less ambitious mandate. It would most certainly not be a development Round.

208. Any Chairman's draft was bound to displease Members. A good Chairman's draft was bound to displease everyone. However, one should not push this argument too far and come to the strange conclusion that widespread criticism was actually praise. Everyone should be able to identify in the text substantive reasons to believe that by remaining engaged in the negotiation – despite his or her level of displeasure – at the end of the day he or she would have something to gain. As his delegation had pointed out the previous day, the current draft text contained, from Brazil's perspective, serious imbalances. For instance, it asked too little of developed countries in agriculture, and too much from developing countries in NAMA. He wished to demonstrate this argument by looking at the opposite assertion – that the draft text asked too much from developed countries in agriculture and too little from developing countries in NAMA. Would the draft text be asking too much of developed countries if clearly indicated the phase-out of all export subsidies and related forms of support? Was it too much to ask them to eliminate subsidies that distorted trade and harmed developing countries, as acknowledged by the Commissioner for Agriculture of the European Communities when he had announced the CAP reform? Hardly, since developed countries were virtually the only providers of those subsidies. If a country provided \$US10 billion in export subsidies and another provided zero, where was the balance? The same reasoning applied to domestic support. As for market access, given that there were no figures in the draft text, developed countries were not, at present, being asked anything. They could count, however, on a linear formula to cover import-sensitive tariff lines. This brought him to a similar argument with regard to NAMA. In spite of the clear Doha mandate for less

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<sup>23</sup> See Annex IV.

<sup>24</sup> See Annex IV.

than full reciprocity in reduction commitments, the draft text reflected a preference for a non-linear formula, to be complemented by mandatory sectoral initiatives. Both would inevitably result in far larger tariff reductions, both in absolute as well as in relative terms, from developing countries. Was this asking too little of developing countries? Hardly.

209. The current draft text was, therefore, indeed imbalanced. As his delegation had said the previous day, the draft text was fundamentally flawed. According to one dictionary definition, a flaw was an imperfection or weakness, especially one that detracted from the whole or hindered effective operation. The more Brazil studied the draft text, the more it became convinced that the text needed balance. His delegation understood the Chairman's reluctance to open up the draft text. However, it should be remembered that this text was only a means to an end – that of assisting Ministers to take stock of progress in the negotiations, to provide political guidance and to take decisions as necessary. Brazil thus urged the Chairman to continue consultations in order to ascertain whether there was a margin of movement to correct the imbalances of the text. The proposal by 17 developing countries – now 20 – moved in the direction of compromise. Brazil hoped others would reciprocate. The latter text offered a better compromise, was more faithful to the Doha mandate, and remained on the table. If the Chairman found it impossible to open up the draft text, his delegation would respectfully ask the Chairman to consider listing all the proposals made and forwarding them to Ministers with a cover letter explaining the situation. Ministers then would do what they had to do – take the necessary political decisions on how the negotiations should continue. In the circumstances, Brazil would not be prepared to accept the possibility of lowering the ambition of the Doha mandate or accepting that its careful balance be compromised. His delegation trusted the Chairman's judgement and stood ready to work with him and with the Director-General to ensure a successful outcome at Cancún.

210. The representative of Canada asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>25</sup> Canada agreed with the United States that the current stage, in terms of the Geneva preparatory process, was coming to a close, and that the next stage was being ushered in, which was to facilitate the work of Ministers in Cancún, to enhance the draft text and to turn the collective disappointment all shared into an opportunity for Ministers in Cancún. As the Chairman had said at the end of the HODs meeting the previous day, every delegation which had spoken had pointed out at least one concern with the draft text. Canada had said at that meeting that it supported the Chairman's prerogative and authority to forward this text to Ministers as a starting point and a basis for their deliberations in Cancún. Thus far, only one Member had challenged that prerogative or authority, and his delegation awaited the Chairman's further word on this matter. However, should there be a procedural discussion, Canada wished to participate in it.

211. The representative of Jamaica, speaking also on behalf of Barbados, Belize, St. Lucia, and Trinidad and Tobago asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>26</sup> Those comments had related primarily to agriculture, NAMA, the Singapore issues, and paragraph 27 on coherence, which these delegations did not support in its present form. They wished to underscore that at the present point in the Round, just before Cancún, they had hoped to be able to evaluate more fully and clearly the implications for their interests of the process in which they were engaged. It was a measure of the stalemate in some areas and the divergences in others that it was not possible at the present time to make this evaluation. Members had frontloaded expectations at Doha and were now proceeding to backload decisions at Cancún. These delegations were very concerned that this process hurt the interests of countries such as theirs, which had found it difficult to keep pace in the past several weeks and would find this to be more the case after Cancún. In these circumstances, their strategy had to be to emphasize at all times certain issues that were key for them. In agriculture, their farmers were small-scale producers who required continued tariff protection and easy-to-use safeguards. They were unable to provide their

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<sup>25</sup> See Annex IV.

<sup>26</sup> See Annex IV.

farmers with domestic support. Given their level of competitiveness, their survival depended on preferential access and a tolerable pace of adjustment. Many of these issues were still open – the depth of cuts to be required, the percentage of tariff lines to be subject to which cuts, the nature of a Special Safeguard Mechanism, and exactly how preferential access would be taken into account, especially longstanding preferential access. These countries wondered what kind of decisions their Ministers would be in a position to take in these circumstances. In regard to industrial products, those countries which imported three times as much as they exported and which ran chronic current account deficits – and which, furthermore, for resource reasons rather than the absence of good cause to do so, did not resort to trade-remedy measures – could not share the high level of ambition some had for the NAMA negotiations. These countries required a formula and coefficient that would not further undermine their fragile industrial base. Furthermore, they could not accept being compelled to participate in sectoral tariff elimination initiatives. Article XXVIII bis of GATT 1994, which Ministers specifically cited in the Doha mandate, made it clear that matters such as tariff revenue dependency and other relevant circumstances, such as preference erosion, should be fully taken into account in the NAMA negotiations.

212. On the Singapore issues, these countries agreed that Ministers expected to be presented with modalities for consideration at Cancún, but they also believed that Ministers would expect those modalities to have been agreed by the General Council, or that the General Council would at least have agreed to submit, for Ministers' consideration and decision, modalities that had not been agreed. Since neither had occurred, these countries saw no basis to submit Annexes D, E, F and G to Ministers. In addition, they did not support forwarding paragraph 27 on coherence in its present form. These delegation had given their views on this in greater detail at the HODs meeting the previous day. Regarding process – which in the WTO, more so than in other organizations, appeared to determine substance – these countries applauded and paid tribute to the Chairman's hard work and skill which had brought the process thus far. Nevertheless, these delegations had reservations regarding the practice of submitting texts to Ministers on the Chairman's own responsibility. This was of even greater concern when some of these texts had been produced late in the day and had not been extensively discussed, such as the texts in some Annexes. Jamaica would work hard at Cancún to find agreement on outstanding issues.

213. The representative of Costa Rica noted that the first sentence of paragraph 4 of the revised draft text proposed that Ministers reaffirm their commitment to the Doha mandate on agriculture. However, a reading of the proposed framework in Annex A made clear a lack of proximity to the Doha mandate, since the level of ambition, on matters of detail, was inadequate. Several days earlier the group of 17 – now 20 – Members had submitted a proposal on agriculture which sought to raise the level of ambition to the level of the Doha mandate. Some elements had been timidly reflected in the draft text. Costa Rica believed that the framework proposed in the draft text should be the subject of further work in order to make it acceptable. On the question of domestic support, the level of reduction appeared to be uncertain. The blank spaces in paragraph 1.1 were designed to limit the level of ambition. Likewise, paragraph 1.5 was vague, no limits were placed on Green Box direct payments and there was no mention of the need to improve the disciplines under Annex 2 of the Agreement on Agriculture. His delegation was concerned at the continued lack of any reference to the elimination of all export subsidies, as clearly provided for in the Doha mandate. Moreover, the section on this subject should refer to export subsidies, not export competition. His delegation regarded as inappropriate paragraph 6, in which subjects of differing natures were placed on the same level. Most of these subjects did not appear in the mandate, and Costa Rica saw no justification for inclusion of the peace clause and export taxes. Regarding the negotiations on NAMA and Annex B, the text was, in general terms, a step in the right direction, which included positive elements such as the non-linear formula and the conversion and binding of all tariffs in *ad valorem* terms on the basis of a methodology to be determined. This text was a step towards the decision Ministers had to take. Paragraph 7 on S&D treatment took up the idea of differential treatment for a specified percentage of tariff lines, which in his delegation's view had received substantial support. However, Costa Rica was concerned about prejudging the tariffs to which such treatment would apply, since there was no

consensus on the option under which not all tariffs should be bound. It seemed clear that, regardless of the approach adopted, "there should be no *a priori* exclusions", as established in the Doha Declaration. Furthermore, any consideration of preferences had to run parallel to that in the text on agriculture. Therefore, his delegation considered that, in the areas of both agriculture and NAMA, the term "preferences" should be used, rather than "non reciprocal preferences".

214. Costa Rica had a high level of ambition in the agriculture negotiations, as well as in those on NAMA, and was concerned at the extent of the imbalance caused by the low level of ambition of the proposed text on agriculture. There had to be a levelling process if Members seriously hoped to achieve convergence in Cancún. To that end, it was necessary to recognize the absolute necessity of raising the level of ambition for agriculture to the level of the Doha mandate. This would ensure that one of the areas of greatest importance for development would produce results that significantly contributed to increasing trade levels in the developing countries. Concerning the Singapore issues, his delegation supported the initiation of negotiations in the wake of Cancún. The proposals in the draft text reflected divergent positions on some of these issues. However, in the area of trade facilitation, the first option in square brackets, the modalities for which were set out in Annex G, was in fact a flexible one which incorporated important elements in the light of the discussions between the demandeurs and other delegations. Costa Rica was confident that, with flexibility and in a constructive spirit, Ministers in Cancún would be able to agree on negotiating modalities for the Singapore issues.

215. The representative of Mauritius said that Annex A was a genuine effort to reconcile the interests, specificities and concerns of the variety of agricultural systems world-wide, and accordingly, his delegation considered it to be a good basis for future work in Cancún. Mauritius welcomed the proposals on preferences, now accepted by all as being important to developing countries, in particular the vulnerable ones. At least 90 developing countries, representing the vast majority of all such countries, were concerned by preferences. On 21 August, in the HODs meeting on agriculture, his delegation had made a number of comments on the framework for agriculture, and wished to submit the following proposals at the present meeting: on Annex A – domestic support, the EC/US proposal, and the Chairman's proposal on S&D; on market access – the Chairman's proposal plus the incorporation of those elements of the Harbinson text on long-standing preferences. His delegation wished to recall that the Maputo AU Summit Declaration, the ACP Declaration, the statement by Morocco on behalf of the African Group and statements by Caricom had all welcomed the proposals in the Revised First Draft of Modalities on preferences and special and differential treatment. His delegation had no problem with paragraphs 4 and 5. However, a new paragraph 6 should be introduced which should read, "Flexibility for certain groupings as specified in paragraph 57 of the Revised First Draft of Modalities for agriculture shall be effectively addressed". This, along with the safeguard of longstanding preferences, would go a long way to ensuring that the small, vulnerable countries continued to maintain their agriculture. On flexibility and preferences, Mauritius fully endorsed the statement by Jamaica. Mauritius might at a later stage make suggestions on the contents of paragraph 6. His delegation stood ready to assist in the forging of a consensus.

216. The representative of Hong Kong, China asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>27</sup> As the Chairman had said in his concluding remarks at that meeting, criticism of the revised draft text had been highly diversified. The fact that criticism was coming from all sides might indicate that the text was probably about right, although each Member certainly wanted to see changes on certain issues. Members had to conclude the Geneva process and submit the draft text within the next two days to allow Ministers sufficient time to prepare themselves and be properly briefed. Under such a tight timeframe, it might not be realistic to expect any further negotiations on the draft text. Although his delegation was not fully satisfied with that text, and notwithstanding Hong Kong, China's particular difficulties with the language on Trade and Competition in paragraph 14, the present text could serve

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<sup>27</sup> See Annex IV.

as a useful basis for Members to build common ground in Cancún. His delegation had full confidence in the Chairman's judgment that, after hearing all Members' comments, he would strike the right balance in submitting the draft text to Ministers with or without amendments. Hong Kong, China took comfort in the fact that any text so submitted did not purport to be agreed in any part and was without prejudice to any delegation's position on any issue. His delegation agreed entirely with Malaysia that Members should conserve their energy for Cancún, and should now shift their attention to negotiations there. There were many controversial outstanding issues to be settled in Cancún and time was not on Members' side. While maintaining the level of ambition mandated at Doha, and conscious of the need to safeguard their particular interests, all Members had to reflect on the maximum extent of flexibility they could exercise so as to produce positive outcomes in Cancún. Members had suffered too many setbacks in recent months by missing successive deadlines on a number of issues. It was high time to exercise collective will to recover some of the lost ground by making Cancún a success.

217. The representative of Egypt asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>28</sup> He wished to associate his delegation with the comments by India at that meeting on the Singapore issues and the areas that required further clarification in the respective Working Groups. A letter had already been sent to the Chairman the previous morning, and had been circulated to all Members. Egypt reiterated the request that the attachments in that document be added as Annexes to the draft text to be forwarded to Ministers in Cancún. On the sectoral initiative on cotton, raised by four West African Members, his delegation was truly disappointed by Members' inability to reach some sort of consensus on those ideas, as indicated in paragraph 25 of the draft text. A consensus on this issue would have highlighted the developmental nature of the Doha work programme, particularly in the face of heavy criticism of Members' work in many circles of civil society. Therefore, Egypt suggested that the Chairman undertake further intensive consultations in this respect, with a view to producing a more positive resolution of this important initiative.

218. The representative of Turkey said that producing the revised draft Ministerial text could not have been an easy task. His delegation knew how difficult it was to try to bridge the gap between different positions – ranging from one extreme to the other – of 146 Members, and to try to find a middle ground with which everyone could live in one way or another. However, this was the reality in this organization. It was not possible to satisfy to the full, each and every Member, because of the simple fact that conditions and realities of each and every Member were different, as were their needs and expectations. As the Chairman had said earlier, the fact that every delegation had found something to criticize in the draft text was a good sign, and his delegation would be doing the same very shortly. In the light of the above, and although Turkey was not fully satisfied with the revised draft text, his delegation considered it an improvement and a step forward compared to the first draft, and also as an operational framework paper that would help Ministers have a meaningful discussion and hopefully take the necessary decisions in Cancún. However, from what had been expressed by different delegations during the past two days, it was obvious that the task of Ministers in Cancún would not be easy. Turkey had hoped during the Geneva preparatory process to make that task much easier, but this had not been possible. Therefore, his delegation shared the view that Members' task as of the present should be to work collectively for the success of Cancún. This was of utmost importance and necessity, if the organization wished to be credible and respected. He assured the Chairman that his delegation was ready to work in this direction.

219. Turning to more specific issues, his delegation wished to register Turkey's views with regard to different parts of the revised draft text. On agriculture, regarding Annex A, as Turkey saw it the draft text was a step forward both in comparison to the proposals made earlier by some countries as well as in comparison to the previous draft text. However, in view of the great importance of agriculture for developing countries, this text fell short of Turkey's expectations and needs.

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<sup>28</sup> See Annex IV.

Furthermore, seen from the perspective of the developmental dimension of the DDA and in terms of overall balance, it was also far from satisfactory. More specifically, proposed tariff reduction commitments for developing countries were tightened up to a so-called import-sensitive tariff lines with lower tariff cuts and others with high tariff cuts and TRQs. On the other hand, developed countries would be safe enough by using a blended tariff reduction approach, which shielded their so-called import-sensitive tariff lines from substantial reductions. The rest of their tariff lines were either relatively low or open to free access of products coming from developing and less-developed countries. This approach neither hid the real intention nor helped to build up an equitable, well-balanced, solid base for all. Moreover, a blended tariff reduction approach was additionally complicated, besides being difficult to implement. Once institutionalized, it would be open to misuse at later stages of the reform process. The proposed tariff reduction formula would certainly hurt many developing countries like Turkey, since tariffs were the only means through which they could protect their vulnerable agriculture. Concerning domestic support measures, in the Chairman's text these were subject to a new categorization as "more trade-distorting" and "less trading-distorting", which implicitly legalized the use of Blue Box measures by developed countries. This seemed unjustifiable to Turkey. All boxes had more or less trade-distorting effects, that had been discussed in detail throughout the informal and formal Special Sessions of the Committee on Agriculture as well as in informal consultations. In the draft text, all kinds of domestic support measures intended to be used by developed countries were being put on strengthened ground, while Special Products intended to address crucial food security, livelihood and rural development concerns of developing countries were being eliminated. Special Products were taken up in paragraph 2.6(i), but Turkey believed that Special Products should be self-declared, broad based and subject to no tariff reductions or ceilings. If developing countries were asked to pay a price for Special Products, their answer was they had already paid for them.

220. On the S&D treatment parts of the draft text, there were some positive elements in terms of the interests of developing countries. Nevertheless, all of these would be open to discussion after Cancún. This made them volatile and vulnerable to the interventions of some Members. Paragraph 2.7 of Annex A was a distinct example of this misguided approach. There was no clear wording on the elimination of Special Safeguards, which had been established as a temporary measure. The language in paragraph 3.1 of Annex A was difficult to interpret. He asked what the degree of "particular interest" to developing countries would be, and which countries would be awarded this. On NAMA, concerning Annex B, although this constituted a good step forward and could be taken as a workable basis for discussions in Cancún, his delegation wished to voice a concern in this context. Having a very low level of average tariff rate and being a developing economy, Turkey sincerely wished to see a real market access achievement at the end of this Round. In this context, his delegation supported a higher level of ambition regarding the formula in paragraph 3 of Annex B. In other words, Turkey was in favour of a single, simple and non-linear formula that dealt with tariff peaks, escalations and high tariffs, creating meaningful market access for the export interests of the developing countries. On the Singapore issues, Turkey considered them an important element of the whole negotiation package. Given that Turkey had a strong legislative basis for these disciplines, which were compatible with multilateral standards and norms, it did possess the technical capacity to initiate negotiations in these areas. Therefore, his delegation approached the Singapore issues in a flexible and constructive manner. However, in order to start negotiations in all four areas, explicit consensus – as foreseen in the Doha Declaration – had to be reached on each of them.

221. On services, in general his delegation found the draft text in paragraph 6 quite acceptable. However, his delegation felt it was rather unbalanced to include a deadline for improved offers when there was none for initial offers. It would have been a better approach to set a new deadline for the submission of initial offers. In this context, Turkey understood the difficulties faced by fellow developing-country Members. Nevertheless, it was essential that all Members engaged in these negotiations in good faith and with a constructive spirit. On implementation, it was a positive development that the revised draft text included a reference to one of the most important

implementation issues, namely, the extension of the protection of GIs under Article 23 of the TRIPS Agreement to all products. However, Turkey was not satisfied with the content of the relevant sentence in paragraph 12. The mandate from Ministers concerning one of the most important issues for many developed, developing and least-developed Members needed to be strengthened so as to realize this extension as a matter of priority. In this context, Turkey supported the proposal by India and Pakistan and some other Members to establish a special negotiating group on all implementation issues.

222. The representative of Korea asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>29</sup> That statement had been preliminary. His Government had difficulties with what it perceived as shortcomings in the draft Ministerial text in five areas – agriculture, NAMA, services, rules and the Singapore issues. In comparison to the first draft text which was of a skeletal nature, the revised draft text – and the annexes on agriculture, NAMA and S&D alone – represented significant improvements. The fact that the text had relatively few brackets and was clean in most places was also very welcome. However, as had been stated at the HODs meeting the previous day, the revised draft text still had a number of shortcomings. Obviously, it fully satisfied no one. However, it was a reflection of the realities of the negotiations. To put it simply, Members' work thus far had not been satisfactory. In order to turn the tide and lay the groundwork for the successful completion of the negotiations, Members had to build on the draft text and work harder with their Ministers in Cancún. In this spirit, his delegation wished to make several comments on some of the key areas of the draft text. On agriculture, Article 20 of the Agreement on Agriculture and paragraph 13 of the Doha Ministerial Declaration made it clear that the agricultural reform process had to properly address non-trade concerns. Thus, Korea welcomed the reinstatement of the reference to non-trade concerns in the chapeau of Annex A. However, the text should provide more clarity that reforms in all three pillars would take into account non-trade concerns. Korea also had serious concerns that the revised draft text linked tariff capping and TRQ expansion to tariff reduction. In the joint paper Korea had submitted with five other importing countries, it had stressed that it could only agree to a blended approach provided certain conditions were met, including that there was no mandatory expansion of TRQs and no tariff capping. The differences in tariff levels reflected the diverse realities of agriculture. Agricultural reform had to ensure the co-existence of various types of agriculture, but tariff capping threatened the survival of agriculture in many countries that had less favourable agricultural conditions.

223. Some delegations had claimed that the Uruguay Round formula alone did not bring about expansion of effective market access. However, that formula could contribute to agricultural reform in a meaningful way. The rapid increase of agricultural imports into the Korean market was evidence of the real impact of that formula. Imposing the additional burden of mandatory TRQ expansion on importing countries that already suffered from import surges was hardly justifiable. It was encouraging that the framework contained in the revised draft text gave due consideration to S&D treatment for developing countries in all three pillars. In particular, Korea welcomed the retaining of the Special Products concept in market access. Korea fully supported the joint statement by Indonesia on behalf of several delegations on Special Products. His delegation shared the view that introduction of the SP concept was critical for food security and rural development. As had been succinctly explained in the statement by Indonesia, developing countries should be able to designate a certain percentage of their tariff lines as Special Products according to their food security and rural livelihood needs. Such products should be exempt from the tariff reduction formula applied to other products. There were voices calling for restrictions on Green Box subsidies, but such subsidies were essential to addressing non-trade concerns, including maintaining an adequate production basis for food security, rural viability and cultural heritage. In addition, these subsidies had only minimal trade-distorting effects. Therefore, Korea was of the view that the idea of capping Green Box subsidies or introducing similar restrictions was not justified. His delegation also wished to emphasize that S&D treatment for Green Box subsidies should be expanded to address developing countries' food security and rural

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<sup>29</sup> See Annex IV.

development needs. Korea agreed that agriculture was a key to the Doha negotiations, but it was not the only key. It was doubtful that progress in agriculture would automatically spill over into other areas. Members had to make a conscious effort to realize the goals set out in the Doha Declaration in all areas.

224. On NAMA, the framework in Annex B represented important progress in these negotiations. That framework provided a basis to move toward fulfilling Members' goal to reduce or, as appropriate, eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalations as mandated by the Doha Declaration. Nevertheless, Korea could not say this was a sufficiently large step. His delegation agreed with many others that the level of ambition contained in Annex B was the bare minimum. Members had to make every effort to achieve a higher level of ambition through more inputs into the modalities. A single non-linear formula would be a useful tool for achieving substantial expansion of market access for all Members. In the same vein, participation of all Members in sectoral elimination or harmonization was critical to attaining balanced gains for all. Annex B could also be improved on another front. As Korea had consistently maintained throughout the course of the negotiations, a minimum level of flexibility for a very limited range of sensitive products should be given to all Members, as this would enable all participants to fully engage in the negotiations with a built-in level of comfort regarding domestic sensitivities. On services, Korea was fairly satisfied with the draft text. However, his delegation also supported establishing a new benchmark for the submission of initial offers. The submission of initial offers by a critical mass of Members was crucial if Members were to expect improved offers of sufficiently high quality, and if they were to be able subsequently to engage in intensified market access negotiations in 2004. Establishing a new benchmark – even an indicative one – for the submission of initial offers would help secure more active participation by a majority of developing countries in the negotiations. Korea hoped that such a benchmark would be established at Cancún along with a date for the submission of improved and, if necessary, revised offers. On rules, Korea welcomed the direction provided in the draft text for these negotiations, which shifted the relevant Negotiating Group's emphasis after Cancún from identifying issues to seeking solutions. Like many other Members, Korea was seriously concerned with the proliferation of anti-dumping actions in the recent past. Such actions undermined the progress made in other areas in terms of market liberalization, and hampered the efforts of developing countries to facilitate economic growth through further participation in international trade. Clarifying and improving the ambiguities and lacunae in the Anti-Dumping Agreement could make an important contribution to preventing the abuse and misuse of anti-dumping measures.

225. On the Singapore issues, Ministers at Doha had agreed that negotiations should start after the Fifth Ministerial Conference on the basis of a decision to be taken, by explicit consensus, on the modalities of the negotiations. Korea regretted that the draft text only partly met this mandate, since it included a second option of not starting negotiations. However, it accepted this reality and hoped that Ministers in Cancún would be able to reach a consensus on modalities and the launch of negotiations on all four issues. There had been complaints that the modalities in Annexes D through G had not been properly discussed among Members and therefore should be removed from the draft text. Korea had asked all along for Members to engage in substantive discussions on these modalities, but many had been reluctant to do so. His delegation remained committed to substantive engagement on these modalities. Korea was well aware of the concerns regarding the launch of these negotiations and was ready to discuss ways to address these concerns in the modalities, provided this did not prejudice the outcome of the negotiations. However, it could not agree to the request to remove the modalities in Annexes D through G from the draft text. Members had a mandate to submit modalities to Ministers. If Members did not do this, it effectively prejudged the decision of Ministers to not begin negotiations at all. The elements contained in the modalities had been the subject of long discussions in the Working Groups. Further, the modalities in Annexes D through G could serve as a good basis for the negotiations. There had also been arguments for adding middle-ground options, but his delegation was not sure how much in the middle these were. At the end of the day, either one started negotiations or not. Some had talked of soft agreements, but the modalities in Annexes D through G



did not rule out soft agreements. The modalities suggested that the scope and nature of the obligations should be determined in the negotiations. His delegation placed equal importance and interest on the negotiations on the Singapore issues as it did on the negotiations on agriculture, NAMA, and services. In parallel with the establishment of frameworks for modalities for market access for agriculture and NAMA, framework modalities should be agreed upon in Cancún for the Singapore issues. Without substantive achievements on the Singapore issues, the benefits arising from the other market access negotiations could not be fully enjoyed by Members. Korea looked forward to sincere and sound discussions on the negotiations on the Singapore issues before and in Cancún. His delegation had just received a copy of the letter sent by India and a few other delegations to the Chairman. Korea welcomed this initiative as a constructive move. However, it found that the issues for further clarification as suggested in the letter had already been discussed sufficiently and in detail over a lengthy period of time. Those issues were very important, and he believed that they could in fact be tackled within the course of negotiations, while some of the issues could be reflected in the modalities. Korea was ready and willing to engage in sincere negotiations with the delegations and use the remaining time to improve the modalities contained in the draft Ministerial text as Annexes D through G. The Cancún Ministerial Conference offered a unique opportunity to give renewed momentum to the Doha negotiations. Members should not let it fail. The revised draft Ministerial text left much room for improvement. However, it remained the basis of Members' work up to Cancún. His delegation would participate in the efforts to improve the draft text actively and constructively.

226. The representative of El Salvador asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>30</sup> With regard to agriculture, El Salvador had joined the 19 delegations which had submitted a proposal in this area – a proposal which his delegation considered to correspond most closely to the objectives and goals outlined by Ministers in Doha. This being said, he wished to emphasize certain points of particular interest to his delegation in the area of agriculture. First, concerning domestic support, and specifically with regard to the Green Box, as had been said by other delegations, Ecuador attached importance to revising the draft text with a view to establishing a cap on this type of measure. The reductions in domestic support should be applied on specific products and not under the modality of comprehensive reductions. This was more transparent and guaranteed elimination of the most distorting supports in accordance with the provisions of the Doha mandate. Regarding export subsidies, as stated in the Doha mandate these should be reduced within a specific timeframe and not, as some proposed, on the basis of a modality applied to categories of interest to certain Members, while no specific date was set for other, equally distorting measures of this kind. This was inconsistent with the spirit of what was agreed by the Ministers in Doha.

227. Regarding NAMA and Annex B, his delegation wished to reaffirm that in paragraph 7 dealing with S&D treatment, the figures in square brackets were merely a non-binding reference, agreement on which would form part of a negotiating process in which the level of ambition in other areas of negotiation had to be taken into account. Regarding paragraph 3 of Annex B, the reference to the non-linear formula should be linked to the formula set out in document TN/MA/W/35 Rev. 1 by the Chairman of the Negotiating Group, since it would be difficult to accept a harmonizing formula that did not incorporate the principle of less than full reciprocity in favour of developing countries. Accordingly, El Salvador regarded the draft text as a sound basis, but only if the above was taken as a point of reference. On services, it was important that the declaration to be adopted by Ministers recognized the importance of Mode 4 for developing countries, since it was under this mode of supply that countries like El Salvador became competitive, thereby achieving tangible benefits at this new stage of negotiations on existing commitments. El Salvador maintained its resolute support for this negotiating process based on the principles agreed and with a view to its conclusion within the scheduled time-frame.

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<sup>30</sup> See Annex IV.

228. The representative of Honduras, speaking also on behalf of the Dominican Republic, asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>31</sup> These delegations had noted that the draft Ministerial text was being presented under the Chairman's responsibility, that it did not purport to be agreed in any part at the present stage, and that it was without prejudice to Members' positions. First, regarding Annex A containing the framework for establishing modalities in agriculture and the section on S&D treatment of the market access pillar, these delegations welcomed the clarification that Special Products would not be subject to additional tariff quota commitments. However, they still insisted that those products not be subject to additional reductions, and that each country be free to designate its own Special Products. These countries understood Special Products to be a separate concept within the first category. They recognized that this was a framework agreement, and that Members had to continue working to achieve balanced negotiating modalities that took into account the interests of all Members. Concerning Annex B containing the framework for establishing modalities in NAMA, and paragraph 6 on sectoral approaches, while the language used was flexible, these countries wished to reiterate their view that the voluntary nature of those approaches should be reflected. In paragraph 7 of Annex B, while they welcomed the flexibilities for developing and least-developed countries, these should be neither restricted by nor linked to the value of imports. In paragraph 13, these countries noted that issues of importance for developing countries, such as non-reciprocal preference erosion and high tariff revenue dependency, would be considered. They also noted the failure to take into account major concerns expressed by several countries, including Honduras, with regard to low income per capita, highly indebted countries. Consequently, they requested that consideration be given to these concerns, and that if there were no objection to this S&D treatment, this be incorporated into the draft text forwarded to Ministers.

229. The representative of China asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>32</sup> Like many previous speakers, his delegation wished to emphasize the development dimension of the Doha Development Agenda. Ministers had stated in the Doha Declaration that "[i]nternational trade can play a major role in the promotion of economic development and the alleviation of poverty" and "[t]he majority of WTO members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration." Therefore, as Members were preparing for the next Ministerial Conference, they had to make sure that the spirit and letter of the development dimension would not be watered down. On agriculture, China appreciated that the Chairman had done his best to reflect Members' opinions. However, there were still big gaps between the draft text and the Doha mandate. China was disappointed at the lack of ambition in the draft text, particularly regarding the two pillars of export subsidies and domestic support. Agriculture was at the center of this Round and the elimination of trade distortion in agriculture was Members' major task. For a large number of developing countries which relied heavily on agriculture but had few financial resources to match the rich countries' subsidies, whose farmers could not compete in a fair and equal manner on the world market as well as on their domestic market, this was a life-and-death issue. Therefore, his delegation hoped that the Chairman would draw more elements from the G-17 – now G-20 – proposal, which was a more ambitious and more balanced paper on agriculture.

230. On NAMA, more effective measures should be taken to eliminate tariff peaks and tariff escalations. The principle of less than full reciprocity for developing-country Members should be better applied. The sectoral approach should only be supplementary and of a voluntary nature. On S&D treatment for developing countries, China fully appreciated the efforts and hard work by the Chairman and the friends of the Chair in informal consultations, which had led to a solution on quite a number of S&D issues. However, further efforts were required to settle all the issues so as to make S&D treatment more precise, more efficient and more operational. On the Singapore issues, China could live with the two options proposed, but was disappointed at the imbalance reflected in the draft

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<sup>31</sup> See Annex IV.

<sup>32</sup> See Annex IV.

text. A group of Members had recently circulated a proposed annex for the second option, and his delegation strongly requested that this be included in the draft text. On the newly acceded Members, China insisted on its request that there be a paragraph in the draft text saying that the particular concerns of the newly acceded Members would be effectively addressed, while in the Annexes for agriculture and NAMA, the elements of a lower level of reduction, exemption from further reduction of sensitive products, longer implementation periods and deferred implementation should be reflected. The reason for this request could be found in document JOB(03)/168 submitted by China. His delegation would keep very much in mind Members' collective responsibility, as the Chairman had rightly pointed out at the beginning of the informal consultations, and would work closely with other Members for the success of Cancún.

231. The representative of Chile asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>33</sup> Regarding Turkey's statement at the present meeting that it was not possible to satisfy each and every Member, this was true, but the important thing was whether the draft text brought Members closer to complying with the Doha mandate, and if it did so in a balanced manner. The revised draft text did, to a considerable degree, comply with this mandate and brought Members closer to it. However, it was equally true that in certain key areas, like agriculture, NAMA and the Singapore issues, there were still important decisions to be taken, and these issues had to be discussed by Ministers. Regarding agriculture, his delegation had already made comments at a meeting some days earlier. He would not repeat the many important issues his delegation, as well as Argentina and now China, had referred to. Chile shared the view expressed by Australia that in the final analysis there was one fundamental issue, which was the elimination of export subsidies. In saying this he wished to draw attention to a statement by the Group of 77 and China in relation to Cancún, in which these countries called for the elimination of all forms of export subsidies. Chile also shared the point made by Australia that the draft text certainly served as a basis that would enable Ministers to discuss and take the requisite decisions. However, as his delegation understood it, this text did not reflect all the ambitions of all delegations, nor the level of ambition envisioned by Chile. If, as Australia had said, this would be the result from Cancún, it would not be acceptable. However, Chile was grateful for the Chairman's efforts and contribution, as this took Members a step forward in the right direction.

232. On the Singapore issues, Chile in the past had supported the launching of negotiations on certain of these issues, and had greater enthusiasm for some of these issues than for others. His delegation had wished to continue to support and work on the elaboration of drawing up substantive and procedural modalities. However, the lack of progress in other areas of the negotiation, as well as the position adopted by many of the proponents in this area, as in agriculture, did not provide the political conditions for enabling Chile to maintain its support for the launching of negotiations on the Singapore issues. If the situation were to change – in other words, if the negotiations in other areas were to evolve and change and if a decision was taken to negotiate on one, several or all of the Singapore issues – this would involve an extremely complex task. Chile of course had a preference for one Singapore issue in terms of priorities to be set, which was trade facilitation. However, if the political conditions changed, his delegation would have to give serious thought to substantive modalities that would be as precise in nature as possible, in terms of determining the actual scope and areas of what was to be negotiated. The texts in the draft text did not reach that degree of precision. As Chile understood it, these texts were simply illustrative of a given situation, a situation that prevailed at present but would not necessarily serve as a basis, or even be an approximation of what Chile hoped to achieve in the final analysis. If, on the contrary, on certain or all of these issues there was no launching of negotiations, Chile believed it was necessary to continue to keep these issues in the work programme. Members should concentrate on the modalities to be drawn up, while awaiting the situation in other areas of negotiations, which would make it possible to launch the negotiations.

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<sup>33</sup> See Annex IV.

233. On NAMA, Chile believed that the non-linear formula in the draft text did not reflect a high level of ambition. The high level of ambition should be determined by a co-efficient that would have to be determined subsequently, in parallel with what happened in agriculture. As to the sectoral approach, the draft text did not reflect clearly the position of the majority of countries. The change that had been made in the text went in that direction, although it was still somewhat ambiguous. Chile's interpretation of the present text was that the participation of all participants, while this was desirable, was not mandatory. Therefore, the definition of participation was still an outstanding issue, and in that context there would have to be flexibility for the developing countries. As to the countries that had recently acceded to the WTO, he wished to say something that was valid for agriculture as well. His delegation supported the concept that something special should be provided for the recently acceded countries, given that in many cases they were still in a process of tariff reductions which should not be super-imposed on new commitments, given the degree of tariff cuts already agreed under the accession process. However, the situation among these countries was not homogenous, nor was it between the different sectors of the economies of those same Members. Thus, although Chile supported the general principle, his delegation believed the time had come where Members had to look at this on a case-by-case basis, sector by sector, in order to elaborate a specific provision for recently acceded countries. In response to the statements by Bulgaria and Hungary that only one implementation issue had been singled out in the Doha Declaration, Chile wished to point out that paragraph 19 of the Doha Declaration mentioned other areas in this context. Bulgaria had made various proposals the previous day in this context, with which Chile totally disagreed.

234. The representative of Guatemala asked that her delegation's statement at the informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>34</sup> Guatemala supported the points made by Argentina and Chile in the main regarding agricultural subsidies and NAMA, and wished to reiterate the points it had made in the informal HODs meeting.

235. The representative of Nicaragua said that the previous day his delegation had made a brief preliminary statement and he wished at the present meeting to make detailed comments on the draft Ministerial text, which Nicaragua hoped the Chairman would take into account in the final text submitted to Ministers. As had been emphasized by many previous speakers, agriculture was the main focus of this negotiation and as such should be given priority in Cancún. For Nicaragua, whose economy and trade depended largely on agriculture, it was vitally important that Ministers' decisions produced real and concrete benefits. With regard to the S&D treatment component of the modalities in the draft text, Nicaragua preferred as a deadline the dates of 31 December 2003 or 31 January 2004. Similarly, his delegation considered that June or July 2004 could be a realistic date for submission of the comprehensive draft Schedules, which would be in line with the time-limits proposed by Ministers in Doha for this negotiation. Regarding Annex A, Nicaragua considered the chapeau to be adequate, as it struck an appropriate balance between the three pillars of negotiation, including the concept of development, and forcefully advocated the need to adopt modalities. On domestic support, his delegation proposed maintaining a high level of ambition in accordance with the spirit of the Doha Declaration. Nicaragua would consider ideal the achievement of a level of ambition in line with the suggestion in the Revised . A lower percentage would not be in keeping with the mandate from Ministers in Doha for substantial reductions in trade-distorting domestic support. It should be recalled that reductions of 36 per cent were agreed in the Uruguay Round, and Nicaragua considered the level of ambition in this new Round to be considerably higher than in the Uruguay Round. Similarly, his delegation felt that the *de minimis* level should also be reduced in accordance with the same level of ambition, which Nicaragua considered to be set at an appropriate level in the Revised . Regarding direct payments, use should also be made of the figure of five per cent of total agricultural production, or the average authorized for the years 2000 and 2001, whichever was lower.

236. Regarding market access, Nicaragua's position was duly reflected in document JOB(03)/164 submitted jointly with Honduras, Panama and the Dominican Republic. Regarding export

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<sup>34</sup> See Annex IV.

competition, the draft text provided a solid basis on which to build provisions that would contribute to the speedy elimination of distorting measures. Unfortunately, only in Cancún would his delegation be able to obtain a better idea of the readiness for compromise of all the parties directly involved in this part of the negotiation. Nicaragua was making this comment because the figures currently being bandied about showed significant discrepancies. In sum, Nicaragua naturally supported those figures that most substantially reduced such measures and that prevented the inordinate use of measures which, despite not being prohibited, were – or could possibly be – used as distorting mechanisms. Regarding the S&D treatment provided for in each of the sections of the draft text and its Annexes, Nicaragua considered that there remained a lack of any reference to the economic conditions confronted by many Members. In Nicaragua's case, low per capita income and debt problems had a direct impact on the conduct of these negotiations and undoubtedly constituted an obstacle to its development. His delegation took note with satisfaction of the inclusion of Special Products in the document, as well as of the clauses on S&D treatment contained throughout the text, and urged all Members to take concrete action to give genuine effect to these principles. On TRIPS and Public Health, Nicaragua considered that the inclusion of this text as the first paragraph in the draft text reflected the pre-eminence of this topic on the multilateral trade agenda. Accordingly, his delegation fully supported the text of 16 December 2002 which, though not perfect, provided a viable and realistic way to achieve consensus. Nicaragua was aware of the informal consultations carried out by the Chairman of the Council for TRIPS and applauded his efforts to guide delegations towards a consensus. His delegation would follow these consultations closely.

237. Regarding a multilateral system of notification and registration of GIs for wines and spirits, his delegation considered that this should be voluntary in nature, thus avoiding additional burdens for Members not participating in the system. His delegation had closely followed these negotiations and considered there was still some way to go. Therefore, Nicaragua did not think it advisable to establish an artificial date regarding this issue, and supported a broad and flexible deadline, such as the date of conclusion of the Round. On non-violation complaints under the TRIPS Agreement, his delegation considered that such complaints were not applicable under or compatible with the TRIPS Agreement. However, with a view to contributing to a consensus on this matter, Nicaragua was prepared to accept the proposal for extending the Doha solution, by way of a compromise. His delegation wished to emphasise that it considered that this topic formed part of the single undertaking and that it needed to be dealt with in that framework. On the Singapore issues, each of these should be considered, discussed and negotiated separately, as they were different in nature. Nicaragua was aware of the intrinsic interrelationship between these issues, but felt that no balance necessarily existed in their legal and institutional development. This was clearly the case not only within each Member. At the multilateral and even regional and sub-regional levels, there was a clear disparity and imbalance in the treatment of these issues, no doubt due to the differences in the prevailing levels of development among Members and, hence, in their levels of experience and commercial development. Nevertheless, Nicaragua would continue to work in a positive and proactive spirit and would demonstrate the necessary flexibility for the sake of the substantial balance all wished to achieve. In this connection, his delegation wished to refer to the following aspects of the Singapore issues.

238. Transparency in government procurement represented one of the central pillars of Nicaraguan Government policy. Consequently, negotiations on this issue, without prejudice to market access or dispute settlement under the DSB, constituted a process Nicaragua favoured and could support. This was an issue of great importance and would support and strengthen government policies on action to combat corruption. Moreover, the predictability generated by transparency in a country's economy was also a means of attracting investment. On competition policy, his delegation considered that negotiations to establish a multilateral agreement on competition should be initiated in Cancún. The developing countries should regard this agreement as a means of defending their commercial interests *vis-à-vis* the so-called international cartels, which were intrinsically harmful. This agreement had to be constructed on the basis of the principles of non-discrimination, transparency and procedural fairness. Another cornerstone of the agreement had to be cooperation to ensure the gradual strengthening of competition bodies in developing and least-developed countries, so as to enable them

to promote capacity building and collaboration and exchange of information between equivalent national agencies. On trade facilitation, Nicaragua agreed on the need to continue strengthening the Doha mandate on the basis of clearly defined fields of application. That mandate necessarily had to contain a programme of cooperation which included technical assistance and cooperation and financial resources for investment in physical and computer infrastructure. His delegation was not in favour of making these commitments subject to the DSU mechanism, as long as there was no assurance that the cooperation plan covered 100 per cent of the requirements or needs for the fulfilment of those commitments. On NAMA and Annex B, the draft text clearly stated that "we also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities". Nicaragua considered that such treatment should not only be set forth as a general statement of principle, but should be included in all the methods and modalities to be agreed, such as differentiated bound tariff reduction schedules, and lower reduction commitments on behalf of developing and least-developed countries. Similarly, Nicaragua supported inclusion of the paragraph which stated that "[w]e instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration". Nicaragua also welcomed the provision, pending agreement, on supplementary modalities for developing countries. His delegation was fully prepared to work with the Chairman, with the Director-General and with all Members, in the search for common ground that would lead to the desired consensus. Nicaragua recognized the outstanding efforts the Chairman had made during this process to try to achieve concrete results, and his readiness to help in these negotiations. He reiterated his delegation's wish to continue working in the same spirit.

239. The representative of the Slovak Republic asked that her delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>35</sup> Based on the detailed intervention by the Community at that meeting, which fully covered her delegation's main concerns in the areas of agriculture, NAMA and services in particular, her delegation wished to make only a few general comments on the process as a whole. The Slovak Republic appreciated the tremendous efforts by the Chairman to strike the right balance in a number of sensitive areas. Statements by different Members confirmed that this had not yet been possible. The progress achieved during the past two weeks had not proved to be sufficient to reach the stage of convergence that might lead to a possible consensual compromise. However, at least the draft Ministerial text might be taken as a workable basis on which Ministers could work further in Cancún, take political responsibility and provide the necessary commitment to continue in negotiations based on real balance, which was clearly still missing. At the present stage her delegation urged all to work with a sense of collective responsibility and of the need for shared compromise, as well as flexibility, which was still not reflected in the positions of many Members. Her delegation would refrain from stating its concerns in detail, since these had already been communicated in sessions of the relevant WTO negotiating bodies. However, she wished to point out that the harmonizing of dates for modalities and negotiated figures could contribute positively to the overall process in order to avoid pending speculations and tactical conditionalities. The Slovak Republic would be constructive in seeking solutions, narrowing differences and fulfilling the spirit of the Doha mandate.

240. The representative of Paraguay asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>36</sup> He recalled that at the General Council meeting in July, Paraguay's Deputy-Minister of External Relations had given a clear and detailed statement setting out Paraguay's position with regard to NAMA, services, trade facilitation, agriculture – which was at the very heart of the negotiations – small economies and S&D treatment. These positions remained unchanged and could be confirmed as immutable. His delegation was unable to improve on them, and had no wish to go over the same ground again. He

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<sup>35</sup> See Annex IV.

<sup>36</sup> See Annex IV.

merely wished to add that Paraguay did not consider it either appropriate or advisable at the present time to discuss the merits and objectives of its proposal regarding an understanding on the full implementation of the Enabling Clause, but was willing bilaterally to explain the scope of this proposal.

241. The representative of Sri Lanka said that the draft Ministerial text provided a working basis for Members in the lead-up to Cancún. He wished to comment on four issues – agriculture, NAMA, services and the Singapore issues. On agriculture, his delegation believed that Annex A containing the framework for establishing modalities provided a basis for Members to move the process forward with a view to agreeing to a framework in Cancún. His delegation shared the view that ambition should also be balanced with flexibility. In this context, Sri Lanka had stated on numerous occasions that being an NFIDC, its most important concerns related to the market access pillar, particularly the S&D elements. His delegation had also stated that for countries like Sri Lanka, whose bound tariffs were at a very low level, it was not possible to reduce tariffs any further on some products, no matter what tariff reduction formula was adopted, and Sri Lanka could only undertake minimum reductions on other products. Therefore, his delegation could support the proposed approach in paragraph 2.6 of Annex A on S&D for tariff reduction for developing countries, with some reservations. His delegation appreciated that in paragraph 2.6(i), developing countries would have additional flexibility to designate Special Products which would only be subject to a linear cut. However, his delegation continued to hold the position that Special Products should not be subject to any tariff reductions. On the proposal that in place of the percentages in paragraphs 2.6(ii) and (iii), a percentage of tariff lines would be subject to the Swiss formula, this would cause difficulties to countries with very low bound tariff levels. Sri Lanka had pointed out that, for example, with a co-efficient of 25, a bound tariff of 50 per cent would have to be reduced to 16 per cent, which would be extremely difficult to accept. Therefore, his delegation could not agree to replacing the percentages in paragraphs 2.6(ii) and (iii) with the Swiss formula approach.

242. Paragraph 2.2 of Annex A envisaged that the tariff lines that exceeded a maximum percentage would be reduced to that maximum level. Sri Lanka believed that this issue should be dealt with as envisaged under paragraph 2.7, which remained under negotiation, and not through paragraph 2.6. His delegation appreciated the incorporation of paragraph 2.8 on the establishment of a special agricultural safeguard (SSM) for developing countries. However, such a mechanism would be subject to conditions and products yet to be determined. When such conditions, which might include criteria, were determined, this could trigger the application of the mechanism to products which met such criteria. Therefore, SSM should not be further restricted by products to be determined. His delegation appreciated the inclusion of the references in the draft text to Articles 6.2 and 9.4 of the Agreement on Agriculture, aimed at developing countries benefiting from these Articles. Under paragraph 3.10 of Annex A, participants would ensure that regarding the disciplines on export credits to be agreed, appropriate provisions for differential treatment for NFIDCs would be provided. Sri Lanka welcomed this proposal. On NAMA, his delegation could support Annex B as a basis for the framework for establishing modalities. His delegation recognized that paragraphs 3 and 6 of Annex B were central elements which were important to realize the ambition of the Doha mandate. However, ambition should be balanced with flexibility. In this context, his delegation welcomed paragraph 5 of Annex B on which it had already expressed specific views. Under paragraph 5, participants with bound coverage of non-agricultural tariff lines of less than 35 per cent were expected to be exempted from tariff reduction commitments, because of their low applied rates, in order to address revenue concerns. These groups of countries were expected, instead of making tariff reductions, to undertake 100 per cent tariff bindings at the average level that did not exceed the overall average of bound tariffs for developing countries. Sri Lanka proposed that the binding coverage of these countries should also be the average binding coverage of developing countries. This proposal was objective and logical, and should be incorporated into Annex B as it had support.

243. On services, his delegation was flexible and could support the text in paragraph 6 of the draft Ministerial text. In this connection, and in order to demonstrate its commitment to the DDA and the

services negotiations, his delegation had submitted that week its initial offers. Sri Lanka believed that services liberalization, in particular infrastructure services, was important to attract foreign investment and to make the goods sector more competitive. It was from this perspective that his delegation approached the services negotiations. However, on the movement of natural persons, Sri Lanka's interest in market access under Mode 4 remained important. Before commenting on the Singapore issues, his delegation wished to state that Sri Lanka was not a sponsor of the paper presented by Botswana on behalf of a group of developing countries. Therefore, Sri Lanka should be deleted from that list of countries. On the Singapore issues, his delegation was pleased that the Chairman had included the options in paragraphs 13-16 in the revised draft text, either to commence negotiations on the basis of modalities set out in the relevant Annexes or to continue with further clarification of issues in the relevant WTO bodies. On these issues, Sri Lanka's position had been, and continued to be, that each issue should be treated on its own merits. Sri Lanka had made its position known on trade facilitation and on transparency in government procurement, to agree to modalities for negotiations at the Cancún Ministerial. Therefore, his delegation could support the modalities set out in Annexes G and F as a basis for commencement of negotiations. On the issue of trade and investment, his delegation had indicated at previous meetings that it was prepared to take a flexible position on agreeing to modalities for negotiations at Cancún. However, Annex D did not provide the required comfort level as a basis to start negotiations. The issue of trade and competition policy was a difficult and complex issue on which two options had been given in paragraph 14. Since this issue had not been adequately clarified, and considering the different needs of Members, some of whom did not even have laws on domestic competition policy, as Sri Lanka had indicated on earlier occasions, it could support option 2 of the paper by the Chairman of the relevant Working Group which provided for a soft agreement. However, this option was not available in the draft Ministerial text. Therefore, his delegation reserved its right to support the option providing for further clarification of the issues in the respective Working Group.

244. The representative of Nigeria associate his delegation fully with the statement by Morocco on behalf of the African Group. In Nigeria's view, the revised draft text was an improved text but needed strengthening in a number of areas. His delegation would comment both generally and specifically on both the process and substance of that text. Agriculture was a very important sector in his country, in view of the strategic position agriculture occupied regarding food security and employment and as a means of livelihood for the majority of Nigeria's people. Unfortunately, progress in the agriculture negotiations had been slow. Thus far the objectives of the Doha mandate on agriculture remained a mirage. The only progress was that the US and the EC had agreed to support each other. This was a welcome development, as it had created a more favourable environment to move the process forward. However, without any figures or numbers, or end dates attached to the elimination or phase-out of trade-distorting export subsidies and domestic support given by the major trading partners, his delegation found it difficult to fully support the draft text on agriculture. Nigeria supported the proposal of the G-20 countries, which contained elements that were balanced and favourable to all Members. On domestic support, the draft text was vague on how the serious Green Box loopholes and abuses could be disciplined. In a non-committal manner, the draft text merely stated in paragraph 1.5 of Annex A that Green Box criteria remained under negotiation. Developing countries had repeatedly called for the Green Box supports to be capped and reduced, and wished to see a similar high level of ambition on the market access pillar apply to reduction in overall domestic support. On market access, the tariff reduction approach suggested for developing countries was very ambitious. Either the hybrid Swiss/Uruguay Round formula or the Swiss formula would lead to developing countries cutting most tariff lines by a large amount, and this would effectively leave them even more vulnerable – and permanently so – to dumping. The S&D treatment in the market access pillar needed to be reinforced, especially the Special Products concept, to enable developing countries to sufficiently defend their domestic producers and to ensure their long-term food security and rural development needs. Paragraph 2.4 on special safeguard should be removed and merged with paragraph 6 of Annex A, since Members were yet to agree on discussing this issue under the current negotiations in agriculture. Nigeria did not support the application of paragraph 2.7 to developing countries, and therefore requested its deletion. On export competition, paragraph 3.6, which stated



that the question of the end date for phasing out all forms of export subsidies remained under negotiation, also reinforced the lack of commitment of developed countries in undertaking any reform at all. It was important to specify clearly the end date for phasing out all export subsidies.

245. Regarding paragraph 6 of Annex A, his delegation did not support the reopening of negotiations on issues such as the peace clause, continuation clause, GIs, certain non-trade concerns and other detailed rules that were not part of the Doha mandate on negotiations on agriculture. On NAMA, for the present, his delegation could not accept paragraph 5 of the draft text in view of the fact that there was no consensus on the framework in Annex B. Alternatively, the third sentence of that paragraph, which started with "[T]o this end" should be put in square brackets until such time as all pending issues in Annex B were resolved. Within Annex B, the major contentious issues for Nigeria were paragraphs 3, 6 and 13, in addition to a few other minor elements. In paragraph 3, the second sentence presupposed the recommendation of a particular formula, when it was clear there was no consensus yet on the formula to adopt. In order for this paragraph to be acceptable, the words "non-linear" in the second sentence should be deleted. On paragraph 6, Nigeria, based on its economic circumstances, had always maintained that sectoral tariff elimination should be voluntary. Therefore, his delegation could not accept language which tended to make this mandatory for all Members. In light of these difficulties, the words "all participants" in the second sentence of paragraph 6 should be deleted. While Nigeria welcomed efforts to accommodate the concerns raised on preference erosion and high tariff dependency, the language in paragraph 13 did not capture the seriousness of this issue for the Members concerned. Nigeria had always maintained that Ministers needed to know the true position of things in the negotiations. Ministers needed to acknowledge that this was a major issue of concern to a significant number of Members. Therefore, his delegation suggested that the following language replace the current text: "We acknowledge the concerns raised by preference beneficiary and high tariff revenue dependent countries. We recognize that impending tariff reductions might erode non-reciprocal preferences and negatively affect high tariff revenue dependent countries. We therefore commit ourselves to finding a workable solution, as part of the negotiating modalities, to mitigate the possible adverse effects arising from further tariff reductions." His delegation welcomed in paragraph 5 the exemption of participants with low binding coverage of less than 35 per cent from making tariff reductions, and to increase their binding coverage up to 100%. However, Nigeria suggested that the first sentence up to "tariff reduction" should be retained, while the last three words reading "through the formula" should be deleted. The rest of the sentence could be retained.

246. On TRIPS and Public Health, his delegation supported the current consultations aimed at resolving this matter before Cancún, so that countries including Nigeria could take measures to address their health concerns. This was a humanitarian issue on which a decision was long overdue. On the Singapore issues, his delegation had a major concern with the Annexes to these issues, which the Chairman needed to address. Nigeria was highly disappointed that the Chairman had included Annexes D through G in the draft text. The presence of these Annexes created the impression that they were frameworks for possible negotiations on the Singapore issues. They had not been discussed or agreed to, and yet were being forwarded to Ministers as if they were coming from the membership. In spite of the Chairman's effort to explain their inclusion in the draft text, doubts had been created as to the intended motive. In response to a point of clarification sought by Nigeria, the Chairman had clearly stated in the HODs consultations on the Singapore issues that the modalities, which Ministers would consider in Cancún, would be prepared by Members. Since Members had not had the opportunity to debate or agree on any modalities on these issues, his delegation requested that Annexes D through G be removed, because they represented the interests of only one group of countries. Alternatively, and in the interest of fairness and equity, another set of annexes representing the interests of the other group of countries, of which his delegation was one, should be included in the draft text sent to Ministers. His delegation had submitted these additional annexes to the Chairman that morning. Their inclusion as annexes to option 2 in the draft text would provide the correct picture and state of play on the Singapore issues.

247. On S&D treatment, his delegation was seriously concerned about the lack of progress in resolving these issues as mandated by Ministers in Doha, in order to make them more precise, effective, operational and binding. The number of S&D issues that had been resolved so far fell short of expectations. Out of the 88 Agreement-specific proposals, only about 25 had been resolved. In view of this, Nigeria wished to see more commitment on the part of its partners, and for Ministers to give clear guidance, including a timeframe for resolving the remaining S&D issues. His delegation also wished to see language on implementation issues to the effect that a report on progress resolving them would be made to Ministers at the next Session of the Ministerial Conference after Cancún. His delegation supported the sectoral initiative in favour of cotton, and believed this would assist in poverty reduction, provide a means of livelihood for many cotton farmers in poor countries and promote development in many developing countries. Action by Ministers on this issue would also help in integrating many developing countries into the multilateral trading system. On the preparatory process, Nigeria wished to stress the need for the process to continue to be transparent and all-inclusive in the remaining time in Geneva and in Cancún. Another pertinent question, which his delegation had raised at the informal HODs meeting on 25 August, was how the views expressed and the inputs made by Members at the present meeting would be reflected in the draft Ministerial text. Nigeria was satisfied with the Chairman's assurance that he would convey these to Ministers. In Nigeria's view, these inputs and views should be conveyed to Ministers for clarity and transparency. At the present stage of preparations for Cancún, most delegations believed the Geneva process had come to an end. This had been stated by the major trading partners. Therefore, the least the Chairman could do for Members was to ensure that all the views and positions expressed on the draft Ministerial text were conveyed to Ministers. The Chairman had assured Members that this would be done, and Nigeria trusted that it would be. His delegation would continue to participate actively and constructively in the process both in Geneva and Cancún to achieve a successful Ministerial Conference. In view of the Chairman's appeal during his closing remarks at the informal HODs meeting on 25 August, and in spite of the fact that the draft text had been prepared by the Chairman on his own responsibility and was being forwarded by him on his own responsibility, his delegation was prepared to join the consensus for the draft text to be transmitted to Ministers in Cancún.

248. The representative of Colombia asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting<sup>37</sup>. The revised draft text would serve as a good starting point for the discussion of Ministers in Cancún. However, it would be disappointing if this were to represent the end product that would be adopted by Ministers. The draft text quite correctly attempted to push the process forward by suggesting compromises and flexibility on the part of all Members. However, in assessing the package as a whole, it was quite clear that in certain areas, the level of ambition had fallen far short of the Doha mandate – in particular, regarding agricultural reform. On the contrary, in other areas of market access, the levels of ambition were clear-cut and set high, and this created an imbalance in the text. The draft text also represented an important reality check which should not differ much from the present objective state of the negotiations, and therefore should serve as a wake-up call for all. With respect to agriculture, the final level of ambition would, in part, be determined by the numbers and dates included in the square brackets in the text during the work in Geneva after Cancún. However, the general level of ambition would also be determined by the general direction and guidance given for the reforms to be taken, in the framework of the modalities in Annexes A and B. This was why, regarding agriculture, Colombia was concerned by the ambiguities and the general direction given in the text to certain issues, like the Blue Box, the Green Box and the critical issue of the elimination of all types of export subsidies by a determined date. Regarding market access, his delegation regretted that the full liberalization of tropical products and others mentioned in the preamble of the Agreement on Agriculture had not been included. Many developing countries were not asking for much more in S&D treatment in agriculture, but the developed countries insisted on maintaining it for themselves, and in some cases were even broadening it and making it legitimate. In this regard, his delegation did not see how there

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<sup>37</sup> See Annex IV.

could be viable package for the majority of developing countries, in which their benefits would really be in balance with the concessions they were required to make in other areas of the negotiation. For this reason, the G-17 proposal – now the G-20 proposal – represented an honest effort to put forward an alternative for the benefit of all Members, and this had obliged developing countries to move from their original positions, while remaining faithful to the Doha mandate. This proposal clearly showed what the developing countries' aspirations would be in Cancún.

249. Furthermore, some developed countries wishing to maintain very high and distorting domestic support and export subsidies, unblushingly suggested that developing countries were asking for excessive S&D treatment in NAMA, when in fact these were relatively marginal measures. This was rather ironic. With respect to the Singapore issues, the Chairman had correctly interpreted the state of the discussion, and had suggested two alternatives for the adoption or otherwise of modalities under each issue. The Singapore issues, with the exception of trade facilitation, were peripheral to this negotiation, the crux of which was market access and rules. The Singapore issues, while important, did not represent the same degree of interest for all Members and could only be accommodated within the single undertaking on two conditions – that they did not bring about an imbalance in the negotiating package, and that the objective and scope of the modalities for each issue was clearly stated. At present it would be paradoxical to adopt modalities in Cancún for the Singapore issues and not for market access issues. This was why, in the present circumstances, his delegation felt that, despite having worked in a constructive manner with the demandeurs of these issues, Members were far from incorporating the Singapore issues within the single undertaking on the basis of an explicit consensus. Colombia would continue to work with the Chairman and the Director-General on a constructive basis. Members needed to raise the level of ambition and should not miss this opportunity to achieve a negotiating package that had benefits for all. This package still needed to be consolidated. Members had worked well and had in fact run part of the course, although not always on the straightest path. Cancún was thus an opportunity to give final momentum to these negotiations, and the draft text would help do that. However, much remained to be done. Colombia hoped that the political will and flexibility required would be present in order to enable Members to achieve the results all hoped for in Cancún.

250. The representative of Peru said his delegation had mixed feelings about the revised draft text. On the one hand, it reflected significant progress in some areas, such as S&D treatment, trade and environment and services, as well as the inclusion of problems affecting commodities and the matter of coherence between the WTO and the international financial institutions. On services, Peru had that same day submitted its initial offer on services, thus reaffirming its wish to participate actively and constructively in these negotiations. Apart from the above progress, his delegation found that the text dealing with the key aspect of the negotiations – namely, the framework for establishing modalities in agriculture – fell short of the Doha mandate in terms of ambition. In this connection, Peru wished to stress the importance of attaining the necessary balance among the three pillars of the Agreement on Agriculture. Peru continued to associate itself with the proposal originally supported by 17 developing countries. Regarding domestic support, the draft text was inadequate in that it provided for no reduction in respect of specific products in the Amber Box, nor did it set any limit or provide for the establishment of tighter disciplines for the Green Box. As to export subsidies, no clear course was charted for their elimination despite their disruptive effect on developing countries. The incorporation of more precise guidelines on this matter was essential. With regard to the market access pillar, his delegation welcomed the fact that the concept of Special Products had been maintained in the section on S&D treatment. However, all Special Products that were essential to food security and rural development in developing countries should be exempted from tariff reduction commitments. His delegation wished to consider the response to the request by a number of developing countries for the establishment of a new Special Safeguard Mechanism (SSM) to be applied solely by those countries. However, there was considerable concern that, in parallel, the developed countries should be free to maintain their current safeguards.

251. On NAMA, Peru attached great importance to the principles of S&D treatment and less than full reciprocity, which would have to be properly reflected when it came to establishing modalities in this area of negotiation. Peru endorsed the inclusion in Annex B of the text on the conversion of non-*ad valorem* duties to *ad valorem* equivalents. Regarding the sectoral component of the negotiations, his delegation wished to thank the Chairman for his great effort towards conciliation. Peru's position on this remained unchanged – this should be complementary to the application of the formula and should be voluntary. With regard to implementation-related issues, in his delegation's view the text of paragraph 12 could prejudice the importance of one subject to the detriment of others, by singling out unnecessarily the extension of the protection of GIs to products other than wines and spirits, particularly as there was no consensus on this matter. With regard to non-violation complaints, his delegation noted that the draft text reflected a provisional compromise which in no way affected the position of Peru and the vast majority of developed and developing Members, in that non-violation and situation complaints were not necessary, desirable or possible, and should therefore be declared outside the scope of the TRIPS Agreement. Regarding the Singapore issues, his delegation found that the draft text reflected significantly different positions, and left out important intermediate or mixed options which the Friends of the Chair had themselves suggested, or several Members had proposed, in the consultations. It would be appropriate to take up those proposals at Cancún in the interests of facilitating an agreement that envisaged the necessary flexibility for developing countries. He reiterated Peru's position, namely, that any decision as to whether or not to commence negotiations on investment, competition policy, trade facilitation and transparency in government procurement would depend on actual progress made in the negotiations on agriculture and on NAMA. He reaffirmed Peru's commitment to the multilateral trading system and to the WTO. The work programme agreed at Doha afforded an important opportunity to progress towards global trade that was more inclusive and more equitable, and to give real content to the development objectives marked out as constituting the highest priority of this Round. Cancún could and should be a step towards the attainment of that goal.

252. The representative of Gabon said that a draft text was an open invitation to negotiate on all issues, with a view to reconciling the interests of all Members, large and small. She would be brief, since her country, which had recently appointed a new Minister of Trade, was still finalizing its position and had yet to formulate a response to the revised draft text. At Doha, Gabon had expressed its views on issues relating to public health and intellectual property, debt, preferences, weak capacity and S&D treatment. In the first instance, her delegation would convey its major concerns to the African Group, as this would be an opportunity to express its solidarity with countries campaigning for a fair appreciation of the deterioration of trade in commodities and the dramatic consequences for national income. This was particularly true for cotton, as well as for other products that underlay these countries' economies, which were already weakened by uncontrolled fluctuations on international markets. Regarding paragraph 9 of the draft text, and in her capacity as Chair of the Special Session of the Committee on Trade and Environment, she wished to note that she knew it was for delegations to negotiate and propose the main thrusts and/or take the necessary decisions pursuant to paragraph 45 of the Doha Declaration. Nevertheless, she feared that if Members agreed on the current vague text, they would fail to provide any effective impetus to guide the work in such a complex area of the negotiations. It was very well for Members to "reaffirm their attachment" to these negotiations, but the term "commitment" would be more appropriate. Her delegation had taken note of the information provided by the Chairman the previous day concerning the preparation of a proposal regarding observer status, to be submitted to Members after Cancún. Gabon hoped this proposal would have a positive impact on the negotiations in the Special Session of the Committee on Trade and Environment relating to paragraph 31(ii) of its mandate. She wished Members good luck in the successful and smooth completion of their work, in a climate of full transparency.

253. The representative of Romania said that the draft text was very valuable, particularly since the results of the negotiations had not been the best. Members had failed to observe each and every deadline established at Doha and had not obtained a single important global result, despite the huge amount of work and effort. Under these circumstances, Romania considered that the revised draft text

was a fair and complete presentation of the status of the negotiations in Geneva, and at the same time a call for political guidance in ensuring that the decisions taken at Doha were turned into reality. Her delegation had tried its best to make its positions less radical and to find an acceptable compromise. However, it was of the view, especially after having heard certain positions expressed at the informal HODs meeting on 25 August, that the only solution was to forward the revised draft text to Ministers at Cancún under the Chairman's responsibility. Romania considered that the revised draft text reflected reality and gave Ministers the possibility to negotiate the best solution for the future work of the organization. It was not a Seattle-like text, there were not too many brackets, and there was still enough room for negotiation.

254. As a net food importing developing country, the first subject Romania wished to comment on was agriculture. This was one of the most difficult areas of negotiations, as it was nearly impossible to reconcile the needs and concerns of as many agricultural policies as there were WTO Members. Her delegation considered the draft text on this issue as one to be still negotiated, or as a reference text in which many provisions would have to be negotiated. Romania trusted that Ministers would give political guidance to delegations, that would enable them to continue the process of reform in agriculture. While the draft text and its Annex were not clean texts, and all Members' concerns had not been taken aboard, there was a way to find the compromise that would both observe the Doha mandate, covering the interests of development, and the particular concerns of each and every Member. On NAMA, as stated in the informal HODs meeting, Romania could accept the latest input from the Chairman of that Negotiating Group, and was ready to continue negotiations, also on the basis of the two documents presented. Romania considered that a decision on TRIPS and Public Health was crucial for the organization and trusted that even before Cancún, Members would be able to send the world a message about their commitment to the tremendously serious problems faced by certain developing countries. On services, the draft text was encouraging and provided a sort of momentum to finalize the negotiations in this area.

255. The results of negotiations in the area of TRIPS, rules, S&D, implementation and environment were accurately presented and included a sense of movement and continuation. This did not mean Romania was satisfied with the results obtained in these areas, but the text reflected reality and that Members had to continue the work in these areas. This positive evaluation of the draft text did not preclude the rights of her delegation to try to have its interests better preserved through the text to be adopted in Cancún. However, her delegation believed that Ministers would have before them a proposal from the Chairman of the General Council. The Chairman was well aware of Romania's initial position and its interests, and had been informed about the positions of all other Members. Ministers at Cancún would have a difficult task of taking decisions, and this at a time when turmoil, uncertainty, slowing of the world economy and a certain degree of unreliability in the international financial system characterized the world. Her delegation remained optimistic and trusted that trade, based on rules accepted by all Members, in a continuous trend of opening markets for all participants in the multilateral trading system, having efficient instruments of technical assistance and capacity building, taking account of the concerns of those in need and deploying all efforts to have all Members effectively and efficiently included in the system – such trade would prevail and the WTO would remain a trusted, beneficial and useful organization, while expanding trade in a harmonious way so as to support efforts towards sustainable development. Romania was committed to contributing to a positive and tangible outcome at Cancún. This was why her delegation was tackling this matter in a positive manner, and had changed gears from a purely individual approach to a negotiating one, making the needed adjustments in its priorities and objectives, and trying to consider more attentively the positions and concerns of others. She knew that her delegation was not the only one to do so, and urged all Members to adopt a negotiating approach.

256. The representative of Thailand asked that her delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>38</sup> Her delegation was

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<sup>38</sup> See Annex IV.

disappointed but not discouraged. It was the job of all delegations to do their best to fulfil the mandate given by Ministers in Doha, i.e. to report to the Cancún Ministerial Conference where each one stood on each negotiating issue, so that Ministers could take decisions or provide political guidance as necessary. The question was whether common ground could be found for Ministers to take any decisions at Cancún. At the present stage, the revised draft text enabled his delegation to see more clearly where Members stood. Although the draft text contained positive elements in some areas where Members might be able to find compromise by Cancún, in several key areas – because of divergent views of Members – the text had resulted in an imbalance. In this respect, it was delegations' task to assist Ministers and help them find a balanced outcome in Cancún, so they would be able to take decisions they could happily report back to their constituencies as being beneficial, in the light of the unhealthy world economy. Hence, flexibility, give and take and trade-offs were key at the present juncture. In this regard, her delegation wished to make additional comment on the revised draft text.

257. On market access in agriculture, it was irrational to expect substantial improvement in market access from developing countries, while there was a proliferation of heavy subsidization of agricultural products on world markets by developed countries. On domestic support, first, the new type of Blue Box introduced in the draft text in Annex A would enable countries to increase, not decrease, trade-distorting domestic support. Second, there was no product-specific reduction commitment mentioned in the text. This would provide excessive flexibility to rich countries, that would adversely affect the trade of developing countries like Thailand. Third, there was no commitment – not to mention capping or reduction – even to strengthen the disciplines on trade-distorting measure under the Green Box, thus allowing countries with sufficient resources to continue their unlimited trade-distorting support. On export subsidies, Thailand did not believe the question of the end date for phasing out export subsidies should be negotiated. In this respect, the text proposed by 17 – and now 20 – Members was balanced, ambitious and faithful to the Doha mandate. It represented a big move from a group of countries and was now on the table. In addition, the draft text might be improved by specifying the end date for elimination of export subsidies and ensuring substantial reduction commitments on a product-specific basis for all trade-distorting domestic support, and by indicating a capping and strengthening of the Green Box.

258. On NAMA, in general her delegation did not have much difficulty leaving a bracket on the date for concluding the work on modalities, as long as it corresponded to the date for agriculture. On Annex B, her delegation wished to emphasize its concerns about the language in paragraph 6 – which did not follow the Doha mandate. The less than full reciprocity mandated in the Doha Declaration had not been met. The sectoral initiative should be only a supplemental and voluntary element in the formula. Thailand could not accept any language that might lead to an interpretation that a sectoral tariff component would be mandatory. On services, her delegation supported having only one deadline for the submission of improved offers, bearing in mind the progress in agriculture and NAMA. On the Singapore issues, to her delegation's disappointment, the Annexes included and proposed to be used as a basis for further negotiations on these issues were supported by only a handful of Members. Compared to the Annexes on other issues, like agriculture and NAMA, which had been included in the draft text, the Annexes on the Singapore issues ignored other possible options and did not truly reflect the present state of discussion among Members. She recalled that in an attempt to find a possible way forward, some Friends of the Chair had come up with a text including the three possible options drawn from consultations with Members. Regrettably, none of these options appeared in the Annexes, even as a more flexible or intermediate option that might be used as a bridge between the two other options. In this regard, if Ministers were to choose in Cancún only between the two options – in which the first option had an Annex that did not reflect Members' benefits or concerns – Ministers would have no choice but to choose the second option. Thailand remained committed to the multilateral trading system and wished to see the Cancún Ministerial a success. Her delegation would work in Geneva as well as in Cancún constructively with the Chairman, the Director-General and other colleagues in order to achieve an agreed solution. Thailand hoped all Members would

demonstrate maximum flexibility and utmost willingness to cooperate with one another. There were no barriers that could not be overcome if the will was strong. In this regard, Thailand would submit its initial offers on services shortly before Cancún despite many hurdles that it had faced along the way, both political and technical. Thailand had been a consistently constructive participant all along in the negotiations and strongly urged other Members to move positively in other areas of negotiations as well.

259. The representative of the Czech Republic said his delegation recognized the complexity of the task of putting together a draft Ministerial text, and the difficulty of squaring the circle of widely diverging positions, concerns and interests. However, a good job had been done, despite all the voices of unhappiness and the qualifying remarks Members had made. His delegation agreed with the Chairman that the revised draft text was based on many hours of consultation and discussion, especially in the open-ended HODs format. Throughout that transparent and inclusive process, the Chairman had listened to Members and had invested a lot to better understand their positions through more structured and focussed exchanges. It was on that basis that the Chairman had analysed various positions and had produced, in close cooperation with the Director-General, what he saw as a possible middle ground or way forward. The Czech Republic understood all of the voices of disappointment and unhappiness regarding various portions of the text. His delegation was equally unhappy about the overall imbalance of the text and that many of the issues of particular concern to it had not been addressed in a meaningful manner or reflected at all in the draft text. However, when sharing their sentiments and comments, Members should not lose sight of the fact that, for the first time, they had a text which, albeit not agreed, was manageable and negotiable. To qualify this as a step forward in comparison with the original version of the draft text was quite an understatement. The first draft had been of a somewhat skeletal nature. Members now had something that enabled them to see the bigger picture and to assess their offensive and defensive positions – a text on the basis of which, along with submissions by Members, Ministers at Cancún could face their responsibilities. He had already indicated that there were areas in the draft text which caused major difficulties for his delegation and that required additional effort to facilitate the process of consensus-building at Cancún. However, he would refrain from going through all of them. His delegation's concerns were very similar to those stated by the Community. His delegation would spare no effort to work with the Chairman and other Members with a view to bridging the gaps and reaching a conclusion acceptable to all.

260. The representative of Barbados asked that her delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>39</sup> Her delegation fully associated itself with the statement by Botswana on behalf of ACP Group and subscribed to all of the points raised therein, in particular that it was imperative that in Cancún, the elaboration, amendment and adoption of the Ministerial text be transparent and inclusive. With respect to agriculture, Barbados welcomed the statement by Indonesia on the subject of Special Products. Barbados broadly subscribed to those views, but would go even further – no developing-country product, including those designated as Special Products, should be subject to either tariff ceilings or new tariff rate quota commitments. With regard to the Singapore issues, her delegation had already expressed its preference for a final text on each of the four issues along the lines of the second option in the draft text. Her delegation had taken note that the language of paragraphs 13 through 16 of the revised draft text was drafted so as to reflect the essence of the clarification given by the Chairman of the Doha Ministerial Conference, namely, that a decision on modalities would need to be taken by explicit consensus before negotiations could proceed. On the issue of coherence, her delegation had listened carefully to the statement by the United States on this matter and had noted the assertion that “we cannot recreate the function of these institutions within the WTO”. Barbados welcomed this affirmation. However, the proof of the pudding remained in the eating. Her delegation's experience in such matters had been such that it would carefully examine the ingredients before ingesting any more, in order to ensure it would not later regret having gorged itself. With respect to the issues of S&D and implementation, which were of great importance to her delegation, it was critical that

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<sup>39</sup> See Annex IV.

further progress be achieved. Barbados held similar views with regard to the Working Groups on Trade, Debt and Finance and on Trade and Transfer of Technology. On cotton and commodity initiatives, it was critical that Ministers at Cancún be able to address these issues in a constructive and result-oriented way. With regard to small economies, her delegation believed that paragraph 17 reflected the status of the relevant Work Programme at the present time. It was therefore critical that in the post-Cancún period, work be accelerated in order to realize a substantive outcome at a very early stage.

261. The representative of Uganda asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>40</sup> In addition to the comments Uganda had already made at the informal HODs meeting on 25 August, his delegation wished to stress a few points. Uganda attached great importance to S&D, and the elements that had been agreed on should be banked. However, the harvest was too meagre to be meaningful in terms of real commercial value. Therefore, Uganda supported the statement by Kenya. His delegation also fully subscribed to the statement by Bangladesh on behalf of the LDCs. There had been a recent development on the Singapore issues which was the submission by India of a letter and an attachment. As the coordinator for the LDCs could not be in the room at present, he had asked Uganda to make the following statement on behalf of the LDCs: "The LDC Group has taken note of the contents of the letter. We support the move to provide annexes to the second option in your draft on each of the Singapore issues, to provide the needed balance to enable the Ministers to take decisions on these issues." Uganda supported the proposal that the letter and its attachments from India be annexed to the draft Ministerial text in the appropriate places.

262. He then made the following statement also on behalf of Egypt, Kenya, Lesotho, Namibia, Nigeria, Senegal, South Africa, Tanzania and Zimbabwe: These countries wished to express their views on the current discussions in agriculture, a subject that was of critical importance to the African continent. The results of the Doha Development Agenda would only be meaningful to Africa if it delivered a positive outcome in the agriculture negotiations. As African countries, they believed that in accordance with the Doha mandate, the reform programme in agriculture should take into account the particular needs and circumstances of the African countries. In this regard, these countries believed that the G-17 – now G-20 – joint proposal of the developing countries contained some key elements on which one could build, with a view to addressing the special needs of Africa. With regard to domestic support, while they supported the general thrust of the paper, they wished to emphasize that the high level of ambition of the Doha Declaration should be adhered to, and that the most trade-distorting support should be substantially reduced for all products. As to market access, which was of particular importance to these countries, given that tariffs were the only viable and available trade policy instrument to protect domestic production, while they supported the general thrust of the G-17 proposal in this area, they wished to highlight the following issues of concern. First, the special needs of African countries should be taken into account for the purposes of developing modalities on the concepts of Special Products and the SSM. Second, the current preferences accorded to products originating in African countries should be safeguarded. In addition, the modalities should establish appropriate and effective mechanisms to address the negative effects of loss of preferences, building on the Revised . Third, on tariff rate quotas, special measures should be undertaken to assist small-scale and limited-commodity exporters from African countries to benefit from any tariff rate quota expansion in developed countries. With respect to export competition, the approach proposed in the G-17 paper on export subsidies went in the right direction. In these countries' view, export subsidies provided by developed countries should be substantially reduced with a view to their elimination within an agreed timeframe. The modalities should take into account the special needs of the NFIDCs and LDCs. Regarding other S&D measures, these should to be part of any framework agreement, as elaborated in Kenya's proposal in Job(03)/175.

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<sup>40</sup> See Annex IV.



263. The representative of Chinese Taipei asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>41</sup> His delegation urged Members to continue negotiating among themselves. In order to do that, they should have in mind one crucial word – flexibility. His delegation strongly supported the view of many Members that the one area where flexibility was greatly needed was agriculture. Chinese Taipei wished to reiterate that in agriculture, there was no one-size-fits-all solution. There should be enough give and take in the eventual modalities on agriculture to ensure an equitable and workable agricultural reform, especially to accommodate non-trade concerns. In addition, his delegation, along with several others, found it extremely difficult to accept the capping of the Blue and Green Boxes, the reduction of the *de minimis*, the TRQ expansion and tariff capping, and the linkage between the two. Furthermore, his delegation appreciated the support of certain Members for recognizing the special needs of recently acceded Members. Bearing in mind that recently acceded Members were still in the process of implementing or adjusting to their considerable accession commitments, his delegation wished to emphasize that the special needs of such Members were an integral part of striking a balance in the overall Doha Development Agenda. Chinese Taipei strongly urged all Members to allow these countries more moderate tariff reductions and longer implementation periods, especially in the NAMA and agriculture modalities, to enable a smooth adjustment to further commitments. His delegation shared the view that a successful Cancún Ministerial Conference was a goal the multilateral system could not afford to miss. Chinese Taipei was therefore ready to demonstrate the flexibility necessary to achieve a fair and balanced outcome, and was fully committed to working with the Chairman, the Director-General, and all Members in order to ensure a successful Cancún Ministerial meeting.

264. The representative of Cuba said the fact that the revised draft Ministerial text had been issued at such a late stage in the preparatory process for Cancún, i.e. only ten working days before Ministers commenced their discussions, constituted a serious problem, because the draft text contained a series of obligations in technically very complex areas and, more importantly, whose implications for the economies and development of many Members, in particular the developing and least-developed countries, required them to be absolutely certain that the commitments they adopted would bring economic benefits for their economies. Consequently, even a text which the Chairman put forward on his own responsibility still presented difficulties for most Members, including both industrialized and developing countries, as had become clear in the informal HODs meeting, and as the Chairman himself had recognized in his concluding remarks at that meeting, when he had said that the text had not met the expectations of any Member, since it had failed to reflect the level of ambition of the mandate for some and had gone beyond the mandate for others – i.e., that what was an acceptable compromise for some was a totally unacceptable compromise for others. Members had a long way to go in order to reconcile their differences. Therefore, the short time available should not be used either to damage the interests of developing countries or to force them to undertake commitments, the implications of which were as yet uncertain, and which developing countries were yet to be convinced would bring trade benefits for their economies. Her delegation was not satisfied with the content of the revised draft text and wished to make the following preliminary remarks.

265. Concerning paragraph 4 on the agriculture negotiations, Cuba, as a member of the G-20, shared the aspirations of this group, as expressed by Brazil and India. For Cuba, as an underdeveloped net food importing country, the strengthening of Article 12 of the Agreement on Agriculture with a view to eliminating export prohibitions and restrictions was a matter of top priority, in order to avoid hindering free trade and jeopardizing the food security of net food importing countries. Cuba therefore welcomed the inclusion of paragraph 3.7 in Annex A of the draft text. Her delegation attached great importance to the issue of Special Products, the genuine and effective implementation of the Marrakesh NFIDC Decision, the erosion of preferences, and the need to take positive steps to counter the impact of these negotiations on preferential access. Cuba's view concerning the Singapore issues had been set forth in document WT/GC/W/513, submitted on behalf

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<sup>41</sup> See Annex IV.

of a group of developing countries. Further analysis was necessary for each of the four issues, on account of their complexity and owing to the shortage of human, financial and technological resources experienced by many Members. The likely implications of multilateral rules in these areas for developing countries should also be the subject of further study. Cuba therefore requested that the communication presented by India, on behalf of a group of countries, including Cuba, should be annexed to the draft text, in order to alert Ministers to these countries' concerns and to the fact that they were not yet ready to commence negotiations on these issues. Cuba noted that the revised draft text on electronic commerce did not contain the square brackets that had appeared in the first draft text at the request of Cuba. Cuba would not insist on retaining those brackets, in order to help the Chairman in the difficult preparations for Cancún. However, her delegation had reservations concerning the recommendation to Ministers that Members should maintain their current practice of not imposing customs duties on electronic transmissions until the next Session of the Ministerial Conference, for the reasons given in Cuba's statement in the General Council on 24 July. Cuba was uncomfortable with the adoption of automatic decisions that were not based on any analysis or studies demonstrating the need to make this kind of commitment.

266. Cuba had high ambitions regarding development-related issues, as it had shown through its active participation in the discussions, by stressing the need to obtain substantive results in the package of proposals on S&D treatment and implementation-related issues, and in the alternative paragraphs submitted on issues such as trade, debt, finance, and technology transfer, together with other developing and least-developed countries. With regard to TRIPS and Public Health, Cuba hoped that, for the benefit of all developing countries, the text of 16 December 2002 could finally be adopted. Cuba supported this text as a compromise solution. However, in her delegation's view, the definition of "pharmaceutical product" contained in paragraph 1(a) was inadequate, because it excluded vaccines, which, on account of their very nature and the role they played in public health, should be included in this category. Concerning paragraph 8, Cuba agreed that the TRIPS negotiations should continue and that they should be completed by 1 January 2005 at the latest. The title of paragraph 9 concerning the environment should refer to trade and environment negotiations. Cuba had no difficulty with the present wording of paragraph 10. The current wording of paragraph 5 concerning negotiations on NAMA needed to be improved, in order to bring it into line with the additional provision of paragraph 8 on keeping five per cent of tariff lines unbound. Concerning the formula to be applied and the sectoral approach, the current text did not reflect the view expressed by most countries, especially the developing and least-developed countries, during the negotiating process. As contained in Annex B, these elements could affect the industrial development policies of many developing and least-developed countries. The sectoral approach should be voluntary.

267. Cuba supported the views of the G-24 and China regarding services. Her delegation underlined the importance of implementing paragraph 15 of the Negotiating Guidelines as one aspect of the review of the negotiations to benefit developing countries. With regard to Mode 4, which was of great interest to developing countries, Cuba wished to draw attention to the scant coverage in the offers made by developed countries, which indicated the need to improve such offers with a view to eliminating the barriers that remained in place. Concerning paragraphs 23 and 24, Cuba endorsed the suggestions made to ensure that technical cooperation was an effective way of creating and improving the human resource and institutional capacities of developing and least-developed countries. Cuba supported the proposals introduced by Bangladesh on behalf of the LDCs with a view to strengthening the paragraph concerning this group of countries. On the issue of accessions, Cuba wished to include an additional sentence in paragraph 28, with a view to providing a timely and adequate response to WTO accession requests that remained pending from a group of developing countries, and to initiating the corresponding accession procedures.

268. With regard to Annex C concerning S&D treatment, and specifically Article 67 of the TRIPS Agreement, the proposed wording put excessive emphasis on assistance to ensure that developing and least-developed countries complied with their obligations under the Agreement. However, it was just as important to mention that assistance was needed to prevent the adverse use of intellectual property

rules. Reference should also be made to assistance in correcting anti-competitive practices in contractual licences. In his statement, the Director-General had referred to the difficulties facing the world economy. Consequently, it was necessary to improve market access for products of particular interest to developing countries, to eliminate export restrictions, and to strengthen S&D treatment provisions, while not increasing the burden of obligations on Members, most of whom had great difficulty fulfilling their existing commitments. Regarding process, Cuba supported the proposal of the African Group that the Chairman should continue to hold consultations regarding the draft text, since any text forwarded to Ministers in Cancún should be adopted in Geneva by consensus. Her delegation wished to thank the Chairman, the Director-General, the Deputy Directors-General and the Chairpersons of the negotiating groups, for all of their work in seeking to produce a text acceptable to all. Regrettably, so far that had been impossible to achieve. Her delegation was ready to work with the Chairman and the other Members towards that objective.

269. The representative of Lesotho said his delegation supported the statements by Bangladesh on behalf of the LDCs and by Botswana on behalf of the ACP Group. With regard to TRIPS and Public Health, it was his delegation's expectation that before the present General Council meeting ended, a special meeting of the TRIPS Council would be convened to adopt the 16 December 2002 text, along with a statement to be made by the General Council Chairman. His delegation understood that the statement by the Chairman was in the final stages and was intended to give comfort to certain delegations in terms of the interpretation of the 16 December text. However, it should be remembered that amendment of the TRIPS Agreement was the ultimate objective. With regard to agriculture, the draft modalities in Annex A of the revised draft text were based largely on the joint EC/US framework paper. Although the developed Members' efforts in moving the process forward were welcomed, Lesotho had suggested that the draft text should include the Revised First Draft of Modalities. Paragraph 4 of Annex A was a watered-down version of what was contained for LDCs. This was surprising, as Lesotho had been under the impression that the Revised First Draft of Modalities was acceptable insofar as it referred to LDCs. Further, his delegation wished to confirm its support for the statement by Uganda on behalf of the African countries, including Lesotho, in this regard.

270. With respect to NAMA, the progress in developing negotiating modalities was commendable, and therefore the text in this regard – and to a large extent, Annex B – was generally acceptable. With regard to S&D treatment, work was still proceeding regarding modalities for LDCs. However, the progress of this work was disappointing, as the proposals presently on the table had little if any economic value. However, further comments would be made at the time this language was finalized. His delegation was also concerned about the proliferation of work on this topic in various WTO bodies, in spite of paragraph 44 of the Doha Declaration which had to be read in conjunction with paragraph 12 of the Doha Decision on Implementation-Related Issues and Concerns – which placed such work squarely within the ambit of the Committee on Trade and Development. With regard to the Singapore issues, his delegation confirmed the position of the LDC Dhaka Ministerial Declaration, the Southern Africa Development Community (SADC) Lusaka Ministerial Declaration, the African Union Grand-Baie Ministerial Declaration and the ACP Brussels Ministerial Declaration, and the attached negotiating positions on this matter. Lesotho supported the second option in the draft text in paragraphs 13 through 16. A wrong impression was created by attaching Annexes D-G, as these reflected the views of the proponents of negotiations and had not been fully scrutinized by the membership. Lesotho supported the statement by Uganda on behalf of the LDCs in this regard. With respect to technical cooperation, his delegation welcomed paragraph 23 of the draft text, but wished to emphasize the necessity of the availability of funds to undertake the work in the various programmes. Further, the consultation of beneficiaries in the drawing up of the plan was crucial to making the assistance meaningful. His delegation welcomed the paragraph on LDCs and wished to thank the Chairman for the effort he had put into the successful negotiation of this paragraph. With regard to the sectoral initiative on cotton, Lesotho encouraged the membership to adopt the draft decision submitted by Benin, Burkina Faso, Chad and Mali in document WT/GC/W/511. Regarding the procedure for submitting the draft Ministerial text to Ministers, it was his delegation's view that where

there was a clear meeting of minds on the text, it should be submitted for the consideration of Ministers. Furthermore, there should be a proper balance in the text that expressed the development bias of the Round, with levels of ambition either at par with or higher than what had been agreed in Doha.

271. The representative of the Kyrgyz Republic asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>42</sup> The question of effective and globally beneficial membership of the Kyrgyz Republic in the multilateral trading system had reached its most crucial point, as Members were only a few days away from the forthcoming Ministerial Conference, when the new phase of the negotiations would commence. To his delegation, use of the term "effective and globally beneficial membership" would imply a degree of certainty and flexibility from such membership, but in no way should this membership diminish the natural ability of a country to participate in global policy making. In a recent letter to the Chairman, which had been circulated to all Members, his Government called on all Members to further strengthen the WTO by taking up this issue seriously in the course of the Cancún Ministerial Conference. His delegation would provide additional documents deemed necessary during the consultations at Cancún.

272. The representative of Lithuania said that like others, his delegation had concerns regarding parts of the revised draft text, and wished to touch on only the most problematic ones. His delegation supported the format of the document, which included options and brackets in only a very few areas. In Lithuania's view, this format could help Ministers reach adequate agreements at Cancún. Moreover, his delegation supported submitting the text to Ministers on the Chairman's own responsibility. With regard to agriculture, during the consultations held during the past two weeks, Lithuania had supported the joint EC/US proposal, which reflected a most ambitious level, and was most realistic at the present stage of agricultural reform. On domestic support, in particular with regard to the Blue Box and the second phase of the reduction of this kind of support – as described in the second sentence of paragraph 1.3 (ii) of Annex A – his delegation believed that a proposal to impose limits of five per cent during the implementation period was already an ambitious step forward, taking into account also the fact that Blue Box support was minimally trade-distorting, and significantly less distorting than Amber Box subsidies. Lithuania therefore believed that this step was adequate at the present stage of the agricultural negotiations. With respect to reducing or capping the Green Box support, his delegation believed that this support was not trade-distorting and was a key instrument in addressing non-trade concerns in agriculture. Therefore, his delegation wished to clearly state that such a proposal could not be accepted.

273. Regarding market access in agriculture, Lithuania supported those Members with concerns regarding the two-tiered approach in the draft text on formulas. In his delegation's view, the same formula should apply to both developed and developing-country Members, with S&D treatment for developing countries. However, Lithuania was convinced that the S&D treatment should be explicitly applied to those countries which really needed it, but not in respect of countries that were global food exporters and richer than others. He did not understand why these Members should not contribute to trade liberalization to the same extent as others. Regarding export subsidies, the draft text with respect to the end date for phasing out all forms of export subsidies created an imbalance in the export competition section of the text, which in his delegation's view was one of the greatest achievements of the EC/US proposal. His delegation also felt that the provisions on export competition were too weak. Regarding NAMA, his delegation sought a greater level of ambition through a single and simple non-linear formula, leading to the harmonization of import tariffs, at the same time effectively applying the S&D treatment provisions. Regarding the Singapore issues, Lithuania was not satisfied by the results of the consultations. However, his delegation agreed with the Chairman's approach of submitting two options to Ministers for decision. His delegation expected that these concerns would be duly taken into account, if not at present, then by the Ministerial Conference at Cancún.

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<sup>42</sup> See Annex IV.

274. The representative of Switzerland asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>43</sup> Switzerland's position on the framework package on agriculture was also reflected in document JOB(03)/167 submitted by Bulgaria, Chinese Taipei, Iceland, Korea, Liechtenstein and Switzerland on 20 August. Further to Switzerland's statement at the informal HODs meeting, his delegation had three additional comments to make on the draft Ministerial text. First, Switzerland understood the position expressed by Bulgaria at the present meeting. However, Members were not quite there, in terms of agreement on this issue. Switzerland still hoped for a more constructive approach by exporters to the concerns of net food importers with little or no export interests. This group could not be the only having to make very substantive commitments, while a number of major net food exporting countries assumed none or few corresponding commitments. Second, in this respect his delegation wished to stress again that only a flexible set of commitments responding to the various situations in agriculture would ensure success. Third, the concretisation of non-trade concerns was of paramount importance. Switzerland's Constitution specifically instructed it to follow a market-oriented agricultural policy that would satisfy the needs of multifunctionality. Any result that would prevent the fulfilment of such policy would not be acceptable. His delegation supported the statement by Japan, including the request related to paragraph 4 of the draft text. Regarding suggestions that had been made to separate the draft text from the Annexes it currently included, it was Switzerland's view that all of the Annexes had the same status and were an integral part of the draft text. Therefore, all of the Annexes should be forwarded to Ministers for their consideration at Cancún.

275. The representative of Croatia asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>44</sup>

276. The representative of Iceland asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>45</sup> His delegation wished to expand briefly on the segments of the revised draft Ministerial text relating to agriculture, NAMA and the Singapore issues. As already mentioned, Iceland believed that the approach taken in the draft text better accommodated the sensitivities of those Members which enjoyed large-scale and broad-based production that was relatively competitive. The draft text failed to address the interests of countries with small-scale production of few products under difficult conditions, which were not competitive on international markets. Iceland's agricultural sector had minimal – or perhaps more accurately, no – impact on world trade. Its domestic support policies reflected the severe difficulties it had to confront in maintaining a viable agricultural sector on the edge of the Arctic Circle. A one-size-fits-all approach did not begin to fathom the different needs of individual Members in different production conditions. Sufficient flexibility should be ensured to suit the smaller as well as the bigger players. It was paramount that Iceland safeguard its right to sustain a certain level of domestic production, i.e., for food security purposes, and that the methodologies applied in the reform process provided it with an appropriate set of tools for the task at hand. Iceland was a country with minimal agricultural exports, and the predominant share of domestic production was for domestic consumption. His delegation did not believe that non-trade concerns had been adequately addressed in the process to date, and was therefore troubled by the current course of the negotiations. It went without saying that Iceland's concerns needed to be addressed within the framework to be agreed, not outside it, where they would be rendered insignificant.

277. Production-linked policies had proven to be necessary tools to accommodate Iceland's diverse policy objectives in agriculture, and this required flexibility, both in the Amber and Blue Boxes, for these policies to be continued at a level sufficient to ensure a certain level of domestic production. With respect to market access, Iceland had consistently argued the merits of a Uruguay Round approach and continued to extol its virtues. It was a simple fact that non-competitive agriculture

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<sup>43</sup> See Annex IV.

<sup>44</sup> See Annex IV.

<sup>45</sup> See Annex IV.

required an appropriate blend of domestic support policies and tariffs to ensure its viability. It was imperative that Iceland provided its arctic agriculture the minimal shelter it needed from the scorching heat of international competition, in order for it to be viable. Given the divergent needs of Members, a harmonization approach was ill-suited to provide the fair and equitable trading system for which all strived. The same went for tariff capping. As in domestic support, the modalities in this pillar should be characterized by flexibility to take into account the different sensitivities of Members. Iceland's task here was to ensure that such supports would be continued without distorting international trade in agricultural goods. With respect to NAMA, on which Iceland hoped to see some results, the draft text was disappointing. Members were negotiating formulas for agriculture, and at the same time struggling with a very weak text on NAMA. This was not acceptable. Members should at least agree on the basic framework, including the formula. In this connection, his delegation wished to underline that mandatory sectoral elimination was an important part of that framework. The draft text lacked ambition and hardly added anything to what had already been agreed at Doha. Iceland feared that it could even bring Members one step backwards. Iceland agreed with those that were prepared to begin negotiations on all four Singapore issues. As one delegation had said earlier, it took two to tango. Part of the problem might be that a couple of Members were dancing the tango together, nearly oblivious of the rest of the Members who were dancing something resembling a polka. While the leadership of the two dancing the tango was necessary, it was important that they joined the rest in the polka, in order to provide a better chance of creating an agricultural framework that would have all the ingredients of flexibility needed to accommodate Members' different problems. His delegation would come to Cancún with an open mind and ready to continue to work in an effort to improve the draft text in a way that would enable all Members to accept it.

278. The representative of Zimbabwe said that over the past few days, his delegation had been regaled with wisdom drawn from Western classical traditions, and also from other, equally powerful and thriving original sources. However, it remained earth bound, in real time and its concerns were still palpable and demanding of attention. These concerns might be less lofty but, nonetheless they were enriched by humble life patterns and the wisdom of hunters and gatherers of Zimbabwe's part of the world. However, one would return later to the derided wisdom of those scarred by many millennia of rustic existence on the harsh terrains of Africa. As Members continued to develop a framework their Ministers might use to chart the future of the multilateral trading system, he wished to assure all that his delegation was committed to cooperating with all, while it expected that the views of all would be taken on board. There should be no favoured few. In agriculture, a sector many termed the key to all else in the Doha Round – and his delegation did not quarrel with that characterisation – his delegation did have concerns with assertions about what was good for Zimbabwe. Subsidies should be eliminated, and in an agreed timeframe, and the level of ambition in other aspects should also be improved. Seemingly transparent processes posed problems for Zimbabwe when they permitted annexes to be added to the draft text which it was then said faithfully reflected the deliberations among Members. Zimbabwe had a sense that it was engaged in proxy negotiations. The real negotiations – if one could call them that – were taking place elsewhere in various modes, between the powerful and the weak, who were deliberately misinformed and promised unrealisable rewards. Sadly, his delegation had been victim to those machinations in the past. The stark reality was that the current trade arrangements would not improve the lot of the world's one billion-plus peasant farmers. What had been put before Members pretended nothing better.

279. The Singapore issues had fallen victim to the notorious annexes, which many speakers had said should be removed from the draft text. For a fairer exchange and for Ministers properly to make informed choices, they should also have before them alternative modalities, such as those developed by India and others, who opposed the launch of negotiations on these issues. It would not be acceptable to put forward only the modalities developed by the demandeurs. On NAMA issues, his delegation was dissatisfied with designs that sought to cripple his country's nascent industries. Realistic S&D treatment provisions should be negotiated and faithfully implemented. Developing and least-developed countries would not be well served by the current provisions, which fell far short of the Doha mandate in ambition. Despite Zimbabwe's discomfort with the progress of the negotiations

so far, his delegation remained engaged, and this was important. No one should be allowed to provoke disruption and unproductive discourse. That said, neither should deception find a place in serious exchanges on such weighty issues which potentially might determine whether millions lived or died. He recalled a saying of one of the tribe's in Zimbabwe, that might in some ways characterise what Members had been about en route to Cancún. In this tribe's almost inimitable tongue they conveyed a saying that meant "do not crow that you have given me a juicy eland when all I got is a handful of cheek piercing sour termites." All Members sought benefits from this Round, and it was not enough to make mere promises that some Members' lot would be better off one day. These Members wanted realistic exchanges that would deliver meaningful development for their people. The current multilateral trading system would not suffice; and they did not believe that this was a radical critique. His delegation would continue to cooperate with the Chairman, and urged him to continue consultations and to produce a fairer and more practical draft text for Ministers.

280. The representative of Israel asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>46</sup>

281. The representative of Oman associated his delegation with the statement by Croatia. His delegation wished to add that the issue of elimination of export subsidies was important for Croatia, which hoped that the high level of ambition it expected would be achieved during negotiations, especially regarding paragraphs 3.1 and 3.6 of Annex A in the revised draft Ministerial text.

282. The representative of Bahrain said he wished to briefly present the recommendations of the Arab Ministerial meeting organized by the Economic and Social Commission for Western Asia, contained in document WT/L/537. His delegation wished to make some translation improvements to this paper since the official working language for the Arab group was Arabic. The paper conveyed a unified position in all areas, such as TRIPS and Public Health, agriculture, NAMA, services, implementation issues, S&D treatment, trade-related aspects of intellectual property, rules, trade and environment, Singapore issues, accession, and cooperation and capacity building. His delegation wished the Chairman to take this paper on board and to forward it to Cancún.

283. The representative of Panama asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>47</sup>

284. The representative of South Africa asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>48</sup> His delegation wished to make three additional comments. On technical assistance, he recalled that in supporting the work of the Director-General and the Secretariat in the technical assistance and capacity-building work of the WTO, his delegation had proposed in an earlier intervention the inclusion of appropriate recognition in paragraph 23 of the draft text of the close collaboration between the WTO, UNCTAD and ITC in the context of greater co-ordination of WTO technical assistance programmes. This was in line with the proposals made by Zambia. He had had heard from Members of the work the ITC had been doing in building the trade capacity of developing and transition economies, especially their private sectors. This work had been undertaken often in co-ordination and collaboration with the WTO and UNCTAD. South Africa requested that this be mentioned in paragraph 23 of the draft text. On agriculture, his delegation associated fully with the statement by Uganda on behalf of the African Group. That statement had strengthened the position of the G-20 by supporting the call for fundamental reform in agriculture as a necessary condition for a development outcome of this Round. In this regard, his delegation also wished to support the statement by Brazil at the present meeting. On the issue of the status of the draft text, as his delegation had said, it was the Chairman's text. His delegation had great respect for that text, but the text did not adequately reflect South Africa's views.

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<sup>46</sup> See Annex IV.

<sup>47</sup> See Annex IV.

<sup>48</sup> See Annex IV.

However, his delegation urged the Chairman to annex to the draft text the views of significant groups of countries such as the G-20, which had been supported by a large number of countries at the present meeting.

285. On the question of alliances, his delegation did not see the present alliances as a North-South divide based on the geographical situation of countries. Rather, it was a divide based on values. First, it was a divide between those rich countries who could not break from the shackles of protectionism and were still insistent on subsidising their uncompetitive agricultural sectors – through the Blue box and an unrestricted Green box, and their destructive export subsidies – and those who were committed to fundamental reform in agriculture, to removing the distortions in global markets and to creating a freer, fair and market-based system, thus enabling developing countries to benefit from their comparative advantages. There were many developed countries in this latter group who had a good track record, such as Australia, New Zealand and Canada. Some Community Member states could easily join this group if they were not constrained by the disciplines of Community policy. Second, it was a divide between those countries who were genuinely committed to a development outcome in this Round, and those who preached trade liberalization and market access for their products but continued to prevent access to their markets for products – mainly from poor countries – through subsidies, quotas, tariff peaks and escalations and contingent protection such as anti-dumping, countervailing duties and safeguards, costing developing countries about US\$100 billion a year. This was the fault line in the negotiations which the EC/US joint text had underscored. The challenge in Cancún would be to build momentum towards the historic mission begun at Doha – to create a freer and fair market-based system in agriculture and to ensure a genuine development outcome. South Africa urged all developed and developing countries alike to join this movement.

286. The representative of Pakistan asked that his delegation's statement at the Informal HODs meeting on 25 August be reflected in the records of the present meeting.<sup>49</sup>

287. The Director-General said he had listened attentively to all the remarks made in past few days and weeks, and had been impressed by the subtleties and the depth of understanding evident from Members' perceptive comments and criticisms. The revised draft Ministerial text proposed by the Chairman had been fully criticised, partly for being unfaithful to the Doha mandate, partly for being unbalanced in its treatment of different topics and partly for producing unequal benefits and burdens for different groups of countries. He wished to speak up not to defend some of the criticisms that Members were perfectly entitled to make, but simply so that all were aware of some of the realities on the ground that all were trying to come to grips with, so Members would not lose sense of that realism when tackling the difficult issues at Cancún. He wished to give Members the real situation all had been facing in the DDA negotiations. It was not a secret that the contents of the DDA at its launch had not been a model of clarity. On the same issue, time and again he had been hearing delegations criticising the Chairman and himself for lowering the ambition of the Doha mandate. At the same time, an equal number of delegations had been making accusations that the Doha mandate had been exceeded. It had been admitted in general terms that some areas of the mandated issues had been intentionally left ambiguous in order to launch the Round. He was not saying this in order to point the finger at anyone, but merely to remind all that when one talked about being true to the Doha mandate, one should realize there might be areas where Ministers might still have to make that mandate clearer and less ambiguous. Members had needed constructive ambiguity for the launch of the Round, and now needed constructive clarification and engagement to reach completion of the negotiations, and this was what the draft text was meant to be of service to. The draft text did not and could not aspire to sorting out the existing ambiguity, but faithfully defined areas where Ministers might have to concentrate their minds in Cancún. As evidenced by the discussions in the past few days, it appeared the draft text had fully served this purpose.

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<sup>49</sup> See Annex IV.



288. The delicate issue of balance among the elements in the draft text had always been a high priority in its drafting. The draft text aimed to introduce the key elements derived from all the proposals made by Members or groups of Members. Of course, as was true with all multilateral negotiations, it could not be expected that all demands from all Members or all groups of Members could be incorporated, if one wanted to keep the text manageable. The draft text was meant to be an impartial path leading to further negotiations and not one that would be a compilation of all Members' wishes. The draft text was certainly imbalanced when viewed from only one angle – from one's own interests, which might not have been fully taken up. However, the text had to be seen from a multilateral viewpoint, which might be difficult but was the only way to articulate the final multilateral outcome. However, in spite of the difficult reality of this undertaking, he remained encouraged by the discussion and criticism. One of the key purposes of the draft Ministerial text was to help generate constructive negotiations and to provide room for manoeuvring for the negotiations. He had definitely seen an intensification in the negotiations. As Members attacked the texts, they were in fact really attacking each others' positions as expressed through the text. This was a highly encouraging sign. He recalled that for months he had been asking Members to address each others' positions by expressing what they could and could not accept, and in discussing the trade-offs or balance between different issues. The draft text had stimulated Members to embark on this kind of debate, which constituted the real negotiation. Members had to continue with these discussions and, instead of directing attacks and criticism of the draft text to the Chairman, these should be exchanged among the various participants. The number of proposals produced in the past few weeks and the regrouping of Members to make proposals had demonstrated that Members were crafting their negotiating positions. There had been more flexibility. This surely was a sign of countries making the effort to move away from some of the original and posturing positions. Members should continue in this way, and capitals should have full exposure to these debates and positions. The Secretariat and he would be giving their full support to Members and to the Chairman to achieve the goal of having full information transmitted to Ministers in order to make their work at Cancún as efficient and effective as possible, for the benefit of the multilateral trading system that had to be equally shared by all Members.

289. The Chairman thanked the Director-General for his statement. He wished to make some comments on where Members were and the direction they should take in the next days. First, he wished to thank all delegations for their comments during these two days of intensive work, all of which had been very useful contributions. He wished to assure Members that he and the Director-General had taken note of the specific criticism levelled and also of the suggestions for changes in certain aspects of the draft text. They had also noted the request of some delegations to incorporate or withdraw some annexes from the revised draft text. The discussion in the General Council the past two days had been fruitful. It had facilitated the presentation of new proposals and inputs which clarified the position of many countries or groups of countries. Notwithstanding this, he had to admit that these lengthy discussions had not enabled Members to achieve greater convergence in positions or to make headway with respect to finding common ground. This was why he continued to think that the comments he had made at the conclusion of the informal HODs meeting, which had been circulated in document JOB(03)/174/Add.1, would not change greatly based on the discussion he had heard in the General Council, and therefore they still applied. Members had carried the preparatory process in Geneva as far as possible, and he thanked delegations for their intensive efforts. He was fully convinced that the holding of new consultations or the continuation of discussion within the Council would not serve to improve the text. Nothing would have pleased him more than to be able to submit to the Ministerial Conference a document which had received the consensus or agreement of all, but as he had already stated, there had been no indications guaranteeing that the presentation of a new text would yield greater consensus than the revised text he had presented on 24 August.

290. The discussion had shown scarce flexibility in the respective positions in many of the most sensitive areas of the negotiation. Many suggestions had been made to introduce changes, inclusions and exclusions responding to these positions. However deserving these proposals might be, the difficult exercise of reconciling such divergent positions, endeavouring to incorporate some and

necessarily leaving out others, would increase the level of complexity of this work and would create a serious risk of making the work of Ministers in Cancún more difficult. This was a risk at the present juncture in the preparatory process, where Members had virtually completed their work in Geneva. He believed that neither Members nor he as Chairman of the General Council should assume this risk. Therefore, he did not intend to continue revising the text and, as had been the case with previous draft Ministerial texts, he had no other possibility than to submit the text to Ministers under his own responsibility. At the present juncture of the discussion, it seemed to him that this text – with all the imperfections and limitations that had been noted, but also with the merits noted by many delegations – continued to be an adequate and manageable basis for Ministers' discussions, and he hoped it might represent a useful tool to find common ground in Cancún in all of the areas addressed. It was therefore his intention to submit this text to Ministers on his own responsibility and based on his task as Chairman of the General Council.

291. Having carefully listened to all of the opinions expressed, he thought it advisable to suggest that the draft text be submitted to Ministers accompanied by a letter in which he would indicate clearly that the text did not represent an agreed text in any of its sections, or as a whole, and that it was being presented without prejudice to the position any country might have on any of the issues mentioned in the text. He would also indicate clearly that the text did not reflect many of the proposals presented by the Members. Members would understand that he could not give further details at the present time on the drafting of this letter. He would reflect, together with the Director-General, on the various viewpoints and suggestions made by Members. However, he wished to assure Members that the letter would reflect, in a weighted and objective fashion and as far as possible, the concerns that had arisen during the discussion, in particular the difficulties that persisted in areas where Members had the most divergences of views and that were the subject of concrete proposals that were different from those reflected in the text – for example, in agriculture, NAMA and modalities for the Singapore issues. Where there were differences in viewpoints, this would be taken into account. The objective of this letter was to enable Ministers to take up negotiations with full knowledge of what had occurred in the preparatory process in Geneva, without prejudging the position of any Member. For this, he had noted the suggestions for improvements with respect to various paragraphs in the text, as well as the concerns that some alternative proposals that had been the subject of discussion, such as in the case of the Singapore issues, had not been reflected in the text. He assured delegations that there would be many opportunities in Cancún to address these concerns. Nothing could be considered to be definitively agreed in the absence of a global agreement of the parties concerned, and the decision in this respect would be in the hands of the Ministers meeting in Cancún. It was his intention as Chairman to present to Ministers an exhaustive list of all the documents that had been presented during the preparatory process. This would include submissions circulated as "JOB" documents where they were major contributions. With these introductory words, he asked whether any delegation wished to comment on anything.

292. The representative of Brazil thanked the Chairman for his very thorough explanation of his game plan for presentation of the draft text, and also the Director-General for his inspiring statement. His delegation had suggested twice in the course of the present discussion that the Chairman keep the draft text open, and that he undertake further consultations on it. This was because – judging from the discussions held over the past few days and from the informal consultations all had been undertaking – Members were still very far from agreement on the core issues of this Round. This had nothing to do with anyone's personal capacities or intelligences, but rather with real differences that had to be narrowed and with real questions, as the Director-General had pointed out, about the interpretation of the Doha mandate. Thus, Brazil had no problem on procedure, but rather on substance. His delegation had asked the Chairman to keep the consultations open because it did not think that at the present point, any text such as the one put forward by the Chairman could be used as the basis for Ministers' discussions. Brazil, for one, had not made any suggestion on how to improve the draft text because it did not accept it as a basis for discussion. His delegation did not want Ministers in Doha to receive this text as a basis for their discussion. This should be very clear. Brazil was prepared not to object to the sending of this text to Ministers, but it would have to be very clear that the General

Council had not approved or endorsed it, and that it was not merely a question of Brazil having doubts about the text or suggestions about how to improve it. Brazil had neither approved nor endorsed the text as the basis for Ministers to discuss in Cancún.

293. His delegation wished to avoid a situation in Cancún in which Ministers would have this text before them and would be led to start discussing on the basis of this text. Brazil was not prepared to do this at the present meeting and would not be prepared to do this in Cancún. Thus, his delegation would respectively suggest, if the Chairman insisted on sending the draft text in his personal capacity, that it should be made absolutely clear that not only had there been suggestions to change or improve the text, but that the General Council had not endorsed it as a basis for discussion in Cancún, and that there were other proposals on the table that should be at the disposal of Ministers. His delegation had instructions to insist on this. Whatever could be solved in Geneva should be solved. In Cancún there would be less time to solve those problems than the time remaining before Cancún. If Members could be very clear about the way they sent this draft text to Ministers, and if equal footing was clearly given to other proposals, such as the one by the G-20, Members could say the Geneva process was concluded. Otherwise one might be creating more problems for Geneva. These were the suggestions Brazil wished the Chairman to reflect on at the present stage of the discussion.

294. The Chairman said he would have liked nothing more than to send Ministers a text approved by everyone. However, as he had mentioned, this had not been possible, and he was therefore not asking for the Council to approve anything. He was merely asking the Council to take note of the statement he had made and at the same time to take note of all the statements that would be made, which would be properly reflected in the records so that these would be before Ministers in Cancún.

295. The representative of Japan said his delegation fully recognized the necessity of providing a document that would streamline the issues and promote meaningful discussions among Ministers at Cancún. This was why Japan had been actively engaged in the consultation process under the Chairman's leadership. In Japan's view, the draft text should be transmitted in such a way that Ministers would accurately understand those important points not reflected in the draft text, as well as the points where Members' views were divergent, indicating also the discussions held hitherto, major arguments asserted and the premise on which the Chairman had proposed the draft text. Japan did not object to the Chairman transmitting the draft text to Ministers as an input under his own responsibility, with a view to contributing to the negotiations at Cancún.

296. The representative of India said he had listened carefully to the Chairman's remarks. India noted that the Chairman intended to send the draft text to Ministers, and to indicate clearly that it did not have the approval of the General Council and that there were differences of opinion on various sections of the text. An important point on which India agreed with Japan was that Ministers had to be fully aware of all aspects of each issue. There should be no imbalance in any section of the text and all views should be reflected. This was why it was very necessary – and why India, along with others, had asked the Chairman – to rectify the imbalance they perceived in the text relating to the Singapore issues. India also agreed with Brazil that other submissions on agriculture should be equally considered, as such proposals had a substantial following among the membership. His delegation therefore requested the Chairman once again to reflect on how the issues raised – the differences of opinion and the substance of what had been raised – would be reflected for Ministers in such a manner that they had a complete and overall picture of what the membership thought and what it had thought in the General Council.

297. The representative of Argentina said he had listened very carefully to the statements by the Chairman and by the Director-General at this important moment before the submission of the draft Ministerial text to Ministers, and wished to refer to some of the concepts mentioned in those statements. The Director-General had referred to the possibility that what was presently occurring in the organization was the result of the fact that in Doha, there had been a need to achieve a result that would send a positive message to the international community, and that – at any cost – a round of

negotiations had to be launched. His delegation was sympathetic to some degree with this analysis. However, the reality was that Members had subscribed to the Doha mandate in good faith, believing that what was contained in that text was going to be fulfilled and respected. His delegation understood that there were certain ambiguities. However, when there were certain indications in certain areas of negotiation, and if certain results were expected, it was very difficult to change this. For example, the agreement in Doha appeared to produce a substantial reduction of domestic support in agriculture. Thus, there was a need for substantial reduction of domestic support in agriculture. If the results that were to be achieved implied merely reducing slightly the amount of support and even increasing support in other areas, this went against the Doha mandate, regardless of the interpretation one might make of that mandate. Therefore, it was not acceptable to Argentina to justify this with a reference to the possibility of ambiguity at the time the Doha Declaration was agreed.

298. The second difficulty arose from the references to the very clear reality that undoubtedly not everything could be reflected or incorporated in the draft text, and that since there were differing viewpoints, the present text was the best possible text. It was very difficult to accept this way of thinking, because in Argentina's view, the imbalance was always on one side. For example, when different alternatives were incorporated, it was on the Singapore issues. When it was decided to include a sole text, it was for agriculture. Based on what his delegation had heard at the present meeting, there could be no doubt that there were opinions in both directions. However, his delegation had an obligation to submit its views on what had been said, and a very important number of Members had stated displeasure with the specific balance achieved in the draft text. One only needed to refer to the records to note the high level of disapproval or dissatisfaction indicated by Members. Another example was that Argentina would have wished to have the reference to a non-linear ambitious formula in NAMA have an equally ambitious counterpart in agriculture. The balance in the text should not have meant including issues that had been strongly rejected by Members, such as the peace clause, geographical indications in agriculture, other non-trade concerns and export taxes. All of these had been juxtaposed with legitimate issues. However, the reality was that his delegation had found it difficult to see that there had been such imbalances from the outset. With the present draft text, Members would arrive in Cancún with the burden of having to restore balance to this draft text, when it had not been clearly noted that this text represented just one of the bases for the work of Ministers in Cancún. His delegation agreed with previous speakers who had said they did not object to forwarding the draft text as an input for Ministers' discussions, but it should be clear that Ministers should start with a horizontal picture, and not one inclined in one direction.

299. The representative of Norway said his delegation, and no doubt others, had the feeling it had already had these discussions some four years earlier at the last General Council before the Seattle Ministerial Conference. At that time there had been no text to send to Ministers, and all knew what had happened subsequently. Since February 2003, his delegation had participated in discussions in various configurations on the basis of a document which carried the heading "Draft Cancún Ministerial Text", and the document the Chairman had submitted the previous week also had the heading "Preparation for the Fifth Session of the Ministerial Conference, Draft Cancún Ministerial Text". This was the rule of the game under which Members had been working. It seemed that Brazil was now trying to apply a different rule. One could not change the rules in the middle of the game. Members had been working on the basis of drafting a Cancún Ministerial text. What this meant in the context of WTO practice was that Members would send the text to Ministers – as the Chairman had said – as an element for their discussions. No one was bound by that text. Members could – and certainly would – introduce new proposals during the Cancún Conference, and the draft text would certainly be changed in many places. However, his delegation would have great problems if Members started from the premise that they would send a draft text to Ministers and at the same time say Ministers could not base themselves on that text during their discussions. Such a proposal did not make sense and constituted changing the rules of the game mid-stream. Norway hoped all could now agree that there were different positions, that no one was happy with the draft text, and that all had their own proposals – which they would repeat in Cancún and which the Chairman would draw on when he wrote the accompanying letter – so that every Minister would be aware of that situation. One

should not try to change the basics now. Members should transmit the document, which the Chairman could do on his own responsibility. No one attached any status to this document beyond the fact that it was the only result Members had from almost six months of preparations in Geneva. His delegation wished to avoid the sort of unruly situation experienced in Seattle, but was very afraid that if Members now started to attach impossible conditions to the draft text, this would create a situation similar to that just before the Seattle Conference, as far as the organizational aspects of Cancún were concerned.

300. The representative of Brazil said his delegation failed to see Norway's point, because his delegation was not trying to change the rules, and was not even aware there were any such rules. At the outset of the discussion of the Chairman's draft text, his delegation had very clearly stated – and had repeated at the present meeting – that Brazil did not take the draft text as a basis and had not discussed a single provision of the text. Thus, it could not be said that Brazil was changing or proposing to change anything. However, as his delegation had said from the outset when Members had embarked on this exercise, Brazil could not take this text as a basis. The exercise had ended without the Chair indicating he was going to change the text. Thus, his delegation was merely abiding by the rules of the game.

301. The representative of Canada said it had become abundantly clear during the past few weeks that Cancún would not be what most Ministers had wanted and expected it to be when they launched the Round in Doha. At that time, Cancún had been seen as the mid-term of the Round. Ministers had seen the work as embodying modalities, not only for agriculture but also for NAMA. Thus, Ministers were going to be disappointed that they had a second-best alternative, and Canada shared that disappointment. The Chairman had noted that in discussions on the draft text, not one delegation had not raised its flag and lamented that the draft text either included or failed to include something. There was common ground on that point. Second, the Chairman and the Director-General had made some valuable remarks. The Director-General had said it was impossible to incorporate every demand in the text and that the text had to be viewed at a certain point from a multilateral perspective, as opposed to each Member's parochial perspective. The Chairman had gone on to say that his letter would state that the text was not an agreed text, that it was without prejudice to the positions of any Member and that it did not reflect many of the proposals submitted during the Geneva process. He had also said that all the relevant documents and proposals would be circulated and available to Ministers, and Norway had recalled that at the start of the informal HODs meeting, the Chairman had said he viewed the entire text as being in brackets.

302. The Chairman had been quite clear, and his method of proceeding was quite acceptable to Canada. The letter accompanying the draft text was a helpful tool for Ministers because it would set out the political context from which the text had emanated. The points raised by the Chairman, the Director-General and several Members would make that document a very useful complement to the text the Chairman would be forwarding to Ministers. One delegation had suggested the Chairman should say in the letter to Ministers that the text had not been agreed or endorsed by the General Council. This was true, as long as the Chairman also made it clear that such agreement or endorsement had never been sought. It should not inadvertently be implied that the text had not been endorsed because a vote had failed. Canada agreed that it was not an endorsed text, but the letter should not imply it had been proposed for endorsement, because the text was being submitted to Ministers on the Chairman's own authority. In saying that the text was not endorsed, the letter should not leave room for any assumptions on either side.

303. Another delegation had said the draft text should be seen as on an equal footing with the G-20 paper. This was not Canada's view, and it could not share that view, nor did his delegation think the draft text was on an equal footing with the EC/US paper or with Japan's paper, and it certainly was not on an equal footing with the multi-functionality paper from Norway and others. To say otherwise would be to give a blank page to Ministers as a net result of all the work in Geneva. Thus, while his delegation could see many beneficial parts in the G-20 paper, the accompanying letter should not in

any way suggest that the draft text was on an equal footing with the G-20 paper. While the Chairman's draft text might not be the basis for any Member, it was a basis to begin the value-adding process Ministers would hopefully engage in as they tried to lift the game from where Members had left it, because the latter had not taken the ball very far down the field in the Geneva process.

304. The representative of the European Communities said his delegation had taken note of the Chairman's statement, of the thoughtful remarks of the Director-General, and of the very wise words of two former Chairmen of the General Council, the Ambassadors of Norway and of Canada, who had spoken from experience. His delegation wished to make a few remarks in this procedural debate. As the Community had stated at the informal HODs meeting on 25 August and again at the present meeting, it had fundamental reservations on important parts of the draft text, and like Brazil, India and others, considered that the text in many areas was unbalanced. Like Brazil, the Community would have preferred to see its own proposals integrated in the text. His delegation agreed with Canada on the issue of equal footing. His delegation saw the text of Brazil as being on an equal footing with the texts of Norway, Japan and many others. Nonetheless, his delegation agreed with the Chairman's assessment that Members had gone as far as they could in the Geneva process. Thus, the Community took note that the Chairman would transmit the revised draft Ministerial text to Ministers under his own responsibility.

305. His delegation did not agree with that text, nor did it endorse it, and was confident the Chairman would present the draft text with a cover letter in a fair way that indicated the divergences of views on the fundamental issues. His delegation had full confidence in the way the Chairman might present the draft text to Ministers. All along, the Chairman had conducted the proceedings in a professional, fair and impartial way, and the Community wished to pay tribute to him for that. Ministers would dispose not only of the revised draft text, the Chairman's comments and the cover letter, but they would also dispose of all the inputs presented in the past few days and weeks in the context of the work in the General Council. As Norway had said earlier, each Member would make sure that Ministers reiterated their countries' views and positions at Cancún. Members had done their job as well and as far as they could. It was now up to Ministers to fight, and up to each and every delegation to help their respective Ministers to do their negotiating, but to do it in such a way that there was further convergence of views already in the initial phase of the Cancún proceedings. Members might have made the job of Ministers easier in presenting them with a larger number of issues on which convergence was reached in Geneva. Nonetheless, the draft text would enable Ministers to negotiate. It might be a difficult and hard negotiation, but they were paid for that – to negotiate a positive overall outcome at Cancún with the full potential of meeting the ambitions of the Doha Declaration within the established timeframe.

306. The representative of Kenya said that her delegation too had taken note of the Chairman's statement and that of the Director-General. Kenya was grateful for the Chairman's efforts and for the process the previous day, which had been transparent and inclusive. However, her delegation had also expressed concern over the draft text that had emerged from that process. The differences among Members were not minor and could not be glossed over, neither would they just disappear. Kenya had hoped that the text that would eventually be presented to Ministers in Cancún would at least clearly identify these differences, all of which were quite legitimate. As the text currently stood, there was a clear imbalance, the most apparent example of which was the treatment meted out to the Singapore issues, where there were two options and only one set of draft modalities. This was not equal treatment. All had spent a lot of time trying to ensure the Singapore issues were addressed as comprehensively as possible, and her delegation was clearly disappointed.

307. Cancún was only the middle of the road, albeit an important middle of the road, and Members had to be careful not to hurt the process all believed in and had a responsibility to uphold, by throwing out the baby with the bathwater. This was a process that involved consensus building, and Members' actions, activities, negotiations and, indeed, the outcome of those negotiations, had to clearly reflect that. The good faith and the constructive engagement of all after Cancún was essential, and her

delegation therefore also saw it as the Chairman's responsibility – and the Chairman had referred to this himself – to bring to the attention of all Ministers, in his letter to them, the clear divergences that existed among Members. Kenya also suggested that the Chairman's statement to the Ministerial Conference reflect clearly and ambiguously the state of play, and that he also refer to the positions submitted to him that had not found their way into the draft Ministerial text. Her delegation especially urged the Chairman to ensure that the elements for clarification on the four Singapore issues were brought to the attention of all Ministers. Kenya entrusted this to the Chairman and wished him luck.

308. The representative of Australia said that if he asked his Minister, when he came to Cancún, whether he would prefer to have a Seattle-type text, a blank page with thousands of pages of Members' proposals, or the sort of draft text the Chairman had prepared on his own responsibility with the covering note he had foreshadowed, there was no question that his Minister would opt for the latter. He was one of the survivors of Seattle and never wanted to repeat that experience. There was no chance of starting off with a blank page and making progress. It was true, as Kenya had just said, that this was only the middle of the road. The fact was, if all were genuinely committed to finalizing these negotiations by the end of 2004, or at least breaking the back of the negotiations in 2004, Members were going to have to make progress in Cancún, and the best way of doing this was to forward the draft text proposed by the Chairman with an accompanying letter. His delegation did not endorse the draft text – in fact, Australia did not like it at all and was not going to agree to it in Cancún the way it was currently drafted. However, he presumed all Members had been making preparations for Cancún.

309. His Government had been following very closely what was happening, and had its processes for giving instructions to Ministers as to what they could and could not do. However, his Minister and his Government were under no illusion about the stage Members had reached in the current process. They were under no illusion that the text being sent them was an agreed text. They were under no illusion that delegations would not be fighting to convince others to accept their own proposals. However, the draft text was a useful reference tool. It was only a reference tool, but at least it would give Members something they could focus on, along with all other proposals, all of which remained on the table. Most delegations knew exactly where they stood in key areas, and if Geneva representatives were good officials, they would be briefing their Ministers so that they knew that this draft text simply reflected the Chairman's best judgement at the time in relation to where Members stood. Thus, Australia could proceed with the Chairman's proposal. His delegation was quite happy with the formulation Brazil and Canada had come up with – that the Chairman had never sought the General Council's endorsement of this draft text and it had never been given. This would be a fair reflection of the situation. He underlined that Ministers would be very aware that this was not an agreed text.

310. The representative of the United States said Australia had expressed exactly the way his delegation felt about the draft text and the situation Members faced as they approached Cancún. The United States agreed with Australia that if those three options were to be put to his Minister, he had no doubt which choice his Minister would make. The United States agreed that the draft text was, at the present stage, flawed, but it was the best expression Members had available to send to Ministers to inform them of the state of the negotiations and to prepare them to make the decisions necessary for Members to proceed with the negotiations after Cancún. The text was certainly not the way his delegation wished to see it, and the United States understood it was not the way the G-20 or probably any delegation wished to see it. However, especially after the very full discussion over the past two and a half days, and in light of the various proposals put forward in recent days and in the weeks before these meetings, his delegation was very confident that in some appropriate accompanying document, the Chairman would accurately convey to Ministers the issues for their review and decision, and that this would be a fair presentation for all who had expressed views on these issues. His delegation agreed it would be a mistake to elevate proposals of certain groups or certain countries

above proposals of others. Therefore, the United States supported the Chairman's proposed approach of preparing Ministers for the challenge that faced them, and all, at Cancún.

311. The representative of Bulgaria asked what the practical relevance would be of what might come out of the present discussion. It would be more useful to have some clarity about how the Chairperson in Cancún would proceed, and whether – when the draft text was discussed – it would be taken for granted that there was no agreement and no consensus that a particular text was the basis for discussion, or whether it would be taken for granted that a particular text was the default text. For example, if there were no agreement on changes to the present draft text, he asked if that text would stand by default. This was the practical question – whether there would need to be consensus on any text that was going to be discussed, or whether there would need to be consensus on any changes/amendments to that text.

312. The Chairman recalled that in his introduction to the revised draft text he had referred to what Bulgaria was referring to – that no text could be considered to be agreed definitively, in the absence of global agreement to this effect of the parties to the decision. In this respect, the decision would be in the hands of the Ministers meeting in Cancún. This was what he had said, and what he maintained at the present time. He assured delegations that he had listened with great attention to all of the statements and would be taking them into account when drafting the document that would accompany the text.

313. The representative of India said his delegation wished to have clarification on two points. The Chairman had said he would be sending a covering letter, and India wished to know when that letter would be ready, and whether it would be circulated to Members so that they could brief their Ministers beforehand. Also, his delegation wished to know how the Chairman proposed to reflect what India had indicated in its letter to the Chairman that morning.

314. The Chairman said that in the coming hours and days an accompanying document or cover letter was going to be drafted and would be submitted to Ministers together with the revised draft Ministerial text. He would reflect in this text the content of India's letter.

315. The representative of Malaysia said his delegation was very encouraged by some of the points made by the Director-General and the Chairman. The first thing that had struck him in the Director-General's observations was his drawing attention to the fact that there were many areas where Ministers needed to clarify and take action. Malaysia was highlighting this particular observation because it was trying to relate this to the Singapore issues. His delegation had suggested that this was one area where Members had to clearly put forward to Ministers where they stood, given that a group of countries, including Malaysia, felt it essential to include an annex to option 2 in the draft text. Some of the major trading partners had said that all Members were on an equal basis. His delegation agreed entirely, and hoped that its suggestion would be taken in that light. The United States had said that no issue should be elevated above any other. Malaysia agreed entirely. On the Singapore issues, his delegation merely wished to remind all that it was not seeking any changes to the draft text in terms of substance, but rather in terms of restoring the balance. Malaysia was not talking about changing the text or elevating any issue above any other. In fact, the draft text as it stood regarding the Singapore issues – if one examined it very carefully – elevated option 1. His delegation was intrigued by Canada's observation regarding a proposal by Brazil, that it was fine with Canada for the Chairman to reflect that the General-Council did not endorse the draft text, provided the Chairman also said he had not sought this. Malaysia found this rather unusual. His delegation thought it was the Chairman's intention to put the draft text to the General Council either for acceptance or to listen to whatever Members had to say, and then to further reflect on what he wished to do. The problem Members faced at present was simply because – and Norway had alluded to this – they were seeing a repeat of the same problem as at Seattle. Many Members had been trying very hard to ensure that the situation did not develop again in which many trading partners, especially the major ones, refused or were reluctant to engage in discussions to find a way forward. This was where Members were at



present. This was rather disappointing, but nothing could be done about it. Malaysia wished to make these points before the Chairman concluded on this item.

316. The General Council took note of the statements.<sup>50</sup>

317. At the end of the meeting, on 30 August, the Chairman requested the Chairman of the Special Session of the Council for Trade in Services to provide a final update before the Cancún Ministerial Conference on where Members stood with respect to the work on services.

318. Mr. Jara (Chile), Chairman of the Special Session of the Council for Trade in Services, recalled that there was a placeholder in the draft Ministerial text for language in the paragraph on services concerning modalities for LDCs. Members had been working on this matter in consultations over the past days and in the last meeting of the Special Session of the Services Council which had been held the previous day. The consultations had been what he termed "restricted open-ended" – that is, all delegations which had indicated an interest in attending had been invited, but attendance had been restricted to only those who had indicated their wish to attend. Members now had a virtually clean text, and this was a tribute to the flexibility of delegations for which he was grateful. However, he had no illusions that this might be the final text, precisely because of the fact that this work had been carried out in parallel to other important work in the house related to TRIPS and Public Health, and thus not all concerned parties had been able to participate in the meeting, particularly one major delegation. Therefore, there was still a need for further consultations, and he would leave Monday of the following week open for delegations to get in touch with their capitals, to talk to one another and to explore the possibility of reaching a consensus on this text. The text has been distributed to all Members. He intended to hold an informal open-ended Special Session of the Council for Trade in Services on Tuesday, to be followed if necessary by a resumed formal session of the Council to seek approval of the text for the modalities for LDCs. He urged delegations to look at the text in terms of whether they could live with it or not. No text was perfect or would satisfy everyone. This was not the time to be picky, but to take the high road. This text was important for LDCs and Members should act on it expeditiously, not only because it was important for LDCs, but because it was important for all Members to do this before Ministers met in Cancún. He again urged all Members to be flexible and generous in discussing this text among themselves and with capitals.

319. The representative of Bangladesh, speaking on behalf of the LDCs, thanked the Chairman of the Special Session of the Services Council for his statement on the modalities for LDCs. The Chairman had made a tremendous effort to bring all the participants together in order to bring about consensus. Bangladesh also thanked the Secretariat for its hard work in this process. While the current text was quite far from what the LDCs had originally proposed, they realized that other delegations had had to make accommodations at various stages in order to come to the text that had been negotiated the previous day. The LDCs had had great difficulty in participating in the numerous meetings that were being held – sometimes simultaneously – but had tried their best to participate in the services negotiations, and his delegation was surprised to hear that even developed countries had had difficulty participating in all the negotiations, as it had thought this was a difficulty of smaller delegations only. However, he hoped that all countries would now look at this text very favourably, would consult with their capitals if needed, and would come to a positive conclusion. Bangladesh wished this issue to be resolved before Cancún so that this could be another success to take there. Apart from this, these modalities were very important to the LDCs because they considered services to be very important to the future of the multilateral processes.

320. The Chairman, in concluding, said that the present meeting brought Members to the end not only of the General Council meeting but also of the Geneva preparatory process. Before closing, he wished to say a few words. In the past few weeks, Members had worked long hours in a collective effort to find common ground in complex and sometimes very politically sensitive areas. They had

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<sup>50</sup> Including the statements reflected in Annexes III and IV.

been able to reach agreement on many topics, but there were still very important matters pending for consideration and decision by Ministers in Cancún. He had to confess that he was satisfied by what had transpired over the past three weeks. On 11 August Members had started this work with a very schematic text, the famous skeleton text, with broadly diverse positions on almost every single topic. Very little negotiation had been going on among Members and there were serious questions about the possibility of a successful Conference in Cancún. He said this quite sincerely because he thought Members had seen a very radical change over the past three weeks. They had negotiated among themselves. A good working atmosphere had prevailed with a constructive spirit to try to find common ground and reach understandings, and progress had been made. On some paragraphs of the draft Ministerial text put to Members for consideration, there was more or less agreement. On other paragraphs Members were moving towards that, and even on the most sensitive topics, he felt that at present Members had a much clearer vision of where the difficulties lay – much clearer than three weeks earlier – and he wished to thank delegations. The draft Ministerial text which would be submitted to Ministers under his responsibility had not been fully agreed in any of its parts, and he wished that to be quite clear. Nonetheless, he thought it was a reflection of the efforts undertaken by both the Director-General and himself to try to find common ground among Members. He believed that it was, with all of its limits and gaps, nonetheless an adequate and manageable basis for Ministers to continue the work in Cancún. Moreover, it had the merit of leaving all doors open, so that all countries, and Ministers in particular, would be able to put their own options forward in Cancún. Finally, he felt that it identified quite clearly those areas where the greatest divergences still lay and where Ministers would have to concentrate their work during the Ministerial Conference.

321. At the present meeting, Members were concluding their work in the General Council with an agreement on a topic which was no doubt one of the greatest challenges to this organization in the past few years – a topic which was more humanitarian than commercial in nature, TRIPS and Public Health. The Decision on this matter was not only symbolic in character, but also – as had been evidenced the previous day and at the present meeting in many emotional statements by African countries – it would genuinely contribute to access to cheaper drugs to protect public health in many developing countries which had an urgent need of such drugs, and in this way it would contribute to saving human lives. He was very pleased that the WTO had been able to meet this challenge and had taken the necessary moral responsibility. This positive and specific result was an auspicious signal to launch negotiations by Ministers in Cancún. He wished to conclude by thanking all Members for their unstinting efforts over the past weeks for their constructive spirit and clear demonstration of good will and flexibility at various key steps in the process. He particularly wished to thank them for the respect and support he had received from all, even when his proposals, suggestions and decisions had caused great difficulties. He hoped that the constructive spirit and good atmosphere which had marked Members' work in the past three weeks would continue and would be strengthened during the discussions at Ministerial level in Cancún. Lastly, he wished to offer special thanks to the Director-General for the enormous support he had given him, as well as the Deputy Directors-General and other officials of the Secretariat. Without their help, Members would not have been able to achieve the results they had achieved.

322. The Director-General said that work at the WTO had its moments of trials and of triumph. At the present meeting Members were relishing a moment of triumph. After congratulating themselves, which they deserved, Members had again to face the harsh realities. The ink on the Decision on TRIPS and Public Health had yet to dry and Members were seeing the omni-present critics predicting all sorts of un-doings of this noble effort. Members should right away start to work to prove these critics wrong by putting this Decision into full effect, together tackling and solving in good faith the frictions that might arise. With the spirit of compassion and collective responsibility Members had shown time and again, he had no doubt that they would also succeed in this pursuit. The present General Council meeting was not only an historic but also an auspicious moment for the WTO, whose maturing process had been brought a giant step forward by this undertaking of profound humanitarian consequences. Members should build on this solid foundation of trust and carry this spirit with them

to Cancún to overcome the not insignificant challenges there, where he hoped there would be more of these moments of triumph.

323. The representative of Brazil said that in his statement the Chairman had mentioned the question of the draft Ministerial text as a basis for discussion by Ministers. Members had discussed this matter thoroughly at the present meeting, and his delegation wished to make sure that when the Chairman said he considered the document to be an appropriate basis for the discussion by Ministers, he was speaking in his personal capacity, and that this did not reflect any decision of the General Council. He wished to clarify this because it was an extremely important question for Brazil.

324. The Chairman said he wished to repeat what he had said earlier – that in his opinion the draft text was an adequate and manageable basis for Ministers to continue the work in Cancún.

325. The General Council took note of the statements.

(e) Administrative arrangements – Statement by the Chairman

326. The Chairman said that since this was the last meeting of the General Council before the Ministerial Conference, he wished to advise delegations about arrangements for the meetings at the Conference as they were known at the present stage. This would be useful to all delegations in briefing their Ministers as well as other members of their delegations in preparation for the Conference.

327. Regarding arrangements for plenary meetings, a Proposed Order of Business for the formal Plenary meetings at Cancún had been circulated in document WT/MIN(03)/5. This would provide delegations with an outline of how work in the plenary meetings was proposed to be organized. The Ministerial Conference would begin on the morning of 10 September with an inaugural session at the Cancún Convention Centre that would last from 10 a.m. to approximately 11.30 a.m. The President of Mexico, H.E. Mr. Vicente Fox, would be the first speaker to address Ministers at this inaugural session. He would be followed by the Chairman of the Ministerial Conference, H.E. Mr. Luis Ernesto Derbez; the Director-General of WTO, Dr. Supachai Panitchpakdi; the Secretary-General of the United Nations, Mr. Kofi Annan; and by himself as Chair of the General Council. The Ministerial Conference would then move to the opening of the business session of the Conference, where it would adopt its agenda and agree on the organization of work. Delegations were advised that security arrangements for the participation of the President of Mexico at the inaugural session would result in access to the Cancún Convention Centre being blocked after 8.30 a.m. All delegations were therefore requested, for the inaugural session, to be in the Convention Centre by 8.30 a.m., and to be seated by 9.30 a.m.

328. The Ministerial Conference would resume in the afternoon of 10 September at 2.30 p.m. to hear general statements by Ministers under Item 1 of the Agenda, namely the Overview of WTO Activities. In accordance with the practice at previous Ministerial Conferences, statements by Ministers were expected to be limited to not more than five minutes – which corresponded to two typed pages in single spacing. Facilities would be available for circulating longer presentations in writing. An Information Note regarding the delivery of statements and the distribution of the texts of statements had been circulated by the Secretariat in document WT/MIN(03)/INF/10. In the evening of 10 September, starting at 6.10 p.m., the Ministerial Conference would take up Item 2 of its Agenda, where it would consider a joint proposal by Benin, Burkina Faso, Chad and Mali regarding the Sectoral Initiative in Favour of Cotton. From 11-14 September, plenary meetings of the Ministerial Conference to hear general statements under Item 1 of the Agenda would be organized on a schedule as follows: morning meetings from 9.30 a.m. – 1.10 p.m., and afternoon meetings from 2.30 p.m. – 6.10 p.m. This schedule was based on a speaking time-limit of five minutes for each speaker. In the evening of 11 September, starting at 6.10 p.m., the Ministerial Conference would meet in plenary session to conclude formally the accession processes of Cambodia and Nepal. Finally, the afternoon

of 14 September would be devoted to the remaining items on the Agenda, which would include taking action on a Ministerial text. This information was contained in document WT/MIN(03)/5.

329. Regarding arrangements for informal consultative meetings, as Members were aware, informal consultations might be organized as necessary throughout the conference by the Chairman of the Ministerial Conference, Minister Derbez. The latter had indicated to him that it was his intention to advise all delegations about the overall organization of the informal process as early as possible. However, in broad terms, he could inform delegations at the present meeting that the informal consultative process at Cancún would mirror the Geneva preparatory process – in order to ensure both transparency and a sense of continuity – and would be conducted in open-ended informal meetings of all Heads-of-Delegations. He knew that Minister Derbez was fully briefed about Members' continuing commitment to ensuring the fullest possible transparency and inclusiveness in their decision-making processes, and the practices that they had developed over the past several years, including those endorsed at the first meeting of the Trade Negotiations Committee in January 2002. The informal process at Cancún would proceed in parallel with the formal plenary sessions, and would be open to all WTO Members and other participants in the negotiations. The principal objective of this process would be to facilitate consensus-building in a fully transparent and inclusive manner, while maintaining the flexibility built in to the Geneva process.

330. The informal HODs meetings would be chaired by Minister Derbez, and would be convened as necessary, but at least once each day. Delegations would be kept informed of these meetings through every means possible at the Conference centre. As in the Geneva process, Minister Derbez might call on other Ministers to assist him, as Friends of the Chair, with consultations on specific issues and to report back to the HODs meetings on their progress. All Friends of the Chair would also keep transparency in their work uppermost in their minds, and would set aside times to allow all delegations an opportunity to make their views known. Clearly, all understood that decisions could only be taken by the membership as a whole, and this was the purpose of the open-ended HODs meetings. A final informal HODs meeting would be organized just prior to the concluding plenary session of the Conference, in order that delegations might collectively review the results of work in all areas. Building on the practice at Doha, 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 the time they required to consult among themselves and in regional groupings as necessary. As he had said earlier, Minister Derbez would provide greater details on the scheduling and organization of all meetings in this informal process. Beyond this, he could only say that the hours would be long, and the work arduous and difficult. However, if all could continue to show a sense of shared responsibility in this important journey they were now embarked upon, with the potential it had for changing for the better the lives of all peoples, he was sure they would not fail in achieving an outcome that respected and addressed each participant's needs and interests. He did not intend to invite discussion on his statement, since the documents on the organization of the plenary meetings had been circulated by the Secretariat, and further, more specific information on the organization of the informal meetings would be announced by Minister Derbez.

331. The representative of Mexico said there was no doubt that Minister Derbez was convinced of the importance of the process in Cancún, and of the need for this process to be transparent and inclusive, as had been the case in Doha. His delegation believed that all Members realized this. Minister Derbez, as Chairman of the Cancún Ministerial Conference, would preside over the drafting of the Ministerial declaration, and would be ready to listen to any concern of any Member, just as Mexico had been trying to do over the past month. He had no doubt that the Cancún Ministerial Conference would be an exercise in openness and transparency that would enable all Members to take the decisions for which they had been given a mandate in Doha.

332. The representative of Canada asked whether the draft Ministerial text the Chairman would convey to the Chairman of the Ministerial Conference would be put on the general WTO website –

given that there were inevitably leaks of such documents outside the organization –and suggested that this would add to transparency.

333. The Chairman noted that the draft Ministerial text was an informal "Job" document, and as such was available only to Members. Canada's question was therefore pertinent.

334. The representative of Chile said that the text, once it became an official WTO document, should be issued as unrestricted, since there was a need to inform NGOs and other stakeholders.

335. The Chairman said that if Members had no objection, this would be done.

336. The representative of Egypt said her delegation understood that the question raised by Canada related only to the draft Ministerial text, which was only one input for Ministers. If this text was put on the WTO website, the Chairman's letter conveying this text, as well as other annexes that had been proposed, should also be put on the WTO website.

337. The Chairman said that this was a good point and that the text should not be publicly available until the accompanying letter had been sent to Ministers, so as to provide the whole picture. He would be working on that letter, together with the Director-General, and once both components were ready, if it were the wish of the Council, as he sensed it was, the letter would be made publicly available as well.

338. The General Council took note of the statements.

## **5. Sixth Session of the Ministerial Conference – Communication from Hong Kong, China (WT/GC/72)**

339. The representative of Hong Kong, China, speaking under "Other Business", said that as Members were aware, the Secretary for Trade, Industry and Technology of Hong Kong, China, Mr. John Tsang, had written to the Director-General on 21 August conveying his Government's offer to host the Sixth Session of the Ministerial Conference. The letter had been circulated in document WT/GC/72. His delegation noted that the date and venue of the Sixth Session was on the provisional agenda of the Ministerial Conference in Cancún. In order to allow sufficient time for the necessary preparations, his Government hoped that Members would arrive at an early decision on the venue of the Sixth Session, taking into account the progress of the negotiations under the Doha Development Agenda. Based on the experience of hosts of previous Ministerial Conferences, Hong Kong, China was of the view that it would probably require around one year's lead-time to properly organise a full-scale Ministerial Conference outside of Geneva. Should Hong Kong, China's offer have the privilege of being accepted by the membership, it would work closely with Members and the Secretariat to make the Ministerial Conference a success.

340. The Chairman thanked Hong Kong, China for its statement, and proposed that the General Council take note with appreciation of the offer from the Government of Hong Kong, China. As Members were aware, the date and venue of the next Ministerial Conference was an item on the agenda of the Cancún Ministerial Conference. He therefore proposed that he hold informal consultations urgently on the question of the venue of the Sixth Session of the Ministerial Conference and report back to the Chairman of the Cancún Ministerial Conference at the earliest opportunity, with a view to assisting him in preparing this item for consideration at the Conference. He also invited any other Member Government wishing to host the next Ministerial Conference to so inform him, so that he could take this into account during his consultations.

341. The General Council took note of the statements and agreed to proceed in accordance with the Chairman's proposal.

**6. Poverty reduction: Sectoral initiative in favour of cotton – Joint proposal by Benin, Burkina Faso, Chad and Mali**

342. The representative of Benin, speaking under "Other Business", commended the Chairman for his remarkable work at the head of the General Council, in particular at this sensitive time in the preparatory process for the Fifth Ministerial Conference, and said that he could count on the support of Benin, Burkina Faso, Chad and Mali in carrying out these responsibilities. Cancún was approaching, and in parallel, expectations were increasing, not only in public opinion but also among Members, regarding the results and the value added Cancún would bring. He recalled that at the time of the creation of the WTO, Members had recognized that their economic and trade relations should be directed towards improving standards of living and increasing production and trade of goods and services, while allowing for an optimum use of world resources in accordance with sustainable development. Consequently, they agreed to make positive efforts so that the least developed might obtain an increasing part of international trade, corresponding to the necessities of their economic development. Thus, it was understandable and legitimate that expectations were so great, especially in the context of negotiations, that the fundamental aspects of a development dimension should be evident. He recalled that during the course of the last Ministerial Conference in Doha, Ministers solemnly affirmed their faith that international trade could play a major role in the strengthening of economic development, the reduction of poverty and the need for all peoples to obtain advantages from the gains and well-being which the multilateral trading system would generate. He recalled that the special vulnerability of the least-developed countries had been recognized, and that all Members had said they were determined to remedy the marginalization of the least-developed countries in international trade by improving their effective participation in the multilateral trading system.

343. These references to Members' commitments showed that the credibility of the organization would depend on Members' capacity to provide concrete and wise responses to the trading concerns of all Members, whatever their level of development, as long as these concerns were humanly comprehensible, economically sustainable, and above all, legally defensible. The working populations and the Governments of Benin, Burkina Faso, Mali and Chad, had great hopes for the results of the Cancún Ministerial Conference, in particular in sensitive areas such as NAMA, TRIPS and Public Health, services and agriculture – which was the real basis of these countries' economies. For these countries, as for almost all Members, agriculture was an essential and unavoidable point, and it was in this context that these countries had submitted the sectoral initiative on cotton to the competent WTO bodies on 30 April 2003. At the present stage in the preparatory process for Cancún, he would not refer to the content of that submission, nor the reasons for which the co-sponsors had submitted it, nor what they were asking. He noted with satisfaction that this matter had been included on the Agenda of the Fifth Ministerial Conference, and insisted on the vital importance which the co-sponsors of this initiative attached to the need for an urgent and equitable solution to be found in Cancún.

344. While his delegation was conscious of the need for a systematic approach to all negotiations on agriculture, it hoped to have an early harvest. With the hope of reaching concrete decisions in Cancún on this matter, the co-sponsors of the initiative had drafted a document to be submitted to the Ministers. They requested that the draft Ministerial decision in document WT/GC/W/511 be attached to the revised draft Ministerial text. This draft decision had been drawn up on the basis of proposals for modalities contained in document TN/AG/GEN/6 and WT/MIN(03)/W/2, which concerned the setting up in Cancún of a system for the reduction of support for the production and export of cotton, with a view to eliminating such support completely, and a proposal for a mechanism of transitional compensation for the least-advanced cotton exporters who had been affected by measures previously. His delegation wished to seize this last occasion before Cancún to launch an appeal to all Members to work together towards a successful outcome on this matter in Cancún. He recalled that on 16 August during the course of an informal consultation at the level of Heads of Delegation, the four co-sponsors had indicated their trust that the multilateral trading system and the WTO would find an urgent and equitable solution to this problem. These countries trusted that the subsidies which affected them

would be eliminated, and that cotton would be defended. The co-sponsors firmly hoped that the organization would not remain indifferent to the hard labour of national construction in their countries and the efforts of stabilization for their economies. They had achieved some results with the aid of their development partners. Members should avoid that these countries' participation in the multilateral trading system diminished or disappeared because of trade-distorting practices which all agreed were harmful. There were signs, ever more alarming, of disintegration of the social fabric in the countries concerned. Income from exports of cotton had decreased catastrophically, so that producers were ever less in a position to educate their children, promote local initiatives, and obtain the social infrastructures so necessary. The situation was such that thousands of young people migrated to towns, resulting in a problem of rural exodus which had become even more serious, and which had an undeniable impact on the increase of unemployment and insecurity in urban centres. His delegation maintained its faith and trust in the WTO, and hoped that in Cancún, reason and justice would prevail. Bénin still believed that equitable treatment would be given by the organization to all Members.

345. The representative of Bangladesh, on behalf of the LDCs, strongly supported the statement by Bénin on behalf of four LDCs that were severely affected by the subsidies on cotton in developed countries. This matter would be on the Agenda of the Ministerial Conference in Cancún, and the LDCs would be fully supportive of the genuine demands of the four countries concerned.

346. The representative of Morocco, on behalf of the African Group, said these countries supported the initiative of Benin, Burkina Faso, Chad and Mali and reiterated the hope that Ministers in Cancún would make an appropriate positive reply that would take into account the difficulties of these countries. The development dimension, as decided upon in Doha, could find no better expression than by taking into account the distortions due to subsidies granted to certain strategic products – which for some countries were the only products they had. The African Group hoped that the interests and survival of these countries would be taken into account and that their integration into the world economy and globalization would take place. Unfortunately, the situation with cotton was a catastrophic one on which the globalization machine had trodden. There were, of course, positive aspects to globalization, but one had to take into account the needs of the developing countries. The African Group's hoped that Ministers would take into account the legitimate requests of the countries concerned.

347. The representative of Uganda supported the initiative articulated by Benin on behalf of the four LDCs. As his delegation had stated earlier, this proposal was reasonable and was in line with the liberalization for which this organization stood. Uganda hoped that by the end of the Cancún Ministerial Conference, Ministers would have beefed up paragraph 25 of the present revised draft Ministerial text to reflect a programme that would immediately begin rolling back the subsidies on cotton and would put in place a mechanism for these countries to adjust while that roll back was taking place. His delegation called on other partners – both developing and developed – to support this initiative.

348. The General Council took note of the statements.

## **7. Communication from the Kyrgyz Republic (WT/MIN(03)/W/3)**

349. The representative of the Kyrgyz Republic, speaking under "Other Business", said that the revised draft Ministerial text (Job(03)/150/Rev.1) contained provisions in several parts concerning, but not limited to, paragraph 5 of Annex A and paragraph 9 of Annex B, on which his delegation had strong concerns. His delegation would raise this issue at the Cancún Ministerial Conference in the context of the communication circulated by his delegation in document WT/MIN(03)/W/3 and other recent submissions that would be forwarded to the Ministerial Conference. He asked that the Secretariat make one correction to the submission in WT/MIN(03)/W/3, which was to add, in the first sentence of the last paragraph on page one, the word "December" before "1998".

350. The representative of Turkey said that having listened to the intervention by the Kyrgyz Republic and having seen document WT/MIN(03)/W/3, his delegation wished to support the latter's request to be treated as a developing newly acceded Member in the course of the current negotiations on the same basis as those Members to which reference was made in paragraph 9 of the Doha Declaration. Taking into account the fact that the Kyrgyz Republic had made extensive market access commitments during its accession process, as well as the present difficult economic and social situation in that country, Turkey hoped that the necessary understanding would be shown by Members in regard to this reasonable and justifiable request.

351. The General Council took note of the statements.

**8. Attendance of observers at the Fifth Session of the Ministerial Conference – Requests by the Governments of Niue, Cook Islands and Afghanistan (WT/L/534, 535, 538)**

352. The Chairman drew attention to the communications received from the Government of the Cook Islands (WT/L/535) and from the Government of Niue (WT/L/534), respectively, requesting observer status at the Cancún Ministerial Conference. He had also received a similar communication late the previous day from Afghanistan for observer status at the Cancún Ministerial Conference (WT/L/538). He recalled that in February 2003 the General Council had agreed *inter alia* that, in accordance with the Guidelines in Annex 2 of the General Council's Rules of Procedure, requests for observer status at the Ministerial Conference from Governments not having this status would be considered on their merits in accordance with the Guidelines. He proposed that, unless there was any objection, the General Council agree to invite the Cook Islands, Niue and Afghanistan to attend the Fifth Session of the Ministerial Conference as observers.

353. The General Council so agreed.

**9. Chairmanships of the WTO bodies under the TNC – Statement by the Chairman**

354. The Chairman, speaking under "Other Business", recalled that at its first meeting on 28 January and 1 February 2002, the Trade Negotiations Committee had adopted a structure and established a number of bodies to undertake work on the various elements of the Doha Development Agenda under its supervision. The TNC had also endorsed certain principles and practices to guide its work, including that the Chairman of the General Council would consult on the chairmanships of the individual bodies, and that the Chairpersons of these bodies would be appointed to serve up to the Fifth Ministerial Conference, at which time all the appointments would be reviewed. The Chairpersons of the bodies under the TNC had been subsequently appointed by the General Council at its meeting in February 2002, following consultations undertaken by the Council Chairman. He recalled that these appointments were as follows:

Negotiating Group on Market Access	Amb. Pierre-Louis Girard (Switzerland)
Negotiating Group on Rules	Amb. Timothy John Groser (New Zealand)
Special Session of the Council for Trade in Services	Amb. Alejandro Jara (Chile)
Special Session of the Council for TRIPS	Amb. Eui Yong Chung (Rep. of Korea)
Special Session of the Dispute Settlement Body	Amb. Pèter Balás (Hungary)



Special Session of the Committee on Agriculture    Mr. Stuart Harbinson (Hong Kong, China)

Special Session of the Committee on Trade and    Amb. Yolande Biké (Gabon)  
Environment

Special Session of the Committee on Trade and    Amb. Ransford Smith (Jamaica)  
Development

355.    Although these appointments were to be reviewed at the time of the Ministerial Conference, he considered that given the heavy workload in connection with the Ministerial Conference, Members would be better placed to conduct this review at the next meeting of the General Council, which was scheduled for 21-22 October. This would also allow more time for consultations as necessary. In the meantime, and keeping in mind the need for maintaining continuity in the process, he proposed that the Chairpersons of these bodies be requested to continue in office until the review at the Council meeting in October. On behalf of the General Council, he expressed his sincere appreciation to all the Chairpersons of these bodies, as those of other WTO bodies, for their dedicated commitment to progressing the work of this organization over the past year and a half, which had, of course, been a particularly demanding period, given the heavy work load all had faced. He wished to commend all the chairpersons also for their patient and committed guidance and service, and the long hours they had put in – and were continuing to put in – all of which had most certainly contributed to the considerable work Members had been able to accomplish.

356.    The representative of Brazil asked whether the Chairman's proposal was that the Ministerial Conference not consider this matter, and that the General Council take it up at its meeting in October.

357.    The Chairman responded in the affirmative.

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

#### **10.    Traffic congestion in the WTO premises**

359.    The representative of Chile, speaking under "Other Business", expressed concern regarding traffic congestion in the WTO premises. While the current parking problem was difficult to resolve in the short-term, he believed the present system of traffic flow was absurd, in that it took some 20 minutes to exit by car from the WTO. His delegation urged the Secretariat to look into this matter and consider ways to solve this problem expeditiously.

360.    The General Council took note of the statement.



## **ANNEX I**

### **Item 3 – Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health**

#### **Attachment to the General Council Chairman's Statement**

#### **"Best Practices" Guidelines**

"Companies have often used special labelling, colouring, shaping, sizing, etc. to differentiate products supplied through donor or discounted pricing programmes from products supplied to other markets. Examples of such measures include the following:

- Bristol Myers Squibb used different markings/imprints on capsules supplied to sub-Saharan Africa.
- Novartis has used different trademark names, one (Riamet®) for an anti-malarial drug provided to developed countries, the other (Coartem®) for the same products supplied to developing countries. Novartis further differentiated the products through distinctive packaging.
- GlaxoSmithKline (GSK) used different outer packaging for its HIV/AIDS medications Combivir, Epivir and Trizivir supplied to developing countries. GSK further differentiated the products by embossing the tablets with a different number than tablets supplied to developed countries, and plans to further differentiate the products by using different colours.
- Merck differentiated its HIV/AIDS antiretroviral medicine CRIVAN through special packaging and labelling, i.e., gold-ink printing on the capsule, dark green bottle cap and a bottle label with a light-green background.
- Pfizer used different colouring and shaping for Diflucan pills supplied to South Africa.

Producers have further minimized diversion by entering into contractual arrangements with importers/distributors to ensure delivery of products to the intended markets.

To help ensure use of the most effective anti-diversion measures, Members may share their experiences and practices in preventing diversion either informally or through the TRIPS Council. It would be beneficial for Members and industry to work together to further refine anti-diversion practices and enhance the sharing of information related to identifying, remedying or preventing specific occurrences of diversion."



ANNEX II

**Statements by delegations at the Informal Meeting of Heads of Delegations  
on 29 August on Implementation of Paragraph 6 of the  
Doha Declaration on the TRIPS Agreement  
and Public Health**

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## **1. Kenya**

I take the floor in response to the Ambassador Canada's request that those of us from Africa state our position.

(1) We support both your appeal and the Director-General's appeal that we overcome our differences, however minor or major, and get this out of the way before Cancún. The Director-General has provided excellent reasons why we should do that, and my African colleagues have reminded us again why our decision today is a life and death one.

(2) We were involved in consultations on the text, together with other colleagues, and are satisfied with the result of our consultations. We believe the text before us now, which has been worked on considerably, provides us all with the opportunity to adopt the 16 December text – a text that we all agreed to and supported. We are fully convinced that the Chairman's text does not change the 16 December text in any fundamental way, and at the same time provides comfort to the United States without unravelling the 16 December text, and therefore should not affect the support that the December text enjoys.

(3) We are comfortable that the draft Decision and statement will not, and indeed, should not, hinder us from getting access to affordable medicines, which is our common objective and primary concern.

(4) We are also comfortable in the knowledge that it will not affect in any way our intention to improve our manufacturing capacity, which is our medium- as well as long-term objective, and that this is a temporary solution which will come to an end after the permanent solution envisaged in paragraph 11 of the draft Decision is in place.

(5) The Chairman's draft statement allows all of us to come together in solidarity, rise to the occasion and meet the challenge before us today, that of saving millions of lives. So I join the appeal to colleagues to allow this text move forward. I support it fully and unequivocally and express our sincere appreciation to the TRIPS Council Chairman, the US Ambassador and other colleagues who worked hard to bring us this far, including by consulting experts far and wide.

## **2. Venezuela**

We strongly believe that, for decisions of this nature, our countries need time for constructive, thorough reflection. We understand perfectly the complexity of the issues facing the Cancún Conference, but consider that inclusive participation, internal transparency of the consultation process and effective participation by the Members in decision-making are principles stemming from the Doha Declaration itself, and are hence essential for building consensus on issues, such as health, that pose a challenge to the commitment to development contained in the Work Programme.

In this regard, we should point out that public health in Venezuela is a social entitlement linked to the right to life, which is protected by the Constitution, and that the State of Venezuela is also required by the Constitution to guarantee the development of a domestic industry for the manufacture of medical supplies. Consequently, and pursuant to paragraph 3 of the Chairman's Note concerning the objectives of industrial or trade policy, it is important to emphasize that the development of a domestic pharmaceutical industry is not only a component of Venezuela's industrial or trade policy, but it is also and primarily part of a public policy that guarantees a universal, non-discriminatory right to health and medicine.

Since receiving the text yesterday evening, our Mission has held intensive discussions with its capital, with the conviction that this consensus, which has been described as fragile and delicate, will

help to assist many of our fellow human beings currently suffering from a shortage of medicines, particularly in Africa, to whom we express the solidarity of the people of Venezuela.

Mr Chairman, you are well aware of the commitment my country has shown on this issue. Venezuela has co-sponsored all of the documents submitted by developing countries, has taken part in negotiating groups prior to 16 December and, as you pointed out, has followed the process very closely, even asking the Chairman of the General Council to keep it informed of any progress made and of any possible or new alternatives.

With regard to TRIPS and public health, we have been presented with a supplementary text to the proposal of 16 December, designed to resolve the issue of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. We are being asked to agree to this text, the main purpose of which is to seek a balanced formula for the distribution of medicines that takes into account the urgent need to protect public health. Having said that, and in the hope that this very instructive exercise in transparency will remain in the collective memory of this organization, Venezuela supports this decision and joins the consensus reached to resolve one of the many problems relating to health.

We trust that this decision will make a substantial contribution to a broader process that should be directed at enabling countries to manufacture their own medicines at affordable cost in order to meet the needs of their people. The adoption of this decision does not fully resolve the problem of TRIPS and public health, but it opens up possibilities for future consensus agreements in an area of such significance for global development and for the collective well-being of all of our peoples.

### **3. Nicaragua**

I should like to thank both you and the Director-General for your keynote addresses. My delegation also wishes to express its appreciation for the documents submitted to Members for their consideration some days ago. Although it proved difficult for my delegation to consult extensively with our capital in the short time at its disposal since these documents were circulated, we have had an opportunity to analyse them and have received instructions thereon. My delegation is particularly pleased to endorse both documents tabled (the Draft Decision in document IP/C/W/405 and the Note from the Chairman of the TRIPS Council in document Job(03)/177), and calls for us all to join forces in order to achieve the sought-after consensus.

We likewise welcome the statement by the Ambassador of India, which clarified some aspects on which my Capital had voiced concern.

The road we have travelled has proved arduous; however, under the able guidance of the present Chairman of the Council for TRIPS and his predecessor, Ambassador Pérez-Motta, we have managed to reach a point where the endeavours and will of the Members of this organization have come together with a view to finding solutions to the issue of public health, one of the most sensitive on the Doha Development Agenda.

We have listened with particular interest to the statements by our African brethren and colleagues concerning the serious public health problems with which they are beset and to which Nicaragua is not indifferent. Recent statistics show that the number of AIDS sufferers is on the increase; there have been outbreaks of diseases thought to have been eradicated; we have a small pharmaceutical industry and are not suppliers of active ingredients. Factors such as these reflect the major restrictions which face us when investing in research and technology. For all of the above reasons, supporting any mechanism which grants resource-poor populations and countries access to medicines at affordable prices is a priority for my country.

Mr Chairman, I believe that the end of the road is in sight. If a prompt solution proves feasible following the suggestion made by the Ambassador of South Africa, then we will endorse and support it, were such a suggestion still to be required.

Without trying to rush matters, Mr Chairman, we should like this issue to be resolved in the very near future so as to send out a positive signal to the world.

#### **4. Canada**

- (i) Your proposed solution to this outstanding issue is very good news, for a number of reasons:

I recall how disappointed we all were at the end of that long evening last December. Despite everyone's hard work and best efforts, we were unable to agree by the deadline imposed on us.

The prospect of being so close to successfully closing this file makes up for that empty feeling we had last December.

- (ii) It fulfills an important part of our overall Doha agenda. It was the first item we agreed to in Doha. It has substance, and finding a solution for countries which lacked manufacturing capacity, and enabling them to obtain the essential medicines their citizens require by using the flexibility of the Trips Agreement, was pivotal.

It also demonstrates that, while late, the WTO is on the verge of showing its heart and soul on this huge and emotional issue. This has been a highly public and visible issue for the outside world, and this decision therefore has an important symbolic value.

- (iii) It offers some much-needed momentum to the rest of our work in the lead-up to Cancún. We have just come from our General Council meeting, where there was considerable disappointment over the low level of ambition contained in the Cancún text. So, if we are to endorse this proposal, it will certainly help us lift our game in Cancún.

While this is the first open-ended meeting in which Members may submit their views on this statement, and while we respect the right of Members to take some time to consult their capitals, Canada wishes to state that we support your proposed statement, and would be prepared to endorse it fully.

Finally, let me extend four "thank you"s:

- (i) A thank you to the Ambassador of Singapore, the Chair of the TRIPS Council. When I put together the slate of chairs as my last deed as General Council Chair, there were not many takers for the TRIPS Chair, but he was willing. He has showed both courage and astute leadership in taking us to this point.

- (ii) A thank you to the Ambassador of Mexico, our past TRIPS Chair. We owe him a great debt of gratitude for bringing us so far down the road. He deserves credit today, as well.

- (iii) A thank you to the US Ambassador and the US Trade Representative, both of whom have worked tremendously hard to build many bridges – both at home and abroad. They had a difficult task. I never saw them as "the problem". Rather, they had, like we all do on a variety of important issues, to provide comfort to a significant national and international constituency. They deserve our appreciation.

- (iv) The final thank you goes to all my African colleagues. It was their countries and their citizens who were always recognized as the primary beneficiaries of the Declaration on TRIPS and



Public Health. It was their people who had the most need. And yet, they have demonstrated remarkable patience with us, on such a "life and death" issue. I am not sure many of us, in similar circumstances, would have acted as honourably.

In closing, while this document is solid, statements can also be very fragile things. They have a limited shelf-life, before everyone starts, perhaps inadvertently, unravelling it. So, we have an opportunity. Let us all seize the moment.

## **5. Switzerland**

I too will be brief. I welcome this for the same reasons as those invoked by New Zealand. When we began this exercise, we had an objective which was to define the ways and means to respond to the countries whose production capacity was insufficient or non-existent for a series of medicines, but in the broader aspect of the work, our real objective was to make it possible to make available to those who have an urgent need, the medicines which are vitally important to them. Now quite naturally, as we sometimes see happen in this forum, in this organization, in the course of the process we tend to forget or stray away from our initial objective that we had set for ourselves. Some other considerations and concerns that are somewhat alien to the initial objective have taken on proportions, which to many outsider observers, may have seemed to be, to say the least, inappropriate. So, thanks first of all to the preceding and current Chairmen of the TRIPS Council. The obstacles to the achievement of the initial objective we had set for ourselves, we successively set aside, and my view is that today we are in a position, in the way you consider most appropriate, to seal our agreement according to the terms defined by the Chairman of the TRIPS Council.

I would like to pay tribute to you and to the Director-General for the efforts that you have made and that you will certainly continue to make in the upcoming hours, but I would above all like to pay tribute to the representatives of the African countries and the other countries that are so hard hit by AIDS, tuberculosis, malaria and other epidemics. I think they have quite rightly recalled to us a situation, a reality, which for most of us here is something quite foreign to us, and they have also recalled to us quite rightly as well, what our duty and responsibility is. In this regard I would like to extend to them my particular thanks.

## **6. Senegal**

Senegal would like to take this opportunity to extend its thanks to you and to the Chairman of the Council for TRIPS and all the Members of the Secretariat for your unceasing efforts to secure the implementation of paragraph 6 of the Doha Declaration on TRIPS and Public Health.

I extend those thanks also to the Ambassador of Mexico, who directed the work of the Council for TRIPS during 2002.

At this crucial juncture, Senegal wishes to express its concern that a satisfactory solution be found before the Cancún Ministerial Conference, which would enable us to settle a problem that has cost us much energy since 2002.

The reason I voice that concern is that the African continent is particularly hard hit by scourges such as HIV/AIDS, tuberculosis and malaria. Seventy per cent of the 40 million people worldwide suffering from HIV/AIDS are in Sub-Saharan Africa. That figure amounts to more than the average population of the African States.

Senegal strongly endorses the solution chosen, namely the adoption of the decision of 16 December 2002 together with an interpretative note by the Chairman. We find this to be an acceptable compromise. The peoples of Africa pay close attention to our deliberations, and our

appeal to all our partners in the WTO is for an additional effort to adopt the solution awaited by all to alleviate the suffering of the many people infected by the AIDS virus.

On our continent, the greatest pain is suffered in silence, held in by dignity and restraint. Although it has a low prevalence rate for HIV/AIDS in comparison to other African countries, Senegal nevertheless invokes the right to life and proclaims its solidarity.

We consequently urge all Members of the WTO to support the draft decision submitted to us.

## **7. Ecuador**

The day before yesterday, my delegation was surprised to hear that a formula had been arrived at that would permit all Members to join a consensus on the proposal tabled by the outgoing Chairman of the Council for TRIPS last December. Notwithstanding the brief time Members have had to assess the scope of the content in the statement made by the Chairman of the TRIPS Council with a view to facilitating the adoption of the decision which Ministers in Doha had requested of Members – to provide for mandatory licensing regarding countries which had scarce manufacturing facilities – my Government is grateful that a consensus has been achieved in order to respond to paragraph 6 of the TRIPS Agreement on Public Health. This solution has been forged amidst great difficulties, the result of fears which arise from different sources and which depend on the approach one took. Some of these fears have been due to the time it has taken to achieve this consensus, the safety mechanisms involved, the safeguards and the restrictions contained in the 16 December draft Decision as well as in the Chairman's statement accompanying it. Potential importers wondered about the effectiveness of this solution, and its costs and consequences for them. It is the practice in my country that any effort made in good faith for humanitarian reasons should be supported. My delegation hopes that the results of these efforts are indeed intended to benefit all Members with poor and needy populations, and trusts that this instrument will neither prevent nor limit the flexibility offered under the TRIPS Agreement for managing public health policies.

## **8. Philippines**

We are grateful to you and the Director-General for your very strong remarks and the immediate action both of you have taken on what I call a transcendental issue.

You have our assurance that we are prepared to work constructively with you in the work to carry this issue to a successful conclusion in a short timeframe. Upon reflecting further Mr. Chairman, particularly on the plight of our African colleagues who are the principal beneficiaries of this landmark decision drafted by our colleague the Ambassador of Mexico – the preceding Chair of the TRIPS Council – and the statement from the TRIPS Council Chairman, it behoves this delegation to reiterate that the Philippines fully supports consensus on this decision and on the Chairman's statement without reservations. All of us acting in the TRIPS Council last night agreed on the decision and the Chairman's statement. Without exception, we all agreed by consensus to favourably endorse this decision and this statement for adoption by the General Council. We have always approached this work with sincere and abiding responsibility, and in this particular case, the objective of obtaining the most expeditious solution, in order to provide a mechanism which will complement our efforts in various fields to contain the scourges of death and the deep family and personal tragedies that accompany this. On account of the problem of access to affordable medicines, it is with the same perspective that the Philippines will continue to work actively towards ensuring the adoption of the decision and the statement of the Council Chair in the General Council as soon as possible.

## **9. Bangladesh**

We have noted your statement and the remarks of the Director-General and take them seriously. Many consider the Declaration on the TRIPS Agreement and Public Health adopted at

Doha on 14 November 2001 as a turning point in the history of the WTO. Responding to popular demand, this organization had addressed the question of access to medicines for public health problems of many developing and least-developed countries. We had hoped that the WTO would finally operationalize the right of WTO Members to use to the full the provisions of the TRIPS Agreement, which provide flexibility for this purpose. It took several months of discussions to arrive at the decision contained in document Job(02)/217 dated 16 December 2002 which was acceptable to the full membership except for one country. We had hoped this document would provide the necessary comfort to Members that the Declaration on the TRIPS Agreement and Public Health could be used to the satisfaction of all. Despite the best intentions of Members, we required further consultations for eight months after December 2002 to arrive at another document that would be the Chair's statement and represent "several key shared understandings of Members regarding the decision" contained in document Job(03)/177 of 27 August 2003. After hearing the statement of the Ambassador of Argentina on yesterday's procedure, there is very little to add in that regard.

We are happy that the African Group finds the decision and the Chair's statement acceptable and we are fully supportive of the sentiments expressed. We hope that the decision and the Chair's statement will not in any manner affect our right to develop our industries, particularly our pharmaceutical industry. At the same time, we have the belief that the decision and the Chair's statement are intended to facilitate the implementation of the TRIPS Agreement and the Declaration on the TRIPS Agreement and Public Health, and not restrict in any manner the rights of Members, particularly the LDCs.

It will be our pleasure to join in the consensus that we hope will be the form in which the decision and the Chair's statement will be adopted.

#### **10. Sri Lanka**

My delegation was deeply touched by the sentiments expressed by our distinguished colleagues from Africa who know the gravity of this problem more than anyone else because they experience this problem. The Director-General reminded us once again to view this as a humanitarian issue for which we need to find an urgent solution. Before me I have an article written by the South African Ambassador whom I respect very much. It says 30 million people are affected by HIV/AIDS and only 30,000 are treated. That means only 0.1 per cent. This is not a very healthy situation, and the distinguished Ambassador from Morocco said that everyday 8,000 people are dying. We need to address this problem very urgently.

Yesterday, we stated in the informal TRIPS Council that the Chairman's text is a delicately balanced one. Therefore, very sincerely, my delegation joins hands with our African colleagues in appealing to all the other Members to adopt this decision. The adoption of this decision will no doubt be a landmark event in the WTO which should also generate required momentum in other areas of negotiation of the DDA that can also contribute to alleviate poverty, which is another humanitarian cause.



### ANNEX III

#### **Opening and Closing Remarks by the Chairman of the General Council at the Informal Meeting of Heads of Delegations on 25 August on the Draft Ministerial Text<sup>51</sup>**

##### **Opening Remarks by the Chairman of the General Council**

The purpose of today's meeting is to give delegations an opportunity to make their initial reactions to the draft Ministerial text in an informal setting. It will then be taken up by General Council. Let me say a few words by way of introduction.

I am aware that the text was distributed late, and that many delegations have yet to receive concrete instructions from capitals. So I am looking for preliminary reactions today, and I would suggest that delegations not deliver their General Council speeches here. I equally ask delegations not to embark on a procedural discussion today. I think it is important for everyone to hear substantive views.

This text is put forward on my own responsibility, and in close co-operation with the Director-General. However it is based on many hours of consultation and discussion, especially in this open-ended Heads of Delegation format. I would also like to express my particular gratitude to all those who have generously assisted me as Friends of the Chair, as well as to the Director-General, his Deputies and his staff.

This text is based on my best judgment. It does not purport to be agreed in any part at this stage, and is without prejudice to any delegation's position on any issue. In other words, the whole text is in square brackets. You will notice that, rather than including all possible options, which would have resulted in an unmanageable draft, I have come forward with a clear text in many areas.

I believe my approach is in keeping with the criteria I set out earlier of respecting the ambition of the Doha mandates, of respecting the development dimension, and of seeking overall balance.

It is also in keeping with the progress – or lack of progress – in our consultations and with the realities of our situation.

This is a pragmatic approach that should provide a workable framework for action by Ministers.

I would like to repeat that this is intended as an operational text, one which can assist Ministers at Cancún in taking the necessary action. As such it clearly cannot be a compendium of all views and positions, which would make the task of Ministers impossible. I have considered everything that I have heard very carefully, but in the end I had to make my own best judgement and assume my responsibility. In quite a number of areas I have put forward texts which have attracted a high level of convergence in our consultations, and which I believe could be agreed upon. In other, more controversial areas I have tried to find a possible compromise among competing positions within the generally-accepted concept of a framework for developing modalities. And concerning the Singapore Issues, where views remain more or less polarized, I have set out the two basic options.

I should also recall that Ministers will have at their disposal all the reports of the WTO bodies which have worked on these issues. These were forwarded to Ministers by the General Council in

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<sup>51</sup> Previously circulated in JOB(03)/174 and Add. 1.

July. So, with briefings from their delegations as well, Ministers should be amply informed about the positions on all the issues. What they need more is a means of helping them focus effectively on the key areas where they need to take decisions and give guidance, and this is the purpose of the present text.

As I said earlier, this text goes as far as I judge is possible in the Geneva process. From now on our attention should rather be on assisting Ministers in their heavy tasks at Cancún. We will all be listening attentively, and I urge you in making your comments to keep very much in mind our collective responsibility for the situation that your Ministers will face in two weeks' time.

I will now make some brief comments about some sections of the text before opening the floor. I will not, of course, speak to each and every paragraph, because I do not believe that is necessary.

Following my remarks, I will invite the Director-General to say a few words before inviting delegations to speak.

### TRIPS and Public Health

TRIPS and Public Health has remained an intractable issue since the General Council last considered it in February this year. However, I can report that intense diplomatic efforts are currently under way, and it is possible that we may have positive results to report very soon. Clearly, we must all recognize that this is politically a crucial issue, and one on which our collective aim must continue to be to reach agreement before Cancún. This matter is, as you know, on the agenda of the General Council meeting, and I am hopeful that the Chairman of the TRIPS Council, Amb. Menon, will be able to report to us positively in that vein. I would like to request all delegations to be ready to be called at short notice for a meeting of the TRIPS Council to consider the results of this work.

### Agriculture

First, I wish to point out an involuntary omission in the chapeau text to Annex A – that is, the mention of non-trade concerns. So after the words "special and differential treatment" the phrase "and taking into account non-trade concerns" should be added. A corrigendum to this effect will be prepared and submitted to the General Council.

One of the most sensitive areas of the negotiations is of course agriculture. Progress has been made since Doha but it is evident that we will not be able to establish fully-fledged modalities by Cancún.

In the context of the difficult situation we have been facing, I think that we have all appreciated the joint initiative by the European Communities and the United States in coming forward with the concept of a "framework" as a way to move forward. Their input does indeed seem to have energised the negotiations and prompted other Members, including large numbers of developing countries, to come forward with their own versions of a possible framework.

All of these inputs were extremely useful to me in drafting the text that you now have before you. This, I can assure you, was a very difficult task because, although the inputs represented significant moves towards convergence among certain Members, significantly differing perspectives remained between the various proposals put forward. It is not easy to reconcile these.

On the basis of the various inputs, there have been intensive consultations over the past two weeks at the level of Heads of Delegations and in various formats chaired both by myself and by Stuart Harbinson as a Friend of the Chair. As a result, Annex A to the draft Ministerial Text

constitutes my best effort to provide you with a workable framework on agriculture for action by Ministers.

I should add that there seems to be general acceptance that we should proceed with a framework approach which leaves the figures for negotiation post-Cancún. This in my view still represents an important step forward towards the establishment of modalities in line with the Doha mandate on agriculture. It leaves room for various eventual outcomes depending on the hard negotiations on the figures that will inevitably follow Cancún. And, although the text takes a certain direction in various areas, it leaves the direction open in others.

### NAMA

On the NAMA negotiating modalities also, the idea of a framework has also emerged as a likely basis for decisions by Minister in Cancún. I acknowledge the intensive consultations over the past several weeks chaired by Amb. Girard as a Friend of the Chair.

However, I was confronted as late as Saturday by a text coming out of these consultations which still presented serious problems and reservations on many elements, especially paragraphs 3 and 6.

In the short time remaining to us before distributing the text, the Director-General conducted some consultations on my behalf, on the basis of which I decided on some revisions, particularly to paragraph 6, in order not to prejudice the strong positions maintained by some Members. I understand however that there may still remain some significant concerns and divergences that will have to be tackled by Ministers in Cancún.

### Special and Differential Treatment

Let me begin by recalling and again appreciating the involvement of the Heads of Delegation in a long and constructive process on special and differential treatment, which in my view has led to positive results on a number of Agreement-specific proposals. The recommendations that Members have agreed are contained in Annex C of the text. As indicated, Annex C also contains three proposals which had been agreed to ad referendum. I am happy to inform Members that the reservations expressed by Japan on one of these proposals, namely that on the Enabling Clause, have since been dropped. I hope that the other Members which had reservations on the other two proposals can also similarly go along with the consensus. Clearly, this is only an initial harvest of the work. As indicated in the text, there is still a lot of work to be done on S&D treatment, and indeed on the Agreement-specific proposals, and I fully acknowledge this.

In addition, I have tried to incorporate some of the other views and concerns that Members had expressed on the previous draft. Firstly, I have taken on board the request that the thrust of the Doha Declaration be reiterated, and accordingly I have reaffirmed Ministers' commitment that S&D provisions are an integral part of the WTO Agreements and that their review should be carried out with a view to strengthening and making them more precise, effective and operational. Secondly, in keeping with the commitment I had expressed to ensure that work on category II proposals is expedited, the General Council is being directed to monitor closely the work being done in this regard in negotiating groups and other WTO bodies. The text also reflects the suggestion made by a number of Members that future work on special and differential treatment should as far as possible be conducted in the Committee on Trade and Development in Special Session.

With respect to the need for a time-frame for the conclusion of our work, I have left it to Members to decide which time-frame would be realistic taking into account both the proponents needs and the amount and complexity of the work still ahead of us. Finally, let me also mention that the operative part of the language of some of the proposals in Annex C may change, since it is now the Ministers, and not the General Council, which would be adopting these proposals.

### Singapore issues

Turning now to the four Singapore issues I would like initially to share with you the overall approach I have adopted in these areas. You will note that, in each area, I have opted for the inclusion of two alternatives.

Let me explain why I have taken this approach.

As you know, many delegations have pointed out that the establishment of modalities is an issue for Ministers to decide. I therefore felt that the best framework to give them for making those decisions would be to outline the proposals and positions at either end of the debate. I am fully aware that a number of delegations will not find their position on these issues reflected in the two options. I am also aware that this approach has not enabled me to include any possible intermediate option for one or more of the Singapore issues, despite the fact that the Chairs have informed me that some delegations would be comfortable with such a third option. These intermediate approaches, of course, remain available for further consideration by Ministers in Cancún.

I believe the formulation in the text reflects the prevailing sentiment at the level of Heads-of-Delegation about how best to present these issues to Ministers.

With respect to the bracketed options in the text, I would note the following:

In each of the four areas there is a first option containing a decision to launch negotiations and setting forth the modalities for such negotiations. There is then a second alternative which refers the matter back to the Working Group for further clarification. Clearly, these brackets reflect the fact that there are still considerable differences between Members, although the scope of divergence is greater in some areas than others. However, in all four areas, there is still considerable work for Ministers to do.

Lastly, let me note that new paragraphs have been added on three issues to respond to developments in the course of our consultations. These cover a Sectoral Initiative on Cotton, Commodity Issues and Coherence.

### **Concluding Remarks by the Chairman of the General Council**

I would like to make some final remarks on the discussion we have just had this afternoon. Firstly, I should like to thank you for your contributions and for having remained in this room until late at night. I can assure you that I have listened carefully to your reactions to the revised Ministerial text put before you. Your reactions do not surprise me nor do they discourage me. I welcome them, particularly as all of them, without exception, have been highly critical of at least some parts of the text. What is appreciated, however, is that these criticisms have not been uniform but very different, they have come from different angles and different positions, and this encourages me inasmuch as I have always considered that if there was disagreement on a text on all sides but in different directions, this would be an indication that its tenor was not completely wrong.

The discussions today have clearly shown that the text does not meet the objectives, the expectations or the levels of ambition of any Member. What is obvious, however, is that in all the areas of negotiation what fails to reflect the level of ambition of the Doha mandate for some, is too ambitious and goes beyond the mandate for others. Likewise, it has been mentioned that the approach is unbalanced, but here again proposals that represent a step forward for some are a step backward for others; what is an acceptable compromise for some, is a totally unacceptable compromise for others; what is the best paragraph in the text for some is the worst for others. This reflects the true situation and we cannot ignore it. It has also been mentioned that the text shows a low level of ambition as regards agriculture and market access for non-agricultural products. It is true that it is difficult to



define the final level of ambition in a text that does not contain any figures, but I remember that the framework approach to work in Cancún was the result of recognition that we would not be able to negotiate figures for the modalities, either in agriculture or market access for non-agricultural products, before the Conference. In my view, therefore, the level of ambition will depend on the negotiations and that will only occur after Cancún.

I consider that, on the basis of the text I have put before you, it is possible to arrive at ambitious results, but also at very modest results. It will depend on the figures to be negotiated. However, these figures, like many other issues mentioned this afternoon, are not to be negotiated with me but among yourselves. Reach agreement on these and other issues and there will be no problem in incorporating this common ground in the texts to be submitted to the Ministers. In the absence of agreement and if the disagreements, only some of which I have mentioned, persist, it is impossible to draft new texts.

I can assure you that today's debate has not given me any guidance that would allow me to draw up a new text with greater certainty that it could achieve a better consensus than the text I have submitted. Consequently, until this occurs, I continue to believe that the text I have submitted is the best approach and the best way of seeking common ground in the various areas we have discussed and at the same time it constitutes a manageable basis for discussion on which the Ministers can decide.

I have listened to a number of delegations repeating that they want to see all the positions reflected in the text and at this point in the discussions and negotiations, this definitely appears to me to be an extremely unrealistic position. I do not believe either that the mere fact of putting eight or nine options before the Ministers is acceptable. In my view, this would mean that I would be failing in my obligations as Chairman if I did not at least try to draft something that I believe could be a basis for an understanding, even though it is possible that it might not be.

I should like to conclude by referring to some specific remarks that have been made this afternoon.

#### Deadlines

It has been said, and quite rightly I believe, that there are many square brackets in the texts concerning deadlines, where we should be seeking results, and these deadlines in square brackets should correspond. I fully agree that this is a cross-cutting issue and this is why they remain in square brackets in the revised draft Ministerial text so that the Ministers can decide what the deadlines should be and so that we can then insert dates that are inter-related. Today, we have also heard criticism of the fact that using the framework format provided to us by the United States and the European Union, as well as some elements of their proposals, means that the document has an imbalance in favour of developed countries and against developing countries. Despite the fact that other developed countries have said exactly the opposite, this is a view I cannot share. It suffices to listen objectively to the criticism of the document made this afternoon by developed countries to see that the proposals I have made are far from reflecting their positions. I have made a considerable effort to maintain the level of ambition and to take into account the interests of developing countries and I believe that these are clearly reflected in the document I have put before you.

I used the format of the United States and the European Union as, I might add, has been done by many other countries which made proposals, for practical reasons, and I have sought and attempted to find convergences based on the situation we are facing, namely, Cancún is not the end of the process, while at the same time leaving doors open in order to resolve important issues on which there is not yet an agreement.

Much can be said about agriculture, but I shall simply limit myself to some of the aspects mentioned. As already stated, the level of ambition and the final balance of the Round will depend on

the figures that still have to be negotiated. In the absence of these figures, I consider that it is impossible at this stage to define the ultimate level of ambition.

Secondly, regarding the blue box, I must emphasize that, as you all know, the Agreement on Agriculture does not presently provide any limitations in relation to this box. The text I have submitted to you does not only initially fix a limit in line with the proposal by the United States and the European Union, but it also puts forward additional substantive reductions in this box. Regarding the green box, we all know that we are starting out from totally divergent positions; there are those who wish to expand the box and those who wish at least to cap it and revise it radically. I believe that the text I have put before you does not prejudice the final outcome. It indicates that the criteria will continue to be the subject of negotiation.

The lack of direction on market access, giving two options regarding developing countries, is also a reflection of totally divergent positions, and it is the Chairman's responsibility when submitting a text to take into account, as far as possible, all the positions that have been expressed.

Regarding market access for non-agricultural products, I repeat that I received the text on Saturday afternoon with indications that there were still problems and reservations on at least some of the elements in the text. After the Director-General had held consultations on the question, we made some adjustments, in particular in paragraph 6, so as not to prejudice the positions of some Members on the sectoral negotiations in which they had adopted very radical positions. I believe that the text as drafted, although it may contain some ambiguities, has the constructive ambiguity of not prejudging this issue and leaving it open for negotiation. What is very clear to me, however, is that there are unresolved problems which we must continue to discuss and which, ultimately, will have to be resolved at the Ministerial level in Cancún.

I conclude with the Singapore issues. Our original approach, and when I say ours I mean the approach we had in mind with the Director-General, was not to present only the two most divergent options. The decision to take this approach was the result of intensive consultations held with Members, both at the Heads of Delegation level and in other forums. It may not be the best solution, but it is a reflection of the will expressed by Heads of Delegation regarding the presentation of these issues to Ministers. I have already pointed out that this position, namely, only to present two options, does not reflect the position held by many countries with regard to the Singapore issues, and at the same time, in presenting these two options we are fully aware that we have disregarded other intermediate options that enjoy the support of many countries. I can assure you that the work done on the four Singapore issues has not been lost and that undoubtedly when we return to addressing these issues in Cancún, they will be considered by the Ministers there. There are two options on the table today: to initiate negotiations or to continue to work in working groups. As many Members have emphasized, it is true that the modalities reflected in the Annexes to the text in respect of alternative 1 have not been agreed (I am referring to the modalities) by all Members. They have been incorporated in the Annexes because they reflect the position of the proponents, just as in alternative 2 we have faithfully reflected the position of the proponents of this second alternative as well. Nevertheless, if the Ministers in Cancún eventually decide to enter into negotiations on one or all the Singapore issues, I am sure that the question of modalities will be discussed and decided upon by them, and not necessarily on the basis of the two texts in the Annexes.

With this, delegates, and aware of the fact that I have not answered all the questions, I am going to give additional time to allow countries to receive instructions, to continue discussions amongst yourselves, and also to reflect on what we have heard today. I would ask you also to reflect on the different reactions to this proposal and, in some way, to ensure that the General Council meeting we will attend tomorrow afternoon at 3 p.m. does not become a repetition of what we have already heard today but instead tries to seek common ground that we will be able to reflect in a Ministerial text.

I thank you once again for your participation and invite you to attend the General Council tomorrow at 3 p.m., when we will discuss these and other pending matters.



ANNEX IV

**Statements by delegations at the Informal Meeting of  
Heads of Delegations on 25 August on  
the Draft Ministerial Text**

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## 1. Mexico

These are preliminary comments, as we have not yet completed our technical analysis. We will accordingly confine ourselves to the three subjects we see as being the most important at this stage:

- Agriculture
- Market access for non-agricultural products
- Singapore Issues

### Substance

#### Agriculture

We still have a few doubts of a technical nature which we need to resolve in order to understand the proposal properly.

Nevertheless, we have a number of substantive problems with your proposal:

1. We understand that a sub-category of what is currently Amber Box support would be created, which for a time would allow unlimited quantities of highly distorting support. We find this unacceptable because it is incompatible with the Doha mandate.
2. We are also concerned that the support reductions would not be product-specific in the new "Light Amber" Box and other categories of subsidies.
3. With regard to the Green Box, although paragraph 1.5 mentions that the criteria will be subject to negotiation, we would have liked to see the word "ceiling" expressly included in the text. It is our understanding that the negotiating criteria must include a limit to such payments.
4. Paragraph 6 of your Draft suggests that the Peace Clause may be subject to negotiation. It must be clear that this issue is not subject to negotiation.
5. Paragraph 3.6 (end date for phasing out all forms of export subsidies) is essential to knowing the level of ambition. The Ministers must settle the date on which export subsidies would be eliminated in order to lend certainty and ambition to the process.
6. As for market access, the Swiss formula would be unacceptable were there to be no change in the language the paper proposes for domestic support and in the lack of certainty about the date for eliminating all forms of export subsidies.

In conclusion, the paper presented by 17 developing countries is closer to the Doha mandate than what you have tabled.

#### Market access for non-agricultural products

We realize that you identified the sectoral discussion as a controversial issue and accordingly tried to draft a paragraph reflecting a consensus. Finding a consensus is difficult, however, when the great majority of Members are opposed to the idea you are attempting to reflect. Although we are grateful for your efforts, we still have difficulties with the recently proposed language.

We note that the annex on agriculture contains no figures at all and we therefore suggest deleting the figure "5" in square brackets which appears twice in paragraph 7 of Annex B, so as not to prejudice the level of ambition in this discussion as compared to other issues.

With regard to paragraph 9, which refers to newly acceded Members, we cannot prejudge the outcome of the negotiation. There is no agreement as to how the exceptions these countries have been proposing are to be dealt with. In our view, the current language does not reflect this fact.

#### Singapore issues

We note that your text is confined to giving the two extreme positions on these issues: that of the proponents and that of the opponents.

We heard the reasons for which you have decided not to consider an intermediate proposal. In our view this is a risky strategy. There is no certainty that the rest of the negotiating package is sufficiently ambitious to allow us, even the fairly flexible Members such as Mexico, to agree to negotiations on the Singapore issues with the level of ambition that the proponents want.

#### Process

These are the major problems we have with your text. As you see, they are serious and substantive ones. And let there be no doubt that these are the positions my delegation will defend at Cancún.

At the same time, we recognize your right to send the Ministers a text under your own responsibility. Indeed at this stage, you have not only the right but the obligation to do so.

We Members have been unable to come to an agreement on modalities in agriculture and non-agricultural market access, as we undertook to do at Doha. We have thus failed to meet any of the Ministerial Declaration's deadlines.

That being so, you alone are in a position to propose a text to serve as a basis for discussions at Cancún. And a text is an essential ingredient for a productive Ministerial Conference.

- Without a document, we would have nothing in Cancún but our original positions. In such circumstances a productive discussion among the Ministers would be very difficult.
- Furthermore, the smaller or least-developed Members would run the greatest risk of not having their interests included.

But it is essential, precisely for the sake of the discussion and in order to safeguard the interests of all Members, that you point out to the Ministers the areas where the most important differences lie. It must be clear that the text is not an agreed document but an input to serve as a structure for the work at Cancún.

This week's discussions will help all of us to sort out where we agree and where we differ on your text and thus to prepare ourselves for the discussions at Cancún.

This must be the objective: to arrive at Cancún in a position to reach agreements and give momentum to our process, with a view to meeting the most important deadline: completion of the negotiations by 1 January 2005.

## 2. Argentina

The delegation of Argentina would like to extend its sincere thanks to the Chairman, the Director-General, and their team for all the effort that has gone into preparing this document for distribution. This afternoon, I would like to address some general points. My approach will be Aristotelian, in that I will start with general concerns before moving on to those which are more specific, although this is not an attempt to match up to the Latin phrases used by our friend the EU; I have no desire to express my views in Greek, simply for time reasons. I did not have time, on the flight from Buenos Aires, to carry out the in-depth study that such a task would require.

The first thing that struck me when reading your paper was the presence of double standards. I say double standards, as it is the developed countries' positions which are adopted on the key issues in these negotiations, and where different positions exist, they appear in brackets. The annexes also reflect the positions of the developed countries. This is clearly what has occurred in the paper on agriculture, which is practically a reflection of the agreement between the EU and the United States, and with the Singapore issues, where you put forward the possibility of negotiation or non-negotiation, but then in the annexes focus on the positions of those who are the demandeurs in this matter. I would also like to point out that agriculture is not a "two-tier" system; in today's world a two-tier system does exist, but it is one that separates agriculture from everything else. These negotiations are surely all about levelling the playing field; that is why we are here. If this is not clear, then all our efforts will be in vain. When we refer to the acronym DDA, it is clear that A does not stand for agriculture, but we know that D stands for development, and as regards development issues, without wanting to focus on any one in particular, it has been clearly established outside the microenvironment of this meeting that agriculture is at the heart of these negotiations. This is not an assertion made only by people from developing countries; take a look at the press in the developed countries over the last few weeks; take a look at the editorials in the Financial Times, the Economist and the International Herald Tribune, which report the case of farmers in the Philippines and reveal the way in which their standard of living is being directly affected by the distortion in today's agricultural trade. If we view agriculture merely from the perspective of the developed countries, it is obvious that we are moving in the wrong direction.

Beyond implying that these double standards will make it very hard to achieve a successful outcome in Cancún, I would like to make some more specific points about agriculture, industrial goods, implementation and the Singapore issues. However, before I begin, allow me to comment on something that you originally overlooked when referring to the inclusion of "non-trade concerns". My delegation requests that "non-trade concerns" be included in Annex A; the modalities on agriculture are referred to as they appear in paragraph 13 of the Doha Declaration, which states that "non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture". The delegation of Argentina therefore requests that if "non-trade concerns" are to be included, then the entire phrase should appear, i.e. "as provided for in the Agreement on Agriculture". This could otherwise lead to confusion or the addition of issues that do not feature in the mandate. Turning to agriculture, as regards domestic support I feel that the paper focuses on making changes that change nothing. The way in which the "blue box" is being maintained and failure to establish a cap for the green box, which will throw all the Members into a debate on "box shifting", is tantamount to making changes that change nothing. Similarly, not listing specific commitments product by product will mean one moving down so that another can move up, but will do nothing to change the overall reality of the situation. Furthermore, by not phasing out domestic support for export products, there is little chance of redressing the imbalances in today's agricultural trade. I would also like to add to the remarks made by my colleagues from the CAIRNS group and the developing countries, by pointing out that paragraph 6 is very confusing because of the diverse issues that are grouped under the same standard – issues that are not in the mandate – and it is therefore my humble suggestion that this paragraph be altered or eliminated. In formal and informal meetings, I have always emphasized the need for parallelism between our level of ambition in market access for agricultural goods and that in market access for non-agricultural goods.



As regards NAMA, I would like to mention that both paragraph 3 and paragraph 6 go beyond the fragile consensus that exists on modalities. Paragraph 3 in particular, which no longer includes the notion of average tariff, goes beyond the existing consensus and, furthermore, does not parallel the progress, or indeed the setbacks, that we have experienced in the field of agriculture. As regards the references made to sectoral (i.e. zero-for-zero) agreements, also in paragraph 6, is evident that a greater consensus will be achieved if these agreements are voluntary rather than mandatory. I would particularly like to comment on the paragraph regarding implementation, which our delegation feels is a major cause of concern due to the strange inclusion of geographical indications. Paragraph 12 mixes implementation issues under paragraph 12(a) of the Doha Declaration with other outstanding implementation issues falling within the scope of paragraph 12(b). This renders the wording of the paragraph unacceptable. Doha established a distinction between these two concepts which is now blurred. The paragraph explicitly mentions the extension of geographical indications to products other than wines and spirits. This issue, which Argentina reaffirms is not an implementation issue, is undoubtedly related to intellectual property and is a matter on which there is very little or no probability of reaching a consensus. Hence, there is no justification for explicitly mentioning this issue or for treating it any differently from the others. Our modest suggestion, like that of other delegations, is therefore to keep to the original text in document Job(03)/150. As regards the Singapore issues, our delegation has been very open in its approach to the four issues, subject to progress being made; we have done our utmost and been as constructive as possible in order to promote discussion on these issues. However, I reiterate that there are double standards, and this is obviously unacceptable. I feel that Annexes D, E, F and G reflect only the views of those who have proposed the modalities, and do not take into account the positions of developing countries. In our opinion, they cannot adequately ensure that the general framework of future agreements will provide a satisfactory response to the needs and concerns of the developing countries and, as a result, cannot adequately guarantee the guidance and direction necessary for the negotiations. This situation is reflected, for example, in the area of investment, where the proposed outline of modalities assimilates the concept of flexibility to that of special and differential treatment, which experience tells us is inadequate for implementing development policies in this field. Similarly, as regards the key issue of transparency in government procurement, there is no clear definition of its scope, and consequently, the rules of the game can be confused with market access. I therefore believe it is important to review this concept.

In conclusion, I would like to re-emphasize my concern over the fact that where no consensus exists it is the position of the developed countries that takes centre stage, to the detriment of the developing countries, and I have no doubt that this does nothing to quell the concerns that have arisen outside this meeting room regarding the way this organization works. We are capable of levelling the playing field so that the benefits of globalization and interdependence are within everyone's reach, but we cannot do this by making changes that change nothing. My delegation retains its highly constructive vision and is willing to continue working with you and the Director-General over the forthcoming days, but, if I may, I would urge you to also continue your work. Should the Ministers receive the document in its present state, there will be a serious risk of failure in Cancún.

### **3. European Communities**

We are approaching the end of preparations for Cancún. Like others we want to thank you, the Director-General and those who have been working hard together with you for the efforts that you have made to square up a number of apparently unsquarable circles, conducting a transparent and inclusive process.

What kind of text will help ensure a successful Fifth Ministerial? Apart from the substance of the text which of course is essential and I will be coming back to that later, the text needs to be a practical basis for Ministerial discussion and negotiations and therefore we have a strong preference from our side, in spite of the risks inherent in it, for a format with no square brackets other than square brackets which would be useful for purely housekeeping purposes such as dates and all, or rather as is

the case for the Singapore issues in your text, where there is a basic political choice between negotiations on the one hand and no negotiations on the other hand. So we think that your format is well chosen. We agree with the notion of a text that would go to the Ministers established under your responsibility, and the criticism that I will shortly be levelling at parts of your text will be constructive criticism in an attempt to persuade you to establish a final text which would be more likely to constitute a viable basis for discussion and decision at Cancún.

On substance we have several, even serious preoccupations. Although I would not use expressions as strong as those of my Brazilian friend and distinguished colleague Seixas Correa who was speaking about a fundamentally flawed text. If this text was fundamentally flawed, it would be a text in which nobody would find his or her theses reproduced and I think that that would not be a correct description of the situation. And a fundamentally flawed text is also one of the type that we saw appear at Seattle and which would not allow the Ministers to have a meaningful discussion. This text, in spite of its imperfection would indeed provoke such a discussion.

Our main concern is not with the format but with the imbalance that we perceive in it. It is a text that puts all proposed efforts on agriculture and a small handful of countries, and without there being even any remotely comparable level of ambition, for example, on NAMA. And before I continue I should remind others, including our Brazilian colleagues that the "A" in DDA does not stand for agriculture, it stands for agenda and it stands for a large, for a broad agenda. It is not enough simply to repeat that everything is about agriculture until one is blue in the face and the listeners are blue in the face. It is not all about agriculture. There are other things that we are actually negotiating here. Everything concerning geographical indications has been relegated in this text to the Greek Islands. Environmental concerns are given lip service and the outcome on the Singapore issues is kept uncertain because of the effective rearguard action which has tried to unravel the DDA mandate, which nevertheless is very clear on this. So, to use this cliché, the question is not "where is the beef" because it is very clear on whose plate the beef is, but "where is the balance" and how can you establish a clearer and more convincing balance. Let me be more specific.

#### Agriculture

On agriculture, we and the United States have in good faith, and to help move this process forward, negotiated a draft framework, which if this were to be accepted at Cancún, would create substantial problems for both of us. We have never said that this framework text was not negotiable, but we cannot, and I am speaking at least for the Community now, we cannot go along with proposals that every time we make a move, including the potential additional movements that we indicated last week, every time we make such moves that these positive movements are simply pocketed and that new demands are then piled on. This is not only unfair, and it would be unfair to ask for fairness in such circumstances perhaps, but it simply will not help the process advance. It will lead to a return to the effective blockage of the negotiations that we have known since September of last year.

More specifically, inside the agricultural chapter, there are a cluster of issues on which I would like to focus briefly. Firstly on domestic support. Some new ideas that we see appear in your Draft, especially on the Blue Box, constitute a striking example of the kind of overreach that we heard from some participants last week, including in the context of the presentation of the G-17, now the G-19 paper. The EU/US proposal on the Blue Box, and the 5 per cent in particular, constitute a major movement on our respective behalves. Need I remind you that only a few months ago, we from the Community side were rejecting outright any form of reduction commitment for the Blue Box, and here we are ready to put a very substantial reduction commitment squarely on the table. Therefore, to suggest that the residual that would be left after this major effort at reduction, would still be subject to further reduction commitments over the years is so far over the top, frankly, that it would destabilize, *vis-à-vis* our domestic political constituents, the very principle of the 5 per cent commitment which is in here.

On market access, still in the agriculture context, there is a problem created by what is now a hybrid ultra-blended approach for developing countries, essentially for three reasons. The first is that it would make it very difficult, if not impossible to compare its effect, its impact with that of the formula applied to developed countries. Secondly, despite this difficulty of comparison, it still is very clear that this level of ambition would be significantly below that which we have at least implicitly suggested last week when we have expressed our willingness to go far with respect to S&D treatment and with respect to special products. And thirdly, in accordance with this formula, if we have understood it correctly, all developing countries, irrespective of their level of development, would be treated alike, allowing major, super competitive substantial net exporters to escape from any significant market opening commitment, leaving them at the end of these negotiations with an average level of tariff protection not three times higher, as it is today, but even several times higher than that. You can imagine the kind of political reception that this would receive back home.

Still under the heading of agriculture, on export competition, here again the Community is willing to go far, very far towards sectoral elimination and further substantial reductions, but once more, a willingness to do so, which we have clearly expressed in our joint approach, is now taken for granted and the outcome of what we fully expect to be the attempt by some Ministers at Cancún, to push us towards complete elimination, is now anticipated in this text. We cannot prevent, of course, some Ministers from trying to do so at Cancún, but the DDA mandate does not authorize a reading which would allow for the inclusion of elimination in this text we submit.

Still under export competition, the proposed discipline on state trading enterprises (STEs) has now been weakened to the point of insignificance. CAIRNS group countries, including, in particular, those with huge state trading enterprise operations, are amongst the main demandeurs of these negotiations on agriculture, and I must say that I find it astonishing that they should not be the first to be asked to contribute to them as well. It is as if they are focussing only on the second part of the Marxist slogan, "to each according to his need" and forgetting about the first part, which is "from each according to his ability". We are also concerned with a weakening of export credit disciplines, introduced through the reference to possible negative effects on developing countries of these new disciplines. Why treat export credits more leniently than export refunds? They have the same effect on the interests of the importing countries, and potentially the same distorting effects on others.

And finally, the reference to non-trade concerns, even if we are delighted to hear you say in your introductory remarks that this was an involuntary omission from the Chapeau, in other respects this issue is simply shoved into oblivion. This is not in conformity with the DDA. It is against the deeply held convictions of a large part of the membership and therefore an omission that should be repaired.

## NAMA

This text is a distinct improvement on its predecessors, but then of course everything is relative, and it still lacks one vital ingredient, ambition. We need a single, simple, non-linear formula like the Swiss formula. Before anybody starts accusing us of inconsistencies between sectorals, let me draw your attention to the list in the draft NAMA text, immediately following the weak formula, the list of rebates, reductions, exemptions, special treatments, etc., for developing countries which would sharply reduce the market opening potential of this text. Here we need a level of ambition which at least starts to approach that of agriculture, but this one does not even reach its knees, let alone its shoulders.

The sectoral element in the NAMA text leaves open the question of participation. In our view the requirement contained in the text should be the participation of a critical mass of the membership along the lines foreseen in the ITA. On newly acceded countries, whilst we certainly agree on the need for flexibility, we think that that flexibility should be extended in particular to the benefit of

those who have really made major efforts in the context of their accession, and not to those who are still keeping significant peak tariffs in operation.

And finally on NAMA, by way of transition to what I want to say on trade and the environment, the Doha Declaration explicitly foresees the negotiation on market opening for environmental goods, and here in this text, as elsewhere, the "e" word seems to have been forgotten. It would be a fundamental political mistake to send a text to Cancún which neglects trade and the environment to the extent that this text does, not only in the NAMA context. We should do here at least what you proposed to do in the rules group, that is to say, to encourage the CTESS to accelerate its work, and that is just about as minimalist as it could be, and as a further strict minimum, I cannot imagine that the Ministers would not take the not-so-momentous decision to confirm that we will continue to invite to the CTESS the secretariats of those environmental organisations which have been invited so far. Failing that, any notion that this organization is taking trade and the environment seriously would become even more doubtful than it already is, in the eyes of those outside the organization.

#### Geographical Indications

This is an example of "special and differential treatment" of issues of importance to the European Union but with a negative sign in front of it. Just one example on the TRIPS register on wines and spirits, and despite the confirmation in the DDA of the deadline of reaching agreement at the Fifth Ministerial, successful foot dragging has led to minimal if any progress on this, with a result that the only alternative remaining is to agree on a new date, and that date should of course, at a minimum, be the same as the date or dates on which we agree other important decisions to be taken on other key issues, and I will come back to that in a moment.

#### Implementation

This part of the text does not create any real commitments and leaves a lot of ambiguity. We believe that negotiators require clear guidance. We are prepared to go along with the proposal made last week by the Like-Minded Group to set up a negotiating group under the TNC to address all outstanding implementation issues and to put forward decisions for adoption early next year, at the same time as we would adopt decisions on other issues.

#### Timelines

That is my last point. The question of timelines which has been raised by other colleagues before me. We realise that this text has been prepared under very heavy pressure and we are certainly not complaining about the fact that there is no clear consistency between the timelines proposed, but we do submit that it would be in the overall interest of the membership if we had the same timelines for all key decisions and points of progress next year, and I would put this very succinctly, we should conclude at the same time next year on the following issues: on both agriculture and NAMA we should conclude work on the modalities by the month of "X" and exchange schedules by the month of "Y", and I am going to repeat the same "X" and "Y" as I go through the remaining issues, the intention being of course that the "Xs" and "Ys" should be identical.

On GATS, improved offers by all participants by "X" and submission of definitive draft schedules by "Y".

TRIPS – wine and spirits register – conclude the negotiations by "X".

Implementation – the same. As I suggested a moment ago – action and/or agreement also by the month of "X".

Finally on the Singapore issues – Circulation of Draft Chairman's proposals also by the same date of "X".

What I have just said, as far as the substance is concerned, is of course based on a first preliminary analysis of this. We thought that in view of the quite substantive remarks made by earlier speakers that it would be useful to share at least our preliminary assessment with you. Most important is that you send off to Cancún under your own responsibility a text which does reflect the width and breath of the preoccupations of the membership in such a manner as to make decisions by the Ministers possible, and we certainly would like to help you continue to work in that direction.

If I may, whilst you have been working away on Saturday and Sunday, I have been improving my knowledge of Romansh, the language spoken in Graubünden, a Canton of Switzerland as you all know of course, which I think could serve as a concluding matter to today's interventions, and which, interpreted into English goes "he who will serve everyone is thanked by no one."

#### **4. Malaysia**

At the outset I must thank you and the DG for having put in so much effort in coming up with this text. Let me assure you that your efforts have not been in vain. It seems to be that the text that we have before us is a reasonably good text, but of course, as always, it is difficult to get a perfect text, especially when we have different views and positions on these issues. But I think, if we have a text that will be able to provide us the necessary platform in Cancún to enable the negotiations to proceed or at least provide the momentum for the negotiations to proceed smoothly after Cancún with concluding the negotiations by 1 January 2005, then we would have, of course, achieved the objective.

I must say that in most parts I do not think we will have serious difficulties as it is presently drafted. But it is important to recognize that there are three areas, two negotiating areas and one where we have been having discussions which, to my delegation, would be important in order for us to have that common platform that I have been talking about.

First of all on agriculture. Of course some delegations have said, and I think it was the European Communities, that we should not be harping on agriculture but we cannot run away from the reality that this is a sector which is important to a large number of delegations, and in the context of the development round that we have been talking about, it is important that we establish the level of ambition that is sufficient to enable all participants to contribute constructively in other areas of the negotiations.

It is not my intention to deal with the specific issues you pointed out in the area of agriculture, but there is one particular point that I want to stress in terms of agriculture, and that relates to paragraph 3.7 under the export competition heading. It surprises me that as far as I know there are only a couple of delegations, two I would say, which have been pressing for Article 12 of the Agreement on strengthening of disciplines with regard to export restrictions and prohibitions. I note that this has been reflected, and this surprises me greatly because it does not really represent the concerns of the majority of the Members, and I would like to appeal to you that we should not be dealing with issues which are really not that important vis-à-vis others where our time is required.

In relation to the level of ambition on domestic support and also in market access, I think other colleagues in the CAIRNS Group have highlighted this, and I do not want to touch on that except to agree with what they have said.

The other one which is very critical is NAMA, and here Chairman Girard, who happens to be my elder brother, came to me and said that I should say that he is on target, but I cannot say that he is on target, although he is almost close to target. I would like to encourage him to do a little bit more

work. In NAMA I think many delegations have stressed the importance of the language that appears in paragraph 6, which is the sectoral approach. I must say that the language that has come out now is certainly an improvement from what has been reflected in the earlier draft of Amb. Girard on this particular subject. But I still feel that we should attempt to make the language a bit clearer so that there is no ambiguity in terms of participation. I am sure this is an area that we can really work on, although I take note of the fact that there are some delegations asking for stronger language. I think to have stronger language will obviously create a lot of difficulties for many Members, including mine. Another issue with regard to NAMA and Annex B which I must highlight is in relation to paragraph 4, the second part of tiret 2, which refers to the basis for commencing tariff negotiations for unbound tariff lines. I think we have talked about having the MFN applied rate multiplied two times and then having the reductions taken from there. I just want to point out there is the issue of inequity here. In a way this punishes those countries whose unbound tariffs are low, and this is certainly an issue of concern to us, and I think we need to address this. This I wanted to put on record.

Finally, coming to the Singapore issues, which I do not consider is a negotiating issue. I think the kind of approach that you have taken is the right one. I cannot think of any other approach that could have been taken in regard to this. You have clearly captured the sense of the discussions we have had on Singapore issues and the two options, I entirely agree with you in terms of the approach that you have taken. But, the only point that I want to highlight here is that the part about the annexes poses great difficulties for my delegation. This has been pointed out by many other delegations before me, and I think it would be procedurally not correct to have these annexes attached to an official document that we have before us. So I would like to strongly urge that the annexes in terms of modalities for these new issues should not be attached to the official document, because I don't think it has the legal status or even the official status to be there. So I hope that you will pay some attention to the annexes in regard to the new issues.

## **5. Japan**

I would like to join all the previous speakers in thanking you very much for the efforts you have made to prepare this Draft, along with those who contributed, including Dr. Supachai, the members of the Secretariat and Friends of the Chair. I would very much like to be as brief as possible, but unfortunately Tokyo is eight hours ahead in terms of time difference so when they received the document at midnight they stayed working throughout the night and the day to come with rather long instructions to me. Of course, I will not carry out all of these instructions. I will save some for tomorrow, but if you will allow me, my intervention will be a little bit longer than usual.

Let me begin by stating the obvious. In order for the Round to conclude as scheduled it is imperative that we make progress at the Cancún Ministerial. In this sense the Draft Ministerial Text which you have submitted to us is indeed a document of critical importance. We all must make our utmost efforts to transmit to our Ministers a document that will serve as a sound basis for constructive discussions among Ministers, so as to achieve tangible results.

We appreciate the tremendous efforts behind it, but in our view, the Chair's Draft contains room for further improvement. I will make general comments at the outset and then make specific comments on some of the paragraphs.

First, we recognize the objective of this Round to be expansion of trade to develop the world economy, especially that of developing economies. From this point of view, we see certain problems lying on the road for continuing our work towards reaching an agreement after Cancún on modalities that would achieve a high level of ambition in market access of developing countries, both in agriculture and NAMA. While appropriate S&D are of course necessary, excessive employment of S&D treatment would not contribute, but rather would compromise, the long-term objective of development, by having a negative effect on strengthening the competitiveness of developing Member

economies and expansion of trade among developing countries, which would benefit developing Members most.

On the other hand, we place much importance on the need to allow for S&D treatment in a way that would assist developing Members to be further integrated into the multilateral trading system. From such perspective, we have been actively engaged in the work related to S&D treatment to carry out the Doha mandate. We welcome the fact that certain progress has been achieved in this area, thanks to the tireless efforts of the General Council Chair as well as the CTD Chair. In order to make further progress in our process, we believe it is extremely important that at Cancún we reap the fruit of the work undertaken so far. In this context, we appreciate the Draft Ministerial Text submitted by the Chair and as introduced by the Chair. Japan has dropped its reservation on the item on page 5 of Annex C, in order to add to the momentum.

On Singapore Issues - Japan places much importance on these issues for maintaining the relevance of the WTO vis-à-vis the new challenges posed by the world trade of today. From this perspective, Japan recognizes the Singapore Issues to be an important element of the overall package of this Round, together with agriculture, NAMA and others. While it is regrettable that consensus is yet to be achieved among the Members for launching negotiations in all four areas, Japan will continue to make efforts towards forming a consensus through the discussions at the higher level of Ministers. Japan is fully aware of the concerns of developing Members, such as those related to limited capacity of developing Members to respond to new issues or those that relate to the perceived effect of new rules limiting the scope of their development policies. Japan is willing to address the concerns of developing Members and desires to launch the negotiations on rules in all four areas on a basis acceptable to all. Japan appreciates the current text as showing the alternatives to the Ministers when the consensus is yet to be formed, and thus providing a basis for promoting the discussions at Cancún.

In the areas of agriculture and NAMA, especially with regard to the framework contained in the respective annexes, there are parts where Japan's comments, on which it has been insisting, are not necessarily reflected. We thus intend to continue our engagement in the discussions. We will engage in discussions with a view to incorporating our views at the General Council meeting before the document is sent to Ministers in preparation for Cancún. In order to reach consensus at the General Council to send the document to Ministers, we need to see our views reflected in the document.

Let me now comment on the individual areas of great importance in a more concrete manner.

On agriculture: Paragraph 4 and Annex A - The objective should be to establish trade rules on agriculture that enable the co-existence of various types of agriculture. Accordingly, the structure to be established should be well balanced to properly address the concerns of food importing Members who have to share the main burden of reform. It should make possible continuous reform and provide enough flexibility to address non-trade concerns, and in this regard I appreciate the fact that you mentioned the corrigendum. We look forward to a substantive corrigendum in this area. The balance between the three pillars is also crucial. Unfortunately, there is not the required balance in the three pillars, and too heavy a burden is imposed on importing Members. Any framework package which includes such notions as tariff capping and TRQ expansion will not provide for a balanced basis. In this regard, it is regrettable that the views clearly presented in the three papers submitted respectively by Japan, Switzerland joined by five countries, and Norway are not taken account of. From this perspective, our basic view of the draft text on agriculture is that it has serious difficulties. Paragraph 4 of the Draft Text should seek modalities which are comprehensive, having all rules and disciplines, in order to properly address the interests and concerns of all Members, including non-trade concerns. To reflect this, the latter part of paragraph 4 should be modified, removing the reference to rules and disciplines to an earlier part of this sentence. On Annex A— with regard to domestic support, in order to facilitate reforms, the basic framework of disciplines should consist of

Amber, Green and intermediate Boxes. Therefore, the proposed text retaining this basic framework is reasonable. The Green Box measures should remain exempt from capping and reduction commitments, in line with the Doha mandate which calls for substantial reductions in trade-distorting domestic support.

On market access, substantial improvements in market access should be achieved through tariff reduction with the formula whose outcome is equivalent to the Uruguay Round formula. Japan, like other countries, is providing sufficient market opportunity through TRQs.

The blended formula should be a pure hybrid of Uruguay Round and harmonizing formulas. The notion of possible expansion of TRQs to the first category is excessive.

Accordingly, the sentence "for these import-sensitive tariff lines market access increase will result from a combination of tariff cuts and TRQs" in paragraphs 2.1 (i) and 2.6 (i) should be deleted. We reiterate that in the area of agriculture, there is no room for accepting the idea of tariff capping, since it negates the basic concept of the tariffication package under the UR Agreement and disregards the tremendous diversity in production conditions among Members. Accordingly, paragraphs 2.2 and 2.7 should also be deleted.

Special safeguards should remain in place both for developed and developing Members in order to facilitate reform.

On export competition, while we welcome the reference made on the need to strengthen disciplines on export prohibition and restrictions, reference should include disciplines on export taxes. Para 3.7 should be amended to clearly address this issue. This is of vital importance for the importing Members from the viewpoint of ensuring food security and redressing the imbalance between importing and exporting countries.

On S&D provisions - I have earlier expressed our general concern over the way S&D considerations are reflected in the Market Access provisions of this text, not only in this Annex but elsewhere as well.

While there is the need to address interests and concerns of developing Members through appropriate provision of special and differential treatment, this should not be done in such a way as to create a two-tier system within this organization, which will be detrimental for the future of the multilateral trading system. I have listened to the distinguished Amb. of India who had commented on this word, but I still believe that this is of systemic importance. Both developing as well as developed Members need to undertake reform. As a matter of principle, the same reduction formula should be the common basis for both developed and developing Members.

Before moving on to NAMA, I wish to reiterate our position that the whole negotiations under the DDA should be conducted in a comprehensive and parallel manner. Balance among all areas of negotiations is extremely important.

On NAMA - Ministers in Cancún should give us clear guidance on the subsequent work in order to arrive at the formula which will allow us to attain our ambitions for further market access as agreed at Doha.

Discussions on the formula, as well as on sectoral tariff elimination and harmonization, two core elements of NAMA, have revealed that there still exist severe diverging opinions among the Members. At Cancún, Ministers should iron out these differences and agree on a framework that allows us to achieve the ambitious aim set out in the Doha Ministerial Declaration. All the formula must be more ambitious than just non-linear and number of lines. The sectoral approach should be mandatory in its nature. And we share the concerns expressed by the US delegation that the current



Annex B is weak in these areas. Further on Annex B, we firmly believe that a limited flexibility through less than formula cut for all Members is a necessary tool to achieve maximum overall trade liberalization. In order to achieve a higher level of ambition, this is an effective tool.

This point was raised at the recent informal meeting held in Montreal at Ministerial level. We have carefully taken note of the intervention by a major participant at that meeting who stated that "a limited degree of flexibility should be available to all countries through less than formula on a limited number of tariff lines/value of trade, which are balanced by greater than formula cuts of an equal magnitude." This remark was an important element for Japan to move to advocate a simple, single ambitious formula.

We strongly hope that these elements will be reflected in the text, which Ministers will agree upon at Cancún.

With regard to binding tariffs on an *ad valorem* basis, we urge further careful deliberation because there are a limited number of cases where it is more appropriate to apply non *ad valorem* duties. Concerning the newly acceded Members, the commitments they made to accede to the WTO were carefully negotiated to be commensurate with the prevailing MFN tariff levels attained by other Members through a series of rounds. The consideration of the tariff reductions of these newly acceded Members should be limited to factors such as longer implementation periods.

In the interest of brevity, I will stop here and reserve the right to refer to many other paragraphs and sections. But at the end I would like to stress the fact that the comments I have made so far were made in order to contribute to arriving at a result here in Geneva which will enable Ministers in Cancún to more effectively deal with the enormous task before them. This delegation is prepared to work hard with you and the Director General and all the Members in the days and hours ahead.

## **6. Australia**

Australia appreciates the efforts of the Chair to present a paper for Ministers to consider at Cancún. This task has been made extremely difficult by the wide differences. I would also like to associate myself with the comments of Amb. Jara of Chile, in order to save me the time not to have to pick up those particular points in response to the EU. There seems to be a tendency in the last few days for the EU to focus on derision and mocking of the alleged negotiating styles and approaches of other Members which I do not think is very constructive.

I would like to concentrate comments on the agriculture text, as agriculture, despite what the EU seems to think, remains the key to the success of Cancún and, ultimately, the Doha Round. Unfortunately, despite your own efforts, and they have been very intensive efforts, we have fundamental concerns with the agriculture text. We are firmly of the view that the text falls unacceptably short of the level of ambition required by the Doha mandate in all three pillars of domestic support, market access and export subsidies. I will not try to cover all the areas and issues of concern but will highlight a number of the areas where we believe changes to the text is essential for further progress. As is always the case in this sort of exercise we will not point out those areas of the text where we believe you have done an excellent job in terms of capturing the right sort of balance.

Firstly, the area of export subsidies, and at the outset, let me say that nowhere in the Doha mandate does the words export competition appear. If we are to proceed on the basis that it is export competition, that raises a whole lot of competition policy issues which I am not sure that the membership at this stage would wish to get into. But paragraph 6 was a much longer list if we were to go down that particular route of export competition. The correct title of that area is export subsidies. From our viewpoint, to leave any ambiguity in the elimination of export subsidies as the

goal of the Doha mandate at this point in the negotiations is not acceptable. The elimination of all export subsidies is an essential element of any agricultural framework, and I have to say I am not aware of any single issue which commands a higher degree of consensus in this particular organization than that one. I hope that Chile's interpretation of the text on export subsidies is in fact one which is agreed to by all, although that does not seem to be the case.

On market access, whilst we can accept the concept of a blended formula, we don't believe that we have any basis, upon looking at the text, to be confident that the approach suggested will deliver on the Doha mandate of substantial improvements in market access. There are a number of fairly fundamental weaknesses. The use of a percentage figure, for example, for those tariff lines not subject to a Swiss formula is likely to lead to the undermining of ambition on market access, and similarly, the lack of clarity on the commitment to expand export tariff quotas heightens our concern in this particular area.

On domestic support we are also faced with a similar lack of ambition. We believe that while moving out of the Amber Box and Blue Box into the Green Box is undoubtedly a positive policy step, but if enough money is thrown at farmers under the Green Box this will have inevitably a trade distorting effect. It is for that reason which we suggested to have a cap on the Green Box and also to have specific commitments to tighten Green Box language. Neither of those requirements are in fact in the draft text.

The possibility that some Members may be able to increase Blue Box spending is obviously also of concern, although we do acknowledge your own efforts as Chair to reduce the negative impact of that proposal through a reduction process.

Finally like many others, including Brazil, Chile and South Africa, we have major problems with paragraph 6 which includes on the same basis, issues which are critical to achieving a satisfactory outcome on agriculture, by which we mean one that meets the Doha mandate and includes terms in that category such as expansion, opening of TRQs and product-specific commitments in domestic support. These issues are included along with issues which are not part of the Doha mandate, such as GIs or the peace clause. I won't repeat what others have said, but the peace clause has already been negotiated. It was negotiated some time ago and it has a termination date which is being written into the Agriculture Agreement. There are a number of other issues on agriculture but I won't go into those at this point in time. Maybe we will come back to them.

On NAMA, Australia has been one of those countries which has sought a high level of ambition across all sectors on market access and in that particular area we believe that the text which has been delivered, again through some very solid work from the Chair of that particular area, is a bare minimum. We are looking for strong ambition in agriculture, NAMA and also in services.

On GI's as again a number of others have mentioned, we too are frankly surprised at the way you have redrafted the paragraph on implementation and the way you have singled out the one subject which has infected the discussion on implementation. Clearly there is not consensus within the membership on the interpretation of paragraph 12(b) of the Doha Declaration or on the appropriate action that should be taken on the GI extension tiret.

In view of the overloaded agenda with which we currently face, the divergent views on the subject and the confusion caused by some Members raising the GI issue under three different fora, we urge you to go back on this one to your original draft.

On the Singapore issues Australia has made it clear that we are not demandeurs on these issues, we do not see them as high priority. We could accept all four issues for negotiation but that is, as we have always said, dependent upon the fact that we have a set of sufficiently ambitious outcomes

on market access issues, particularly on agricultural market access. At this stage, in our view we have not reached that level of ambition.

## **7. Kenya**

We wish to thank you and the Director-General including the Secretariat for working very hard to ensure that we have a text before us. We are also appreciative of your opening statements. Indeed when you said that the text is in brackets, you made life a little bit easier for us because going by the comments that have been made this afternoon, we may probably consider removing the annexes and improving on the general declaration from paragraphs 1-28 and that may probably give our Ministers sufficient information to make decisions on some of these issues.

We are also grateful that you said that this is an operational text to assist Ministers making decisions at Cancún and as such it is not a compilation of views expressed so far. We agree with this but we think Ministers can only make decisions based on facts placed before them, so this should not escape us. We also agree with the Director-General's comment that we need to strengthen the multilateral trading system, but here again, we think it should not be to the detriment of the weak and the poor developing countries.

Now, turning to the text and more so to agriculture, like many others we think it falls short of our expectations, particularly on special and differential treatment provisions that are expected to address all development concerns and many other developmental issues. We hope that the text, by the Group of 19, which I presume now has grown to more than that, supplemented by the paper submitted by Kenya, specifically on S&D, will be used as a basis for improving the text on agriculture. Of particular importance is that the IDA-only list of countries be exempted from the reduction commitment, given their heavy dependence on revenue for their government expenditure, and I think this issue was eloquently presented by the Ambassador of Honduras and I don't need to repeat what he said. We support his sentiments.

While preferences are cross-cutting -- they touch on agriculture and NAMA -- I wish to mention, since a mention has been made on a different paragraph and that is on coherence, paragraph 27, I wish to bring it in the context of agriculture because we believe the erosion of preferences and the loss of revenue are really trade issues that should be dealt with in the WTO and not under the Bretton Woods Institutions. We think coherence should be limited to economic policy making and the delivery of technical assistance. Our experience with the Bretton Woods Institutions does not leave us with very happy memories, and I believe quite a number of other delegations have similar memories.

Turning to NAMA, you indicated that paragraphs 3 and 6 have problems and we would actually want to understand what you meant with the last sentence of your statement when you said, and I quote "I understand however that there may still remain some significant concerns and divergences that will have to be tackled by Ministers in Cancún". We want to know whether this text is open for amendment or if you intend to take it as it is, given the sentence that I have just read. But for Kenya it is not just paragraphs 3 and 6 that are a problem on NAMA. We have a problem on paragraph 5 and we have stated this in the consultations. It was our wish to have the last three words of the first sentence on that paragraph deleted and the reformulation and clarification of the second sentence to ensure that this Group of countries is given adequate flexibility to address its development concerns, and we hope your last sentence, notwithstanding this, can be done before we go to Cancún.

Regarding the sectoral approach, here again we do not have well developed sectors that could withstand global competition. We are therefore faced with a potential problem of loss of market share arising from, again the erosion of preferences which will place tremendous pressure on our weak, vulnerable and limited industrial base. This we think should be taken into account while improving the text.

On services, we want to make a brief comment that it was our wish to see in the text the reference to GATS Articles IV and XIX.2 as a starting point, because we believe our Ministers should have this in mind when they are making decisions in this respect. We also feel that it appears that paragraph 6 does not take into consideration the special difficulties faced by developing countries in preparing the initial requests and offers as well as making evaluation of the requests made to them and we think it is a point that should be captured in the declaration. We also think that the sentence that reads "we note the interest of developing countries as well as other Members in Mode 4" is not adding value to that particular paragraph and the deletion of that may improve clarity, but maybe towards the end of the previous sentence we could add "and in particular, Mode 4" to add more clarity to this particular paragraph.

Turning to Special and Differential treatment, we believe the best approach would be to go by the proposal that has already been submitted to you jointly by the African Group and a number of developing countries. As in paragraph 12 we can take note of the progress made so far and request the Committee on Trade and Development in Special Session to intensify work on the Agreement-Specific proposals and complete it by a certain set deadline. We need to remind ourselves that the work on Agreement-Specific proposals was expected to be completed by July 2002 and as such the CTD in Special Session should as a matter of priority complete the work without any further delay.

On Singapore issues, as we have always stated, Kenya would prefer Option 2 on the Singapore Issues which calls for further clarification to be undertaken, taking into account the work done so far. Because of the divergent views existing among Members, as highlighted in the reports of the Working Groups, Ministers will need to be informed of the existing situation. In this respect, it is important that we have annexes on all the elements that require further clarification to avoid problems of interpretation in the future.

We should also like to make it clear under commodities issue that the discussion on this issue should not be confined to the Committee on Trade and Development, but also taken up in other bodies that may have a role to address the matter, for instance, working groups on trade, debt and finance and trade and transfer of technology, besides the existing negotiating bodies. We should also have a specific timeframe to accomplish this task and come up with the recommendations for a decision by the General-Council before the Sixth Ministerial.

These comments are preliminary and we will probably be coming up with more detailed comments maybe by tomorrow.

## **8. United States**

First of all I would like to express our thanks to you, to the Director-General and your team for your efforts in producing this text for us. The other day you had commented you were very popular before the text came out but that you thought your role would be a lot lonelier after the text was released expecting you would make all of us unhappy in your drafting. I guess that we can conclude that you have met those expectations.

There clearly are some troublesome elements in the current Draft but let me also say that we will continue to follow your lead in these final days before Cancún and offer constructive comments on this Draft.

Before focusing on individual paragraphs, I think one general point needs to be made. If one steps back and looks at what we have overall at this stage, the cumulative effect is that we do not yet meet the commitment by our Ministers at Doha to a substantially high level of ambition for trade liberalization as an engine for economic development and growth. A strong commitment to significant trade liberalization needs to be emphasized in any result that is sent to the Ministers for consideration at Cancún.

## Agriculture

We recognize the difficult task given to the Chair in agriculture, and we appreciate your efforts given the central and controversial role that this area holds for the negotiations. However, it is important to point out the serious questions that have been introduced by the annex on agriculture regarding balance in the level of ambition.

The text contains a number of elements not addressed by our earlier contribution, including some specific special and differential treatment provisions and discussion of Green Box criteria. We are willing to work with these ideas, but our concerns would have to be addressed in the course of that work.

In particular, we are very concerned that Annex A proposes a different approach to tariff reductions between developed and developing countries. The fact that different methodologies and formulas would be used by developing countries sends the wrong message about how to achieve substantial improvements in market access. It also sends the wrong message that we are constructing a two-tiered trading system, as opposed to a single unified system.

The first option on market access regarding developing countries is unacceptable because it provides no ambition. Moreover, this idea was never even proposed by anyone or brought to the process here in Geneva, certainly not as we read it. There is no indication of higher tariffs being reduced more than lower tariffs. This option does not even provide what Chairman Harbinson provided in terms of ambition. It is effectively a repackaging of the Uruguay Round formula, or worse.

The second option is a better approach but still implies less ambition by leaving out the zero tariff element and adding Special Products (SP) without the provision of TRQs. In addition, there is no clear provision for a ceiling on tariffs. The use of a sensitive products category with flexibility, in addition to the special safeguard mechanism (SSM) and general S&D treatment, should more than cover what concerns developing countries have regarding import sensitive products. We are prepared to work with you on that basis.

Similarly, the suggestion on domestic support that the revised Article 6.5 should be subject to further reductions after the implementation period, when no other measures are subject to further reductions in any other pillar, is inequitable and unbalanced and should not be in the text.

On the key issue in the third pillar of phasing out export subsidies, let me repeat again that US objectives have not changed in this area. However, our work over the past several weeks leaves us convinced that this is not an area where additional progress can be made before Cancún.

There are a number of other areas where this paper should have taken a more reform-oriented approach, for example the treatment of state-trading enterprises, but I will not detail those now.

From our perspective, the core issue is to ensure these negotiations maintain a high level of ambition for agricultural reform, and that ambition is manifest in all three pillars for all countries. This Draft Text appears to be a basis for a successfully resolving agriculture issues at the Cancún Ministerial, but does not yet meet all the commitments we made at Doha.

## NAMA

We recognize and appreciate the hard work that has gone into efforts to develop a text on modalities and the difficult challenges that remain ahead to resolve our differences in modalities for NAMA.

The language on the formula, the sectoral component and the supplementary measures in this text are very vague. We need to strengthen the focus on achieving substantial improvements in market access for all, and by all participants.

In particular, we feel strongly that paragraph 6 on sectors is a significant step backwards in ensuring that an effective sectoral component is an integral part of these negotiations. And we believe that this is a part that is necessary to achieve real market access.

We also believe that there should be stronger language on the formula to indicate that it should be ambitious and harmonizing, in addition to simply being non-linear.

In contrast to these paragraphs, the paragraphs related to special and differential treatment, less than full reciprocity and special treatment for developing countries and LDCs are elaborated in a fair degree of detail. We support flexibility for developing countries, but that flexibility should be a function of the level of ambition, not the other way around. We appear to be defining the exceptions before we've agreed on the objective.

We have repeatedly indicated our willingness to define at a later stage the sectors, product coverage and participation in the sectoral initiatives. In addition, we are willing to consider harmonization, as well as elimination, and to demonstrate flexibility, in particular with regard to participation by those Members who are not global traders in the selected sectors. However, the language you suggest is too weak at this stage to ensure broad participation in this context. We strongly urge you to strengthen the language in this paragraph.

We recognize that we have intensive work ahead at and after Cancún and are prepared to work to strengthen this text. We certainly would not want to see this text diminished.

#### Services

We appreciate that the new text reflects areas of convergence. Operationally, we would want to ensure that the guidance on services in terms of the submission of revised offers and conclusion of the negotiations is similar to the parameters set out in Agriculture and NAMA.

Furthermore, as we have discussed in consultations, the bracketed language concerning Mode 4 in paragraph 24 should track the language in paragraph 6 on services.

#### S&D and Related Issues

Before turning to the specifics of paragraph 11, it is important to recall that the issue of special and differential treatment is addressed throughout the text. The measure of whether DDA adequately addresses development will not be judged by the results in this single paragraph.

As to the paragraph on S&D as drafted, we believe that it is a fair accounting of the situation and reflects the desires of the overwhelming number of Ministers to have a package at Cancún. We all recognize that this work must continue after Cancún, as the Chairman has already indicated.

With respect to Annex C, we support the *ad referendum* agreement reached on Saturday, which would allow the Chairman to drop the language in the brackets from the final item on Annex C.

In paragraph 24 on least-developed countries, as one of the delegations that worked with the LDCs to formulate this paragraph, we believe that the Chair's text faithfully reflects that work.

We note that the bracketed language on services was included in paragraph 24 as a placeholder, since participants in the Chair's consultations wanted to see the outcome of work on the services first. We believe that the bracketed text in paragraph 24 should be replaced with the language that was agreed in Services.

### Implementation

We believe that given the differing points of departure of Members on this issue, it would be difficult to find a formulation that each of us would see as best reflecting our point of view.

The facts are that we have worked carefully on all implementation issues outlined by Ministers consistent with the mandates given at Doha. We need to be careful about raising expectations that a number of issues, for example in rules, would be completed in advance of negotiations, or to suggest that we are reopening mandates that have been completed.

With these caveats what we would have written this paragraph differently, we believe that the Chair is well underway to a formulation that preserve what was agreed in Doha without prejudicing positions.

### Rules

We are prepared to live with the text as has been suggested but as all of you know this is an area that has been very difficult for the United States, and yet we have worked in good faith with others to move the negotiations forward. Ironically, some might say that relative to other areas of the negotiations, this work is too advanced. I am not suggesting any changes here, but it does give one pause as compared to the other areas.

### Singapore Issues

Your text appropriately leaves to ministers the decisions on the modalities for negotiations in each area. We are ready to launch negotiations in all four areas, provided the appropriate modalities are secured.

For trade facilitation and transparency in government procurement, the text offer a good possibility for a consensus to be achieved on modalities. I don't think it would be fair to characterize the modalities in these two areas as "the extremes." These modalities actually have incorporated numerous comments by countries that had particular concerns about moving to a negotiating stage. We hope that these modalities will gain support of such countries.

On government procurement, your language suggests that there should be flexibility regarding the "extent of commitments", a phrase taken from a submission from Japan.

We understand this language to deal with concerns raised by developing countries regarding thresholds - that is, the agreement would apply only to procurements above specified thresholds determined through negotiations. The United States is ready to support higher thresholds for developing countries.

With respect to investment, we will not repeat the concerns that we have raised in the consultations, but suffice it to say that we expect any modalities for an agreement on investment would provide a solid foundation on which we can build disciplines over time, and which help promote economic growth through investment flows.

We need to find an appropriate basis on which we can build a consensus to launch investment negotiations to achieve these goals.

On competition, we note with some concern that the middle option that had been in Chairman Jenny's text has been deleted. We consider this unfortunate, because we continue to believe that a modest start of negotiating the parameters of a peer review process would help develop a culture of competition within the WTO and be the most appropriate way to begin work on this topic in the WTO, and we continue to believe that it could be an attractive middle ground position.

In conclusion, I have indicated where we see the major points of contention in the text. We trust that you will take into account our views and those of others in leading us forward to Cancún. This may be a lonely job, but it is incredibly important if we are to ensure that the DDA delivers major trade liberalization to foster economic growth and development. You and the Director-General mentioned the need for all of us to focus on our collective responsibility to advance the work sufficiently for our Ministers to succeed in Cancún. We see that our collective responsibility is to work with you and all of our colleagues in this Organization, using this text as a vehicle to find solution that work for all Members and that would propel this Organization forward to the substantial liberalization that is essential for the growth of the world economy, for the development of our individual economies and for the fulfillment of the Doha Development Agenda.

## **9. Uruguay**

We would like to thank you for the draft revised Ministerial text which you have just submitted to us yesterday. While the text is still being analyzed in capital at this time we would like to make some preliminary comments on the part relating to agriculture.

Uruguay maintains its firm position and its expectation that a high level of ambition should be achieved in these negotiations on agriculture. This is undoubtedly the most important area for developing countries and it is the key to the success of the Doha Development Agenda. In April 1986, Uruguay took the initiative of inviting to a meeting in Montevideo the main temperate zone southern hemisphere exporting countries in order to identify shared problems and draw up the basis for the strategy that these countries could carry forward in the Uruguay Round. A few months following that meeting that initiative gave rise to the creation of the CAIRNS Group. We have gone a long way since then and this Group of efficient agricultural product producing countries has grown in membership but it has maintained intact its objective, which is to achieve liberalization of world trade in agriculture and eliminate restrictions and distortions to international trade in agricultural goods as well as to fully incorporate the agricultural sector under the disciplines of the multilateral trading system.

The Revised Draft Text which you have submitted to us we are analyzing in the framework of the situation that we were facing just two weeks ago. Two weeks ago there were virtually no negotiations between Members. These simply transmitted to the Chairman of the Special Session of the Committee on Agriculture their respective positions. All of this changed with the presentation of the "framework document" submitted by the United States and the European Communities. This contains positive elements and we think this has been recognized by other delegations. Just as other delegations have pointed out, this was a necessary document but this document clearly is not sufficient and this was also expressed on various opportunities. In this respect the contribution on the "framework document" which was made by 19 co-sponsors also constitutes a useful and valuable input to the discussions.

The Revised Draft Text you have submitted to us as a framework document for Cancún, we understand it to be placed in the framework of the above-mentioned situation with the objective of taking a step forward in the negotiations on agriculture and in order to facilitate the continuation of these negotiations following Cancún.

Regarding the text *per se* we would like to make the following preliminary comments:



On export subsidies, we understand that paragraph 3.6 establishes that in this Round we shall be definitely eliminating all forms of export subsidies and that what we need to define then is a date in order to complete the phasing out of the subsidies. That is we need to define the date for their definitive elimination.

On domestic support, we believe that the paper falls short and we shall be seeking a higher level of ambition in line with the Doha mandate for substantial reductions of trade distorting domestic support.

On market access, we believe that this document brings us a possible solution and it leaves a number of options open. We would like to reiterate in this area, we also have a high level of ambition which is in line with the Doha mandate which talks about substantial improvements in market access.

To conclude we would like to stress that the text that you are submitting to us does incorporate concrete elements in special and differential treatment under the three pillars. In view of the foregoing, we think it is important now to maintain this process in agricultural negotiations and that the "framework document" as it is known should not be seen as the end of the negotiations but rather simply as one step forward so as we can continue moving forward in these negotiations on agriculture and comply with the Doha mandate as agreed. At the same time we think it is important that we facilitate work of our Ministers in Cancún and this is why we think it appropriate that a draft text be sent to Cancún, the text on which our Ministers can work and not a multiple text the effect of which would be to multiply the difficulties of our Ministers. This Draft we consider to be a basis, a tool, a tool with which Ministers will be able to work in Cancún and all of this in the framework of the general context of the various areas of negotiations.

## **10. Brazil**

The basic parameter for judging the document you now circulated to us is whether it would lead us or not to the fulfilment of the objectives laid down in the Doha declaration. The assessment may vary with regard to each area. Some areas of the negotiations, however, carry a disproportionate weight. If the document falters on the key issues, the overall assessment must necessarily be negative.

The Doha Round is about agriculture. The Doha Round is about development. If we don't get enough movement in the right direction in Cancún, we put the Doha Round at risk. If we move in the wrong direction, the Doha Round will fail. From this perspective, the Revised Draft Ministerial Text, despite all your best intentions, is, I am sorry to say, fundamentally flawed. Let me explain this by reference to three key issues: agriculture, NAMA and implementation.

On agriculture, the Revised Draft Ministerial Text falls short on all three pillars. It relies heavily on the joint US-EU proposal, which, in turn, reflected the line of least resistance of the two largest subsidizers. The Draft Text leaves open the amount of reduction in trade-distorting domestic support, but provides an early harvest for subsidizers, who would be able to count upon a virtually new box for distorting subsidies. The apparent result would be to provide further leeway for subsidizers. Let us not forget that the current Blue Box is predicated on supply control. On export subsidies, the Draft is remarkably vague on the extent of, as well as on the schedule for, reductions in export subsidies and related forms of support.

On market access, the blended formula approach might lead to minimal, rather than the substantial improvements called for in the Doha declaration. In addition to its shortcomings on the three pillars, the Revised Draft Ministerial Text has other problems, such as that of, unaccountably, listing as a subject for negotiation the temporary peace clause contained in the Agreement on Agriculture. The peace clause is listed in paragraph 6 of the negotiations on which there is no agreement. This is wrong on two counts: first, it is not part of the negotiations; and second, it is agreed: the peace clause expires on 31 December 2003.

The bias in favour of developed countries is reflected even in details, such as the characterization of *de minimis* in developing countries as trade-distorting, in paragraph 1.7 of Annex A, whilst *de minimis* in developed countries does not get a similar qualification. The Revised Draft Ministerial Text, therefore, fails the test of compatibility with the Doha mandate on agriculture, and it does so by not requesting enough from the developed countries which are the largest sources of distortions in world agricultural trade.

The Revised Draft Ministerial Text also falls short of the Doha mandate on NAMA. For a change, it does so by asking too much from developing countries. The Doha mandate is as explicit as can be on less than full reciprocity in the negotiations on market access for non-agricultural products. There is no mandate for harmonization of tariffs. On the contrary, the Doha mandate is at its more specific in calling for less than full reciprocity in reduction commitments in NAMA. Yet the proposed framework for NAMA modalities retains elements, such as the participation by all countries in sectoral initiatives, which can hardly be reconciled with the Doha Declaration and are unacceptable to Brazil.

On implementation, I can be brief. There is no justification for singling out the extension of the protection of GIs among the list of implementation issues and concerns. GIs do not have precedence over other issues.

Our overall initial assessment, therefore, is that the G-17 - now G-19 proposal, thanks to the addition of Cuba and Pakistan - stands out as an appropriate compromise. Brazil requests therefore that it be kept on the table. We abide by it, and I do believe that among all the proposals under consideration, it is the closest to the level of ambition of the Doha mandate. It is not a national proposal, and it is not a one-sided proposal. It is a compromise that comes from countries that account for 63.3 per cent of the world agricultural population.

The Revised Draft Ministerial Text, as it stands, does not provide a balanced approach. It falls short of the Doha mandate in the key area of agriculture. Oddly, given that this is meant to be a "development round", it gives precedence to the views of some developed countries, particularly the largest ones. It has to be fundamentally changed. Otherwise, it will fail and we will all fail. There is still time to get things on track for Cancún. The key word is inclusiveness. The yardstick is compatibility with the level of ambition of Doha. Let us put those two things together. We thank you very much for your efforts Mr. Chairman and Mr. Director-General. Brazil is prepared to continue working with you so that our common stone reaches in due course the top of the Sisyphean mountain as Dr. Supachai reminded us. I thus join the request made by the African group that you continue consultations with Members."

## **11. Canada**

I would like to join other delegations in thanking the Chair of General Council, the Director-General, the Deputy Director-Generals, and the Secretariat for hard work over past two weeks, and for their efforts over the weekend to get the revised Cancún Text to delegations

Canada recognizes the work of all Members, and the long hours, evenings, and even weekends that have gone into bringing us to this point.

Canada has several concerns about both the overall level of ambition in the text you have circulated, and several specific concerns in the core negotiating areas, especially areas where square brackets remain.

I will concentrate my specific comments only on agriculture and non-agricultural market access areas

### Agriculture

On the crucial question of substantial reform in agriculture, we find the proposed text is a courageous attempt to bridge some very significant differences among Members.

We have a number of specific concerns, but let me just underline three major points:

First, we find the draft framework is not ambitious enough with respect to trade-distorting domestic support. It appears to offer the possibility that entitlements to provide such support could increase in the short term, until a date to be negotiated. After that date they would be subject to reductions. The Doha mandate does not envisage increased room to provide trade-distorting domestic support, and the framework should follow this mandate.

Second, the draft framework suggests that the "question" of the end date for the phasing out of all forms of export subsidies remains under negotiation. In fact, there is no question that we are working towards the complete phase-out of these measures. The text should simply state that the date, for completing the phase-out is under negotiation.

Third, paragraph 6 of Annex A contains a highly selective list of issues that have been raised by some delegations, but on which there is no agreement. Some of these issues are legitimate tools to address the objectives Ministers agreed at Doha. Others are outside the mandate of these negotiations. There are also a number of issues raised by delegations that do not appear in the list in paragraph 6.

We cannot accept a Ministerial declaration that tells us to work on modalities for issues that are outside of the Doha mandate, and we do not want to see a list that excludes issues important to Canada.

We believe the best solution would be simply to note that many issues have been raised, and instruct negotiators to work on them in a manner consistent with the mandate of Doha. We should avoid attempting to negotiate a list in this paragraph.

### Non-Agricultural Market Access

It will not be a surprise for Members that Canada would prefer a text which would be much more specific with respect to the high level of ambition we must aim for if we are to deliver on the mandate set out in paragraph 16 of the DDA.

More specifically, we feel that the language in paragraphs 3 and 6 of the Draft Cancún Text on the formula and on sectoral initiatives - the two key engines to deliver on the Doha mandate - provides barely adequate guidance on the level of ambition.

In addition, we feel that there is somewhat of an imbalance between, on one hand, the lack of specificity on ambition and, on the other hand, the level of specificity provided in the text on flexibility for developing countries, especially in paragraph 7. The level of flexibility Canada is ready to accept is a function of the ambition we set for ourselves in these negotiations.

### Broad Comments and Conclusion

So, in conclusion where does this leave Canada in our view of the way forward?

We have always been seeking a high level of ambition for this round and we believe that Doha laid out the parameters for that.

In order to assess and lock in the level of ambition for the Doha Development Agenda, Ministers tasked us at Doha to reach agreement on modalities before Cancún on the core negotiating issues.

Canada's goals for Cancún were to make real progress in advancing a high level of ambition for the DDA, and a timeline that allows us to achieve a high level of ambition across the negotiations by our deadline of 1 January 2005.

Let us be clear: this text does not provide for modalities in agriculture nor NAMA, and contains two opposing views on an agreement to launch negotiations in the four Singapore Issues.

The text as it stands falls well short of a mid-term review, and does not take us close to a mid-point in the negotiations as was expected by Ministers in Doha.

Indeed, the level of ambition to be found in the text is a bare minimum. Any less in this text would amount to no progress at all in these negotiations.

This is a hard judgment, yet if the text falls well short of the goal we set ourselves in Doha, it does provide a realistic assessment of how far the process has taken us in Geneva to date.

This text does provide the best means for keeping the process of negotiations going. It clearly outlines that much work remains to be done and it leaves clear markers of where the tough issues remain to be resolved. It does not rule out building in new ambition in Cancún.

We understand how difficult it is to strike a balance on any given issue. Hence, with a view to help you help us, Canada would agree at this stage to your referring this text to Ministers in Cancún for their consideration, at the express condition that it is not watered down any further, for example in Annex B non-agricultural market access.

In agriculture, we think the proposed text does leave open the possibility to negotiate substantial reductions in trade-distorting domestic support, the phase-out of export subsidies and substantial improvements in market access.

Canada sees Cancún as an opportunity for Ministers to provide further political momentum and direction, reaffirm ambition, while earmarking the areas for hard negotiations after Cancún.

For us, the true balance is to be found in a conclusion to this round that better integrates developing countries, and allows each of us to take away gains from our participation in the multilateral trading system.

We trust that the door is still open to this conclusion, and that this text, for all its many imperfections, provides the best pathway to engaging Ministers in Cancún.

## **12. Jamaica (on behalf of the CARICOM Members)**

Jamaica thanks the Chairman, and also the Director General for providing us with this revised text and for your opening remarks. The comments I will make are shared by the CARICOM delegations present—Barbados, Belize, St Lucia, Trinidad and Tobago, and Jamaica.

### On agriculture

We will comment on market access pillar. We are unable to accept the Swiss formula as an option under S&D.

We cannot accept the linking of Special Products to import sensitive tariff lines. This is unacceptably restrictive.

We do not believe that the Special Safeguard Mechanism (SSM) to be developed should apply only to particular products. We believe an SSM should be applicable to any product that meets agreed criteria and conditions.

Paragraph 2.10 on Preferences needs to be strengthened. We believe that this paragraph should address the question of long standing preferences, along the lines of paragraph 16 of the Harbinson text which should be built on in this area.

In the section entitled "other" we would wish to see a paragraph on NFIDCs. We are aware that paragraph 3.10 speaks to this issue, but it addresses only the matter of "export credits" in the context of the interests of NFIDCs.

#### On Non-Agricultural Market Access

We have two comments on non-Agricultural Market Access.

We note that paragraph 6 still proposes a sectoral component involving the participation of all Members. We believe that the Ministerial text should be unambiguous on the question of participation being voluntary and not mandatory.

Square brackets have been removed from paragraph 13 and we appreciate this. But if non-reciprocal preference erosion and high tariff revenue dependency are important issues - and the Draft says they are - then we should insert stronger language than is in the Draft. The Draft calls for these issues to be "further considered". In our view these issues should not merely be considered, they should be fully addressed.

#### On Singapore issues

We take note that the Draft poses two options. We think that the second of those options has the support of the overwhelming majority of the membership. Thus our view is that the inclusion of four pages of annexes containing draft modalities which were not extensively nor sufficiently discussed, is an unsatisfactory approach. We think there is both optical and substantive imbalance in the way the four issues are presented in the revised text. A way must be found to redress this.

#### Coherence

The paragraph on Coherence is a new one which we saw for the first time in this revised version of the Draft Ministerial Text. I have sent the letter from the Heads of the World Bank and the IMF, issued as JOB (03)/173 to my authorities who will examine its contents and evaluate the nature and value of the support being offered in the specific context of adjusting to a more liberal trading environment. The fact is however that we do not like the tone of some aspects of this letter. It seems willing to acknowledge only grudgingly that there may be preference erosion and tariff revenue adjustment costs for some Members. It states that there may be costs, "albeit temporarily", and that the two institutions are willing to work towards addressing "short-term adjustment problems". We know from experience that these difficulties are not temporary and short-term, and we would have thought that the involvement of these two institutions in many developing countries, and especially in our region, has amply demonstrated the difficult and prolonged nature of adjustment. Both institutions have been involved in promoting autonomous liberalization for several decades. Our view is that inclusion of this new paragraph in the way it has been done gives undue weight and importance to a particular approach to addressing the issue we have identified - an approach that is focussed on loans and technical assistance from the Bretton Woods institutions. We see no reason why Ministers

should highlight this particular approach in the main body of the Ministerial text itself. We continue to hold the view that we should seek solutions that are an integral part of the negotiations and their outcome in the WTO. Having said that, we do hold the view that there are areas in which these institutions can contribute but we seek a primary solution within the context of the negotiations and the outcome of those negotiations in the WTO itself.

There are some issues we wish to raise but we will not elaborate on these given the time constraints. For example, we still think the text suffers from having no reference in the preamble to the importance of the development objective in the Doha Work Programme. And still on the preamble, the text departs from realism, when it notes, without qualification, the progress that has been made, and does this despite the missed deadlines, the substitution of general frameworks for specific modalities, and the overall difficulty we have had in the past year and a half pushing the “proverbial stone” up the hill.

We share Kenya’s view that the services text is weak on the developmental aspects of the services negotiations. We believe that these should be underscored. We believe also that a more ambitious approach is needed on Trade, Debt and Finance and Trade and Transfer of Technology.

Finally we believe that the precise language from the Doha Declaration should be used for all the various headings in the Draft Ministerial Text. For reasons we do not understand, these differ in some instances.

We await with interest further developments on TRIPS and Public Health.

### **13. Hong Kong, China**

#### **Overall Balance**

Thank the Chair for tremendous efforts in giving more flesh to the skeleton Draft Ministerial Text in the past few weeks. Also thank the Friends of Chair, the DG and his team for their contributions and hard work.

While we cannot say that the skeleton has become a beauty, as there are still a number of important gaps and square brackets, nevertheless, our initial impression is you have made the best possible efforts at this stage given the wide differences among the membership in many areas. Whether we can bring the beautified skeleton to life will depend on how close the text is to the Doha Declaration and whether it will enable our Ministers to come up with positive results at Cancún.

I sense that you have tried your best in the Revised Draft to respect as far as possible the level of ambition in the Doha mandate, hoping that we could recover our lost ground in the remaining months before 1 January 2005. You have also ensured that Special and Differential Treatment for developing Members are duly reflected in various parts of the Draft.

The Revised Draft provides a useful basis for us to work on although we can expect a very tough time in Cancún in view of the considerable number of issues to be settled by Ministers, such as the various new timelines, and the treatment of the Singapore issues.

We are still studying the Draft in detail. Let me make some preliminary comments on two particular areas, namely NAMA and Singapore issues. Even though agriculture is a core issue for the Round, I shall refrain from commenting on the agriculture negotiation elements, despite our strong interest as a significant net food importing developing economy.

## NAMA

On NAMA, we are grateful to Ambassador Girard for his efforts in last week's intensive consultations which went into the early hours of 23 August.

We believe that paragraph 5 of the Revised Draft and Annex B largely reflect the balance of discussion and should provide a reasonable basis for discussion in Cancún. There are areas which we would prefer more clear guidance from Ministers on the way forward and higher level of ambition, like more detailed description of the functional form of the formula, the question of participation in the sectoral component and the option of eliminating low duties. But overall we consider the present text provides a workable basis for Cancún discussion, providing there is no further dilution of the text.

## Singapore Issues

On Singapore issues, we note you have chosen to only include the two extreme options. Among the four issues, trade and investment and trade and competition policy have all along been very controversial. Many developing Members are less ready to undertake new obligations in respect of these two issues. Obviously, Members must have a meeting of ambition before any consensus could emerge.

As far as the text is concerned, I don't think we should be presented with the choice of all or nothing. Many useful compromise ideas have been floated during the consultations, such a "soft" framework agreement, negotiations outside the single-undertaking, or a two-step approach focusing initially on further clarifying the modalities. More creative thinking we feel is needed. Suggest Members should consider practical way out which would do justice to the issues and at the same time accommodate the concerns raised by others. In this connection, we are disappointed by the omission from the Revised Draft Ministerial Text of the option for a "soft" framework on trade and competition policy, which in our view is a workable compromise and has the support of a number of Members. While we can understand the intention to treat all four Singapore issues on par in the Draft Ministerial Text, we maintain that each of the issues should be treated on its own merits.

## Concluding remark

My capital is still studying your Draft and we may come back with further comments at a future occasion. We are happy to work with you and other Members to further improve the text to ensure that we can deliver positive outcomes offering something for all at Cancún. The representative of the European Union had presented his remarks with letters "A, E, X, Y". I would like to end with an "F" word. "F" for "flexibility". What is important is to prepare ourselves to exercise flexibility and make trade-offs in Cancún so that we can come out of Cancún with a balanced and realistic work programme in line with the ambitions in the Doha Declaration to guide us towards the successful conclusion of the round by 1 January 2005.

## **14. Egypt**

First, I would like to thank you, the Director-General and the Secretariat for the tireless efforts in producing this operational text. It is, indeed, clearer than its predecessor in terms of giving a sense of direction to where do we stand in a number of issues and the kind of work needed after Cancún.

However, we still believe that there are some areas that are weak in terms of materializing the objectives agreed to in Doha, particularly in areas of interest to Egypt and other developing countries. For the sake of brevity, I will point out these areas, and describe what we believe should be done.

### Agriculture

On agriculture, Annex A of the Job document does not correspond to the Doha mandate in the areas of domestic support and export competition. In the former, the ideas expressed by the G-19 paper seem to have been lost. On the latter, we are still not eliminating - in the shortest possible timeframe - the export subsidization which causes so much damage to developing country economies, and in spite of the legitimate call by some Members in such proposals as the Sectoral Initiative on Cotton. In fact, and with a view to a more balanced approach on export subsidization, it is my delegation's belief that developing countries which had not benefited from such provisions after the Uruguay Round, should be allowed to do so for the duration of maintaining export subsidies by developed Members.

### On Non-Agriculture Market Access,

On Non-Agriculture Market Access, negotiations are foreseen to be continued under conditions and terms set out in Annex B, despite the reaffirmation in paragraph 5 of the Text of the commitments in paragraph 16 of the Doha Declaration. It seems there is a bit of contradiction here between the text which is reflecting the negotiating mandate and the Annex expressing objectives not enshrined in the former in terms of harmonizing tariff structures. Our understanding is that we are not yet in agreement as to whether the applicable formula for developing Members should be linear or non-linear, or on whether the sectoral approach is a "key element" of the Doha mandate. The Annex seems to presume agreement for all Members on a non-linear formula. This is far from fact. We still have concerns on the proposed sectoral approach in paragraph 6 of the Annex. Finally, we are proponents of the two "residual issues" appearing in paragraph 13 of the Annex, and therefore, would like to see clearer language there.

### Singapore Issues

With regard to the Singapore issues and Annexes, we agree that each issue has to be tackled separately and on the merits of the work undertaken to date. Most importantly, the modalities for negotiations that appear for each issue in the Annexes seem to be at various stages of advancement despite the best efforts of the demandeurs. Moreover, those Annexes have not been discussed yet in open informal meetings at the level of Heads of Delegations and we are quite surprised to see they find their way into the text. It is, therefore, my delegation's considered view that we should limit ourselves to the second option concerning the four issues; namely to undertake further clarification in the respective working groups.

We had communicated to the Chairpersons of the Working Groups on Trade, Debt & Finance, and Trade and Transfer of Technology, specific language for the continuation of the Groups' activities in the post-Cancún period. Such language had made more precise the focus of the Groups' work, and had requested that the General Council report to the subsequent Ministerial Conference on any possible recommendations to be made by them. This language is not reflected in your paragraphs 18 and 19, a fact of some concern to my delegation.

### Special and Differential Treatment

The Chairman of the African Group has spoken about this priority issue for the African Group and for my country.

### Deadlines

As for deadlines foreseen for the post-Cancún work, we believe there is a need for harmony and consistence in order to meet the criteria of the single undertaking. This is of course without



prejudice to the early deadlines or down payments cited in the Doha Declaration as far as the development issues are concerned.

Finally, I would like to reiterate my delegation's willingness to cooperate with you and the Members of the WTO to bridge outstanding gaps in the text.

## **15. Korea**

I would like to thank you and others from providing the Draft Ministerial Text. I believe that overall the new Draft Text reflects the discussions we have had in the last couple of weeks in a relatively objective and realistic manner. We also take note that except for a few exceptions the Draft is a clean text, and given the diverse views still existing on various issues it is no small achievement. However, we do notice that there are parts in the Draft Text which, in our view, should further be improved in Geneva before being submitted to the Ministers in order to enable them to resolve differences in a few days that we have not been able to achieve in two years. As my capital is still reviewing the text, the comments I make today are on a preliminary basis, and for the sake of time I limit my comments to three issues of great interest to my delegation, namely Agriculture, NAMA and the Singapore Issues.

On Agriculture, first we would like to extend our appreciation for the improvements in the area of S&D treatment for developing countries. We also welcome the introduction of SP concept in market access as well as the more detailed S&D treatment with regard to domestic support. However we still have serious difficulties on a number of other points.

First we are very much disturbed by the notion which links tariff capping and TRQ expansion to tariff reduction. We, along with many other importing countries, strongly oppose the concept of tariff capping and mandatory TRQ expansion. It is our firm belief that the co-existence of the various types of agriculture is essential for our success in this negotiation. Tariff capping, by disregarding the diverse realities of Members would seriously endanger the very survival of agriculture in many countries and this would create enormous political difficulties for countries like Korea. In addition, I would like to point out that the more relevant factor to market access is not the tariff level itself, it is rather the real price gap existing between the international price and domestic price.

My delegation has explained on numerous occasions that the Uruguay Round formula can bring a substantial improvement in market access as proved in the Korean market since the conclusion of the Uruguay Round negotiations. We do not see much justification for imposing TRQ expansion on importing countries which already suffer from import surges.

Finally we are relieved to hear from you that you are going to circulate a corrigendum which will include non-trade concerns elements in the agriculture framework. We welcome that and we are looking forward to the new corrigendum. However, we would like to emphasize once again that the new language should state in an unambiguous and concrete way that non-trade concerns should be fully taken into account in all three pillars of the negotiations.

On NAMA we welcome the inclusion of Annex B, as the draft framework for modalities. We believe that we are moving in the right direction. Nonetheless, we still have two main concerns. First, we believe that the enhancing market access is the main goal of every participant in these negotiations. In our view, however, Annex B reflects only the minimum level of ambition. We strongly hope this level of ambition will be kept as baselines for our future negotiations.

Second, in order to ensure meaningful improvement in market access, a minimum level of flexibility for sensitive products should be given to all participants. This is not a question of lowering the level of ambition. Rather it is a means of securing even greater market access for affording

Members flexibility in their highly sensitive areas. In this regard, I wish to note that my delegation submitted a proposal on this issue.

Lastly, on Singapore issues. In view of the difficulties you had in accommodating all the divergent views among Members, it might have been inevitable to have brackets for all four Singapore Issues. The revised text reflects where we stand on these issues. But we still hope we can start negotiations on all four Singapore issues after Cancún. We believe that is the agreement we made in Doha. My delegation is ready and willing to continue to work with all delegations to further improve the modalities, so that our Ministers can reach consensus in Cancún.

#### **16. El Salvador**

I would like to thank you and the Director-General and the members of the Secretariat for presenting the Draft that was distributed yesterday. At this time I will just make a few comments on some of the points in your document. This does not prejudice the possibility of our delegation coming back to other points at the next formal meeting of the General Council. With respect to market access of agricultural products, we think that the framework for negotiations on agricultural products in Annex A does not encompass the concerns of developing countries, taking into account the Doha Declaration with respect to Special and Differential Treatment and less than full reciprocity. These elements are well encompassed in the document presented by Brazil on behalf of the G-19 countries, including El Salvador, and we look upon this paper very favourably.

With respect to the peace clause, my delegation does not see any reference in the Doha Declaration to the peace clause as a subject for negotiation, or for the other points indicated in paragraph 6 of Annex A.

Just as on other occasions, we would like to stress that any agreement reached should encompass the principle of special products, which is of vital importance for our rural development and food safety needs.

With respect to NAMA in Annex B. If we feel that this document represents a good basis for negotiations we are not in the position, as we have indicated repeatedly, to support an obligatory sectoral approach as is established in paragraph 6 of Annex B, in this negotiating phase. In any case, this should be left aside for a second phase of negotiations and should be on a voluntary basis.

With respect to the Singapore Issues. Despite the difficulties these represent for my country we have always had a very flexible attitude. We could support the launching of negotiations under very specific modalities and clear lines. However, like the distinguished delegates of Australia and Mexico, among others, we continue to support this only on the basis of an agreement in other areas of interest and vital concerns to us.

Once again we thank you for your efforts to make headway and you can count on the support of our delegation to continue to find solutions.

#### **17. Honduras (also on behalf of the Dominican Republic)**

We would like to thank you for introducing the Revised Draft Cancún Ministerial Text, and note that it appears under your responsibility, that it does not purport to be agreed in any part at this stage, and that it is without prejudice to our positions.

First of all, we shall refer to Annex A, containing the framework for establishing modalities in agriculture. With regard to the section on special and differential treatment of the market access pillar, we welcome the clarification that strategic products will not be subject to additional tariff quota commitments; however, we still insist that those products should not be subject to additional

reductions and that each country should be free to designate its own special products. We understand special products to be a separate concept within the first category.

We recognize that this is a framework agreement, and that we must continue working to achieve balanced negotiating modalities that take into account the interests of all Members.

We would like to make a few comments concerning Annex B of the Revised Draft Ministerial Text, containing the framework for establishing modalities in market access for non-agricultural products. With regard to paragraph 6, concerning sectoral approaches, we think that the language used is flexible, but reiterate our view that the voluntary nature of those approaches should be reflected. In paragraph 7, while we welcome the flexibilities for developing and least-developed countries, they should be neither restricted by nor linked to the value of imports.

In paragraph 13, we note that issues of importance for developing countries, such as non-reciprocal preference erosion and high tariff revenue dependency, will be considered. We note the failure to take into account major concerns expressed by several countries, including Honduras, with regard to low income per capita-highly indebted countries. Consequently, I request that consideration should be given to these concerns and that, if there are no objections to this special and differential treatment, you should incorporate it into the text presented to the Ministers in Cancún.

#### **18. China**

Thank you for the tremendous efforts you and the Director-General as well as the Secretariat have put into preparing this Draft, which is almost an impossible job. Since I have not yet received instructions from my capital I can only make some preliminary comments.

On Agriculture we noticed that you have drawn many elements from the EU and US paper and some elements from the paper of the Group of 19. While we appreciate very much your efforts and good intention; we find that there is still a big gap between the Doha mandate and the paper. The level of ambition is not enough, especially in export subsidies and in Blue Box and Green Box. The peace clause should not be there in the text as it is not something that is subject to further negotiations. The S&D treatment requires further improvement. On NAMA and Services we support the view that there should be an overall balance with agriculture. The specific dates and deadlines to be determined at Cancún should not come before agriculture. The tariff peaks and escalations in NAMA should be more effectively addressed. On Singapore Issues we share very much the position of Thailand. We can live with the two options, but the Annex is a problem. We believe Annexes D, E, F, G should not be there in the Draft as they are proposals by some individual Members which were not properly discussed and therefore not suitable to be presented to Ministers at Cancún. Finally, on the Draft Text in general, we noticed the changes already made there. For instance, the issue of sectoral initiative on cotton. The issue of commodities and the issue of coherence are added to your original draft. We fully understand and support these changes. I would like to make a strong appeal here, that in the Draft Text there should be a paragraph that deals with the newly acceded Members saying that the concerns of the newly acceded Members shall be efficiently addressed, while in the Annex on agriculture and on NAMA, specific elements for their concerns should be reflected. These elements are included in the document JOB(03)/168 by China and JOB(03)/170 by Croatia and five other newly acceded Members. We shall work very closely with all Members and yourself for a successful preparation for Cancún.

#### **19. Chile**

My remarks are, of course, preliminary since we have not had time because of the time difference to secure instructions from capital. Tomorrow I hope that I will be speaking under instructions and that these instructions will not contradict what I am about to say. We appreciate that your role as Chair and the colleagues in the Secretariat is extremely difficult for the reasons you and

Dr. Supachai have mentioned – how to reconcile the interests of all Members. It is a very difficult task which has been laid in your hands. However, I think it must be recalled, as previous speakers have done, that it is your duty and that of the Director-General to be faithful to Doha and not to try to balance diverse interests. The balance of interest was struck in Doha. We are not about to rebalance these interests because, as time goes on, some move, others don't, and therefore the balancing act becomes more and more difficult. The test, as now has been said by the Ambassador of Brazil, is how faithful we are in this text to Doha and whether this moves us closer to it.

The text which you have presented us, and we thank you for your untiring efforts, is partly a reality check and partly a sense of direction. We think that this text helps us move in the right direction but only an inch. We should be moving by yards or miles, by kilometres and not be inches or centimetres at this point in time. The Mexican Vice-Minister has recalled here that we have failed in all our deadlines. The Ministers asked for modalities. We are about to produce an idea of a framework which even then does not meet the agreement of all. But having said that, we do think that this is certainly an improvement over the previous text, and that it helps organize the discussion. It helps focus the attention on those areas on which divergences are greater, and this or a revised version will be the basis on which Ministers will have to take the decisions in Cancún.

From our point of view we are not satisfied with the text. I never expected to be satisfied with the text. But besides this, I repeat the question, whether this text complies or not with the Doha Ministerial Declaration. We believe that in some respects it does, in some respects it does not. We can move in some respects more, and if time allows and there is enough political will, I think that hopefully we can correct and improve on the text over the next few days.

On agriculture, we recognize, and we repeat again that we have moved because the US and the EU moved. While one moved a little bit forward and the other one moved a little bit backwards, still there was movement, there was a show of flexibility and this triggered movement by others. In particular, we moved in a text which is already a compromise, as the Ambassador of Brazil has said, in the G-17 text. Others have not moved, or if they have moved, I have not noticed. The question is now whether we can live with this text, and whether it is faithful to Doha.

On export subsidies, a key point for my delegation, we take note that we have something which is already a step forward and that we have an outstanding question and that is that the date on which there will be full elimination of export subsidies is pending. So we have a clear recognition here on paragraph 3.6 in the Agriculture annex that one of the issues to be decided in the negotiations is the date on which export subsidies have to be completely eliminated. That is our understanding of the text and if our understanding is agreed and correct then it has our support.

On domestic support, I need not go into greater detail as I think our Mexican and Brazilian colleagues have said most of what I would have liked to say, on Blue Box and Amber Box etc. Perhaps this is the one point on which the text is still a long way from meeting the expectations, the mandate we have from Ministers. We can be more ambitious, we should be more ambitious.

On paragraph 6 of the agriculture text, we do not think it appropriate to imply that things like geographical indications or the peace clause are pending work on the same level and importance as things such as implementation period, inter-linkages and other important aspects of the negotiations. This impression that we get from this paragraph, we believe, should be corrected in order to leave no room on where further work has to be done and where the negotiations have to concentrate efforts.

On NAMA, in contrast, we have a text which has been the subject of much debate and though it does not have square brackets, we are fully aware that it does not meet completely with the agreement of all Members. It is a text which is more focussed than agriculture, and that is not surprising because on NAMA we are discussing mainly tariffs, while on agriculture we are discussing disciplines. On NAMA we are bringing tariffs down, on agriculture we are attempting to get an

agreement to take out a lot of money from the pockets of a few wealthy. So that is more difficult. On NAMA, with the present approach we can achieve an ambitious result. This ambitious result that we may have, and that still remains to be seen, will have to be corrected at a later stage in the light of what transpires in the field of agriculture. Still we believe that it would have been a good idea, it would have been something to aim to have at the end of these negotiations, 100 per cent bindings by all Members regardless of the level of the bindings and regardless of the level of development.

Your text, as we have said, is imperfect, but I still think that it is an improvement, and before closing my remarks I would also like to join the Ambassador of Brazil when he mentioned that singling out extension of geographical indications from the other issues seems to us not to be a proper thing to do. We thank you for your efforts, and we trust that flexibility and reasonableness by delegations over the next days will allow us to bring our text more into line with the Doha mandate. Again we reiterate our thanks and gratitude to the efforts you have made to put this text before us, as we truly think that this brings us a step closer to a successful meeting in Cancún. But we are not there yet.

In response to the statement by the Communities that it is unfair that every time they move, others pocket that movement and ask for more, I find it very difficult to accept that. What is really unfair, grossly unfair, is that we are offered much, much less than what they promised in Doha, and that they ask us to pay once, twice, and thrice.

## **20. Guatemala**

We appreciate your great efforts to ensure that the revision of document Job(03)/150 was made available for today's meeting. It is obvious that the text before us is the result of many hours of work.

We share the view of most delegations that the task has not been easy and that trying to accommodate different positions is far from straightforward.

There is little that Guatemala can add to the statement made by the distinguished Ambassador of Brazil.

Guatemala is one of the sponsors of the proposal recently introduced at this meeting. With Cuba, El Salvador and Pakistan also having joined us, we now number 20 countries and, as the Ambassador of Brazil has said, the door remains open.

We recognize that the joint proposal by the United States and the European Communities provided necessary momentum at an important moment. But in a sense it was regression, or a step backwards from where we started. Since then, we have no longer been discussing modalities, but a framework for modalities. The draft text we have before us, given the total absence of figures, is like a flattering portrait of that framework.

In some paragraphs, it is as though the revised text was trying to find a new balance, different from that contained in the Doha mandate. However, our task is not to alter the balance of the Doha mandate, but to implement it. We believe that the proposal now supported by 20 countries contains some new elements that bring us closer to that mandate.

Allow me to turn to the annex concerning agriculture. We are surprised and concerned that paragraph 1.1 removes the possibility of eliminating product-specific support, which creates the same problems already experienced with regard to the results of the Uruguay Round. We should be trying to improve the disciplines, rather than to perpetuate their mistakes.

We are concerned by paragraph 1.3, in which a new form of support is being allowed. Even though it falls within the scope of Article 6.5, we believe that this creates a new form of distorting support.

While we welcome the inclusion of the Green Box, the text does not go far enough, since it refers only to the criteria, and not to a ceiling and a substantial reduction, which is what we and many other developing countries have been asking for. Even though some claim that the Green Box is not distorting, it has a distorting effect by way of the direct payments of paragraphs 5 to 13.

We are also surprised and concerned to see that although some paragraphs, such as paragraph 3.1, express the intention to eliminate subsidies, paragraph 3.6 states that the question of the end date for phasing out such subsidies remains under negotiation.

We are even more concerned by paragraph 6, which contains a strange list of issues, as if the dynamic was the same for all of them in terms of the challenge facing us. There is no mandate for some of those issues. For instance, we cannot accept the juxtaposition of the peace clause, geographical indications, and export taxes.

With regard to market access for non-agricultural products, we have a problem with paragraph 6, as we are not convinced that sectoral negotiations have been introduced as planned, but rather that they will be mandatory. The developing countries have never agreed to that.

With regard to implementation, the new text reflects the position of countries that are seeking to extend the protection of geographical indications to products other than wines and spirits. This paragraph does not reflect the negotiations that have taken place, and its adoption will add issues to the negotiations likely to detract from those currently under discussion. We believe that the first draft text more accurately reflects the status of the negotiations over the past few weeks.

Guatemala is not seeking the inclusion of the Singapore issues, and we have shown a degree of flexibility in this regard. However, in view of the package that we are being offered, there is no point in taking the option to commence negotiations. There is insufficient ambition in the area which, in our view, is most important, namely agriculture.

If no substantial progress is made in the implementation of agricultural reforms, to which our Ministers in Doha gave their consent and commitment, we risk losing everything else because of our failure to achieve the balance required by that Ministerial mandate.

## **21. Paraguay**

My delegation would also like to express its thanks for the enormous effort that you, the Director-General and the members of the Secretariat, are making. We are very grateful. As the document concerned is currently being examined by my capital, our comments are only preliminary. I would like to make specific reference to Annex A, concerning which the balance in the level of ambition and other issues is something we will address in detail later on.

Mr Chairman, our delegation has submitted a joint proposal, under JOB(03)/162, which in the matter of agricultural negotiations embodies the level of ambition we would like to see reflected at Cancún. We feel that your proposal includes elements which should be balanced in the area of domestic support. The delegations of Argentina, Brazil, Mexico and South Africa have been quite clear. As regards market access, we feel that points 2.3 and 2.4 deal with the issue of tariff escalation in an ambiguous manner and maintain the duration or imply the existence of a special safeguard for the developed countries. Turning to export subsidies, we see that point 3.6 incorporates the idea that the elimination of subsidies is under negotiation, which is at variance with the Doha Ministerial mandate. Finally, we agree with the aforementioned delegations on point 6 which deals with issues

not covered by the Doha Ministerial mandate. Finally, we agree with the aforementioned delegations on point 6 which deals with issues not covered by the Doha Ministerial mandate. These issues, which our delegation regards as non-negotiable, such as the peace clause, or as forming part of this negotiation, also include geographical indications and certain non-trade concerns. With regard to the latter, we agree with the delegation of Argentina that any reference to non-trade concerns should be consistent with the Doha Ministerial mandate.

Mr Chairman, we appreciate your efforts and recognize that it is not always easy to reconcile the interests of all the Members when there is an unstable equilibrium and the divergences are as extreme as those we see today. However, we remain hopeful that the level of ambition achieved at Doha will be equalled at Cancún. We seek substantive reform in agriculture and are therefore prepared to continue working constructively in an effort to fulfil the aims directly linked to the level of ambition established at Doha.

## **22. Colombia**

We wish to thank you and the Director-General and others for your text that was a courageous step forward in the right direction but we shall also say that it fell short of our expectations both in terms in the balance and of the level of ambition. We also recognize that your text is a reality check and in that framework it can not lie much further beyond our actual state of negotiations here in Geneva but obviously your text should help move forward and give momentum to these negotiations. Nevertheless, your Draft has to be faithful to the Doha mandate and from there has to obtain the source of its balance. As some other delegations said, among them Chile, the balance should not be based on the positions of Members who have not moved from their entrenched positions but on the level of ambition in the Doha mandate, and on those proposals put forward by delegations that have been trying to bridge differences and look for compromises.

I have some specific comments and concerns, many of them have already been expressed by delegations like Brazil, Chile and Argentina, so I will try to be very short.

In the area of agriculture, obviously this is central to the negotiation even if some delegations do not like to be reminded of this, and your paper still has many ambiguities especially about the direction of the negotiation in several areas that, in our view, have to be strengthened. One of our main concerns is the issue of the Blue Box that has been expressed very clearly by Mexico, and the Green Box that requires better disciplines and, as a minimum, capping in its level of expenditure.

On export subsidies, our reading of paragraph 3.6 that we have to agree to a concrete date for their complete phase-out or elimination and we interpret that paragraph in those positive terms but we realize that there is a certain level of ambiguity that, if we could eliminate it, the text would be better.

In the area of market access, there is a missing provision, that is, that these negotiations should provide for the full liberalization for tropical products and others included in the preamble of the Agreement on Agriculture. We regret that omission, because that is something that many developing countries have been expecting as a minimum single source fulfilling our expectations in Cancún, and hopefully that omission can be solved and this proposed liberalization can be included. In paragraph 6, to which many have referred, such as South Africa and Australia, I want to extend myself on that.

Finally we want to reiterate the link between the three pillars that will ultimately determine the level of ambition that will be possible in these negotiations. In this regard, we feel that the proposal of the group of 19 countries is much more faithful to the Doha mandate, vis-à-vis others that have been presented by other Members, and definitely the adoption of a proposal in those terms would permit a much richer and ambitious overall package from the Doha negotiations.

On NAMA we would like to thank you and the Director-General for the changes incorporated in paragraph 6, but we still feel that a sectoral approach will need a discussion of the criteria proposed for the selection of the specific sectors to be included and participation by Members.

In paragraph 7, we also feel that there is a change that should be included. In this NAMA Annex, all decisions are taken in terms of "shall have" or "shall be", and unfortunately in paragraph 7 that refers to less than full reciprocity by developing countries, in the second sentence it reads: "In addition, they would be given the flexibility of keeping tariff lines unbound, ... or not applying formula cuts, for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports." We feel that there it should be changed to "in addition there shall be given the flexibility", in order to have some consistency with the rest of the wording used in that Annex.

Under Singapore Issues, we regret that some interesting options were excluded, and hopefully some of them can be rescued in the future discussions.

Finally we look forward to your evaluation as Chair of the General Council of the reaction of all delegations to your text and to your further steps from now to Cancún. Ministers need a focussed text like the one you are providing us, to debate and bridge differences and to decide if we are on the road to comply with the Doha mandate; if the level of ambition is still too weak, they will have to make some pertinent adjustments.

### **23. Thailand**

I had the occasion to brief our parliamentarians during their visits to Geneva on how the WTO works. Being sceptical of the WTO, one of them told me that the organization has been controlled by the major powers and that the institution has been set up to serve their own purpose in one way or another. I tried very hard to convince him that it was not so, but with no success.

After I have read through your Draft Cancún Ministerial Text, although I appreciate very much your untiring efforts as well as the Director-General's, I must say that I now understand why I cannot convince him. On many important areas, proposals of the major powers are taken as a basis in your Draft, whether they were agriculture, non-agriculture, services and even Singapore issues. Liberalization would be made only on the products or services of interest to developed countries, and not those they have difficulties on, like agricultural products and services in Mode 4 in addition to the proposal to have new agreements to protect their trade and investment interests.

On agriculture, we have stepped back from the Doha mandate to establish a framework instead of submitting our comprehensive draft Schedules based on the modalities by this coming Ministerial Conference. We could not understand why the proposal of the two majors was used as the basis for your Draft, which incorporated only a few elements from the proposals supported by the broad membership.

As a result, the level of ambition has been lowered in all pillars to accommodate concerns of the major powers. Your Draft suggested now we have to negotiate on whether there should be an end date for phasing out export subsidies, on the concerns of the majors who have recently confessed as the two biggest users.

It was even clearer in the case of domestic support that the Draft has accommodated concerns of the two majors on harmonization of entitlement of trade-distorting domestic support, resulting in the increase and not the decrease in trade-distorting Blue Box measures for the two countries combined. Product specific reduction commitments proposed by the majority of the membership have been dropped to solve the problems of the developed countries. There have been no



commitments, not to mention capping and reduction, even to strengthen the discipline on the trade-distorting measure of the Green Box.

It would be needless to continue with market access, as you can just look at the differences with respect to the level of ambition between the texts of the NAMA framework and that of the agriculture framework yourself. On agriculture, the major powers are still allowed to maintain tariff peaks and tariff escalation for their sensitive products, with TRQ expansion as well as a request-offer process that would be a nightmare for small countries without any bargaining power.

Agricultural trade reforms have been our main reason for participating in the Doha Round. What I would like to remind Members is that agriculture was in the Built-In Agenda. If we can accept a lenient reform, we can just embark on a continued negotiation without being required to pay on NAMA, Singapore issues etc. But because we need an ambitious outcome, we agreed to launch this broad-based agenda round. We have paid. Thus we cannot accept a level of ambition lower than the Doha mandate, as well as the unbalanced obligations between the three pillars in your Draft. We therefore urge you to reconsider another revision with much more positive components of agricultural trade reform in the proposal made by the group of 17 developing countries.

Let me turn to NAMA. Even without the sectoral initiative, the formula itself make us achieve an ambitious result on market access compared to agriculture. Thus this is the imbalance between areas of negotiations in the paper. On the sectoral tariff component itself, although it could be considered as another element in the NAMA negotiations, all Members have yet to agree to participate in the sectoral tariff component. My delegation has repeated on almost every occasion that this has to be voluntary, but to no avail. The language in paragraph 6 of Annex B therefore could prejudice the position of several Members and prejudge the outcome of our negotiations. In this regard, we cannot accept any language that might lead to or even hint at the understanding that we accept the mandatory sectoral tariff component.

On Singapore issues, my delegation would like to make clear at the outset our position on these issues remains that we will consider each of them on its own merits. We note with disappointment paragraphs 13-16 on the Singapore Issues. We do not believe the two options presented in the Draft Text on these issues truly reflect the present state of discussion among WTO Members. However, after listening to your statement, we will not comment on the options you presented, but rather on the imbalances of the text itself. One example is that the Annexes that were proposed to be used as the bases for negotiations on these issues were proposals from only a handful of Members. There was no consensus whatsoever to accept those papers as draft modalities for future negotiations. Some of them have not even been discussed openly. At the same time, on some of the proposed Annexes that have been discussed at the HODs level, such as the one on investment, I recall that some Members, including Thailand, made comments on the elements contained in that proposal. Regretfully, none of them appeared to have been taken into account. In this regard, we think the Draft Text on the Singapore issues leaves us with little choice but to choose the second option in all of them, that is, to continue the clarification process. I wish to reiterate that Thailand has always been flexible and practical on these issues, but with the current Draft Text in other areas and the fact that the relevant paragraphs on Singapore issues provide no middle ground option, we simply have to make such a decision.

In conclusion, I intend to continue to convince my parliamentarians that in the WTO we can refuse to agree on any imbalanced package presented to us, and I hope that I am able to show them concretely that we can do so.

## **24. Barbados**

I wish to fully associate my delegation with the statement made earlier by the Ambassador of Jamaica on behalf of a number of CARICOM States including Barbados. However, I also wish to take this opportunity to make a few complementary and additional comments.

### Agriculture

I will restrict my comments for the moment to the market access pillar.

With regard to the formula approach proposed in paragraph 2.6 of Annex A, I would like to reiterate that Barbados places great importance on the concept of Special Products and we would therefore strongly reinforce the request made by Jamaica that the issue of Special Products be addressed separately in the framework document.

We also hold the view that the exemption of TRQs from further reduction should be similarly treated separately.

With regard to paragraph 2.7 of the Annex, my delegation has made it very clear that it cannot accept tariff capping for developing countries. Therefore, we would not be able to entertain any notion of tariff capping for developing countries in the final Ministerial text.

On the issue of the SSM in paragraph 2.8, which was also raised by Jamaica, we would remind Members that discussions on this matter in the Special Sessions of the Committee on Agriculture have focused on the question of the number of products and the HS digit designation of products, and not on the identification of products themselves. We therefore feel that the phrase "and for products to be determined" should be deleted.

With regard to the issue of preferential access and NFIDCs, Barbados shares the views articulated by Jamaica and endorses the amendments proposed by that delegation.

### Non-Agriculture Market Access

We note that the framework document in Annex B has undergone some last-minute changes. In this regard, we welcome that there has been an attempt to bring more balance, from our perspective, to paragraph 6. However, as noted by Jamaica, we would still wish to have the complete removal from the text of the reference to the "participation by all participants".

With regard to paragraph 13 of Annex B, we fully endorse Jamaica's suggestion that Ministers should direct that the issues of non-reciprocal preference erosion and high tariff dependency should be "addressed" rather than merely "considered".

### Services

We are struck by the lack of emphasis in the text on the development dimension of these negotiations. We find it quite ironic that in this one market access negotiation where Ministers will be arguably most appropriately in a position to truly take stock of the progress of what has been dubbed the Doha Development Agenda, the development dimension is drastically under-developed.

Specifically, we are concerned that the new text essentially neutralizes existing references to issues of importance to developing countries, and at the same time does not reflect elements of Articles IV or XIX of GATS or of the negotiating guidelines.

On a more positive note, we welcome what seems to be an increased similarity of treatment of the market access and rule-making components. We feel that this is important if we are to achieve in the future a better balance of progress between these two negotiating tracks.

#### Singapore Issues

Barbados, like many other delegations, has selected as its first-best choice the option which you have relegated to a number 2 position in the text. The delegation of Jamaica has spoken on this matter.

#### Coherence

On the issue of the further strengthening of collaboration between the WTO and the Bretton Woods institutions, there is nothing that I would add at this stage to what the Ambassador of Jamaica has so eloquently said. Barbados' concerns about the potential danger of interested collaboration sliding unchecked into intrusive cohabitation have been well articulated before.

#### TRIPS and Public Health

We take note of the Chair's introductory statement on this matter. We look forward to receiving information, in an open forum, on the deliberations which are ongoing in smaller groups. We will reserve our input until that moment.

### **25. Uganda**

I would like to thank you for your tireless efforts to try to provide us with a document that will give us guidance on how to go. It is our expectation that at the end of discussions it should be possible for us to give you guidance on how to transmit it. My hope is that it will be transmitted under the responsibility of the Council, so that you do not have to bear brunt of criticism basically due to our lack of agreement.

One of the items which was dear to Uganda was TRIPS and Public Health. This item has been pending for quite some time and it is our view that it should be settled here in Geneva. We are encouraged by your report that the Chairman of the Council for TRIPS is working on a possible way out, and it is our hope that many of us will be consulted, so that by the time it arrives here in the General Council there has been agreement. I understand it might have been necessary to keep the discussion among three or four delegations, but I think we have to reach the wider constituencies if the recommendations is to be acceptable. I look forward to what Amb. Menon will put forward.

One of the other items which is dear to Uganda is the question of agriculture. This is a sector in which we have a special interest. We note that when it comes to the question of domestic support, the level of ambition in your text is very low. We had expected to have a higher level of ambition. As we read it, it appears the Blue Box will be extended and there will be no disciplines on the Green Box. So we had expected that here the ambition would be higher. We welcome in paragraph 2.8 the establishment of a special mechanism for developing countries. It is imperative, however, that if this is to work, it be flexible to meet developing country needs. Therefore, in our view, whatever conditions are to be determined, should not be too cumbersome. It should ensure that developing countries can use the mechanism in a manner that is simple, flexible and effective to meet their needs.

With regard to export competition, again we are disappointed by the lack of ambition on the part of developed countries to eliminate their export subsidies and export credits. We note that a parallelism has been put on export subsidies and export credits. Our hope is that this will not be a mechanism for perpetuating these, but that it will be a mechanism for reducing them. We hope that will be addressed. We welcome the section on the LDCs, but as pointed out by Lesotho and

Bangladesh, I think the paragraph on LDCs, in particular with duty-free and quota-free access for all products, could have been more ambitious, and we hope it is possible for you to go back on the Harbinson text and pick up the language from there, which we thought had quite widespread support. We also take note of your paragraph on cotton. I hope it will be possible in this case to be able to agree on a message that cotton subsidies should be rolled-back, and I think Benin and the other three countries have put forward a very useful proposal for rolling-back, and I think that is the greatest signal that we can send for all that are talking about liberalization and helping this development round. We welcome your paragraph on commodities and we look forward to improving it.

With regard to S&D treatment, we note that you have worked very hard and we are expecting an early harvest. But when we examine the commercial value of this harvest, it seems it will leave many people hungry. We are still hopeful that you will be able to increase the harvest so that we can increase the level of satisfaction. We are still evaluating it, but otherwise we agree with the thrust of your paragraph, bringing this back to the CTD and trying to ensure that the issue is not forgotten and continues. But we can bank what we have, the little we have, while working to increase the proposals that we put in the basket for S&D treatment.

With regard to Singapore Issues, my delegation is of course, among others, one of those which has opted for one of the options and we are glad that you have indicated our option there. We take note of the discussion on how to take this forward and we take note of those who have said that not all options have been put across. We are flexible, but our position remains, as our Ministers said, that we are not anywhere near modalities. I will send this document to my Government and I will also be adding in their comments once I have got their inputs. But definitely on agriculture I have got specific instructions already and I don't need to go back.

## **26. Chinese Taipei**

My delegation would like to express our appreciation to you for preparing this Draft Cancún Ministerial Text. We see this as a very useful document outlining our work so far. In order to contribute to the discussion today, and fortunately for us, the time difference between our Capital and here allowed us to work through the night, my delegation would like to offer the following comments:

On paragraph 5, relating to NAMA, we do not see a problem with the Draft Text itself, but would like to comment on paragraphs 9 and 10 of Annex B. My delegation does not see that the interests of newly acceded Members have been sufficiently taken into account in Annex B. Considering the extensive market access commitments newly acceded Members have already undertaken and the high percentage of tariff lines of newly acceded Members that might be considered as low duties, it would be unfair not to agree to give newly acceded Members special consideration for tariff reductions, but only to ask them to consider the elimination of low duties. Therefore, in paragraph 9, we would prefer to see the incorporation of the 3 options as outlined in TN/MA/W/35/Rev.1, and that the first sentence be revised to read: "We agree that the newly acceded Members shall have recourse to special provisions for tariff reductions ... ." Similarly, the last sentence of paragraph 10 should be revised to read: "We ask participants, except newly acceded Members, to consider the elimination of low duties."

On paragraph 6, relating to Services negotiations, we are of the view that the timeframe language for the submission of the improved offers should correspond with the timeframe language that already exists for the submission of initial offers, either as soon as possible or in due course.

On paragraph 8, relating to TRIPS Negotiations, my delegation has no problem with the substance of the text, but we believe that the deadline for concluding the negotiations on this issue should coincide with the end of the Doha Round.

On paragraph 12, relating to Implementation, we see the reference to only the issue of GIs as prejudicial to all other items of equal importance on which we request the Director-General to continue to hold consultations. All such items should be listed on an equal footing, and GIs should not be singled out. Otherwise, it might be better not to mention the reference to GIs in particular.

On paragraphs 13 through 16, relating to the Singapore Issues, my delegation's position has been to commence the negotiations after Cancún. Therefore, we would support the corresponding bracketed language.

Finally, turning to Annex A relating to the agriculture framework, my delegation believes that the long-term objective of the Agreement on Agriculture is to establish a fair and market-oriented trading system. It is difficult for us to see how Members' agricultural policies and programmes can be carried out peacefully and smoothly if a lack of consistency and continuity with the reform process exists. With this in mind, we support that the export-oriented AMS should be dramatically reduced.

We consider the Blue Box to be a crucial tool in the transition process from domestic price support to non trade-distorting measures. Capping or reduction of Blue Box measures would deny Members a legitimate mechanism to make the appropriate transition to non-trade-distorting measures. In addition, the *de minimis* has very limited trade-distorting effects and should be maintained to ensure the sustainable development of agriculture and to ensure Members' non-trade concerns. The capping of the sum of the AMS and *de minimis* to a level "significantly less than" the base year 2000 would be especially unfair to newly acceded Members. Therefore, we cannot agree with the proposals contained in paragraphs 1.3 and 1.4.

Regarding market access, we maintain the same positions as previously presented in the framework proposal Job(03)/167, which we jointly sponsored with Bulgaria, Iceland, Korea, Lichtenstein and Switzerland.

On non-trade concerns, we understand that the omission is unintentional in the chapeau. However, even with the revision in the chapeau and the brief reference in paragraph 6, we still find the lack of any emphasis with regard to non-trade concerns to be troubling. The framework should at least contain the possibility for an adequate range of negotiated non-trade concerns elements.

We are pleased to see that the particular concerns of recently acceded Members have been mentioned under paragraph 5 of Annex A. However, we do not believe that it adequately reflects all our concerns. We strongly urge our colleagues to recognize the difficulties that newly acceded Members are facing and to provide them with more flexibility – in the form of more moderate tariff and AMS reductions – as well as a grace period to allow them to adjust to the further commitments.

My delegation shares the view that the success of the Cancún meeting is critical. The signal we send to the entire world would inject a much-needed impetus to the sluggish global economy. My delegation is ready to fully cooperate with you and all other Members.

## **27. Kyrgyz Republic**

Let me thank you for the tremendous efforts to move our process forward and to develop the text of the Draft Ministerial Text, as well as the Director-General and all delegations involved. As was said by many delegations before and by you, this text cannot be taken as a prejudgement of the outcome of negotiations and cannot prejudge the position of any delegation in these negotiations. We see this text only as a framework document to achieve the objective of the Doha Declaration reflected in Paragraph 49. Let me quote "These negotiations should ensure benefits to all participants and to achieve an overall balance in the outcome of the negotiations." This means that it should be beneficial for all and for each. I am taking the whole Socialist slogan in making one very important point – that it is to be beneficial not only for all, but also for every and each member of the society.

This comment is made with reference to the speaker from the EU who spoke about a Marxist slogan that everyone should get what he requires and should be asked according to his abilities. We can see part of the EU statement only as a result of expansion of the EU to the East and the experience of all the EU constituents as their best efforts. We see that many issues still lag behind on the text and, for instance, more work is required in paragraph 5 of the Draft Ministerial Declaration and when Ministers strive to streamline the work with the international institutions of Bretton Woods System. And we see that the concept of IDA-only should be fully taken on board, as the delegation of Honduras and Kenya proposed. Likewise, we see it necessary to continue to work to effectively address the issue of recently acceded Members, of which the Kyrgyz Republic is one. To this effect my delegation will intervene in the discussion tomorrow in the General Council meeting.

## **28. Switzerland**

I would like to thank you, the Director-General and his team for having produced a text in very difficult circumstances. We think it is very skilful drafting that pursues the important objective of keeping the level of ambition high. This level of ambition, however, is under four threats:

- Imbalances within issues for negotiation;
- Imbalances among issues;
- Imbalances among Members with regard to the level of commitments which are expected from them; and
- Each ambitious option, which will disappear in areas other than agriculture, will undoubtedly alter the level of ambition in agriculture.

### With regard to TRIPS and Health

This is an issue of paramount importance to our delegation and we hope to know where we are going with it in Geneva before we go to Cancún.

### With regard to Agriculture

In a nutshell, we have a text which will lead to strong internal reform but without any incentive to go to a reform process. We know with more precision than in previous drafts what we will have to pay. There is no stimulus at all to follow this road. I recall one aspect of the Doha Declaration which unfortunately we do not hear very often in this room, that is, the overall objective to have a fair and equitable system for agriculture. This means to conciliate competitive and non-competitive agriculture. We are not there. We do not have the tools to achieve this. In a more formal vein, rightly you make a reference to the text produced by Stuart Harbinson. I think it would have been also fair to make reference to submissions from participants. We appreciate your intention to add the non-trade concerns in the chapeau, but further concretization of non-trade concerns is needed. If food security and/or livelihood security needs of developing countries are mentioned, we certainly support that, but this does not mean that other net food importers do not have these concerns. We are doubtful about the categorization just among LDCs, developing countries and developed countries. The text remains silent on what the treatment for net food exporting countries will be. Do they really need S&D treatment?

### Domestic Support

Any modification of the Green Box criteria, which makes it difficult to use the Green Box, is unacceptable for us.

### Market Access

Capping of tariffs contradicts the concept of tariffication which was introduced in the Uruguay Round and which we subscribed to *bona fide* and where the whole transformation process of agriculture should be facilitated by tariff protection. For us, TRQ increase is only possible in a very limited way on an ad hoc basis if our other substantive requests in agriculture are met.

With regard to paragraph 2.9 of your text, there is a contradiction there. We cannot meet all the ambitions. Either we have an overall ambition for everybody, or only one for all developing countries, but certainly not in a cumulative way.

### Export Competition

This was the highest level of ambition in Doha. The concept of elimination for some, with substantial reductions for others, and with the parallelism between export subsidies, export credits, food aid and state trading is ok for us.

But we have the impression that the level of ambition in market access and domestic support is now to be more ambitious than the one in export competition.

### Paragraph 6

Paragraph 6 of your text is for us the most important but also the most disappointing. Any of those incentives we need to move forward are just quoted as issues on which there is no agreement. So, if in agriculture we want to come at the end of the negotiations to a balanced outcome, I think there is a big need for some changes of mood in a certain number of delegations before we can really hope to finalize a package which, with regard to Switzerland, will have to pass a public vote with the majority of the population.

### NAMA

Given the level of ambitions in agriculture, we are disappointed that the NAMA text is not more ambitious. We have a specific problem to flag – the transformation of non ad valorem into ad valorem duties is not acceptable for my delegation.

### Services and Rules

In services and rules we have a good basis for continuation of work.

### TRIPS

We are disappointed that we are not more advanced in this negotiation, which should have been achieved by Cancún.

### Environment

We are very disappointed with low level of ambition, which is not even being met.

### S&D and Implementation

The long discussions have revealed how difficult it is to address all the different situations existing in various developing countries.

### Geographical Indications

We deplore that we have not achieved the level of ambition of agriculture. There is a need for a negotiation mandated in Cancún.

### Singapore Issues

It appears that only the negotiations option will manage to keep the overall level of ambition elsewhere. We regret the low level of ambition in this house to embark on issues of the future. In so doing, Members accept the risk that our system becomes obsolete, if we do not manage to enter into negotiations on new issues after nine years of hesitation.

We hope that there are possibilities to modify this text before we can accept it as a basis for Ministers in Cancún.

## **29. Croatia**

At the outset we would like to thank you for the Revised Draft Ministerial Text. We highly appreciate your tireless efforts as well as those of the Director-General and the Secretariat during the entire process that led to its preparation. My authorities are still considering the Revised Draft Ministerial Text, so the remarks I will be making will be of a preliminary nature.

There is an issue of particular importance that we would like to address at this stage and that is the treatment of the issue of recently acceded countries in the Revised Draft Ministerial Text, particularly in the part related to agriculture and NAMA. Before going into our concerns we would like to note that Annex A refers to "recently acceded" Members, while Annex B talks of "newly acceded" Members. For the sake of consistency we would propose the use of the same reference to "recently" acceded Members in both texts.

We are not pleased with the text referring to recently acceded Members in the Annex A on agriculture. There is an imbalance in comparison to the treatment given to other issues and other groups of Members' concerns. The single sentence in paragraph 5, without referring to some specific provisions or solution, could hardly address adequately our specific concerns. In this respect, let me refer to the text on the recently acceded Members in Annex B on NAMA. Although we are not completely satisfied with its paragraph 9, we recognize that it is an effort in the direction of providing for treatment of the issue of recently acceded countries similar to other NAMA issues. Therefore, we really cannot understand repeatedly expressed views that paragraph 9 prejudices the final outcome of negotiations.

## **30. Iceland**

My delegation welcomes the Draft Revised Ministerial Text which brings us a step further in our preparations for the Cancún Ministerial Conference and like others we appreciate your able leadership in this difficult exercise and the immense work and dedication you and your collaborators have put into this.

In the interest of time I will only address the agricultural part of the Draft.

The approach being taken in the Draft seems to us to better accommodate the sensitivities of those who enjoy large-scale and broad-based production which is relatively competitive in international markets. It fails to address the interests of a country like ours with small-scale production of few products which are produced under difficult conditions and which stand no chance of being competitive on international markets.



I will not repeat everything that we have put forward as the vital issues for us in the document we co-sponsored and tabled last week with Switzerland, Chinese Taipei, Korea, Liechtenstein and Bulgaria, but would rather like to refer to it and to reiterate that these views expressed in the paper are fully valid and that we regret they are not addressed in the Draft.

I would like to emphasize that capping of tariffs in our view fails to recognize the different agricultural policies pursued by Members. We also have major concerns as to the treatment of the Blue Box, which in our opinion should be available for agriculture in transition, as is the case with ours, because the Blue Box and the Green Box facilitate the reform process rather than hinder it.

Furthermore, the Uruguay Round approach is a delicate compromise that has proved to give the flexibility needed for Members. When this compromise is upset, some Members will end up with more burdens than others. In particular, while we appreciate that the onus is on the developed countries to take on more burdensome commitments, it is unacceptable that some of the developed countries are asked to take on significantly more burdens than other developed countries.

By way of conclusion allow me to cite a poem by the Icelandic Nobel laureate in literature, the late Mr. Halldór Laxness:

"I will talk to the Emperor in China at home  
And the Pope at Rome,  
But at home,  
I will wear my shoes"

And if I may add - here in Geneva I am talking to you and the other Members and trying to get my message across once more.

Similar to our different agricultural policies, our feet come in different sizes and shapes. So what the key here is, is the "F" word which was so eloquently invoked by the representative of Hong Kong, China, namely flexibility. It is vital that we be able to design a type of shoe that fits our different needs. And maybe that shoe feels uncomfortable to begin with for some, as is often the case with new shoes, but if it is well-designed and the leather of good quality, it should become more comfortable with some wear and tear, and should adjust to the shape of the foot, given that the size to begin with is correct. Failure to do this could make us incapable of walking properly and only leave us with pain and blisters. That is not acceptable, and everybody hates bad shoes.

### **31. Israel**

Israel welcomes the Revised Draft Ministerial Text and appreciates the hard work and efforts of you, the Director-General, the Friends of the Chair and the Secretariat.

As many others, we have not yet received complete instructions. Still, my delegation would like to share with you some initial comments.

We thank you and the Director-General for the opening remarks. If your remarks were better reflected in the text before us at least, for my delegation, it would be an easier task to agreeing on sending it to our Ministers in Cancún.

With regard to agriculture, Israel sees positively the fact that this Draft reflects some movement. It should not surprise anyone in this room that one of our major concerns in agriculture is the issue of non-trade concerns. We see positively the fact that this issue is reflected in the chapeau of the draft framework text, but this is not enough. The issue of non-trade concerns must be properly reflected in all three pillars.

On NAMA your opening remarks reflected very well the actual situation. We still have a long way to go. While we have concerns regarding paragraph 3, for my delegation paragraph 6 is a major stumbling block. While we appreciate the slight changes you have incorporated in the text, it is the position of my delegation that the sectoral approach should receive the same level of importance as all other approaches that are mentioned in paragraph 10. At the least, all views regarding paragraphs 3 and 6 must be fully reflected in the text sent to our Ministers.

At this stage we will limit our specific remarks to these two issues.

### **32. South Africa**

In response to the Draft Ministerial Text of 24 August 2003, we want to make some preliminary remarks. Before making these remarks, we would like to state our deep appreciation for the hard work you and the Director-General have both done, so our comments are no reflection on this.

The first point is that our overall assessment of the Draft Text is that the Draft is fundamentally imbalanced in form and content. The Doha Declaration was carefully balanced, in terms of form, content and process. It recognized the critical importance of the development issues and agriculture as fundamental to this round. It therefore called for agreement to be reached on the implementation issues, S&D and agriculture modalities first, before NAMA and the Singapore Issues. This text has broken this balance and reversed the priorities we agreed to in the Doha Declaration.

The framework agreement on NAMA is more advanced. On the Singapore Issues, the text you have presented to us poses stark choices, with one option calling for the launching of negotiations without any substantial modalities. On the other hand, on the critical issue of agriculture, the text is only a framework, with no clarity that the negotiations would proceed in the direction set by the Doha mandate.

Thus, in our view, there is no balance in the level of importance of the issues and the degree of maturity of the frameworks to serve as modalities for the negotiations, with more detail and clearer direction provided on issues of interest to developed countries.

On agriculture, in our view, the Draft Text and especially the Annex lowers the ambition on the Doha Declaration. The Doha Declaration calls for a fair, freer market oriented system to be established in Agriculture and the needs and interests of developing countries to be at the centre of the negotiations. This text places the position of the EU/US joint text at the centre of the proposed framework. As we stated before in this forum, the joint EU/US text is the lowest common denominator of the largest, most protectionist developed countries, and an effort to accommodate each others' interests. It cannot become the basis for the negotiations. The Draft Ministerial Text on Agriculture, especially the Annex, reduces the level of ambition of the Doha Declaration and does not accurately reflect the fullness of the discussions in this house on the various issues. For example, on the Blue Box, this box is given new life and no direction is given to reduce potential abuse of the Green Box. On market access, there are no numbers and the proposed text could easily take us backwards in continuing to protect areas of interest to developing countries. On export competition, there is no clear commitment to elimination.

There are some new issues and very contentious issues of interest to developed countries that are all lumped together in paragraph 6, giving the impression that these are equivalent in importance.

Thus, we urge you to reflect the different views in a more balanced manner and not to foreclose an ambitious outcome on agriculture in Cancún. If the text is to be useful it must correctly reflect all the views of this house.

On the way forward:

- We need to strive to agree on "modalities" at Cancún, notwithstanding our failure to go beyond discussions on "frameworks" in this house. Indeed, there is no mandate to lower our expectation of the Cancún Ministerial, especially on agriculture, as this will have implications for the entire negotiating agenda.
- We propose that you change the Draft to correctly reflect different views, especially in agriculture, or annex the proposal we made as the group of developing countries in the so-called G-17, that is fast gaining increasing support in this house, which we believe, is more in line with the Doha Declaration.

We are very pleased that developing countries have provided leadership in this house. They have put aside their differences in the interests of building consensus and in ensuring that we have a development outcome in this round.

The G-17 proposal has also made significant movement by engaging with the EU/US text, and taking on board some of their concepts such as the "blended formula" on market access.

In contrast, the EU/US text has not engaged meaningfully with others. We call on the developed countries to also contribute to providing leadership and to be faithful to the Doha Development Agenda that we all agreed on.

### **33. Pakistan**

I would like to join others in thanking you for your hard work. I think that the Director-General's opening comments were very relevant to where we are now and how to get where we want to go.

Considering the guidelines that you gave that we should keep our comments to three minutes, I'll touch on the three or four points.

#### Agriculture

We think like many others that it does not meet the ambition of the Doha mandate in any of the three pillars. We feel that if we really want to reduce trade distorting domestic support, we should have had clauses proposed in the G-19 paper incorporated in Annex A.

#### Market Access

If we really wanted to open up markets, then we should have had more of the language used in paragraph 2.11 of the G-19 paper instead of language that you have in paragraph 2.1 of Annex A.

#### Export Competition

I think we should have been more categorical about the end date. We feel that bringing in the peace clause at this stage is not fair. As far as I recall, it was never discussed in the original Committee meetings and I think this is already negotiated and finalized. If you open it here and bring it back then you are setting a precedent. People may bring in such things in other agreements which have already been done and implemented.

### NAMA

We would have liked to see a stronger indication that any subsequent discussion would be based on Chairman Girard's proposal. However, considering the divergence of views, we can go along with the present text if the text on agriculture can be made as ambitious as it is in NAMA.

### Singapore issues

Two extreme positions have been given. A number of countries had indicated a middle position, i.e. that they could accept the next phase of negotiations on some of the issues, if they were given some comfort level on these issues. We would have liked to see a reflection of this third category also.

### Sectoral Initiative on Cotton

We have a strong interest in and support this initiative, but I don't think we have language here, so for the time being we will reserve our comments.

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