

General Council
30 November 2011

MINUTES OF MEETING

Held in the Centre William Rappard
on 30 November 2011

Chairman: Mr Yonov Frederick Agah (Nigeria)

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1. China – Transitional Review under Section 18.2 of the Protocol of Accession to the WTO Agreement (WT/GC/136, G/L/977, S/C/37, IP/C/60, WT/BOP/R/103, G/TBT/30)

1. The Chairman recalled that this review was taking place under the provisions of Section 18 of the Protocol of Accession of China to the WTO Agreement. In line with these provisions, the General Council was to review the implementation by China of the WTO Agreement and the provisions of the Protocol. The review was conducted in accordance with the framework set out in Annex 1B and in the light of the results of reviews held in the subsidiary bodies. China could raise issues relating to any reservations under Section 17 or to any other specific commitments made by other Members in the Protocol. The General Council could make recommendations to China and to other Members in these respects. Under the periodicity provided in Paragraph 4 of Section 18, this was the final review. In accordance with Annex 1B of the Protocol, the following issues were to be addressed by the General Council at the present meeting: first, reports of subsidiary bodies on China's implementation of the WTO Agreement and of the related provisions of the Protocol; second, development of China's trade with WTO Members and other trading partners; and finally, recent developments and cross-sectoral issues regarding China's trade regime. He proposed that, in addressing this agenda item, China as well as other delegations address all three of these points in a single intervention. In connection with this review, he drew attention to a communication from China recently circulated in document WT/GC/136, which provided information required under Sections I and III of Annex 1A of the Protocol of Accession. The reports of the subsidiary bodies on their respective reviews of China's implementation of the WTO Agreement and of the related provisions of the Protocol of Accession were contained in the documents listed in the Agenda for the present meeting.

2. The representative of China noted that this was the final transitional review for China. During the past two months, China had participated earnestly in all 16 transitional reviews conducted by the Council for Trade in Goods and the Council for Trade in Services, their respective subordinate Committees, as well as the Committee on Balance-of-Payment Restrictions and the TRIPS Council. In all the discussions, his colleagues from both the capital and Geneva had provided detailed replies to questions and comments from Members, as they had in the first eight years after China's WTO accession. As the Transitional Review Mechanism (TRM) was approaching its end, he wished to reiterate China's view that the TRM, as a discriminatory, country-specific arrangement, ran counter to the fundamental spirit of the multilateral trading system. Nevertheless, it had been incorporated in China's accession package and China had faithfully honoured its commitments in words and actions.

Over the past decade, China had devoted a huge amount of human and fiscal resources to participating in the transitional reviews and had responded to the large number of questions in a constructive and professional manner. At the present meeting, he wished to conclude the TRM by thanking Members for their attention to China's development over the past decade. The year 2011 also marked the tenth anniversary of China's WTO membership. China was pleased to see that, together with the TRM, all remaining discriminatory arrangements against China would also become history soon. China stood ready to develop its trade relations with Members on an equal footing, and would continue to engage actively with them in a more open spirit in all the normal mechanisms of the WTO.

3. The representative of the United States said that as Members concluded the tenth and final TRM for China, his delegation wished to share its observations on China's first ten years of WTO membership. However, it first wished to express appreciation to the Chinese Ambassador, the Chinese delegation and the many Chinese officials in Beijing who had worked hard over the years to provide responses to the numerous questions raised by Members. His delegation recognized the significant amount of time and effort the TRM had required, particularly on the part of China's Ministry of Commerce which oversaw China's participation in the TRM. Regarding the purpose of the TRM, he recalled that it had been created largely because China had been admitted to WTO membership before it had revised all of its trade-related laws and regulations to comply with its WTO obligations, and because China had been allowed a variety of transition periods before it implemented certain of its WTO obligations. Active monitoring of China's implementation progress through the TRM was considered an important mechanism to help ensure that China successfully integrated into the WTO's open, market-oriented and rules-based trading system. Following its accession, China had taken impressive steps to implement a sweeping set of commitments. It had reduced tariffs, eliminated many non-tariff barriers that denied national treatment and market access for goods and services imported from other Members, and had made legal improvements in intellectual property protection and in transparency. Almost all of these steps had been taken in the first five years after China's accession. They had deepened China's integration into the international trading system and had strengthened China's rule of law and economic reform. Trade and investment had also expanded dramatically between China and its many trading partners, as China had become one of the major engines of economic growth in the world. From a bilateral perspective, the expanding trade and investment between the US and China had provided numerous and substantial opportunities for US businesses, workers, farmers and service suppliers, and a wealth of affordable goods for US consumers.

4. Nevertheless, despite this progress, the overall picture presented by China's first ten years of WTO membership remained complex, given a troubling trend in China toward intensified state intervention in its economy over the past five years. Increasingly, trade frictions with China could be traced to its pursuit of industrial policies that relied on trade-distorting government actions to promote or protect China's state-owned enterprises and domestic industries. In fact, China seemed to be embracing state capitalism more strongly each year, rather than continuing to move toward the economic reform goals that had originally driven its pursuit of WTO membership. This was a troubling development, and the US urged the Chinese Government to reconsider the path it was on. During the TRM conducted earlier in the autumn, the US had highlighted the tremendous progress China had made in the complex task of implementing its WTO commitments. However, even with much progress behind it, China still faced remaining work. One measure of the work remaining could be found in the WTO disputes generated by China's actions and inactions. Over the past ten years, the US and various co-complainants had invoked the WTO Dispute Settlement Mechanism against China on 12 separate occasions after bilateral engagement had failed to address concerns about China's adherence to important commitments and obligations. Three cases, including one within the past year, had involved allegations that China had employed prohibited subsidies throughout its first ten years of WTO membership. Three cases had included claims that China had failed to implement its commitments to liberalize services trade, as evidenced by restrictions on foreign suppliers of distribution services, financial information services and electronic payment services. Two cases had

challenged Chinese policies that undermined protection of intellectual property rights in China. Three cases had focused on claims of major trade-distorting industrial policies, including discriminatory tax treatment, local content requirements and export restraints. Two cases had alleged multiple violations of procedural and substantive obligations related to the conduct of anti-dumping and countervailing duty proceedings.

5. The US and other Members were also trying to resolve a range of concerns with China through bilateral engagement. Effective enforcement of intellectual property rights in China remained a significant challenge. China's pursuit of an array of other industrial policies also raised serious concerns. For example, while China had made progress in eliminating certain discriminatory "indigenous innovation" policies in the government procurement context, it continued to implement these trade-distorting policies in many other areas of its economy, retarding innovation and harming those who developed or first registered their intellectual property outside China. China also made selective use of border measures, such as value-added tax rebates and export duties to encourage or discourage exports of particular products. It continued to pursue unique national standards in a number of areas of high technology where international standards already existed. China continued to protect many domestic industries through a restrictive investment regime, particularly so-called "pillar industries" and "strategic emerging industries." In the area of agriculture, China remained among the least transparent and predictable of the world's major markets for agricultural products, largely because of seemingly capricious customs and quarantine practices that delayed or halted shipments and because sanitary and phytosanitary measures were sometimes imposed on what appeared to be questionable scientific bases. The US remained highly concerned that China's lack of required transparency complicated the WTO's ability to resolve difficult issues – or even to have a meaningful conversation – for example, in the area of agricultural subsidies. In the area of services, discriminatory regulatory processes, informal bans on entry, overly burdensome and capricious licensing and operating requirements, and other similar problems frustrated efforts of foreign suppliers of banking, insurance, express delivery, telecommunications, legal and other services to achieve anywhere near their full market potential in China. It also appeared that China had more to do in implementing some of its cross-cutting transparency obligations. The US understood the difficulties China had to confront in order to transition from a planned economy to a more market-oriented economy. It also recognized the important contribution China's economic progress had been making to global economic growth and development. However, the developments described above indicated that essential work remained to reduce market-access barriers, to increase the rule of law, including transparency and predictability, and to fully institutionalize market mechanisms in China.

6. Before concluding the review of China's first ten years of WTO membership, one other aspect of China's conduct as a Member needed to be highlighted and discussed, and that was the perception among Members that Chinese authorities at times used intimidation as a trade tool. China's trading partners had heard from their enterprises on too many occasions that Chinese regulatory authorities threatened to withhold necessary approvals or take other retaliatory actions against foreign enterprises if they spoke out against problematic Chinese policies or were perceived as responding cooperatively with their Governments' efforts to challenge them. In recent years, a pattern also had seemed to emerge of the Chinese Government's reflexive resort to trade actions in response to legitimate actions taken by the US or other trading partners under their trade remedies laws. This type of conduct was at odds with fundamental principles of the WTO's rules-based system. The US strongly urged China to eliminate any basis for these adverse perceptions. All Members needed to encourage – not discourage – foreign enterprises that wanted to shed light on policies they perceived to be problematic. Further, if a Member believed that a trade action taken by another Member raised concerns, procedures provided by the WTO, such as the Dispute Settlement Mechanism, were available to try to resolve those concerns. He reiterated that the US appreciated the efforts China had made in participating in the TRM for the past ten years, and also acknowledged the many major steps China had taken to implement its numerous WTO commitments. In the years ahead, his country

looked forward to working with China on a bilateral basis to facilitate further improvements in its trade regime. It also remained committed to working with China at the WTO.

7. The representative of the European Union said that at the present meeting, Members were concluding China's ninth and final transitional review, celebrating China's accession to the WTO ten years earlier, an event which had turned out to be one of the defining developments in recent economic history. No one doubted that WTO membership had contributed greatly to China's moving from being an emerging economy to the global economic power it was at present. He recalled the tremendous efforts China had made in the run-up to, and the years following, WTO accession. As the EU had said at the recent meeting of the Council for Trade in Goods, Members had to acknowledge that China had faithfully implemented its tariff reductions according to its schedule. China had also used the preparations for WTO accession and the first years after its accession to pursue ambitious domestic economic reforms, which had allowed it to take off the way it had and to record the most impressive growth in history, lifting hundreds of millions out of dire poverty. However, WTO membership was not a one-off event, but a commitment that required ongoing work. It should become an in-built reflex to ensure that rules and legislation respected WTO rules and basic principles such as non-discrimination, transparency and national treatment. This applied to each WTO Member, but especially to leading trading nations which should lead by example. With China's size – already the world's number one export nation – all that China did or did not do had an impact on the rest of the world, including regarding its domestic or internal market regulations. It was no surprise that the final transitional review process over the past two months had again revealed many comments on China's domestic, behind-the-border measures. Despite the impressive progress China had made, significant challenges remained for foreign operators to realize the benefits of many of the commitments China had *de jure* implemented.

8. At the present meeting, he wished to highlight some horizontal concerns, while referring, for the details, to the statements and submissions the EU had made at various technical meetings in the course of this review. First, regarding transparency, while the EU acknowledged China's efforts, including its increased use of public consultations, more still needed to be done. For example, China's Compulsory Certification scheme and its investment regime continued to remain very opaque and discretionary. The EU had also called on China to honour its notification commitments, in particular in the areas of SPS and subsidies. Second, regarding non-tariff barriers, many restrictions in the area of investment remained, including complete bans on foreign investment in certain sectors, as well as some local-content requirements. The EU had also highlighted the need for good regulatory practice, for instance to align Chinese standards to international ones and to avoid using diverging Chinese-specific standards where international ones existed. Third, concerns in the area of intellectual property remained, while the EU recognized China's continued efforts to build up a legislative framework and enforce IPR protection. Fourth, in services, significant challenges remained in the commitments China had *de jure* implemented, since it appeared that China maintained or had erected new restrictive or cumbersome terms of entry in some sectors. These entry barriers prevented or discouraged foreign suppliers from gaining market access, through informal bans on new entry, high capital requirements, branching restrictions, cumbersome and non-transparent licensing procedures or restrictions taking away previously acquired market-access rights.

9. China's economic development was a success story unmatched in economic history. This achievement was closely linked to its WTO membership. China now had to take the next step. The EU hoped that China's leaders would not choose to pursue industrial policies that relied on excessive, trade-distorting intervention to promote or protect domestic industries and state-owned enterprises, but rather that they would engage in a second wave of sweeping reforms in services and investment, in order to continue the country's growth trajectory. Judging from China's Twelfth Five-year Plan, its government was fully aware of the need to accelerate the rebalancing of its economy. Ten years after accession, China was a major trading nation and a key player in everything that went on in the WTO. The membership expected that China would not only fully abide by WTO rules and observe the

commitments made in the run-up to its accession, but also that it would take up its responsibilities as the leading trading nation it had become. These concerns did not stem from a selfish consideration of the EU's own trade and investment performance with China. Every trading nation now had a stake in China's success. At the same time, China's own success depended on how well its trading partners did.

10. The representative of Japan said that over the past decade, the transitional review had played an important role in assessing China's implementation of the WTO Agreement and the commitment stipulated in its Accession Protocol and Working Party Reports on Accession. Japan appreciated the tremendous effort made by China to comply with its WTO obligations through trade liberalization, institutional development of its legal system, and also the reduction of restrictions on foreign investment. However, Japan, like others, still had concerns on various issues which it had raised in the relevant WTO bodies. For example, it had raised questions and made comments on the export restrictions on non-ferrous metal, coal and other natural resources, trade-related investment measures on new-energy vehicles, foreign investment restrictions on services sectors, enforcement measures on anti-counterfeit goods, regulations on technology imports and exports, the national indigenous innovation production accreditation system, the compulsory certification system, and so on. Although this was the last review, a lot of work still remained to be done. Japan expected that China would continue to be engaged in the processes of WTO standing bodies, to come up with further clarity regarding its system and to bring its trade-related measures into full conformity with its WTO obligations. For its part, Japan would continue to monitor China's implementation of commitments and be engaged in a process both bilaterally and multilaterally. China was now one of the most important players in the world economy and trade, and also one of the most significant beneficiaries of the multilateral trading system. In this regard, Japan strongly hoped that China would not only fully meet its obligations under the WTO Agreement and its accession commitments, but also assume a greater responsibility corresponding to its economic scale.

11. The representative of Australia said that the present review was an important opportunity to reflect on China's ten years of membership in the WTO – a milestone which Australia welcomed and was keen to celebrate. There was no doubt that Members had benefited from China's membership, just as China had gained much from its participation in the WTO. Australia had welcomed the emergence of China as a major player in the global economy and, as a result, in this house. China's economic success was a remarkable lesson in the economic and trade benefits of the significant economic, institutional and legal reforms that it had enacted as part of its accession to the WTO. China's rapid and impressive economic development over the past decade could be directly attributed to these reforms and the benefits of open trade that it had enjoyed as a Member. China had also benefitted from its participation in an open, rules-based multilateral trading system that enabled Members to pursue actively their economic interests and safeguard their rights under the WTO agreements. As an increasingly active participant in WTO dispute settlement, China had experienced first-hand how the rights and obligations that flowed from WTO membership could be enforced – and how they had to be adhered to. At the same time, and despite significant progress, significant regulatory and other barriers remained, as the most recent and final transitional review of China had shown. These barriers continued to hinder foreign goods exporters, including of agricultural products, where China's tariff and non-tariff barriers distorted trade and imposed significant costs on Chinese consumers. Significant restrictions on foreign investment and service suppliers also remained. Australia urged China to address these issues by continuing its important reforms and further liberalising its trade and investment policies. It also urged China to take further steps to achieve open, transparent, predictable and efficient rules for foreign companies doing business with China. Australia would welcome greater implementation of the notification and transparency obligations under the WTO agreements, which were a hallmark of this institution. Finally, it urged China to continue its contribution to the international trading system by playing an active and constructive role in the day-to-day work of the WTO as well as in the Doha negotiations.

12. The representative of Pakistan congratulated China on the conclusion of its transitional review process under its Protocol of Accession. Pakistan appreciated the hard work, determination and cooperative attitude of China throughout the past decade on its transitional review, which was clearly shown by the reports from the relevant WTO bodies. His delegation looked forward to China's continuing progress and contribution to multilateral trade disciplines.

13. The representative of Mexico said his delegation welcomed the final transitional review for China. During discussions held in various subsidiary bodies, Mexico had recognized the important initiatives undertaken by China to comply with the commitments in its Protocol of Accession and to ensure its full integration into the multilateral trading system. Mexico had highlighted the important reforms that had helped shape China's booming economy in the past ten years. At the same time, his delegation had expressed concerns it still had in areas such as market access, TRIMs, SPS, TBT, customs valuation, subsidies and countervailing measures, and antidumping. Mexico urged China to intensify its efforts to ensure full compliance with its WTO obligations. One specific concern his delegation wished to mention in the General Council was the Chinese Government's growing tendency to intervene in the country's economy. Other areas of specific concern were: the application of minimum or reference prices to determine customs value, as well as under-invoicing of Chinese goods; lack of transparency in the issuing of some laws and regulations; use of export restrictions on rare minerals; use of sanitary and phytosanitary measures that were not justified on scientific grounds; lack of protection of geographical indications and appellations of origin for wines and spirits; and a significant number of subsidies for production and exports, and participation by the local and provincial authorities in the implementation of subsidies. Mexico was confident that China would duly address all of these concerns, as detailed by his delegation in the various specialized committees and councils, and that China's measures and policies would soon be fully consistent with the spirit and letter of the disciplines in the WTO agreements and the commitments undertaken in its Protocol of Accession.

14. The representative of Cuba said her delegation welcomed China's active participation and its contribution to the multilateral trading system, and especially its support for development issues. China was the largest country in the world in terms of population, and its economy had achieved great growth over the past few years as a result of tremendous efforts on social and economic issues. These included important regulations and administrative reforms that China had had to undergo to meet its WTO commitments. In just ten years of membership, China had achieved great results and had done so in a very short time. This needed to be recognized, together with China's willingness to continue working towards fulfilling its commitments. She recalled that the majority of Members, including some of those that had raised concerns about China, had had the opportunity to implement their own commitments over a period of more than 15 years. In this respect, Cuba wished to underscore the progress made by China and its commitment to the norms and principles of the multilateral trading system.

15. The representative of the Bolivarian Republic of Venezuela said his country was satisfied with the conclusion of the last transitional review of China. This was without doubt extremely important to the WTO and the process of its becoming a truly universal trading organization.

16. The representative of Chile said that peer reviews were an excellent practice in the organization, and Members therefore needed to build upon and improve them. However, this review in particular gave it special satisfaction since it was the last special review of China. Chile highly valued a rules-based multilateral system, but for these rules to be legitimate and useful they had to be of a general nature and non-discriminatory. Chile did not favour special or particular rules. The importance of having China as a partner in this organization had already been underscored. Moreover, Chile was convinced that China would continue to adopt the legislative and administrative changes needed to comply with the multilateral rules all had undertaken to observe. Chile's relationship with China was deep and fruitful. China was his country's leading trade partner, with one

quarter of its exports destined to the Chinese market, and was Chile's second largest partner in terms of imports. Furthermore, the two countries had a comprehensive free-trade agreement which had very successfully strengthened their ties.

17. The representative of Zimbabwe said his delegation wished to applaud China for its report under this agenda item, and wished to recognize the steps China had taken in the past ten years as a Member. While there might be questions here and there, the spirit of that membership still prevailed, and as China was one of Zimbabwe's major trading partners, his country wished to acknowledge the steps China had taken.

18. The representative of China thanked all Members for their comments. As always, China benefitted from these comments, both the positive remarks and the criticism. Some Members had again raised specific trade issues, and as he had mentioned earlier, these issues had already been dealt with in the relevant bodies. Of course, his delegation stood ready to engage further with these Members on those issues in the normal proceedings of these bodies. Having said that, he wished to assure the membership that the completion of the implementation of China's accession commitments was by no means the end-point of China's opening-up policy. Rather, it marked a new starting point for China's future market-opening process and market-orientated reform. The reason was very simple – after all these years, and in particular after the past ten years, it was firmly rooted in the heart of the Chinese people that there was no alternative to continuing to accelerate the market opening process.

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

2. Report by the Chairman of the Trade Negotiations Committee

20. The Chairman invited the Director-General, as Chairman of the TNC, to report on the TNC's activities since his last report to the Council.

21. The Director-General said² the Eighth WTO Ministerial Conference (MC8) would be an occasion for Members to review the entire breadth of WTO work and for Ministers to provide political guidance for future work. All knew that these were not ordinary times. The outlook for the global economy had worsened considerably in recent months. After the encouraging signals of recovery seen at the end of 2010, risks and uncertainties were now increasing. Global activity was slowing down, economic performance continued to be uneven across countries, debt levels and financial markets' volatility were rising, high unemployment persisted in many countries, and confidence was falling sharply. These risks were aggravated by perceptions that governments' responses to these challenges had so far been insufficient to provide opinions and markets with a convincing exit-strategy framework. This was the reality Members faced as a backdrop against which MC8 would be taking place. As a result of this situation, world trade had grown more slowly than expected in recent months. It was therefore important for MC8 to send signals that trade openness could remain a stable trade anchor to the world economy. The last thing the world economy needed was more cacophony. He recalled that at the 26 October General Council meeting, he had reported *in extenso* on the elements he had heard from Members at that time on the current and next steps in the DDA. In reporting on those elements, he had indicated that they had been built upon the basis of incremental convergence and a bottom-up approach, following Members' well established principle of "no surprises". He had also indicated that they were a work in progress and had detected broad convergence on these elements.

² The statement was subsequently circulated in document JOB/GC/16 and Corr.1 and is included in Annex III of the present records.

22. Since his last report to the General Council on 26 October, he had continued his consultations, the focus of which had been on part three of the matrix proposed by the General Council Chair – elements for political guidance under the DDA. In his consultations, he had met with a large number of individual delegations, with Group coordinators and with delegations in various group formats, including a focus green-room-like group of Members covering a broad range of the membership, on 27, 28 and 29 November. There had also been an informal HODs meeting where the combined elements for political guidance, including on the DDA, had been shared and discussed with the wider membership. As always, he had coordinated this work with the Chairs of negotiating and regular bodies and with the Chairman of the General Council. The elements for political guidance under all three themes had been circulated after the previous day's HODs meeting in document JOB/GC/15. He would not read out these elements, as delegations had already had a chance to look at them. He wished only to outline a few elements to provide clarity on some of the questions and concerns expressed by some delegations during the previous day's informal HODs. First, in his consultations he had not heard any signals or proposals to give up on the objectives Members had set when the Doha Development Round was launched. What he had heard in his consultations was that all Members remained committed to working to deliver on the Doha mandate. Thus, the Doha mandate and all the principles enshrined in the Doha Declaration, including the Single Undertaking, transparency and inclusiveness, continued to guide the work forward. He had also sensed in his consultations emerging convergence around the idea that Members should advance negotiations in areas where progress could be achieved, in line with the existing provisions that allowed them to reach agreements based on consensus earlier than the full conclusion of the Single Undertaking. Obviously, it was for the membership to see what these areas were, as it was for the membership to negotiate and reach agreement.

23. Lastly, he wished to clarify that in his consultations there was convergence that work should continue on the basis of progress already made, and that any agreement reached at any time would have to respect fully the development component of the mandate. The strong language used in this respect provided clarity on the importance of the development component of Members' work, which was not relegated in any way, simply because it appeared as the last paragraph of the elements for political guidance. He wished to be very clear on this point – this was not about reinterpreting the Doha mandate or the principles included in it. He hoped that these clarifications would help dispel concerns that had been expressed by some during the informal HODs meeting. Looking ahead, it had been stated the previous day that one of the sessions during MC8 would be devoted to discussing the DDA. The elements for political guidance provided Members with a shared sense of direction. What was needed now was to operationalize these elements. He would therefore encourage Ministers to use their interventions at MC8 to provide guidance in this respect to ensure that real progress could be achieved in 2012. Guidance was needed both in respect of where and how progress could be achieved in the shorter term, as well as on how to overcome the stalemate in areas where convergence had proven challenging. In doing so, he believed that Ministers needed to address the essential question, which in his view was behind the current impasse – different views as to what constituted a fair distribution of rights and obligations within the global trading system among Members with different levels of development. This was a political question to which a political response would be required. With regard to the current state of play in each area of the negotiations, he would circulate the latest developments in all areas of the negotiations as an Annex to this report in a JOB document³ immediately after the present meeting so that it would form part of the record of the present meeting.

24. All delegations who spoke thanked the Director-General for his report.

25. The representative of the Dominican Republic, on behalf of the Informal Group of Developing Countries, said that Members faced a crisis of multilateral governance that affected all international organizations alike, and the DDA was yet another victim of this sad state of affairs. In

³ See footnote 2.

this situation, the IGDC appreciated the Director-General's show of leadership in trying to guide this unruly flock towards the goal of concluding the Round, and welcomed his report at the present meeting, as well as the report he had addressed to Ministers at MC8. Developing countries agreed with the Director-General that Members had to explore new approaches to conducting their work on the DDA. Having discussed this issue at the informal meeting of the TNC on 28 November, there were a few boundaries to this exploration that all developing countries agreed with. First, regarding the use of paragraph 47 of the Doha Declaration to reap an early harvest in areas where consensus arose, priority had to be given to development issues. There was no possibility that developing countries would accept any early outcomes in the Round until they saw that the central issues of development, that were the "raison d'être" of these negotiations, were being addressed. Second, any further work on all areas of the DDA had to be done on the basis of what had been achieved so far. Work had to be incremental from the foundations Members had already built. Developing countries had already invested a great deal of their limited resources in this endeavour, and rejected any notion of starting from scratch or erasing the slate. Finally, developing countries considered of utmost importance the strengthening of the role of the Committee on Trade and Development as the focal point and coordinator of all development-related activities in the WTO, including the implementation of S&D treatment provisions. Furthermore, it was fundamental to establish a monitoring mechanism for S&D treatment, as well as to formally adopt the S&D treatment-related proposals contained in Annex C of the Draft Cancún Declaration. Members should be aware of the impediments that prevented them from reaching a final success in the DDA. These impediments lay mostly outside the walls of this house, and Members had to calibrate their expectations to take into account what could be done under the present circumstances. Participation of all Members in any new process explored in 2012 and beyond was a *sine qua non* from the outset, if Members had any hope of arriving at results that were satisfactory for all. Firm steps had to be taken to enhance the credibility of this institution.

26. Speaking on behalf of the Dominican Republic, he said that achieving results through consensus in an institution as complex as the WTO was a difficult task, given the various interests intertwined with the diversity of issues at hand. However, it was necessary to avoid new processes being born with the same faults that had led previous processes to fail. Sometimes it was necessary to have a period of evaluation or self-criticism to analyse the reasons behind the successes and failures and to identify where disagreements had started to broaden. The assessment of the international environment was essential to gauge the level of effort and time to be invested to achieve Members' objectives, leaving behind frustration and bitterness. The roadmap needed to be attuned to this reality. The new processes needed to be regularly evaluated and promptly rectified. It was not possible to abandon these resource-intensive efforts, especially for those countries that did not have resources to waste. For example, it had taken one WTO body an entire month to decide on two words – "one week". Members needed to show the efficiency and productivity they themselves asked for, and to work on the basis of what had already been agreed. Each process, from its outset, needed to have collective participation so as to avoid imbalances and unnecessary obstacles that in the long run caused delays. For this reason, inclusiveness and transparency needed to be exercised *de facto* by those responsible for steering the WTO ship to a safe harbour. Each step needed to have the necessary legitimacy in order to obtain the flexibilities needed to achieve a fair and just balance. In the words of Benito Juárez, "respect for the rights of others is peace". Development needed to be the common denominator of all decisions, so as to reflect the collective will expressed at Doha and the S&D treatment which identified the various development stages of Members and supported their integration into world trade flows. To avoid misunderstanding and repetition at the end of each period of evaluation, it had to be decided that each stage agreed would not be subject to reconsideration. Moving steadily forward, albeit slowly, would restore Members' confidence and the credibility of the negotiating process.

27. The representative of Argentina said her delegation wished to reiterate the centrality of the agriculture negotiations in line with the Doha mandate on agriculture. The process of reform of the

agricultural sector initiated in the Uruguay Round was at an impasse. This had an adverse impact on development and food security.

28. The representative of Chinese Taipei, on behalf of the RAMs Group, thanked the Chairman and the Director-General for their reports and their efforts in coordinating the important work for the upcoming MC8. Given the current situation, the RAMs Group felt that a pragmatic approach and flexible attitude were necessary to steer Members towards MC8. It supported and stood ready to contribute to this process, and looked forward to a successful MC8 under their leadership. The RAMs Group also supported the template for the preparation for MC8, and had worked along the lines of the three broad categories that had been identified. Within these three categories, there had been several important achievements so far, such as new accessions, e-commerce and so forth. The Group took this opportunity to commend the Chairman on his leadership and the relevant Chairs on their strenuous efforts to successfully bring difficult issues to a consensus, so that Ministers would have something to act on at MC8. The Group appreciated the efforts that the Chairman, various Members and the Director-General had made over the last few days in negotiating the possible elements for political guidance, which had been circulated in JOB/GC/15 the previous day. However, the RAMs Group also wished to draw attention to the fact that it had been left out of this very important process, particularly at this critical stage of preparing for MC8. The Group regretted this and wished to reiterate that it was ready to engage and wished to be included in the future process. However, the Group had also noted that concrete progress was still lacking in the category relating to the DDA. As Members seemed to be taking the general view that the outcome of all three categories should receive equal treatment in the Chair's statement, work in the DDA area in particular needed to be expedited, and this was the area where the RAMs Group would especially like to make a contribution at the present juncture. In the DDA area, the Group shared the view that the main focus should be on "what next", and in particular on the path forward that Ministers would want to map out in December. Given the present impasse and the fact that "business as usual" would no longer work, Members needed to explore different approaches from those taken previously, keeping central the objective of development and the principle of multilateralism. The RAMs Group could go along with the view that "operationalizing" paragraph 47 of the Doha Declaration was a step towards delivering on the entire Doha agenda, that this was something Members would have to work on, that this work should continue on the basis of progress achieved to date, and that development should remain a central premise of any outcome. In addition, any discussions on the WTO's role in responding to emerging global challenges should also be multilaterally based, and a review mechanism should be established for the timely examination of progress, so that any future adjustments to the path could be made in a more realistic manner.

29. The representative of El Salvador said his delegation took note of the elements of consensus for political guidance that were emerging as part of the outcome of MC8 regarding the DDA component. His delegation wished to highlight a few points it felt were fundamental in this negotiating process. As discussions resumed on the Doha Round, development had to remain the focal point of the debate. Any progress achieved as of 2012 needed to be based on advances made to date and on work accomplished over the past ten years, as recorded in the Chairs' texts. Although El Salvador was prepared to explore options and continue moving forward, these would have to include development elements and be considered in the light of the Single Undertaking, and on the understanding that all issues on the agenda had to be agreed in due course and in keeping with the Doha mandates. Regarding inclusiveness and transparency in the organization, although his country recognized that different consultation formats were necessary to move ahead with decisions, it was also important to consider formats conducive to more genuine inclusiveness and to making all Members feel they were part of the WTO decision-making process, so as to avoid unnecessary delays. Likewise, it recognized that all Members were free to gather in groups within and outside the organization, but any consensus that might be reached in other fora could not be simply transferred to the WTO. It reiterated the importance that any decision could be taken only under the Geneva process in a multilateral, transparent and inclusive manner. El Salvador had always been a

constructive participant in this organization, promoting its domestic interests while encouraging and promoting the strengthening of the multilateral trading system. It hoped to continue working with a view to MC8, addressing the challenges awaiting Members in 2012 and beyond, in order to build a stronger multilateral trading system. El Salvador hoped that discussions at MC8 would provide an important platform for dialogue among Ministers, enabling Members to continue driving the Doha Round negotiations forward on the basis of these parameters and with renewed energy in 2012, as well as progressing with the regular topics that were major pillars of this organization.

30. The representative of Pakistan said his delegation wished to thank the Chairman and the Director-General for having undertaken intensive consultations in difficult times to steer the process to develop possible elements for political guidance by Ministers at MC8. After acknowledging the significant differences in perspectives resulting in the impasse in the negotiations and the small possibility of concluding the Round in the near future, Ministers might affirm their faith in the Doha mandate and work actively in a transparent and inclusive manner to move forward where possible. The credibility of the organization could be secured only through hard work and recognition of the current global economic challenges. The WTO had played a vital role in fighting against all forms of protectionism and in promoting economic growth and development. Members needed to continue to work towards these ends. Progress, though incremental in nature, would keep the required discipline in the rules-based multilateral trading system. The role of Committees under the guidance of the General Council would be vital during 2012. Although it appeared to be difficult to strengthen the rules of the game for the present, Members needed to remain engaged and actively participate in all areas of work. His delegation would continue to provide inputs and contribute positively in any process developed by consensus by Members, and looked forward to a successful MC8.

31. The representative of Kenya, on behalf of the African Group, said the Group was deeply concerned about the paralysis in the DDA process after ten years of costly negotiations to African countries. Recalling that development was, and had to remain, at the core of the DDA, the Group was concerned that there had been no significant progress in respect of development issues in areas of interest to Africa. Their expectation for MC8 was for an outcome document in the form of a declaration that would do the following: (i) re-commit to conclude the DDA in accordance with the existing mandate and on the basis of progress achieved so far, with the Single Undertaking central to the negotiations; (ii) re-emphasise the need for a fair and balanced outcome of the DDA, which had to prioritize development as the main deliverable and to privilege an all-inclusive, transparent and bottom-up approach; (iii) underscore that any new approaches canvassed by Members to unlock the current impasse had to be multilaterally acceptable and in keeping with the basic m.f.n. principle and had to first deliver on the development issues, including the LDC package, S&D treatment and implementation issues – the Group strongly objected to any attempt to add new issues to the WTO's DDA agenda before the issues of interest to LDCs, S&D treatment and implementation-related concerns were adequately delivered; (iv) call on all Members to engage in good faith in further intensified negotiations in 2012 on the basis of progress achieved so far, and noting the April 2011 TNC reports, proposals and Members' submissions; (v) prioritize, on an urgent basis, a package centred on LDC issues, implementation-related issues and concerns, and ambitious S&D treatment through an inclusive and transparent process; (vi) reiterate the African Group's call for all Members to adopt, as an early harvest, the package on LDC priority issues; (vii) reaffirm the need to further extend the transition period that would expire on 30 June 2013 under Article 66.1 of the TRIPS Agreement in favour of LDC Members; (viii) call on Members to institute a mechanism for ensuring the monitoring, full implementation and effective operationalization of Article 66.2 of the TRIPS Agreement, on the commitment by developed-country Members to provide incentives to enterprises and institutions to promote and encourage transfer of technology to LDC Members in order to enable them to create a sound and viable technological base, and enhanced technical and financial cooperation to assist the latter in implementing the TRIPS Agreement and to develop a viable technology base in line with their special needs and requirements; (ix) renew Members' determination to fast-track the review, strengthening and operationalization of the Agreement-specific S&D

proposals, with a view to making them more precise, operational and effective; (x) reiterate the call to enhance the development aspects in the WTO's regular work programme, and call on Members to fully operationalize the mandate of the Committee on Trade and Development as a focal point for development; (xi) call on Members to adopt measures and decisions aimed at simplifying accession procedures for acceding developing countries, including LDCs, in accordance with their levels of development, and in an enhanced transparent process; (xii) call for the establishment of a comprehensive work programme by the General Council to mitigate the impact on NFIDCs of the volatility of market prices for food; and (xiii) insist that DDA outcomes incorporate adequate sector-specific financial and technical assistance and sustainable capacity building as an integral part of S&D treatment under all WTO Agreements, present and future – such technical assistance and capacity building would also be integral to future Aid-for-Trade plans, over and above the African priorities on productive capacity development and infrastructure needs. However, what might come out of MC8 as the outcome document was not a declaration, but a Chair's summary. The African Group welcomed the progress made in developing consensus on possible elements for political guidance as contained in document JOB/GC/15, supported these elements and noted that they represented one step forward out of the current impasse. The Group reaffirmed its commitment to engage constructively in the deliberations at MC8 on the basis of African interests.

32. The representative of Mauritius, on behalf of the ACP, requested that his statement for the ACP at the informal meeting of the General Council on 29 November be included in the record of the present meeting.⁴ The Group remained committed and engaged for a successful MC8.

33. The representative of Uruguay, on behalf of MERCOSUR, said these countries fully supported Argentina's statement regarding the centrality of agriculture to the development dimension, as expressed in the Doha mandate. The constant deferment of this matter would widen the gap between Members. MERCOSUR hoped that MC8 would provide a new opportunity to get the destiny of the WTO back on the right track.

34. The representative of Barbados, on behalf of the SVEs, said these countries welcomed the continued commitment of the organization to the multilateral trading system. For small vulnerable economies without much leverage in international affairs, a multilateral trading system with observable rules was important. The SVEs strongly endorsed the view that the WTO was more than the Doha Round and urged the continued strengthening of the organization. They recognized the work of the focus group in trying to hone an area of consensus for political guidance, and the trade-offs and compromises that were necessary in arriving at an acceptable outcome that could help to break the impasse. They recognized that there were wide divergences in positions and that these had been aggravated by the global recession, but were nevertheless distressed at the inability to conclude the Doha Round. Regarding the Committee reports, the SVEs noted the important work that had been done by the Committees and gave their continued support to their work. However, they took particular note of the need for a renewed focus on development within the WTO. They noted the recommendation that increasing use be made of the CTD, that it be strengthened and that it exercise its mandate to embark on an evaluation of the impact on developing countries of the existing trade agreements. The SVEs urged the continued recognition of the need for S&D treatment in the WTO and urged that it be maintained in the negotiations going forward. In this regard, they recognized the work done by the WTO in urging the delivery of Aid for Trade to developing countries and the monitoring of its delivery. They urged continuation of the delivery of assistance in this area. They also valued the reaffirmation of special consideration for LDCs and SVEs in integrating them into the multilateral trading system.

35. The SVEs recognized that much progress had been made in several areas over the past several years, and urged that the gains made should be secured, that there be no backtracking on what had

⁴ The statement is included in Annex II to the present records.

been achieved or on the principle of special recognition of the needs of LDCs and SVEs, and that there be an enhanced focus on development. In this regard, they welcomed the extension of the moratorium on TRIPS non-violation and situation complaints as it related to Article 64.2 of the TRIPS Agreement, which stipulated that paragraphs 1(b) and 1(c) of Article XXIII of GATT 1994 shall not apply to dispute settlement under the TRIPS Agreement. They also noted with appreciation the report relating to the extension of the moratorium on customs duties on electronic transmissions. In addition they urged greater integration of developing countries into the process of e-commerce. While SVEs recognized that there were a number of emerging issues which the WTO might wish to place on its agenda and which in some cases did deserve attention, they reserved their position on the question of placing these items on the negotiating agenda until it was clear that SVE Members had a united position on this matter. They recognized that the present international economic environment was challenging for all, but believed that Members needed to raise the level of ambition if they were to make progress. In particular, Members needed to be clearer about what steps Members would take going forward in 2012. The SVEs committed themselves to the continued work of this organization and to an inclusive and transparent process which placed development at its core.

36. The representative of Ecuador said that a few days earlier, Members had received from the Director-General an important report in document WT/MIN(11)/5 for the attention of Ministers. His delegation had immediately recognized the significance of that report and considered that its content and proposals required a high degree of attention. It now saw that that report had undoubtedly had a decisive impact on document JOB/GC/15, particularly with regard to its third section, "Doha Development Agenda". Ecuador felt obliged to take advantage of this opportunity to express its opinion on several issues raised in the report by the Director-General. Regarding the current crisis, which had been described as "the worst since the Second World War", it should be borne in mind that this crisis was of a structural nature, which called into question the policies of the Washington Consensus and its rules, and even its own institutional structure. The imposition of deregulatory measures and the elimination of controls had led to the establishment of an environment in which speculative capital could act without any obstacle at the international level. The mortgage crisis, the action of speculative capital in the food and energy markets, and now the impact of this crisis on the productive sector, with the resulting falls in employment, production and trade, and the debt problem were unequivocal signs of that structural crisis and its seriousness. Reference was repeatedly made to paragraph 47 of the Doha Declaration as a means of taking a "different approach", in order to promote progress in the Doha negotiations – as it was said, in a "pragmatic manner" in certain areas. In Ecuador's opinion, paragraph 47 should be seen in the context of the Work Programme contained in the Doha Declaration. Paragraph 47 should be a tool used not exclusively, but principally, to further the advancement and completion of the negotiations, and involving first the implementation-related issues and concerns, which were listed as the first element of the Work Programme adopted in Doha, with the indication that they should be assigned "the utmost importance". Second, it should involve the "needs and interests" of the developing countries, since they had been placed at the "heart" of the Work Programme and, specifically, in conformity with what had been agreed in Doha, should focus on "enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programmes". It should also involve an examination of all the provisions on S&D treatment with a view to strengthening them and making them more specific, effective and operational. He requested that his delegation's statement at the informal meetings of the General Council on 24 and 29 November be included in the record of the present meeting.⁵

37. As to what constituted a "fair" distribution of rights and obligations among Members with different levels of development, the obvious fact was that one of the main aims of this organization was "to ensure that developing countries ... secure a share in the growth of international trade commensurate with the needs of their economic development". In accordance with Article XVI:3 of the WTO Agreement, the objectives set out in its preamble prevailed over any other that might

⁵ The statements are included in Annexes I and II, respectively, to the present records.

contradict it, to the extent of the conflict. It was therefore incumbent on Members in multilateral trade negotiations to ensure that such an objective expressly included in the WTO Agreement was fully achieved by means of specific, concrete and measurable results. If this was to be achieved, it would be necessary to take into account, for example, the principle of non-reciprocity contained in Article XXXVI:8 of the GATT, particular development, financial and trade needs, real asymmetries, and so forth. Regarding the main objectives of the WTO, the Preamble to the Agreement Establishing the WTO also laid down the following objectives guiding the multilateral system: (i) raising standards of living, ensuring full employment, and raising real income and effective demand; (ii) sustainable development, seeking both to protect and preserve the environment; (iii) regulatory integration into a coherent whole, as opposed to a fragmented regime; (iv) the substantial reduction of tariffs and other barriers to trade, and the elimination of discriminatory treatment in international trade relations. Accordingly, it did not seem appropriate either to initiate a process directed to giving priority to one objective over another or, even less, to verify whether Members continued to be committed to these objectives. Members should rather make more and greater efforts so that real and concrete steps were taken to achieve those objectives. Regarding initiatives that were not multilateral, i.e. those not shared by all Members, these might frustrate or hinder the attainment of one of the WTO's main objectives, i.e., regulatory integration within a coherent whole, as expressly provided for in the Preamble to the Agreement Establishing the WTO. Ecuador reiterated its concern that attempts were still being made in certain areas to seek solutions to global problems in small groups, and insisted that the solutions to global problems should be identified and agreed at the global level.

38. The representative of Bangladesh, on behalf of the LDCs, said these countries agreed with the Director-General that these were not ordinary times. He reiterated their thanks to the Chairman and the Director-General for their intensive consultations that had helped Members arrive at the agreed elements under the three thematic clusters of the matrix, including the DDA. Members had begun this consultative process in a situation of uncertainty, and the LDCs were happy to see that through collective efforts, they had at least been able to achieve something concrete. This was definitely not an outcome the LDCs had envisaged at the beginning of the year, but all had taken the trouble to adapt themselves to the prevailing realities and calibrate their responses and expectations accordingly. The LDCs were encouraged by the fact that Members remained steadfast in their commitment to a rules-based multilateral trading system and to development as a core element of their work. There was a forward-leaning thrust in the approach, particularly in the context of the DDA. The LDCs looked forward to the full and meaningful realization of that possibility in order to infuse further dynamism into the DDA negotiations in the coming years. They hoped that Ministers would bring the sense of open leadership that Members badly needed to keep going forward on the right track, and wished again to thank all Members for their flexibility and understanding on the LDC-specific decisions and elements that had been agreed for MC8. The LDCs appreciated the general recognition that Members could not ignore the need to deliver something tangible for the weakest segment of the international community. This had created a positive ambiance that had helped the LDCs reach toward some of their goals with the cooperation of all. In particular, they wished to thank the Chairs of the relevant bodies as well as the Secretariat for their sincere and tireless efforts. They were grateful to the experts in the organization who had continued to help the LDCs through this process with their valuable advice and solutions.

39. The representative of Burkina Faso, on behalf of the C-4, said these countries fully supported the statements by Kenya for the African Group, Mauritius for the ACP and Bangladesh for the LDCs. As all knew, the Chair of the negotiations on agriculture had recently organized intensive consultations on the draft decision the C-4 had submitted in early November 2011 in double-symbol document TN/AG/GEN/32 and TN/AG/SCC/GEN/11. These consultations had unfortunately not yielded the consensus on the proposal that the C-4 had hoped for. However, the C-4 wished to thank the General Council Chair, the Director-General and the Chair of the negotiations on agriculture and the Sub-Committee on Cotton, as well as all Members concerned by the cotton question, with whom the consultations had resulted in at least a small degree of convergence on the cotton issue, which was

contained in paragraph 4 of the section on trade and development in document JOB/GC/15, in lieu of the C-4's proposed decision on cotton.

40. The representative of Honduras said his delegation echoed the statement by the Dominican Republic for the Informal Group of Developing Countries. Honduras agreed with the Director-General's report on the impasse in the DDA. Honduras also thanked the Director-General for the explanations concerning JOB/GC/15, especially on the "Doha Development Agenda" section, and was pleased that these would be included in the record of the present meeting. Nonetheless, in point 4 of the document, under the heading "Doha Development Agenda", the development principle should be included in any negotiating approach that might be adopted in future.

41. The representative of Peru thanked the Chairman and the Director-General for their reports on the state of the Doha negotiations and on the current impasse, and for the analysis of the difficult and complex international environment in which Members found themselves. In general terms, Peru agreed with the Director-General's proposal that the political guidelines set by Ministers should focus on the central role of the development dimension for achieving future advances in this process, and on the need to preserve the advances already achieved during ten years of negotiations. With regard to the DDA, her delegation was concerned that there was no mention of decisions in the basic document, for which reason it was essential that Ministers give clear political guidance with a view to reaching provisional or definitive agreements, but always bearing in mind the principle of the Single Undertaking and the development mandate as central elements of the negotiations. Peru supported such advances within the framework of paragraph 47 of the Doha Declaration. In this connection, and taking into account the discussions and views on the implementation of the principle of the Single Undertaking, Members should set a time limit for such negotiations, i.e. they should examine the possibility of fixing a deadline for the implementation of those agreements that were adopted under paragraph 47, and at the next Ministerial Conference in 2013 – taking as the basis the principle of the Single Undertaking – Members could take stock in general terms of the state of the negotiations and review both the advances achieved and the issues in the Doha mandate that were still pending.

42. The representative of Cuba requested that her delegation's statement at the informal meeting of the General Council on 29 November be included in the record of the present meeting.⁶ On that occasion, Cuba had expressed concerns regarding the process held in the past few days on the elements of political guidance for MC8. Document JOB/GC/15 was not yet mature and Members needed to continue discussions on it, so that those who had not been able to participate in this process could make their contribution. Cuba appreciated that the document represented a delicate balance, but pointed to the need to include the concerns expressed by it as well as other delegations. In this regard, Cuba would be in a position to adopt a final decision within the following 24 hours, but for the time being, considered that the document could be improved.

43. The representative of the European Union said that like others, his delegation agreed with the basic concept that the membership needed to operationalize the principle of continuing the negotiations in 2012 where progress could be made. At the present time, Members were working on a very general formulation which, as he had said at the informal meeting of the General Council the previous day, the EU supported. However, the extent to which this could result in real progress in the negotiations beyond MC8 remained to be defined. Therefore, the EU hoped that Ministers at MC8 would inject more resolve into this general orientation in order to take the multilateral trade negotiations forward. Several elements on the DDA could be advanced in ways that would deliver gains for both developed and developing countries. It was important that Ministers take this point up in their interventions.

⁶ The statement is included in Annex II to the present records.

44. The representative of the Plurinational State of Bolivia said that while her delegation understood that the Director-General's report to MC8 had been prepared on his own responsibility, it should be stressed that it had been clearly produced in his capacity as Chairman of the TNC, and should therefore be balanced and transparent in order to ensure the support of the membership. Bolivia agreed with some aspects of the report but disagreed with several others. It agreed that the present were not ordinary times and that Members might be experiencing one of the worst crises since World War II. However, the report made no mention of how or where that crisis had begun. It said nothing, for example, about the need to strengthen regulation and oversight of the banking sector and financial system, whose excesses of liberalism and deregulation, coupled with extreme ambition, were the main causes of the crisis. The report stated that in the Doha negotiations, the divide between Members was most evident in the area of industrial products. This was a biased statement. There were other issues which, though perhaps not the cause of the deadlock, still required further adjustment. Lack of implementation in the areas of development and agriculture, for example, was as important an issue to address as industrial products. Bolivia agreed that the LDC package had not taken shape, but was also aware of the impetus given to the "LDC Plus" package – especially to the "plus" element. It was unacceptable to create a "plus" package while the initial development issues remained unresolved, particularly in the poorest Members. Although the trade of those countries collectively represented only three per cent of the world total, the prospect of providing them with a few opportunities to improve their integration into world trade seemed to frighten the developed countries.

45. Bolivia was concerned by the statement in the report that while no Member was ready to give up on the Doha Round, one needed to explore different approaches to bring about its conclusion. Over the past ten years of negotiations, very little had been done regarding the development mandate. Her delegation wished to make it clear to the Director-General that any "different approach" would have to prioritize development. Otherwise, the image of the WTO would continue to decline until the organization became completely irrelevant and Members, particularly developing-country Members, would attend the negotiations only to defend themselves. Her delegation also agreed that there were a number of explanations for the current impasse and that Ministers should give a political response to this question. However, deeper analysis of the issue was required, because in the past 20 years – 16 since the creation of the WTO – the gap between rich and poor countries had widened rather than narrowed. Members were clearly doing something wrong. They needed to look into the role the WTO had played and explore ways to rectify the situation. On reading the summary of objectives in the report, Bolivia had been struck by the absence of "development" from the list. It might be worth recalling paragraph 2 of the Doha Declaration. From that summary, one might conclude that the real and sole objective was to achieve greater openness, and obviously Bolivia could not agree with that. It did not understand why negotiations on the dispute settlement mechanism had to be concluded. While Members seemed satisfied with the basic functioning of the system, Bolivia understood that the fundamental issues were still pending – namely, effective compliance, administrative sanctions and litigation costs for LDCs. On rules of origin, it was difficult for Bolivia to accept the mixing of non-preferential and preferential rules. Perhaps what was being proposed was the multilateralization of preferential rules. Her country was exceedingly concerned by the suggestion of moving forward in the WTO through plurilateral agreements. This approach would only serve to undermine multilateralism. Outside of the WTO, Bolivia agreed that countries wishing to negotiate such an arrangement were free to do so. Sufficient arguments had been given for Members not to try to push the proposal on RTAs, and they should not be sending out a negative signal to Ministers. It was clear that Bolivia had systematic concerns with this report. It was aware that the report had been made under the Director-General's own responsibility and that it was in no way binding, but Bolivia did not wish to give the impression that it agreed with it. In addition, Bolivia was not in a position at the present meeting to approve the document on "Possible Elements for Political Guidance" presented to Members the previous day.

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

3. Work Programme on Small Economies – Report by the Chairman of the Dedicated Session of the Committee on Trade and Development

47. The Chairman said that in line with the framework and procedures agreed by the General Council in 2002, the Work Programme on Small Economies was a standing item on the General Council's agenda and the Committee on Trade and Development reported regularly to the Council on the progress of work in its Dedicated Sessions on this subject. He invited Mr Maruping (Lesotho), Chairman of the CTD, to report on the progress of work in this area.

48. Mr Maruping (Lesotho), Chairman of the Committee on Trade and Development, recalled that he had last reported to the General Council at its meeting in October and had informed Members that the CTD had held a Dedicated Session on 10 and 13 October to discuss the Work Programme on Small Economies and to adopt its report to the General Council on its activities since 2009. In regard to the Dedicated Session's report to the General Council, Members had agreed on 13 October that the General Council should recommend to MC8 that Ministers reaffirm their commitment to the Work Programme on Small Economies and take note of all the work conducted to date. The report also urged Ministers to recommend that the CTD continue its work in Dedicated Sessions under the overall responsibility of the General Council. Ministers were also to recommend that the CTD consider in further detail the proposals contained in the various submissions received to date, examine any additional proposals that Members might wish to submit and, where possible and within its mandate, make recommendations to the General Council on any of these proposals. Additional actions for future work were further set out in the report which had been agreed in October by consensus in the CTD's Dedicated Session. The report had been circulated in WT/COMTD/SE/7 and the draft decision for forwarding to Ministers had since been circulated as an addendum to the annual report.

49. The representative of Barbados, on behalf of the SVEs, thanked the Chair of the CTD in Dedicated Session for his report and for his continued commitment to the Small Economies Work Programme. They also wished to thank the Secretariat for its support and for revising the SVEs' monitoring compilation document. The SVEs took note of the report which would be forwarded to MC8, and welcomed the recommendation that Ministers reaffirm their commitment to the Work Programme on Small Economies. They also acknowledged the progress achieved thus far and supported the call for further work to be done within the CTD Dedicated Session and in the negotiating and other bodies of the WTO, on measures that could facilitate the fuller integration of SVEs into the multilateral trading system. The Small Economies Work Programme continued to be an important platform for a number of developing countries with specific structural vulnerabilities seeking to pool their negotiating resources with the aim of contributing to the multilateral trade debate. The SVEs had always taken a constructive approach to all areas of the negotiations in the DDA, as they believed it was their responsibility to identify and promote solutions to address their concerns, and it was the collective responsibility of all Members to ensure that these solutions were effectively incorporated into the trade architecture and were implemented. They would continue to promote recognition of their legitimate concerns, and as Members moved forward, would continue to engage constructively with others as Members moved towards MC8, both through the framework of the Small Economies Work Programme and in other fora.

50. The Chairman said that the Council would take up the draft decision contained in document WT/COMTD/SE/7/Add.1, which had just been mentioned by the CTD Chair, under Item 9(a) of the present meeting's agenda.

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

4. Work Programme on Special and Differential Treatment – Report by the Chairman of the Special Session of the Committee on Trade and Development (TN/CTD/27)

52. The Chairman recalled that Ministers at Hong Kong had instructed the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and to report to the General Council – with clear recommendations for a decision – by December 2006. Regarding the Category II proposals that had been referred to other WTO bodies and negotiating groups, Ministers had also instructed that these bodies expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision were made no later than December 2006. Ministers had further instructed the Special Session to coordinate its efforts with these bodies, so as to ensure that this work was completed on time. In addition, the Special Session was mandated to resume work on all other outstanding issues – including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules – and to report on a regular basis to the General Council. He invited Mr Bashir (Pakistan), Chairman of the CTD in Special Session, to report on the progress of work in this area, including the status of work on the Category II proposals, i.e. those referred to other WTO bodies.

53. Mr Bashir (Pakistan), Chairman of the Committee on Trade and Development in Special Session, said that the report on the work that had been carried out in the CTD Special Session during 2011 and the current state of play, prepared under his own responsibility, had been circulated in document TN/CTD/27. He recalled that during the intensive phase of negotiations up to Easter, text-based negotiations had been witnessed in all areas of the work of the Special Session. He was happy to report that Members seemed to be converging on major elements of the monitoring mechanism, including on the scope, functions, operations and re-appraisal, as reflected in his report. Although there was now greater convergence on a number of issues, it was clear that further work was needed before the negotiations could be concluded on the different elements of the monitoring mechanism and consensus developed on the Agreement-specific proposals. As all were aware, over the past few days there had been intensive engagement among Members to finalize possible elements of political guidance during the forthcoming Ministerial Conference. These elements were contained in document JOB/GC/15 issued the previous day. There was consensus that trade and development would remain an area of special focus after MC8. It was also hoped that Ministers would give a political signal to expedite work towards finalizing the monitoring mechanism and to take stock of the 28 Agreement-specific proposals agreed on an ad referendum basis and annexed to the Draft Cancún Declaration. These were all issues on which work would be expedited after MC8. Clearly, there seemed to be convergence on the need to advance negotiations, where progress could be achieved, allowing Members to reach provisional or definitive agreement based on consensus, earlier than the full conclusion of the Single Undertaking. The work in the CTD Special Session was clearly an area where progress could be expedited under this process. He intended to start consultations with Members in both formal and informal settings early in 2012, with a view to seeking their guidance on how best to explore various possibilities to move forward on this work in 2012.

54. The representative of Egypt thanked the Chairman of the CTD Special Session for his report and for his efforts to try to forge consensus on this important pillar in the DDA negotiations. Egypt had taken the floor to share with Members what had transpired during the past two days in Accra, where Ministers and Senior Officials from Africa had gathered to discuss the Chairman's report in the context of a stocktaking exercise in preparation for MC8. A deep sense of frustration had emerged in Accra, and he wished to share some of the comments made on the report. First, with respect to the Agreement-specific proposals, to date most, if not all, of the proposals under Category 2 had been neither reviewed nor strengthened. At this point, and due to the lack of consensus surrounding the future of these proposals, it had been suggested that all outstanding Category 2 proposals should be brought back to the CTD Special Session for review and consolidation, and that prompt action should be taken. One suggested alternative had been to bring back all outstanding proposals and reinstate

them under the CTD's review, until the time when the monitoring mechanism was operational in a manner that would allow Members to devise the appropriate negotiating conditions, or proposals to conclude the negotiations with respect to these proposals, in a time-bound manner. Furthermore, with respect to the Agreement-specific proposals under Categories 1 and 3, it was disappointing that work had proceeded on only six proposals, which had actually been agreed and stabilized. The reports from Accra indicated that concerns had been raised as to why the Chair's report failed to capture this understanding, and questions had been raised as to why this fact had been overlooked in the report. With respect to the 28 proposals contained in Annex C of the draft Cancún Declaration, there had been a shared view that, given that these proposals had been agreed upon in principle, there was a need to proceed to harvest them as soon as possible. These proposals had been lingering for more than eight years, awaiting formal adoption by either the General Council or Ministers.

55. With respect to the monitoring mechanism, according to the reports from Accra, many delegations had not subscribed to the view that the guiding principles were an important breakthrough. In fact, it had been recalled that the African Group, during the CTD Special Session on 8 November 2010, had stated its categorical position that the Group's final assessment of these principles would ultimately depend on how they would be translated into legal texts. The Group maintained that the guiding principles were not legal, exhaustive or comprehensive and should not be construed as setting new negotiating mandates. It was clear from the discussions in Accra that some aspects of these guiding principles had complicated the negotiations on the monitoring mechanism even further. Several substantial questions had been raised as to the prospects of finalizing the outstanding Agreement-specific proposals and establishing the monitoring mechanism. Some had asked what the use would be of establishing a mechanism that would monitor provisions that had not been reviewed or made operational. Others had questioned the reason for having a monitoring mechanism if these agreements had not been finalized. It had been clear that the progress made on S&D treatment was not commensurate with the intensified work taking place in the WTO, and that this track seemed to lagging behind several other negotiating groups in the Doha Round. Moreover, deep concerns had been raised due to the fact that there had been no movement on the technical issues underpinning the monitoring mechanism. Many Members believed that the divergent positions maintained regarding the monitoring mechanism could not be wished away or addressed by the clever use of language. Political guidance was necessary to ensure that a development outcome on these issues was attained and harvested as prescribed in paragraph 47 of the Doha Declaration.

56. The representative of the United States said his delegation wished to thank the Chair of the CTD in Special Session for his efforts in leading the negotiations in that body on the Agreement-specific proposals and the monitoring mechanism. With respect to the Agreement-specific proposals, the US noted that the Chair's report stated that some Members "feel that the draft text on these proposals accurately captures the progress". His delegation wished to clarify that it did not share the Chair's view, and hoped that this would be corrected before discussions resumed on these proposals. With respect to the monitoring mechanism, the US appreciated the Chair's detailed discussion of the elements of his February 2011 addendum to the previous Chair's fourth revision of his December 2010 non-paper on the monitoring mechanism. The overview provided a good description of many of the open issues. His delegation assumed that the Chair's discussion of the open issue of "review procedure" included the ongoing discussion of the involvement of technical bodies reviewing S&D issues that were under their mandate. It also wished to note its appreciation for the Chair's text of 21 April, which had also been discussed, though not reflected, in the Chair's report. The United States' understanding was that both texts remained open, as Members decided which text to base further negotiations on.

57. The General Council took note of the report by the Chairman of the CTD in Special Session in document TN/CTD/27 and of the statements.

5. Development assistance aspects of cotton – Periodic report by the Director-General (WT/GC/137 – WT/CFMC/DG/4 – WT/MIN(11)/4)

58. The Chairman recalled that in Paragraph 1.b of its July 2004 Decision on the Doha Work Programme, the General Council, *inter alia*, had taken note of the bilateral, multilateral, and regional efforts to make progress on the development assistance aspects of the Cotton Initiative, and had instructed the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments. The Council had also instructed the Director-General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre, to direct effectively existing programmes and any additional resources towards development of the economies where cotton had vital importance. Periodic Reports on this matter had been issued by the Director-General in 2004, 2005 and 2009, and he had recently issued his Fourth Periodic Report in triple-symbol document WT/GC/137 – WT/CFMC/DG/4 – WT/MIN(11)/4. He invited the Director-General to introduce the report.

59. The Director-General said he was pleased to introduce his Fourth Periodic Report on cotton, in document WT/CFMC/DG/4. This report was specifically focused on the development assistance aspects of cotton, and more broadly on the Sectoral Initiative on Cotton. Since his last Periodic Report, progress had been made. The Evolving Table on Cotton Development Assistance, which was the centerpiece of work in the Consultative Framework, was in its twelfth version. It reflected actual "deliverables" over the past seven years of work. As indicated in the numbers, these "deliverables" had been made within the framework of "Cotton-Specific Development Assistance" and "Agriculture and Infrastructure-Related Development Assistance". In the consultative process, a partnership had emerged between developed and developing-country providers of development assistance, and the recipients of this assistance from the cotton proponent countries. He wished to pay tribute to the developed-country Members, in particular Australia, Canada, the European Union and several of its member States, Japan and the US. Several multilateral institutions, such as the World Bank, IMF, African Development Bank, ICAC, CFC, FAO and UNCTAD had also provided consistent support over the past eight years. A unique development in the provision of cotton development assistance had been the strong leadership by Brazil, China and India on the platform of South-South Cooperation for Cotton Development Assistance. Contributions in this area had also been made by Pakistan and the International Trade Centre. The Consultative Framework Mechanism on Cotton was registering progress because of the emergence of this partnership between providers and recipients of assistance. The cotton proponents, on their part, continued to work hard to promote the understanding of submitting inputs to enable the Secretariat to update the "Table on Domestic Cotton Sector Reforms". This was why he was pleased to revise paragraph 8 of his report that related to the next update of the Table on Domestic Cotton Sector Reforms. This update, in document WT/CFMC/21/Rev.3, had been issued the previous day on the basis of inputs submitted by the cotton proponents that week. All in all, one could see emerging results on trade capacity building. However, these would only deliver their full potential if trade regulations addressed more vigorously distortions that were still present, whether on market access or through subsidies. It had always been understood that cotton development assistance was a complement to, and not a substitute for, reforms in cotton market access and subsidies. This remained as true at present as it had been in the past.

60. The representative of Brazil thanked the Director-General and the Secretariat for this comprehensive report. His delegation again wished to reiterate that cotton was an issue that would always command Brazil's full and unwavering commitment under the DDA, both in its trade and development aspects. Brazil, as well as the G-20, had been at the forefront of the discussions on the trade dimension of cotton and had consistently supported the positions of the C-4 in the Doha Round. Many reasons had been offered to explain the current high prices, which in turn had led to a steep reduction in the levels of subsidization. However, the current short-term lower subsidy levels provided little solace when one looked back at the long periods when distortions had prevailed,

particularly in the late 1990s and for the most part of the first decade of the present century. The fact that the same massive, distorting programmes were still in place constituted a clear threat to producers in poor countries across the world, especially in Africa. Brazil appreciated that the work of the Consultative Framework Mechanism assigned due importance of South-South cooperation to cotton producers in Africa. Brazil's experience with South-South cooperation gave it reason to believe in its effectiveness and positive impact on-site. Bilaterally, as the current version of the Evolving Table on Cotton showed, Brazil had taken significant new steps in implementing its ambitious programme of cooperation, technical assistance, technology transfer and capacity building with Benin, Burkina Faso, Chad and Mali in the field of cotton. That cooperation would be further enhanced in the near future. Besides government, the private sector in Brazil would also contribute to its cooperation projects in Africa. In October 2011, the Ministry of External Relations and the Brazilian Cotton Institute (IBA) had signed a protocol of intentions regarding technical cooperation in the cotton sector. The protocol reflected the common goal of the parties to develop projects and implement cooperation that would strengthen the cotton sector in developing countries, especially in Sub-Saharan Africa. In fact, 10 per cent of IBA's funds would be dedicated to these South-South projects. Brazil was confident that the partnership between IBA, the Ministry of Foreign Relations, and Brazil's Agency for Cooperation would ultimately benefit other cotton producers or potential producer countries. Brazil hoped that this cooperation would provide a major contribution to addressing structural challenges in those countries.

61. The representative of China thanked the Director-General for his hard work and tireless efforts in pushing forward the development assistance aspects of cotton, including through 16 rounds of consultations. As all knew, there were two aspects of cotton – development assistance and trade – which were closely linked. His Government attached great importance to cotton development and international cooperation. China welcomed the progress made on the development assistance aspects of cotton through the consultations, and the South-South cooperation under the Director-General's Consultative Framework Mechanism. China was the world's biggest producer as well as biggest importer of cotton, with more than 30 million small farmers involved in production of cotton and cotton products. China was now increasing the share of African countries in its cotton imports, including the C-4. It was also considering providing further assistance to C-4 countries in cotton production and trade, and a work programme was being drafted, and an outcome could be expected by the time of MC8. China wished to reiterate that the cotton issue was a significant and central component in the Doha Round Agriculture negotiations and should be addressed ambitiously, specifically and expeditiously, according to the mandate agreed in Hong Kong.

62. The representative of India said his delegation appreciated the hard work done by the Director-General and DDG Singh in holding 16 meetings of the Consultative Framework Mechanism on Cotton. India appreciated the progress made through the Director-General's process to give a focus to the development aspects of cotton. India had also mounted a mission on cotton, and had sent experts to C-4 countries as well as Nigeria, Malawi and Uganda to deepen this commitment. It was looking to provide assistance to increase productivity and improve the post-harvest aspects, including ginning, pressing and other downstream activities. His Prime Minister had committed to increased financial and technical assistance for African countries during the summit meeting held a few months earlier in Addis Ababa, which had also included assistance for cotton-producing countries. The details of the assistance programme were likely to be announced by India's Commerce Minister during MC8 or immediately thereafter. India had a deep interest in cotton, being the second largest producer, exporter and consumer of cotton. It had eight million cotton-farming families dependent on cotton, who worked on small landholdings of about one hectare. Its farmers were very vulnerable to any rise in input costs and volatility in cotton prices, which could have grave consequences in terms of their livelihood and even survival. India fully shared the misery of the farmers in the C-4 countries and the other 32 countries of Africa, which shared the same concerns. The Ambassador of Kenya had recently phoned him after watching a television programme on the plight of Indian cotton farmers, and had said the Indian farmers seemed to be in the same state as African farmers. Members needed to continue with their efforts to address the development aspects of cotton simultaneously with the

trade aspects, which needed to be addressed “expeditiously, ambitiously and specifically”, as stated in the Hong Kong Declaration many years earlier. Both the trade and development aspects of cotton had to go hand in hand, in order to tackle the plight of the C-4 farmers as well as the poor cotton farmers of other countries.

63. The representative of the European Union said that cotton remained a matter of utmost significance in the DDA context. The draft elements of political guidance were a useful and important reminder of this reality and, as already indicated, the EU supported those elements. It would be pleased to continue to participate as needed in the ongoing dialogue and engagement regarding cotton. The EU was by far the largest provider of development assistance to cotton – the total value of its support mobilized since the beginning of the EU-Africa Partnership on Cotton was currently more than 320 million euros, about half of which was funneled through the European Commission in the form of grants, while the other half consisted of loans and grants by EU member States. This included assistance at national level in various African countries, including Benin, Burkina Faso, Côte d'Ivoire, Mali, Mozambique, Senegal, Togo and Zimbabwe. The EU regularly provided updates on cotton-related assistance to the Consultative Framework Mechanism on Cotton, and counted on the fact that all other providers of such assistance would do the same.

64. The representative of Australia said this was an issue that his country took very seriously. Australia had long been a supporter of the development assistance aspects of the cotton issue. It welcomed the reference in the report to the role Australia had been playing in working with the C-4. In recognition of the Doha Round as a development Round and also related to past WTO decisions to work on development assistance issues for African cotton-producing countries, his Government had in 2011 approved significant funding to provide technical assistance to the C-4 and other countries in the Central and West African region. The project would provide training in best-management practices in cotton production systems, including seed-handling techniques. The project was being undertaken by the Commonwealth Scientific and Industrial Research Organization, which was working closely with the West and Central African Council for Agricultural Research and Development and the Economic Community of West African States to ensure that the programme met the needs of the countries involved. Australia looked forward to working with these countries and with other Members to ensure the best outcomes on these development assistance related aspects of the cotton issue.

65. The representative of Burkina Faso, on behalf of the C-4, said that the contributions in terms of technical and financial assistance that had come through the Consultative Framework Mechanism on Cotton had allowed African cotton producers to survive while awaiting the outcome of the trade negotiations on cotton. This Mechanism, set up in 2004, had begun to show appreciable results. However, as the C-4 had said at the most recent meeting under the Mechanism on 3 November 2011, the beneficiaries were in the process of reflecting on the elaboration of collective and integrating projects whereby the impact of development aid in the cotton sector could be maximized to the greatest extent. He welcomed the South-South cooperation put in place with countries such as Brazil, China and India. The possibility of even greater South-South cooperation seemed to be developing with China, India and Australia. He also welcomed the contribution by the EU and the US through the various programmes in place in African countries. At the most recent meeting under the Mechanism, the C-4 had asked DDG Singh to reaffirm their interest in the Mechanism, and had also told him of their wish to organize themselves in such a way that the effects of this Mechanism would have the greatest impact on cotton-producers and the economies of cotton-producing countries.

66. The representative of Pakistan said his delegation supported the Director-General's efforts to make the Consultative Framework Mechanism an effective instrument in keeping the focus on cotton. Pakistan continued to support South-South cooperation and wished to have the cotton issue addressed ambitiously. His country was one of the largest cotton producers and a large cotton consumer, and knew the plight of cotton farmers. There was a need for transfer of technology as an additional effort

to be included in the Consultative Framework Mechanism, in order to address the supply side of this issue as well.

67. The representative of Kenya, on behalf of the African Group, thanked the Director-General for his work on this report and for his commitment to working closely with the C-4 on this issue. The C-4 represented the interests of 46 other cotton-producing countries in Africa. To these countries, cotton was a major development issue, and they looked forward to effective implementation of the Hong Kong Declaration with regard to cotton. This was an area of serious development concern to the African community, and African Ministers of Trade at the meeting in Accra had placed cotton at the top of the agenda, and would be asking Members at MC8 to give the highest priority to cotton. Therefore, they fully supported the consultations the Director-General had been holding and looked forward to the support of the entire membership on these issues. He was fully aware of the significance of cotton to the Indian people. He was also aware that the segment of China's population that were cotton growers were very poor, and thus this issue was taken very personally. In addition, the cotton producers in the US were among the very poor in that part of the world. Thus, there was a need to work together collectively to ensure that the cotton farmer in Africa was not unduly disadvantaged when it came to competition and market-access issues, which had to be recognized and taken into serious consideration. The Director-General's efforts were a step in the right direction, and the African Ministers, people and farmers supported them. WTO Members should also support them, and the African Group encouraged them to do so.

68. The General Council took note of the statements and of the Director-General's report, which would be before Ministers for their consideration at their Eighth Session.

6. Food export barriers and humanitarian food aid by the World Food Programme (WFP) – Communication from the European Union (WT/GC/138)

69. The Chairman drew attention to the communication from the European Union in WT/GC/138, requesting that this item be placed on the agenda of the present meeting, and invited that delegation to introduce this item.

70. The representative of the European Union read out the list of the co-sponsors of the communication in document WT/GC/138: Australia, Canada, Chile, Costa Rica, European Union, Korea, Indonesia, Japan, Mexico, Norway, Kingdom of Saudi Arabia, Singapore, Switzerland and Turkey. The proposal had its origins in the June 2011 G20 Action Plan on food price volatility and agriculture. He wished to underscore that the EU was among those who thoroughly understood and respected the boundaries between institutions such as the G20 and the WTO. However the content of this proposal went beyond simply institutional boundaries. What would be won by this proposal was political guidance by all Members, thereby greatly amplifying the positive effect the commitment by the G20 members would have. As such, it would make a real difference to the people who depended on the work of the World Food Programme (WFP). The only real question was what the effect, the added value, of the proposal would be. The answer was simple – the proposal would facilitate the WFP's job, which was to get food in emergency situations to hungry people. He recalled that the WFP was the world's largest humanitarian agency, fighting hunger worldwide. In 2010, the WFP had delivered 4.6 million metric tons of food assistance to 109.2 million people in 75 countries. As experience showed, in 2008 and 2009 export restrictions had also applied to the WFP, making its task considerably more difficult. Restrictions threw into disarray purchase planning and caused severe problems with existing purchase contracts. This forced the WFP to navigate its way through bureaucracies in order to plead for an ad hoc exemption to an otherwise generally applicable export restriction. If it was not successful, it had to scramble to find and buy food elsewhere. This often made the food procured more expensive and also meant delays in getting the food to where it was needed. In emergencies, time was of the essence, and delays were a matter of life and death. If this proposal was endorsed, the WFP would be able to refer to it when it approached national authorities

and would not be forced to try to negotiate exemptions each time from scratch. This was the proposal's added value.

71. The first sentence of the proposal was a reminder, however, that the first responsibility of Members was to ensure the food security of their own population. He wished to be clear that the WFP was not in the business of asking countries that faced food shortages at home to sell their food to help elsewhere, and the WFP diligently assessed the food situation in supplying countries. Furthermore, the declaration aimed at was clearly political in nature and limited in scope. It was proposed to exempt WFP food purchases for non-commercial humanitarian purposes from food export restrictions or extraordinary taxes. Only the WFP was covered. The proposal's political nature was the precise reason that some Members strongly felt it should not go to any technical committee of the WTO where the impression might be created that one was aiming at something legally binding. These Members felt strongly that considering this issue in the General Council would prevent the risk of such misperception. The EU acknowledged that this proposal was not a panacea for food insecurity. There were other areas that needed serious attention so as to advance the cause of food security – first and foremost, as far as the WTO was concerned, the Doha Round – but Members had the opportunity to take a step in the WTO that could be of the greatest importance to many around the world. The EU thus urged Members to judge the proposal on its specific merits and to endorse it as an element of political guidance at MC8.

72. The representative of Norway said that her country was happy to support and co-sponsor this proposal. As stated by the EU, the recent food crisis demonstrated the challenges faced by the WFP in procuring food for the most needy. Export restrictions formed part of those challenges. Work was needed on export restrictions in the WTO, and any discussion in future on export restrictions would, however, pit legitimate interests against each other, and Members would need to give these issues careful consideration in order to find good outcomes. Regarding the issue at hand, the case was clear. The WFP supplied food, mainly in emergency situations. Export restrictions increased costs and caused delays in this vital work. Norway therefore urged Members to join the co-sponsors in this vital work, and invited them to join in this political commitment for MC8. It was not much, and her delegation agreed with those who would have liked the statement to be broader, stronger and more binding. Nevertheless, Norway strongly supported it.

73. The representative of Canada said that as a major donor, his country continued to support the efforts of the WFP to react as quickly and efficiently as possible in situations of need. Trade policies could affect the work of the WFP, which was one reason Canada had decided several years earlier to fully untie its food aid. This proposal represented another small step in creating a more predictable, efficient and effective trading environment, which enabled the WFP to maximize the value added from each international aid dollar. As a co-sponsor, Canada believed the proposal represented an important and pragmatic step towards alleviating food security concerns among the most vulnerable. Perhaps most important, this initiative would send a strong signal to the outside world that the WTO was serious about creating a better trading environment that improved the lives of the poor. Members would actually be putting actions behind their words. Canada therefore strongly urged Members to support this initiative for MC8.

74. The representative of Mexico said the proposal by the EU on behalf of a number of Members, including Mexico, was a significant step toward addressing a specific problem that affected food purchases made by the WFP, the world's largest humanitarian aid agency dedicated to fighting hunger. According to the WFP 2010 Annual Report, the agency had provided 66 per cent of global food aid, had implemented programmes that had benefited 109.2 million people in 75 countries and had distributed 4.6 metric tonnes of life-saving food for victims of natural disasters, war or civil conflict. He noted that 82 per cent of the beneficiaries were women and children, who were usually disproportionately affected by crises and emergencies. The aim of this proposal, which related to emergency humanitarian aid, was to secure a political commitment by the WTO membership to

prevent such aid from being affected by restrictions or extraordinary taxes on food exports, so that it could be delivered to the most needy in an efficient and timely manner. Heretofore, when faced with this type of control measure, the WFP had had no choice but to negotiate exemptions on a case-by-case basis with the governments concerned, which always involved the risk that the delivery of humanitarian aid might be delayed or held up at a critical time. It was important to note that the proposal recognized that the first responsibility of each Member was to ensure the food security of its own population, and therefore this exception did not mean that the objectives of the WFP would take precedence over such sovereign food security objectives as might be deemed necessary by the exporting Member. Moreover, because it was a UN agency that worked in close cooperation with the FAO and the International Fund for Agricultural Development, the WFP had the sense and the information necessary to purchase inputs in a responsible manner and would therefore hardly put one Member's food security at risk in order to address shortages or emergencies in another Member. In view of the foregoing, Mexico fully supported the request for a decision at MC8 containing a commitment to exempt the WFP from restrictions and extraordinary taxes on food exports applied by Members.

75. The representative of Switzerland said the proposal before Members was the outcome of the G20, of which Switzerland was not a member. In the draft elements for political guidance for Ministers, a number of elements were aimed at assisting the weakest in the organization, and it was only logical and loyal to Switzerland's humanitarian tradition, that it would support this initiative. It was scandalous that bureaucracy should interfere with humanitarian aid. However, if Switzerland agreed to an exception to remove export restrictions, this did not mean it endorsed the proliferation of these exceptions. As stated by the EU, this was only a step in this area, and it would be quite surprising for this step not to achieve a consensus within the organization.

76. The representative of Thailand said his country had already announced, at the informal meeting of the General Council on 29 November, its support for a comprehensive programme on food security, and was happy to announce formally at the present meeting that it wished to co-sponsor this initiative and support the language on food export barriers and humanitarian food aid, as proposed by the EU and others. His delegation understood that this would pose a challenge to a number of countries, as well as the food-producing and food-importing countries, but hoped that Members could do fruitful work on this matter.

77. The representative of Australia said his country was a co-sponsor of this proposal, which sought to ensure that procurements by the WFP were not impeded by export restrictions. During 2011, one had witnessed the devastating effects of critical food shortages in the Horn of Africa. One had also seen the important role that organizations such as the WFP played in providing emergency food aid to those in need. The WFP had said at recent meetings that its work was clearly impacted by measures imposed by governments. While this was at its core a humanitarian issue, it would send a positive signal if WTO Trade Ministers could support this proposal. It would say to the international community that the WTO could provide political guidance in support of an issue of fundamental importance to the welfare of the most needy. For these reasons, Australia hoped that other Members could find the political will to ensure that the WFP had access to the supplies it needed.

78. The representative of Mauritius said her delegation supported this very worthy proposal, and agreed that it was the responsibility of all Members to ensure food security for its own population. Mauritius supported any initiative that helped the most needy and vulnerable. This was the first step in the right direction towards finding a comprehensive long-term solution to the food security crisis.

79. The representative of Turkey said that as a co-sponsor of this proposal, his delegation strongly supported its adoption, given the increasing impact of the food crisis on the most needy in certain countries. The proposed decision had a very specific purpose aimed at facilitating humanitarian food aid by the WFP. It had a very limited scope with a political commitment to exempt the WFP from

export restrictions. In times of high food price volatility and food insecurity, the proposal would help the WFP to facilitate the provision of humanitarian food aid to the most needy. The proposal did not eliminate Members' policy space, given its very limited scope. Turkey encouraged other Members to help adopt this decision.

80. The representative of Korea said this proposal underpinned humanitarian considerations, and his country could not turn a blind eye to the humanitarian issue. Korea strongly supported the view that MC8 should provide political guidance on this important issue, and hoped that this draft would be accepted by all Members in its current form.

81. The representative of Colombia said his country endorsed the proposal by the EU and co-sponsors to seek to eliminate obstacles to food exports and humanitarian aid under the WFP. Nonetheless, he acknowledged that this was a limited contribution to resolving the broader and more complex problem to which the proposal referred. Addressing the issue of food security also required tackling issues such as the elimination of export subsidies, the reduction of distorting domestic subsidies, and free undistorted access to food markets. All of these issues were outstanding items on the DDA.

82. The representative of Chile said his country was a co-sponsor of the proposal by the EU that would facilitate the work of the WFP, in particular in situations where it was urgent to ensure the timely delivery of food aid for humanitarian purposes to those suffering from the scourge of hunger due to natural disasters, wars or civilian conflicts. For this reason, Chile called on Members to support this valuable initiative.

83. The representative of Hong Kong, China thanked the EU and other Members for their work on this matter. Hong Kong, China supported the call for removal of all export barriers restricting humanitarian food aid, which was essential to ensuring food security of the neediest. His delegation therefore strongly supported this initiative.

84. The representative of Chinese Taipei, on behalf of the RAMs Group, thanked the EU for introducing the proposal. The Group attached great importance to the issue of food security and fully shared the views of many Members that the WTO should make its contribution to global solutions to the food crisis. It therefore supported the proposal for removal of food export restrictions or extraordinary taxes for food purchased for non-commercial humanitarian purposes by the WFP.

85. The representative of Malaysia thanked the EU and the co-sponsors for this important proposal at this critical time in the global food market. Her delegation supported the proposal and that it be considered as an element of political guidance at MC8

86. The representative of Jamaica joined in supporting the EU proposal on this matter. Humanitarian assistance was an issue that should receive ready support. The tremendous work of the WFP was well recognized, and Jamaica understood the specific attention paid to it in this proposal. It understood this to be without prejudice to the recognition of the valuable work of other humanitarian bodies or the wider discussion on export measures. In this context, Jamaica thanked the EU for its initiative, and supported the proposal.

87. The representative of the Plurinational State of Bolivia thanked the EU for the proposal. Her delegation shared the primary concern behind the proposal. Nonetheless, it had some difficulties and questions. First, Bolivia's understanding was that the G20 language would be transposed to the WTO without a genuine possibility for negotiation. Second, this language took up a reduced percentage of the total food aid and did not cover the genuine problems of the food crisis affecting this food aid, such as subsidies, speculation, agro fuels and so on. This could affect the very little policy space developing countries had – by reducing exporting developing countries' legal capacity within the

WTO to use export restrictions when, in the light of a crisis for which they were not responsible, they needed to support their most vulnerable populations. According to Members' "Gentlemen's Agreement", all issues to be submitted to MC8 should first be agreed by Members. That agreement did not seem to have been followed, as there had been no in-depth discussion within the respective committees. However, her delegation did take into account the explanations provided by the EU at the outset of consideration of this matter.

88. The representative of Japan said that as a co-sponsor, Japan firmly supported the proposal submitted by the EU. This was a first modest step in the right direction to strengthen disciplines *vis-à-vis* export barriers on food products. Japan wished to actively continue to work with other Members on the issue of food export barriers, as part of the Doha Round negotiations as well as in the context of the implementation of the current agreement.

89. The representative of China thanked the EU and other co-sponsors for their proposal. China supported the commitment in paragraph 40 of the Action Plan adopted in Paris by the G20 Ministers of Agriculture in June 2011, and would honor its obligations accordingly. However, the WTO should be careful concerning the specific formulation of this proposal, taking into consideration the institutional characteristics of the WTO. In this regard, Members should refrain from a simple transposition of the G20 language to the WTO, so as to avoid unnecessary legal implications.

90. The representative of Costa Rica said his country was a co-sponsor of the proposal on food aid, which was aimed at removing barriers to humanitarian assistance. Members had the opportunity to take on this commitment so that the WFP could respond to the enormous food needs of the most needy. For this reason, Costa Rica called on Members to support this proposal.

91. The representative of the United States said that global food security was part of the foundation for peace and prosperity, and the transparent, rules-based trading system promoted by the WTO was critical for countries to be food secure. To further promote food security, the US supported the elimination of all food export restrictions. While his delegation would have liked to have seen an even more comprehensive proposal, it strongly supported the EU proposal as a step in the right direction.

92. The representative of India said his delegation fully supported the objectives behind the proposal and the G20 Agriculture Ministers' declaration in paragraph 40 of the Plan of Action. The G20 Leaders meeting in Cannes had "encouraged" the adoption of a declaration by the WTO. India had been part of the Agriculture Ministers' meeting in June and the Leaders meeting in Cannes in November and fully stood by the commitments made by its Minister. India had provided food for humanitarian purposes to the WFP even before the political commitment had been made in the G20, as mentioned in a recent WFP document of 21 November 2011 tabled at a meeting of the WTO Committee on Agriculture, which stated that it recognized India's contribution in providing food to the WFP by lifting its export restrictions. Having said this, he wished to mention a few of India's important concerns on this proposal. Not all WTO Members were G20 members, and the sensitivities of non-G20 members needed to be fully respected. India recognized this fact, which had also been raised by Bolivia at the present meeting. There were also problems in the straight transposition of the G20 language – which was a political statement, as acknowledged clearly by the EU in its introductory remarks – to the WTO. This had to be viewed in the light of other recent issues such as standstill and new protectionist barriers, in which case the G20 language had to be modified significantly in order to bring it into line with the language used in the WTO, which was a rules-based organization. The WFP paper of 21 November stated that out of 3.2 million MT of its procurement for humanitarian purposes, 2.6 million MT were procured from developing countries and that, too, either from the same country or the same region. Thus, about 78 per cent of the food was procured from developing countries by the WFP. No shortage in global availability of food had been

mentioned, either by the EU or the WFP, as a constraining factor in procuring food grains for humanitarian purposes.

93. As argued by the Indian Nobel laureate, Amartya Sen, in his essays on poverty and hunger, making food available to the hungry was not always about shortages, but often about entitlements. This factor also needed to be borne in mind. In the report of the High-Level Task Force on Food Security, prepared under the aegis of the UN Committee on World Food Security in July 2011 on price volatility and food security, there were eight recommendations for addressing food volatility, of which only one was on export restrictions. In this context, he wished to quote from the report as follows: "Bio fuel support policies in the United States and the European Union have created a demand shock that is widely considered to be one of the major causes of the international food price rise of 2007/2008." The report also states that "[g]iven the major roles played by biofuels in diverting food to energy use, the CFS should demand of governments the abolition of targets on biofuels and the removal of subsidies and tariffs on biofuel production and processing." Apart from biofuels, speculation on futures markets had also been mentioned as one of the causes of the recent price spike in food grain prices. The present proposal included only a narrow perspective of export restrictions and extraordinary export taxes to address the broader issue of food price volatility and food security. In line with the comprehensive G20 Plan of Action, the WTO should also look at the problem in its entirety and try to address it in an integrated and comprehensive manner.

94. India noted the EU's noble objective and initiative to get the proposal through the General Council without taking it first to the Committee on Agriculture for a thorough discussion. However, it also noted that a more comprehensive African Group, NFIDC and LDC proposal on the broader issue had been discussed in the Committee on Agriculture and would be discussed further that day. By not raising the matter in the Committee on Agriculture, the EU had denied the membership the opportunity to discuss its proposal in detail. There had been hours of discussion in the focus group on the Chair's process and on finalizing the language on elements for political guidance at MC8. It stood to reason that in order to include the EU proposal in the document for political guidance, there would have to be further discussion. While these were his delegation's preliminary concerns, the EU's statement indicated that once the proposal was approved, the WFP could go to any country and, quoting the WTO document, ask the national authorities not to put any restrictions on its food procurement in that country. Since the bulk of the WFP's procurement was currently from developing countries, this raised further concerns. This proposal could not be used as a carte blanche. While India respected the EU's wish to bring the proposal directly to the General Council before being discussed in the Committee on Agriculture, there was a need for further discussion on the proposal. India therefore joined other delegations who had indicated they could not support the proposal at the present juncture.

95. The representative of Indonesia said that as a co-sponsor of this initiative, his delegation believed that the proposal on this important issue would help the most needy during a humanitarian crisis.

96. The representative of Fiji said that most of her delegation's concerns on this proposal had already been echoed by India and Bolivia. Fiji recognized the importance of ensuring food security and was grateful for the work undertaken by the WFP in times of food crises. However, it did not agree with the approach suggested, which was the removal of export and extraordinary taxes. If the issue of food security was to be addressed, then other factors and variables needed to be examined in a holistic manner, such as addressing the supply-side constraints, for example. In addition, there were other factors that WFP considered when purchasing food. These included the cost of transport and handling, the taste and preference of receiving beneficiaries and the delivery time to the destination, which played an important part in the evaluation. Moreover, export taxes were development policy tools that were vital for a small economy like Fiji, and it was the prerogative of a country to use export taxes. In view of this, at the moment, Fiji did not support the proposal as it stood.

97. The representative of the Kingdom of Saudi Arabia thanked the EU, and in particular France, for this initiative and the hard work on the proposal. His country was a co-sponsor of this proposal and strongly supported it.

98. The representative of Argentina said her country supported the proposal in document WT/GC/138. Argentina had already made a commitment with regard to Paragraph 40 of the Declaration of the Ministers of Agriculture endorsed by G20 Leaders in Cannes. It would be a positive step if other countries were willing to take on the same commitment.

99. The representative of Israel said his delegation supported the EU's initiative and proposal on food export barriers and humanitarian food aid by the WFP.

100. The representative of Pakistan said his country appreciated the role played by the WFP during the national calamities recently experienced by Pakistan. The EU had proposed to facilitate the WFP's addressing humanitarian concerns in accordance with its mandate. Pakistan supported the proposal.

101. The representative of El Salvador supported the EU's proposal on humanitarian food aid. However, El Salvador wished to express its concern that this initiative had not been properly channeled through the Committee on Agriculture.

102. The representative of Singapore said that life at present was marked by natural disasters and other emergencies, and at almost every meeting of the General Council there were expressions of sympathy to Members impacted by such emergencies. The work of the WFP spoke for itself. Many previous speakers had already highlighted important points in this regard and he would not repeat them. It was this focus in which Singapore was a co-sponsor and supporter of this proposal. This was about responding to emergencies in a more efficient manner. The proposal was not motivated by an effort to fix the distortions in the global food supply chain or food price volatility. It appealed to governments to help get food quickly to the hungry and the displaced. A large number of previous speakers had already articulated assurances on the scope and limitations of the proposed language. This was a timely political statement, not a binding outcome. It did not require any ratification for entry into force, and would not give rise to the kinds of legal complications that some Members had spoken about at the present meeting. Singapore did not disagree with the view that the General Council was not the right body to tackle some of the issues raised. The G20 had produced an exhaustive document addressing all of these, but the only element addressed to Members was to encourage them to adopt a similar commitment, and this was what Members were currently discussing. It was in this light that he urged delegations with concerns to reconsider this proposal. His delegation did not disregard those concerns, and it was well within Members' rights to express them, but he noted that this was a formal meeting of the General Council, and having placed those concerns formally on the record of the meeting, he wondered if these Members would be in a position to allow a consensus to recommend to Ministers that they adopt the proposed language.

103. The representative of Barbados commended the EU for its initiative and supported the call for removal of export barriers restricting food aid delivery under the WFP. This was a deserving humanitarian cause, and Barbados was happy to support it.

104. The representative of the Bolivarian Republic of Venezuela said that international humanitarian aid was a highly sensitive issue for his Government, which had never failed to provide support for hunger-stricken communities. However, while it recognized the importance of the issue addressed in this proposal, his delegation shared the concerns expressed by other Members on the way consensus on the proposal had been sought. Systemically, his delegation would appreciate some guidance on how it might explain to its capital that a proposal had been accepted – if indeed it was – without having been negotiated.

105. The representative of Brazil said that as a G20 Member, it was one of the countries that had adopted an Action Plan on Food Price Volatility and Agriculture. In adopting this Action Plan, Brazil had also made the political commitment to exclude food purchased for non-commercial humanitarian purposes by the WFP from any export restrictions that might possibly be adopted by Brazil. His country would honour that commitment. Nonetheless, Brazil recognized the quite obvious fact that G20 political commitments were not compulsory for WTO Members. Moreover, a mere transposition of G20 political language to the WTO context was not always appropriate or desirable. In this context, his delegation fully appreciated certain difficulties underlined by some of the previous delegations of G20 Members. In this very particular case, however, Brazil could support the proposal.

106. The representative of Cuba said the proposal referred to the very sensitive issue of food aid for humanitarian purposes. Nonetheless, Cuba shared the concerns raised by Bolivia and other delegations that the proposal in its current formulation did not address all the factors that negatively affected food security, nor had it been discussed in the Committee on Agriculture, although Cuba had expressed this concern to the EU. Cuba was largely concerned about the transposition to the WTO of decisions taken in other bodies, as this could constitute a dangerous precedent. The proposal should be further examined in the coming days.

107. The representative of Trinidad and Tobago said her delegation recognized the importance of food security for those in dire need, supported the proposal and thanked the EU for taking this initiative.

108. The representative of South Africa thanked the EU for its introductory statement and explanation. Her Agriculture Minister had earlier in 2011 committed to the sentiments behind the G20 Plan of Action on this issue. As such, it had the endorsement of senior levels of government in her country. However, South Africa shared the systemic concerns raised by India, Fiji, China and others with respect to transposing declarations from other organizations to the WTO in the absence of any discussions thereon. Therefore, South Africa continued to have serious reservations on this proposal at the present time.

109. The representative of the European Union said he had found the present discussion very encouraging. His delegation would not argue on the specific reservations and issues raised by delegations. While some of them had been heard on earlier occasions and were worth discussing, now was not the time to do this, with the exception of one. Regarding the idea – if the proposal went forward – that the WFP would refer to the political guidance from the WTO, this did not imply any legal commitment, nor did it reduce policy space. What was important was the wide support that had been heard. The EU wished to sincerely thank all who had spoken in support of the proposal. It was clear that the number of these delegations in itself spoke to the importance of the idea that was underlined in the proposal. While some Members continued to have questions or concerns, it was obvious that they also undoubtedly shared the core humanitarian objective of the proposal and understood its usefulness, even if they had not been able to support it at the present meeting. Against this backdrop, there was great value in further raising awareness among Members. The EU encouraged those who had difficulties with the proposal to reconsider their position. It strongly encouraged all Members to keep their focus on the proposal – of which the vast majority of Members recognized the value – up to MC8, so that the MC8 Chairman could register the widest possible support for the proposal.

110. The General Council took note of the statements.

7. Improving the record of notifications – Communication from the European Union (WT/GC/139 and WT/GC/139/Add.1)

111. The Chairman drew attention to the communication from the European Union in document WT/GC/139 and Add.1, requesting that this item be placed on the agenda of the present meeting, and invited that delegation to introduce this item.

112. The representative of the European Union said he wished to clarify from the outset that his delegation had requested inclusion of this item on the Agenda of the present meeting, as well as specific language, in good time, i.e. by the date of closure of the Agenda on 17 November. As those had been the final days when the issue of notifications was being discussed in the context of the Trade Policy Review Mechanism (TPRM) appraisal, and as the conclusion on that appraisal had been repeatedly postponed, the EU had subsequently asked the Secretariat to delay the distribution of the document containing the specific language in order not to create any confusion with the ongoing negotiations. The EU was bringing this matter to the General Council, because some Members had considered that the General Council, instead of the Trade Policy Review Body (TPRB), was the most appropriate body to deal with notification issues. Turning to the substance of the proposal, he said it made two essential points. First, the EU was looking for a political statement at MC8 on the importance of improving adherence to notification obligations as a means to enhance transparency. This was basically the objective of the first sentence of the proposed text, to which the EU hoped all could agree. As reported *inter alia* in the recent TPRB annual overview report, the progress made in respecting notification obligations was still slow. While useful initiatives had been carried forward in each WTO committee to this end, the record of compliance remained unsatisfactory. This was why the second element of the proposal was to suggest a credible process for translating good intentions into concrete actions, i.e. (i) a yearly discussion in the General Council on notifications in a cross-cutting horizontal fashion, without finger-pointing, based on committee work and, notably, the overview information contained in the TPRB annual overview report; and (ii) a report to MC9 on progress achieved between now and then.

113. The EU trusted that all attached importance to the transparency pillar of the organization. Members needed to uphold the first and essential transparency obligation within the WTO, which was the regular notifications laid down in the WTO Agreements. The completeness and timeliness of notifications benefitted the daily business of this institution. It fed into the work of each WTO committee and council. If this basic and indispensable source of information was incomplete, the institution would be deprived of the essential transparency that was conducive to a better, and more accurate, assessment and understanding of its Members' trade policies. As the Director-General had stated in his recent report ahead of the Ministerial Conference, "transparency is in the hands of Members", and "it is essential that compliance with notification requirements be improved". The EU could not agree more. Supported by many other Members, the EU considered it important to draw Ministers' attention to the need for improvement in transparency obligations, and to provide political guidance to the General Council to regularly monitor its building on the work done in each committee. This was the underlying motive for having circulated language which translated the EU's genuine intention to put transparency at the center of this organization for the benefit of all.

114. Delegations thanked the EU for its initiative in putting forward this proposal.

115. The delegations of Mexico, Switzerland, Australia, Japan, Canada, Chile, Norway, New Zealand, Korea, Colombia, Costa Rica, and Hong Kong, China supported the EU's proposal.

116. The representative of Mexico said his delegation had already had the opportunity to discuss this proposal at length in the TPRB, during which it had underlined the importance it attached to transparency. Transparency was the cornerstone of the organization in ensuring that it could perform its functions. The source of that transparency was Members' notifications, based on the obligations

they had undertaken under the various WTO Agreements. Heretofore, the General Council had had only a segmented view of Members' progress in this area, relying on the reports it received from the various subsidiary bodies. Mexico supported the proposal that the General Council, assisted by the TPRB, should monitor factual progress on an annual basis, which would help gain an overall view of the progress made. Regarding the proposal that Members should commit to improve adherence to WTO notification commitments, his delegation would prefer stronger language. It was not enough to improve adherence. Members needed to undertake to meet their notification obligations to the full. However, should this language be approved by the majority, Mexico would support it. In any case, it hoped that a paragraph to this effect would appear in the first part of the Chair's statement at MC8.

117. The representative of Switzerland said his delegation had always been in favour of more transparency in the organization and supported all initiatives to reinforce it and to improve Members' respect for WTO notification obligations. The language proposed by the EU was nothing more than a reaffirmation of the status quo, and Switzerland could have supported stronger language. However, it supported the EU's proposal as an element of political guidance to be considered for MC8.

118. The representative of Australia said the proposal had been discussed extensively in the context of the fourth appraisal of the TPRM. Australia had been a strong supporter of efforts to improve adherence to WTO notification commitments. Transparency was key to the predictable functioning of the rules-based system, and it was logical that Members should agree to improve adherence to notification and reporting obligations. Australia would have no difficulty having the General Council work with other WTO committees to shine further light on Members' practices in this area.

119. The representative of Chinese Taipei expressed his delegation's appreciation for the statements by Members at the present meeting, as well as those made at meetings of the TPRB over the past few months. First, his delegation had always attached great importance to WTO notification obligations. It had also taken note that various relevant councils and committees had made efforts to improve the timeliness and completeness of notifications. Some progress had been made, such as improvements to procedures or greater in-depth reviewing of notifications. Nevertheless, based on the recent report provided by relevant bodies, there was still room for progress, including on the record of notifications. Chinese Taipei therefore identified closely with the objective of the EU's proposal. It wished to see more steps taken, including the work currently proceeding in relevant bodies, and then an overview in order to properly assess the progress made.

120. The representative of Japan said that notification provided the basis for ensuring Members' continued commitment, and it was clear that political attention in this area would benefit all Members. Therefore, although the language suggested was quite modest, this proposal had value and should be forwarded to MC8.

121. The representative of Hong Kong, China said the EU's proposal had received extensive prior airing during the TPRM's fourth appraisal. Full and prompt compliance by Members with their notification commitments was a cornerstone of WTO's business. The Director-General had pointed out in his latest report on Overview of Developments in the International Trading Environment that the total number of WTO notifications made by Members was on the rise. However, he had also noted that progress was rather slow and that significant transparency gaps still remained in all areas of the WTO's work. This was one area in which Members should strive to perform better. Hong Kong, China agreed that it was timely to bring the subject to the attention of Ministers and for them to reaffirm Members' on-going efforts to improve the record of notifications. His delegation strongly supported the current practice of the Director-General reporting on the notification situation in his annual monitoring report. In terms of specific language for consideration by Ministers, his delegation would have liked to see something more robust, but could go along, under the circumstances, with the draft proposed by the EU.

122. The representative of Canada said his country saw great value in strengthening the trade-monitoring function of the WTO. The EU's proposal would reinforce the importance of the monitoring of trade-related measures by providing a useful and holistic overview of WTO notifications.

123. The representative of Chile said his country supported any measure aimed at enhancing transparency within the WTO, and for this reason supported the EU's initiative to improve the record of notification. The completeness and timeliness of notifications was a fundamental component of the work of the WTO. Therefore, it was timely for the General Council to analyze horizontally the status of notifications with the assistance of the TPRB. Chile attached great importance to this issue.

124. The representative of Norway said transparency was a crucial exercise in this organization. It facilitated improvements in Members' policies, built knowledge of the policy environment globally and built trust in the system and between Members. Norway therefore hoped that Members could renew their transparency vows at MC8, and fully supported the proposal.

125. The representative of New Zealand said the recent discussions had highlighted the importance of Members improving their record on notification obligations, and there had been a general acknowledgement of this. A number of Members had said they would have liked to have seen something more detailed, as the EU proposal was extremely modest, and New Zealand agreed. That said, the proposal would provide useful political guidance for Ministers at MC8.

126. The representative of Korea said that transparency was the basis of work in the WTO. The corollary was that there was no denying the importance that Members fully adhere to the WTO notification obligations. Korea fully endorsed the EU's proposal.

127. The representative of Colombia recalled that, at the previous meeting of the General Council, his delegation had made a statement on this topic. On that occasion, Colombia had underscored the importance of enhancing transparency through timely and complete notifications, and the need to make better use of the information contained therein through discussions in the relevant bodies. Notifications were a fundamental tool to further the WTO's oversight role. He recalled that notifications were a commitment undertaken by all Members and, as such, Colombia welcomed any efforts undertaken in the various bodies – while remaining wary of duplication – to improve compliance with this commitment. Therefore, his country supported the EU's proposal.

128. The representative of Costa Rica said his country welcomed the EU's proposal. Transparency was a fundamental principle of the organization, and notifications were the starting point to ensure compliance with Members' commitments. Costa Rica supported the conduct of an annual horizontal and factual monitoring exercise, which would contribute to enhancing compliance and would provide a better global overview.

129. The representative of India said that along with the rest of the membership, India firmly believed that transparency was one of the cornerstones of the multilateral trading system, and discharging notification obligations formed an important part of ensuring transparency. However, his delegation had a few concerns regarding the specific proposal and language suggested by the EU. First, the right place to review notifications was the relevant committee, which had been tasked with the responsibility to oversee the implementation of a particular covered Agreement under the WTO. The regular committees of the WTO were carrying out this work quite well, but there could be further improvements in their work. From studying the notifications submitted by different countries in detail and exchanging views on the information provided in the notifications, to making improvements to the format of notifications, the committees were assisted in their deliberations by the participation of experts from different countries. Second, there were no evident benefits to be gained by carrying out any horizontal examination of notification obligations, because a decision regarding any improvement

that could be made in this regard had to be made in the relevant committee. Moreover, the situation was different in different committees. The EU had not clarified how aggregating the analysis of data provided by different committees to the General Council would lead to any systemic improvement or greater understanding of the issues involved. In any case, the Director-General in his annual Overview of Developments in the International Trading Environment had also been including a section on notifications in the past few years, so the data was already available in one place.

130. Third, the TPRB had no role to play in this matter. This issue had indeed been discussed in detail in the TPRB, as mentioned by the EU in its introductory statement. However, there had been a clear difference of opinion in the TPRB. While some Members, including the EU, believed that the TPRB should study this matter as a horizontal issue, others clearly felt this was outside the remit of the TPRB. Thus there had been no consensus on this matter, and that was perhaps why it had been brought to the General Council. Fourth, this issue had been considered in great detail at least once earlier in the WTO. A Working Group, set up under the aegis of the Council for Trade in Goods, had discussed the 12 agreements and understandings covered under Annex 1A of the WTO Agreement. The Report of the Working Group on Notification Obligations and Procedures was contained in document G/L/112 of 7 October 1996. The report *inter alia* stated, "[t]he Group, bearing in mind the observations in paragraphs 11 and 12 of this report, was of the opinion that the detailed, technical review of notification obligations and procedures in each individual agreement should be an ongoing responsibility of the committees overseeing the functioning of the respective agreements." There might be subsequent reports in the WTO on this subject, and the Secretariat should inform Members of the situation in this regard so that they could all be studied and a comprehensive view formed. In light of these concerns, India joined other delegations which had said that further study and discussion was required before Members could decide on any future course of action on this matter. In view of this, India was unable to join a consensus on this proposal at the current juncture.

131. The representative of Singapore said Members had had an exhaustive discussion on this topic, and his delegation wished to thank the TPRB Chair for his stewardship of this entire process in the TPRM appraisal. He wished to address a concern just raised by India, by suggesting an amendment to the EU proposal as follows: in the second sentence, change the phrase "assisted by the TPRB" to the phrase "assisted by the Director-General". The rationale for this was that Members could depend on the WTO Director-General, and perhaps this amendment would address some of the concerns raised. His delegation agreed that the General Council had not had an exhaustive discussion of this matter, but it had been dealt with at no less than seven meetings of the TPRB. Singapore's interpretation was that the TPRB was actually the General Council sitting in another guise – that description was actually on the WTO website, but there had been a difference of opinion on this as well. This was the crux of why his delegation was proposing this amendment, but whether this was acceptable would first depend on the main proponents of this language.

132. The representative of China said all agreed that transparency was essential for the smooth operation of the organization. China acknowledged that Members' notification record could be improved. However, it was doubtful that there would be value added in undertaking the proposed annual assessment by the General Council. Under current practice, the Director-General already devoted an entire section on notifications and transparency in his Annual Overview of Developments in the International Trading Environment. Regarding an across-the-board assessment, this was as far as China could go. His delegation was afraid that, rather than filling the gaps in notification, any step further would only turn the exercise into finger-pointing and was not likely to address the real problems, which might vary from committee to committee and from Member to Member. China was open to discussing how to improve transparency and was willing to look at other ways to achieve this objective, together with the EU and other Members.

133. The representative of Brazil said his delegation had two concerns regarding the EU proposal on notifications. First, it wished to raise a point of procedure. On 17 November the EU had requested

the inclusion of an item on the agenda of the General Council entitled "Improving the Record of Notifications", but the proposed language on notifications was submitted only on 24 November, long after the notice of the meeting had been circulated on 18 November. Brazil was particularly concerned with the observance of the Council's Rules of Procedure, and timelines in particular, so that these preserved predictability and order in the conduct of business. Brazil understood and thanked the EU for the explanations it had provided, but this did not cure the procedural flaw he had pointed to. Nonetheless, in accordance with the traditional spirit of flexibility and constructiveness, Brazil would not pursue this point any further. Second, Brazil wished to raise an issue of substance. It noted that language very similar to that currently being examined had also been tested at the fourth appraisal of the TPRM, and thanked the TPRB Chair for his near-infinite patience in that discussion. The discussions there had been long and strenuous, and many delegations had explained the reasons they believed the committees should remain the main instance for revising and reviewing the content, format, procedures, or any other aspect related to notifications. Notifications could be reviewed and restructured only by experts who had the technical skills necessary to engage in such an exercise. Outside those technical bodies, reviews of notifications lost their meaning and purpose, and became an exercise of mere political rhetoric.

134. Brazil had made these and other points in the discussions in the TPRB and would not repeat them now. He wished to note, however, that after the long discussions in the TPRB, delegations, including the EU, had come to revised language according to which Members referred to the work that was already being done by the Director-General in his Overview of Developments in the International Trading Environment. Despite this, concerns remained on whether, amidst the various elements of the Director-General's report, notifications should be singled out. That proposal, therefore, had not gathered consensus and had been withdrawn. Brazil firmly supported the enhancement of notification procedures in the proper WTO bodies. In fact, in the DDA negotiations, Brazil had sponsored and supported a large number of proposals in this direction. However, it would be extremely ambitious to expect delegations to reach consensus at the present meeting on a text they had already discussed for two months without reaching agreement. Therefore, Brazil could not support the EU's proposal at the present juncture.

135. The representative of the United States said his delegation placed significant value on the recent work of the WTO committees to improve notification procedures. More could be done in a number of areas, but the US acknowledged that, in the end, improvements depended upon Members' agreement. In any event, while Members could improve the procedures, what mattered most was that they actually met their notification obligations. The US shared the EU's concern that the track record for meeting these obligations was not as good as it should be. This was a matter of concern not just from the standpoint of transparency, but also because notifications could be critical to assessing whether substantive WTO obligations were being met, or to meeting the substantive objectives of the relevant agreement. His delegation hoped that all Members would take steps to evaluate and rectify this situation.

136. The representative of South Africa said that despite the explanations provided at the present meeting, her delegation continued to have several questions and reservations. Members' obligation to respect and uphold the principle of transparency in all WTO bodies was one South Africa upheld and believed was paramount. It agreed with the EU that transparency was the first and most basic pillar of Members' obligations, in compliance with all WTO obligations. Her delegation asked the EU for more clarity regarding the additional elements this proposal would bring in proposing a monitoring exercise in the General Council that Members were already obligated to conduct under Section G of Annex III of the Marrakesh Agreement Establishing the WTO. There was still insufficient clarity as to how this process, whether conducted by the General Council or the Director-General, would avoid duplication with ongoing work, both in the committees and with respect to the Director-General's Overview of Developments in the International Trading Environment. South Africa also noted that the fourth appraisal of the TPRM had directed the Director-General to continue to make his trade-

monitoring reports and endorsed a commitment by Members to continue to comply with existing transparency obligations and reporting requirements needed for the preparation of these monitoring reports, and to continue to cooperate and support the Secretariat in a constructive fashion.

137. Her delegation noted the reservations made by Members, including that a proposal of this nature would invite possibly inaccurate value judgments about the extent and comprehensiveness of Members' notifications. Members had a duty to uphold the principle of transparency with regard to all its WTO obligations, and the notification commitments were one component of these overall obligations, oversight of which had been suitably vested within the ambits and work programmes of the individual relevant committees. As a point of procedure, South Africa also noted that this issue had not been included in the elements for political guidance for MC8. This issue could therefore not be finalized at the present meeting, after considerable debate on it had failed to resolve it in the TPRB. In light of the fact that no agreement could be reached on this matter, there remained no consensus, especially regarding the implications, legal ramifications and scope of the proposal. Her delegation was unable to support the proposal in its present form at the present juncture, but remained willing to work to address this issue in the context of enhancing the transparency process in the relevant committees.

138. The representative of the Bolivarian Republic of Venezuela said that while his country recognized that transparency was one of the core principles of this organization, it still did not understand the value-added of the proposal in question, especially since this matter was being addressed comprehensively in the relevant committees, which were the appropriate fora for further deliberations on it.

139. The representative of the European Union said his delegation appreciated the opportunity to discuss the issue of notifications in the General Council. This was testimony to the importance of these issues. The EU acknowledged that it had not been possible at the present meeting to achieve consensus on specific language, and thus this would not be included in the first part of the Chairman's statement at MC8, i.e. in the elements for political guidance on which there was convergence. However, the EU was encouraged by the wide support for its initiative which it had heard from many Members, and trusted that all remained committed to improving the record of notifications. The EU thus counted on Members to make their positions heard at the Ministerial, so that this important issue was at least captured in the second part of the Chairman's summary. Members would no doubt revert to this matter at the next meetings of the General Council.

140. The General Council took note of the statements.

8. WTO response to the impact of the food crisis on LDCs and NFIDCs – Communication from the NFIDCs, African and Arab Groups (WT/GC/140/Rev.1)

141. The Chairman drew attention to the communication from Egypt on behalf of the NFIDCs, African and Arab Groups in document WT/GC/140/Rev.1, requesting that this item be placed on the agenda of the present meeting, and invited the delegation of Egypt to introduce it.

142. The representative of Egypt said his delegation was pleased to introduce the revised proposal it had submitted in document WT/GC/140/Rev.1 on 25 November 2011 to establish a WTO work programme to mitigate the impact of food market prices and volatility on LDCs and NFIDCs. This revised proposal had been developed after broad consultations with Members and had ultimately accommodated as much as possible the various views, concerns and proposals expressed. Therefore, the revised text sought to establish the balance between different interests and positions on the important issue of how the multilateral trading system could respond effectively to the growing global food crisis and could mitigate its impact on LDCs and NFIDCs. To that effect, the proposal reflected two important principals. First, that the first responsibility of each Member was to ensure food

security for its own population, and second, that the multilateral trading system could and should contribute to achieving greater coherence for economic policy-making on food security. The proposal called for developing a comprehensive fact-based, result-oriented and time-bound work programme on the trade-related response to mitigate the impact of food market prices and volatility on LDCs and NFIDCs. Also, with a view to providing comfort and flexibility to Members, the proposal provided that the elements of the work programme would be agreed by Members themselves in the future. Given the short period of time left before MC8, it was clear that the elements of the work programme could not be established at the present meeting. Instead, an overall orientation had been suggested, in order to explore possible trade-related measures to address LDCs' and NFIDCs' special vulnerability and heightened need for access to food markets, as well as access to finance, including on concessional terms, to purchase the food imports they relied on to feed the needy and poor. In other words, each Member would have adequate opportunities to participate effectively in shaping the actual elements of the work programme. Moreover, several other vulnerable developing countries not considered NFIDCs had expressed an interest in participating in and benefitting from such a work programme. Therefore, the revised proposal articulated that the challenges encountered by other vulnerable developing countries facing critical situations of food insecurity would also be addressed. The modalities of implementation would be with the General Council via the Committee on Agriculture, while the follow-up mechanism was envisaged to be a progress report to the Ninth Ministerial Conference.

143. The proposal aimed to ascertain the WTO's credibility and effectiveness to contribute, through a structured process, positive trade solutions to the global food crisis. He again wished to emphasize that it had been formulated to provide comfort and flexibility to Members and to allow them to reach consensus on a soft framework for a more focused and detailed discussion in 2012 regarding the oppressive and critically escalating risks associated with high prices and volatility of food products. Obviously, each Member wished to see its specific views and perspectives reflected in the proposal. However, in a multilateral setting and in an organization of 153 Members, one should not make the better the enemy of the good. His delegation remained confident that showing flexibility at this critical juncture before MC8 would be Members' bridge to embracing this opportunity and would prove once again that the WTO could actually deliver and fulfill the development aspirations of its Members. Egypt hoped this proposal could be adopted by consensus.

144. The representative of Kenya, on behalf of the African Group, said the Group was a co-sponsor of the proposal in document WT/GC/140/Rev.1. The proposed work programme would mitigate the impact of high food market prices and price volatility on the WTO LDCs and NFIDCs. The African Ministers of Trade meeting in Accra, Ghana would request the WTO to take action in this regard to relieve the critical challenges faced by LDCs and NFIDCs in the face of the escalating food crisis. Access to food was a fundamental human rights issue. The WTO had an important role to play to resolve the trade-related aspects of the food crisis. The seriousness of the situation was now heightened with affirmations that the trend of increasing food prices would continue for the years to come. The African Group urged Members to stand up, be counted and take action now on this critical and extremely important issue to LDCs, NFIDCs and the most vulnerable Members. As detailed in the proposal, the General Council should establish a work programme under the Committee on Agriculture, and report on its progress, including making recommendations for action, by the Ninth Ministerial Conference. He thanked all in advance for agreeing to support this proposal.

145. The representative of Jordan thanked Egypt for having presented the proposal on behalf of the NFIDCs, African and Arab Groups. Jordan was an NFIDC. In the Committee on Agriculture his delegation had referred to the data from various agencies such as the FAO, World Bank and others, which gave the full picture of the impact of food market prices and volatility on the NFIDCs and LDCs, and which provided real evidence of the need to establish a WTO work programme in this area. The WTO had a role to play in the issue of food security. On that basis, Jordan hoped that MC8 would direct the General Council to establish this work programme.

146. The representative of the Dominican Republic said that as an NFIDC, his country wished to support the proposal presented by Egypt, which sought to launch a work programme in the Committee on Agriculture to mitigate the effects of food market prices and volatility in LDCs and NFIDCs. The WTO could make an important contribution to finding solutions to problems relating to food insecurity, especially in the poorest countries. The proposed work programme, which was sufficiently broad and flexible, would provide a forum for discussion to support the NFIDCs and LDCs confronted with food market volatility. Therefore, the Dominican Republic urged Members to approve this proposal.

147. The representative of Honduras said that as an NFIDC, his country wished to support the proposal presented by Egypt. Various international organizations had devoted their time to examining the problems faced by poor countries, especially low-income and net food-importing countries, in importing foodstuffs under reasonable conditions, because of the increased volatility of food prices over the past few years. The WTO, through the Marrakesh Decision on NFIDCs, had the mandate to address this issue. Honduras hoped that the proposal would be considered by Ministers at MC8, so as to establish the work programme within the framework of the Committee on Agriculture and to have it report on progress at the Ninth Ministerial Conference.

148. The representative of the Kingdom of Saudi Arabia, on behalf of the Arab Group, said the Group had discussed this proposal thoroughly and had decided to co-sponsor it. Therefore, his delegation supported establishing a work programme in this regard.

149. The representative of Peru said he wished to highlight the fact that LDCs and NFIDCs, such as Peru, continued to face the high volatility of food prices due to speculation and other factors, and continued to pay the high cost of importing foodstuffs to reduce the risk of malnutrition. The Peruvian territory was large enough to accommodate France, the United Kingdom and Italy. However, a high percentage of this territory was comprised of the Amazon and the Andes, which limited the amount of arable land. This situation was common to other developing countries. Among the basic foodstuffs imported by Peru, despite investment efforts in local production, were wheat and rice, which were main sources of energy and protein. According to statistics, 88 per cent of the wheat needed came from imports. Wheat was the second product in the ranking of imported basic foodstuffs after yellow corn and followed by soy expeller, oil, sugar, soy, rice and barley. For this reason, Peru supported the establishment within the WTO of a work programme in the Committee on Agriculture aimed at mitigating the effects of food price volatility. This proposal would explore the exemption from quantitative export restrictions of state-authorized purchases from the main exporters, and the possibility to access funding and help developing countries in the event of a food crisis.

150. The representative of Mauritius said his delegation strongly supported the NFIDCs' call for a work programme on trade-related responses to mitigate the impact of food market prices and volatility on LDCs and NFIDCs. In this respect, it called for the Committee on Agriculture to promptly establish a comprehensive work programme along the lines suggested in the proposal, and hoped all Members would support this worthy initiative.

151. The representative of Jamaica thanked Egypt for introducing this proposal, which Jamaica strongly supported and invited other Members to support. This would be a benefit to NFIDCs and LDCs and would advance the goal of securing enhanced food security for all.

152. The representative of Australia said that food security and food price volatility were complex issues. The Cairns Group Ministerial Meeting in Saskatoon had acknowledged these complexities and had highlighted the importance of continuing trade-policy reforms, addressing all forms of trade-distorting measures, which would assist the longer term food security of many, including NFIDCs and LDCs. There was a clear distinction to be made between the short-term responses and the longer-term requirements for addressing food security issues. Export restrictions were an impediment to trade,

whose effects became more acute at times of higher prices. This was clearly an issue that warranted further examination, both within the Committee on Agriculture and in the context of the ongoing Doha negotiations, and there was scope within these bodies' existing mandates to do this work. However, this proposal narrowed the scope of what export restrictions would be examined, and also which countries would be targeted. It overlooked an important point that, even if not directly targeted at food purchases of NFIDCs and LDCs, export restrictions might well have an impact on international prices, thus in turn affecting these countries. Another element Australia wished to highlight – that was absent from this proposal but of significance to the longer-term question of providing food security and sustainable livelihoods from farmers in NFIDCs and LDCs – was the fundamental problem that global markets remained distorted. Members must not lose sight of this in seeking to address the root causes of food insecurity, while at the same time responding to the immediate needs of vulnerable populations.

153. All forms of market-distorting measures, whether import barriers, export restrictions or production subsidies, had an adverse impact on food security and development. The Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Countries set out a number of recommendations to address issues such as food aid and export credits, and to examine the issue of financing. Through the Doha negotiations, Members had looked to establish better disciplines around provision of food aid that would ensure that developing countries were not affected by dumping by larger countries. They had also looked to secure more generous repayment terms for developing countries, and particularly NFIDCs, in respect of export credits. The finalization of these texts would go to the core of addressing some of the NFIDCs concerns – although they did not appear in the present proposal. These were complex issues, but Members were attempting to tackle a number of them through the existing frameworks of the Committee on Agriculture and the negotiations under the Committee on Agriculture in Special Session. As this work was still underway, it was difficult to agree that a new work programme was warranted at the present juncture.

154. The representative of El Salvador thanked the proponents of the proposal for submitting this revised document. As his delegation had said on other occasions, El Salvador was sympathetic to the concerns expressed by these countries, given that it faced the same challenges. In spite of the fact that El Salvador had not to date been included on the WTO list of NFIDCs, in reality it had the same characteristics. In this respect, the scope of the proposal should also take into account the concerns of developing countries with the same characteristics, such as El Salvador, not only in the discussions under the work programme, but also in the disciplines being sought to be adopted in relation to export restrictions on agricultural products destined for NFIDCs. Therefore, the proposal on the table could prove a good basis for further discussion, although El Salvador hoped that the aforementioned point would be fully taken into consideration. It looked forward to continuing the discussion on this issue with the proponents and other interested Members.

155. The representative of Turkey thanked Egypt for its efforts on this proposal and on building convergence on the issue. In principle, Turkey acknowledged that food security had emerged as a major challenge, and that it needed to be addressed in the WTO. Therefore, it supported the main thrust of the proposal. In this respect, his delegation was ready to look more closely at the financing of trade in food for LDCs and NIFDCs. The issue was quite complex, and food security was not simply an issue of trade. The work programme proposed would be a good basis on which to work.

156. The representative of Pakistan said food security was a complex issue that had many facets, including price hikes and volatility in markets. High food prices were a concern of many countries, but the NFIDCs and LDCs were the most affected. Pakistan was looking for sustainable solutions to address this complex issue, which could be worked out by Members in the Committee on Agriculture. Since the proposal aimed at providing an opportunity to work in the regular Committee on Agriculture, his delegation supported this endeavour.

157. The representative of Cuba noted that the communication dated 25 November 2011 had been presented as a communication by the Group of NFIDCs, the African Group and the Arab Group. However, although Cuba was an NFIDC, it had not co-sponsored the proposal because of some drafting suggestions which had not been included in it. Therefore, it had withdrawn its support.

158. The representative of the Plurinational State of Bolivia said her delegation fully understood the concerns of NFIDCs. Nonetheless, some of the questions raised with regard to the EU's proposal on food export barriers and humanitarian food aid by the WFP⁷ could also apply to this proposal. Bolivia understood and supported the concerns raised by Cuba.

159. The representative of the European Union reiterated his delegation's support for initiatives and actions taken in favor of food security, including proposals aimed at mitigating the impact of food price volatility on WTO LDCs and NFIDCs. The EU confirmed its strong commitment to ongoing dialogue and engagement on these matters. As indicated at the meeting of the Committee on Agriculture on 16 November 2011, the EU was therefore willing to support the principle of a work programme as proposed by the NFIDCs, African and Arab Groups. With this in mind, one nevertheless needed to remain conscious of the WTO's reimits, not to say limits. In particular, the question of import financing, including on concessional terms, had already been reviewed. It had been highlighted at that time that international organizations like the IMF and the World Bank were better equipped to address this issue.

160. The representative of Barbados said it was clear that over the next few years, food security would be a major issue worldwide and would impact more severely on NFIDCs. Therefore, an organization such as the WTO had an important role to play in addressing this matter before it took on more serious proportions. Thus, Barbados supported the idea of a work programme to examine this matter, without prejudging the results and without prejudging its application. This topic deserved study, and the WTO was well placed to take an important initiative in this area.

161. The representative of the Bolivarian Republic of Venezuela said that for his Government, ensuring the food security of its population was a constitutional mandate and a highly sensitive, if not sacred, issue. This was why a series of activities aimed at guaranteeing Venezuelans access to 105 foods was underway at the domestic level. Venezuela had never failed to provide support for hunger-stricken communities at the international level. As an NFIDC, it recognized the difficulties faced by these countries, given the market volatility of 105 foods – Egypt and Peru were examples. Besides market volatility, which as some had pointed out, did not have one single isolated cause, some countries such as Bolivia and Cuba faced additional difficulties that could not be ignored. These special cases deserved to be taken into consideration.

162. The representative of the United States said his country recognized and supported the importance of all Members providing food security for their populations. A key mechanism to promote global food security was to have an open and rules-based trading system. The US supported the proposal to have the Committee on Agriculture examine a trade-related work programme in response to food price volatility. In carrying out this work programme, the US did not want to limit the work of the Committee on Agriculture to a focus on exceptions to food export restrictions, as it supported the removal of all export restrictions. His delegation had taken careful note, however, that the proposal did not seek to limit the discussion in such a way. The US recommended that the Committee on Agriculture first examine how current rules were operating and then identify appropriate recommendations for additional work.

163. The representative of Nigeria said that food security and trade relationships remained important economic, social and political concerns in most developing countries. Therefore, his

⁷ See Item 6 in the present records.

delegation wished to thank the proponents of this proposal. Nigeria had been following this proposal with keen interest and had no problem with its general thrust. His delegation had expressed its concerns to the African Group and had repeated the same in the Committee on Agriculture in Special Session at its meeting on 16 November 2011. Nigeria was conscious of the Marrakesh Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on LDCs and NFIDCs. Similarly, it was also mindful that this Decision would be subject to regular review by the Ministerial Conference, and that the follow-up to this Decision would be monitored as appropriate by the Committee on Agriculture. Nigeria was concerned with the alarming situation of the NFIDCs and LDCs, including low-income food-deficit countries (LIFDCs), regarding the food price crisis, which had been worsened by the recent global financial crisis and economic recession. Against this background, his country welcomed any future work programmes and disciplines that would address the critical situation of food insecurity in LDCs and NFIDCs, including the challenges encountered by other developing countries in such a situation. However, Nigeria insisted on the need to refer to LIFDCs. Nigeria was among 17 countries that were net food-importers under the FAO-recognized list. Although paragraph 2 of the proposal acknowledged the situation and concerns of LIFDCs, which were also recognized by the FAO, the decision and work programme envisaged failed to recognize their status. The specific situation of LIFDCs had been acknowledged in the 1996 Rome Plan of Action, which had laid the foundation for diverse paths towards a common objective on food security. His delegation was not in a position to support the proposal in its current form, and was open to further consultations in this regard.

164. The representative of Japan said that given the adverse impact of export restrictions on the food security of food-importing countries – in particular LDCs and NFIDCs, and including Japan – his country could support the basic idea behind this proposal. Having said that, looking at the proposal itself, although the work programme was to be agreed upon by Members at a later stage, some of the points, such as the concept of other vulnerable developing countries or the provision of financing, needed to be further discussed and examined.

165. The representative of Cameroon reiterated verbatim the statement by Kenya for the African Group.

166. The representative of Brazil said his delegation was aware of the negative consequences of high food price volatility, especially among the poorest. The causes for such high volatility were many. There was no doubt, however, that this situation was in no small part due to restrictive and/or distorting policies in agricultural trade, which had been in effect for many years, especially in developed countries. These policies, in no small measure, were one of the main factors suppressing the development of a viable production of foodstuffs in the NFIDCs and other potential producers that had either been forced out of the market or had not fully realized their potential in agricultural production. The specific proposal at hand focused primarily on one of the causes that might aggravate the problem of food price volatility – quantitative export restrictions on foodstuffs. Quantitative export restrictions were mainly used by developing countries as a means to safeguard the food security of their own populations in critical situations. All could appreciate that this was no small matter. Brazil reaffirmed that any work to be developed by the WTO in this regard should cautiously center the benefits of any future agreement on those countries that were suffering the most from high food price volatility and that could not afford purchases at market prices. Brazil would also focus on liberalizing actions that might help to mitigate this phenomenon of extreme volatility. Having said that, Brazil wished to be constructive and was ready to work with the NFIDCs and other Members in order to find an acceptable formulation for such a work programme. From previous interventions, it seemed clear that Members were not quite there yet. He reiterated that Brazil was ready to contribute, within the boundaries of the NFIDCs' proposal, to mitigate the impact of food price volatility in poor countries facing critical situations of food security, bearing in mind that the burden of such contribution could not be borne by just a limited number of countries.

167. The representative of Argentina thanked Egypt for its hard work during the past weeks to try to accommodate Members' concerns in order to reach a consensus proposal. Unfortunately, time had not played in their favour or in favour of the efforts of her delegation, which had played a constructive role in drawing up this proposal. At the present time, Argentina was not in a position to support this initiative. However, it reiterated its commitment to continue working with the LDCs and NFIDCs with regard to their concerns on international food insecurity. Echoing the statement by Brazil, Argentina wished to highlight that food insecurity had multiple and long-standing causes. For example, for decades various Members had provided distorting daily support amounting to between two to eight dollars per cow, while a large share of the world population survived on less than one dollar a day. Argentina believed that a food-security programme should be all-encompassing, and was willing to continue discussions on this issue.

168. The representative of Uruguay said that for his country, food security was a very important issue that should be examined in all of its aspects by the relevant bodies. Uruguay supported the position of Australia, Argentina and Brazil with regard to the multifaceted nature of price volatility, and was committed to work on a solution that met the interests of both importers and exporters.

169. The representative of Egypt thanked all delegations who had supported the proposal as well as those who had made useful comments. He understood from these statements that while Members were in agreement on the need to address food insecurity, there were differences of view on the proposal. The proponents had been very ambitious in the proposal and had even thought it might be adopted at the present meeting. Nevertheless, an important thing had been accomplished in that the organization had come to grips with the fact that it had to address food security. As Brazil had said, Members were not there yet, but had come a long way. Members' statements had varied widely, with some seeking more ambition and others less, which was why an effort was being made to try to find a middle ground. The idea of a work programme itself had never been opposed. Thus, the co-sponsors would continue to work on this issue. Egypt hoped that Ministers at MC8 would reflect on it and be able to come closer to agreement, so that perhaps in the near future the WTO could establish some parameters that would provide a level of comfort to all Members. Egypt thanked all NIFDCs and LDCs, and the African and Arab Groups for their cooperation and strong support, and looked forward to working with all Members on this issue in the future.

170. The General Council took note of the statements.

9. Eighth Session of the Ministerial Conference

(a) Statement by the Chairman

171. The Chairman said that since there were a large number of issues to take up under this first sub-item, he first wished to explain how he intended to proceed. He would start by reporting on the consultations the Director-General and he had been holding since the October General Council, following which he would open the floor. Following the discussion, the Council would take up the two sub-items, namely TRIPS non-violation and situation complaints and e-commerce, and the other decisions which had recently been submitted to the General Council for forwarding to the Ministerial Conference. Finally, he would make a statement on a number of organizational matters.

172. Reporting on his consultations, he recalled that he had been conducting these since May, taking up both substantive as well as organizational matters for MC8. Since the Council's last meeting on 26 October, where he had reported on the progress in these consultations, the Director-General and he had further intensified this consultative process, including two meetings at the level of Heads of Delegation held on 24 November and the previous day. He recalled that their work had taken place on the basis of a matrix which he had proposed in October. This matrix comprised three themes: the Importance of the Multilateral Trading System and the WTO; Trade and Development;

and the DDA. In this process, an attempt had been made to fill in the boxes in that matrix, which he had deliberately left blank. He was pleased to say that, thanks to the hard work by all, the matrix had been filled in. Under the first column of the matrix, "Reports for Noting", the annual reports by all WTO regular bodies would be taken up under Item 17 of the present meeting's agenda. The second column of the matrix, entitled "Decisions", would be filled in with the draft decisions Members were about to forward to Ministers on TRIPS non-violation and situation complaints, e-commerce, the SVE Work Programme, extension of transition period for LDCs under Article 66.1 of the TRIPS Agreement, LDC accession, and the LDC Services waiver.

173. Regarding the third column of the matrix, "Political Guidance", the document containing the elements of political guidance that had come out of the process of consultations the Director-General and he had conducted was before Members in document JOB/GC/15. As he had said at the informal General Council meeting at the level of Heads of Delegation the previous day, these points were the result of extensive consultations over a long period of time with a wide range of delegations and Group coordinators, including a focus group of Members covering a broad range of the membership. During all this period, his door and that of the Director-General had always remained open for any delegation wishing to meet with them. He also wished to stress that, throughout these consultations, they had worked on the principles of building incremental convergence, and a bottom-up approach.

174. He wished to make a few points clear in presenting these elements. First, he did not claim that this was a consensus text. It could only be a consensus text with the agreement of the whole membership. It did, however, represent a high level of convergence in his consultations, and he hoped it would be possible to reach consensus. Second, Members had to be clear that nothing in these elements reinterpreted or changed any WTO rules or agreements, nor did they, in any way, prejudice any Member's WTO rights and obligations. To address some specific concerns he had heard, he was certain that all agreed, in particular, that the Doha mandate remained as formally agreed by Members in its entirety, and that these elements did not change or reinterpret it. Once agreed, these points were intended to form the first part of the Statement by the Chair of the Ministerial Conference. The Chair's statement would be complemented by a second part, which would provide a factual summary of what the Chair had heard in terms of Ministers' discussions at the Conference. He wished to repeat that in keeping with the FIT principle, these discussions would be open to all Ministers. As all knew, Ministers would be free in their speeches to raise any issue of importance to them, whether or not they had been captured in these possible elements for political guidance.

175. As he had also stressed the previous day, the elements that were before Members were rather general in nature, and he was sure all would have liked to see more specificity in them. However, the consultations had proven that convergence became harder the higher the degree of specificity. He hoped that, given the amount of work which had gone into this process and the convergence that these points on the three pillars had attracted so far, they would be acceptable to all. Before he opened the floor, he wished to inform Members of two technical points concerning document JOB/GC/15 which contained the possible elements for political guidance. First, in the English version of the document, there was a typographical error under the heading "Trade and Development" in paragraph 3, second sentence: the words "period" and "transition" had been transposed. The text should read "... extension of the LDC transition period ...". The Secretariat was issuing a corrigendum to this effect. Second, the Spanish version contained a number of translation errors which might have given rise to some misunderstanding. These were being corrected in a revised version that would be distributed that day.

176. The representative of Cuba thanked the Chairman for his work on this matter and for having invited his delegation to various consultations throughout the drafting process. In the past days, both the Chairman and the Director-General had worked intensively to take into account the points of view of Cuba and other delegations. The text as it was continued to pose serious difficulties for Cuba. However, if other developing countries were willing to agree to the document, his delegation was

ready to consult with capital to do likewise. Nonetheless, he wished to propose a drafting change. Paragraph 3 under the third heading "Doha Development Agenda" in document JOB/GC/15 stated that "Ministers remain committed to work actively, in a transparent and inclusive manner". However, in the subsequent paragraph 4, when reference was made to exploring different negotiating approaches, the document only made reference to the principle of transparency. There was a common understanding that transparency was not a guarantee for democracy. Transparency was, above all, the availability of information and keeping delegations up-to-date with what was happening, but it did not guarantee participation, nor did it guarantee a sense of ownership and democracy that would allow all Members to feel represented in the work of the WTO. Therefore, his delegation suggested adding at the end of paragraph 4 the word "inclusiveness", so that the paragraph would read "while respecting the principles of transparency and inclusiveness." This would be consistent with what was said in paragraph 3 and with the basic principles of WTO work since the launch of the Doha Round. As the Chairman had indicated, many Ambassadors from the ACP and African Groups, as well as the Director-General, would be leaving soon to participate in meetings of these groups, and there was not much time left to pursue work on substantive negotiations. Cuba was willing to accept that there would be no more changes to the text, but it was not able to join a consensus on the text at the present meeting, because of the need to consult with capital. His delegation asked for the establishment of a deadline of Friday at 3 p.m. for achieving consensus, with the understanding that there was consensus unless delegations explicitly indicated otherwise. Before his delegation could consult with its capital on this issue, the principle of inclusiveness had to appear in paragraph 4. Inclusiveness was a basic principle that needed to be respected in the work of the WTO. If this addition was made, and if by Friday 3 p.m. Cuba had not communicated otherwise, it would not break the consensus.

177. The representative of Israel said that at the outset, his delegation wished to thank the Chairman and the Secretariat for their tireless efforts in facilitating the formulation of an agenda for MC8, which had proven to be a very complicated endeavour. All knew that the eyes of the world were on the WTO and that expectations were high. The global economy was arguably in a more precarious state than it had been at the time of the 2009 Ministerial, but Members should see this also as a call to excel themselves in finding new ways to stabilize the system. Notably, they should re-prove the relevance and importance of the WTO in the face of the current economic reality. The process of concluding the agenda for the Ministerial had been a long and difficult one, especially if compared to the processes for previous Ministerials. Throughout the continuous consultation process, all had experienced a bit of confusion, disinformation, displeasure and impatience. Even though transparency was acknowledged as one of the guiding principles of the WTO, it had been economized in recent weeks and throughout the process to finalize the agenda. Israel appreciated the "Green Room" discussions and all the efforts behind them. Nevertheless, it also acknowledged the limitations this imposed on the larger membership, namely, not allowing Members not included in the Green Room sufficient time to discuss and comment on the results of these closed-door discussions. This surely could not be qualified as a transparent process, and this was certainly not what Members intended the WTO to be.

178. Having said this, Israel wished to offer a few constructive comments at the present juncture. First, his delegation fully supported the need to address, at a Ministerial level, specific ways to strengthen the multilateral trading system with the WTO at its core. The present was a time that demanded dynamic institutions, and the WTO was no exception. A stronger and more responsive WTO would foster trade, economic growth, employment and development. In the current state of the DDA, Members had to look to strengthening and improving the functioning of the regular WTO bodies and to the implementation of the existing agreements. This, however, did not mean they should dismiss the DDA. Any approach followed had to necessarily include both. Notwithstanding the intensification of the negotiations, Members had to face the fact that they might need to explore "fresh approaches" if they wished to go forward. Israel stood ready to explore various mechanisms and approaches, including possible sequencing of issues under the current mandate, as envisioned already by paragraph 47 of the Doha Declaration. It did not rule out an early harvest in those parts of

the mandate where convergence could be reached earlier, but remained convinced that the Round had to continue to be guided by a sense of balance. Israel subscribed to the view recently articulated by the Director-General in his report to Ministers, that integrating LDCs into the world trading system remained one of the core priorities of the WTO. Therefore, Israel welcomed the draft decision on LDC accessions in document WT/COMTD/LDC/19, the extension of the transition period for LDCs under Article 66.1 of the TRIPS Agreement in document IP/C/59/Add.2, and the so-called LDCs Services waiver in document TN/S/37. These decisions, alongside the appraisal of the TPRM, highlighted the positive momentum Member were currently experiencing, and Israel hoped this would carry on into other areas. As his delegation had stated earlier, the current global economic environment was in a dire state of health, and that was precisely why markets had to be kept open. The WTO should be at the forefront of the fight against protectionism. It had been proven repeatedly that the only way to promote economic growth and development was through open markets. If Members were to overcome the gloomy economic environment, they would have to do it in a collective manner. Therefore, his country emphasized the importance of discussing this issue at MC8. It looked forward to the upcoming Ministerial and hoped for a fruitful discussion among Ministers. The risks were high, but so were the opportunities, and Members should seize them.

179. The representative of Japan thanked the Chairman and the Director-General for their leadership in the process of the search for consensus on the elements for political guidance in document JOB/GC/15. Like many other delegations, Japan was not completely satisfied with the results of the consultations. Above all, Japan had wanted stronger language regarding the need to fight protectionism in the current world economic situation, where the risks of this were even greater. While Japan respected the compromise reached, it hoped that Ministers at MC8 would underline the importance of combatting all protectionist measures.

180. The representative of Malaysia, on behalf of ASEAN, thanked the Chairman and the Director-General for the hard work they and their teams had done in guiding Members' preparations for MC8. Some ASEAN Members had been involved in various consultations that had been held in an effort to have an agreed section of the Chairman's summary. This outcome recognized the positive and constructive spirit which had underscored Members' work over the years. ASEAN recognized and appreciated that all parties had made compromises in order to achieve this consensus, and thanked all involved for their flexibility in this exercise. It especially thanked the Chairman for his wise and able chairmanship which had led Members to this point. ASEAN welcomed the reflection in this document of outcomes that would benefit developing countries, in particular LDCs. The WTO could and should continually deliver benefits for development, even though Members had yet to successfully conclude the Doha Round. ASEAN concurred with the sober and credible assessment of the DDA and remained committed to working with all partners to find different approaches to move Members towards a meaningful outcome in accordance with the Doha mandate. ASEAN believed that the following laid down the necessary ingredients for a successful MC8: (i) the decisions Ministers were expected to take on the seven issues the Chair had outlined; (ii) the accessions of the Russian Federation, Vanuatu and Samoa; (iii) the consensus language that Members would agree to, hopefully, by the end of the present meeting; and (iv) the elements that Ministers themselves would raise during the Ministerial Conference.

181. Speaking on behalf of Malaysia, she said her country viewed the current document on the table as useful, forward-looking and providing a stabilised framework that would chart the path this institution would take in 2012 and beyond, as well as future work on the DDA. However, it was not a perfect document, and did not address each and every Member's particular interest and concern. It lacked specificity, as the Chair had already pointed out, in those areas where some would have preferred to have more clarity and emphasis, and it contained language that might not adequately reflect Members' perception or assessment of where they were and where they wanted to go. However, if one strove to have a document that was tailor-made to fit all 153 Members' interests and aspirations, it was doubtful that one could deliver anything for Ministers at MC8. The document

before Members was the output of a tedious process that had managed to build a delicate balance between the multitude of interests and priorities across the board, painstakingly stitched together in a fabric of compromise and understanding credible enough to go to Ministers. Malaysia acknowledged that the work that had gone into producing this document had been premised on a spirit of compromise and understanding, and a demonstrable restraint by those involved in not upsetting whatever balance had been achieved during the consultative process. On this basis, Malaysia fully supported this document and sincerely hoped that Members would come on board in endorsing this effort, and thus preserve the delicate balance in this document. This delicate understanding, if confronted with too many threats, would ultimately result in the unravelling of others, and would set Members back in their work towards a successful outcome of the Ministerial Conference. However, in a spirit of compromise, Malaysia was willing to positively consider the addition just proposed by Cuba. Like others, her country had issues of interest which were either missing or not adequately captured in the current document. However, it noted and welcomed that there would be avenues for Ministers to address and highlight these issues of interest, and if these commanded substantial support and generic convergence, they would be reflected in the second part of the Chair's summary. Malaysia supported this process as a good way forward, underscoring the principles of transparency and inclusiveness.

182. The representative of the Bolivarian Republic of Venezuela recalled that the previous day, his delegation had expressed concern over the process used to prepare the document containing possible elements for political guidance. Venezuela had criticized it in the past, but unfortunately saw no signs of any attempt to find a solution. While it understood, as some delegations had explained, that the path to striking this balance had been complicated, one had to bear in mind the situation of those delegations which had not participated in these discussions and which, as a result, had learned about them only the previous day during the Chair's oral report on the outcomes of the consultations. Although the document being discussed would be a statement by the Ministerial Conference Chair and prepared under his own responsibility, it would in one way or another be endorsed by all Members. It was no secret that people would refer to it in 2012 when, for example, there was an attempt to reinitiate the Doha Round discussions, nor was it a secret that the previous day Venezuela had expressed reservations about the process's selective use of paragraph 47 of the Doha Declaration, just as it had at the October meeting of the General Council. Simply put, guidelines for the organization's work over the next two years should ideally have the consent of all Members. Members had to fully comply with the FIT principle, which had been mentioned repeatedly throughout these consultations. There had to be enough time to allow all capitals to assess the aforementioned document. This was not about blocking the consensus or disrupting the balance struck by a few Members, but about producing a more robust document backed by all Members.

183. The representative of the Plurinational State of Bolivia thanked the Chairman for his efforts during the past months and welcomed his report concerning document JOB/GC/15. Her delegation had some difficulties with respect to the inclusiveness and timeliness of the negotiations on this text, which had been presented with little margin left for capitals to negotiate further. In this regard, with the addition suggested by Cuba, her delegation would be able to send the document to capital for favourable consideration within the timeframe and modalities described by Cuba. This would enable Bolivia's authorities to consider the document in its entirety under no-less-favourable conditions than those given to other Members who had had the chance to see it early on and to negotiate it.

184. The representative of Zimbabwe thanked the Chairman for his statement in which he had given the status of what he described as the clusters that would form the basis of the Chairman's statement at MC8. His delegation would rather describe the clusters as a three-legged pot. In that connection, the Director-General, as TNC Chair, had updated Members on the status of what his delegation would call the third leg of the pot, the DDA. Zimbabwe applauded the Director-General's resilience, tenacity and commitment to development over the years. However, in the spirit of Thanksgiving, in his report to Ministers, the Director-General might have overstuffed the turkey by

throwing in some elements which might already be causing indigestion. It was his delegation's understanding that this report was not a negotiating document that might lead to commitments, nor did it require any formal response. He would focus on only three pertinent points in the report. First, it noted that "following the realization that the full DDA would not be possible by the end of the year, we embarked on a process aimed at delivering a smaller package by the Eighth Ministerial Conference". In this respect, the Director-General highlighted an "LDC Plus" package which could include Trade Facilitation, the S&D treatment monitoring mechanism, export competition in agriculture, and some movement on environmental goods and services and on fisheries subsidies. The Director-General admitted that this had not taken shape, but postulated that it might be possible to make progress on a provisional or definitive basis – an "early harvest"– and was seeking guidance from Ministers to ensure progress in 2012. As noted earlier, this was an issue on which developing countries had divergent positions, but where further discussions in 2012 could at least give the appearance of moving forward, while the technical talks could advance understandings in areas where there were still serious blockages. It was notable that there was no mention of major areas in the negotiations, such as agriculture, where there had been considerable technical work, and services and rule-making. Agriculture had been considered part of the grand bargain in the Uruguay Round, having been brought into the main rules in exchange for real concessions in the next Round, i.e. the DDA. He asked where the promise was.

185. Second, following this scant summary of the DDA, the Director-General turned to areas of rule-building that were not part of the negotiations – an overdue admission that the credibility of the WTO system hung on more than the DDA, as the Director-General had argued in the past. Here the Director-General identified the DSU, rules of origin, the ITA and the GPA as areas where rule-making might be ready for advancement. On the DSU, he suggested that Ministers might wish to call for an early conclusion of discussions on improvements. He asked whether Ministers considered that agreement could be reached on preferential rules of origin and the discussion moved on to preferential rules. He noted the suggestion that the ITA be transformed into an International Digital Economy Agreement, which he considered to be promising. He also asked whether the ITA could serve as an example for other sectors. He considered that the negotiations on an improved package of the plurilateral rules on procurement would facilitate access to the GPA. In relation to the ITA, it was not clear what the Director-General intended in relation to his question as to whether this could be a model for other sectors. It was possible that this was intended as a suggestion for dealing with the sectoral negotiations in the DDA where a "critical mass" of adherents was required. The Director-General's description of the ITA as an "open plurilateral agreement" was unfortunate, as the Single Undertaking of the Uruguay Round was intended to eliminate the prior plurilateral agreements, such as the Tokyo Round Agreements that implied higher levels of rights and obligation for parties to those Agreements. The ITA was combined action by a number of countries that was applied on an MFN basis, and could not be considered a plurilateral agreement any more than the sectoral agreements in the DDA.

186. Third, the Director-General stated that the successful performance of the DSU was "one of the main pillars and strength of the WTO" and that "all agree that the establishment of this highly respected system enables all Members to resolve trade disputes in a fair, predictable, and relatively rapid manner." The Director-General drew attention to the availability of a qualified legal expert to any developing-country Member wishing help. He considered that strengthening the Advisory Centre on WTO law to provide legal advice to developing countries would be "a welcome development." He indicated awareness that there was room for improvement, including helping LDCs to participate more actively in dispute settlement, technical assistance with disputes and making better use of alternative procedures of good offices, mediation and arbitration. He drew attention to a process of informal consultations with a view to exploring whether it was possible to find efficiency gains so as to reduce the burden on Members and the Secretariat. Developing countries would likely welcome any improvements that reduced costs and provided legal advice, as these were serious constraints on the use of the system. However, the DSU was not a panacea for the imbalance of power in the

multilateral system, especially when developing countries were also the beneficiaries of aid that was granted, and could be withdrawn, unilaterally. A DSU remedy might authorize the withdrawal of concessions by a small country that might not be commensurate with the injury it had suffered. This observation pointed to an argument that the WTO system needed to consider inaugurating a system whereby the Secretariat, acting on behalf of the collective membership, should pursue a breach of WTO rules that was harming other Members – analogous to the International Criminal Court – and the collective membership should be prepared to take collective action against the offender. This would also help to provide jurisprudence in cases that were resolved by agreement between the parties with terms that were not announced and therefore could not provide guidance or precedent for future cases. In short the Director-General's report on this point was welcome if it helped poor developing countries. However, the idea should be explored further, in order to respect the Member-driven nature of the WTO and ensure that developing countries led that process. In addition, the idea should go further, to recognizing the real issues confronting small countries in using the system.

187. The representative of Peru expressed his delegation's appreciation for the efforts undertaken by the Chairman and the Director-General in defence of the multilateral trading system and the WTO, and of the importance of development, as well as their great efforts to achieve outcomes that benefitted the poorest in the course of the Doha negotiations. His authorities were still analysing the content of the proposal regarding political guidance for Ministers, but as they had become aware of that proposal only the previous day, he would make only a few preliminary observations. To achieve convergence on such important issues as these was only possible, as one had seen, through everyone's participation on a transparent and inclusive basis, as some delegations had already said. It was also necessary to understand the reasons that prevented Members from achieving the common good, i.e. an open multilateral trading system that enabled Members to promote their development. Peru could agree on the analysis and on the final objective, but the policy guidelines underlying the strategy to be followed had to be clearly directed towards dealing with the causes of the problems and reaching that objective. With regard to the multilateral trading system and the WTO, the institution took on greater importance at times of crisis, such as the present time, as a guarantor of the commitments undertaken, and thus both its dispute settlement mechanism and transparency and notifications acquired greater relevance. Within this context it was also necessary to take into account the economic and social impact of protectionist measures that could affect the common good of Members. In order to overcome these negative trends, Members should turn to innovative mechanisms of mediation and supervision, in cooperation with other international institutions. Furthermore, there was a need to restructure the decision-making process of the WTO, with a view to making it a more transparent, inclusive and representative institution. With regard to trade and development, the Chairman had said that important decisions would have to be taken to help the LDCs. That was a source of satisfaction to all, but there was still much to be done to mitigate the effects of other basic problems that afflicted these countries. He was referring in particular to food security. This matter had been discussed earlier at the present meeting and there had been interesting proposals by some Members that needed to be examined. Regarding the DDA, his delegation had already given its opinion in an earlier statement.

188. The representative of Ecuador recalled that the previous day his delegation had expressed some specific views on the document at hand, and in an earlier statement had indicated a specific concern regarding paragraph 4, which needed to be appropriately qualified. As his delegation had not had much time to consult with capital, it was not in a position to take a final decision on the document. He requested that his delegation's statement at the informal meeting of the General Council on 29 November be included in the record of the present meeting.⁸

⁸ The statement is included in Annex II to the present records.

189. The representative of Honduras requested that his delegation's statement at the informal meeting of the General Council on 29 November⁹ and the Director-General's explanations concerning document JOB/GC/15 under Item 2 of the Agenda of the present meeting¹⁰ be included in the record of the present meeting. He also referred to Honduras's statement under Item 2 of the present meeting.

190. The representative of Brazil said the recent developments were quite sobering, but they also constituted a glimmer of hope. It seemed that whenever the WTO and Members were in very difficult situations, this was when they found the flexibility necessary to reach convergence. In the case at hand, Members were getting closer to convergence on a text that would displease everyone. All Members saw risks in the document, and of course risks were always greater for the smaller and weaker. However, there were risks for all. At the present time, Brazil was thankful for the engagement and flexibility all had shown thus far. Members could, and had to, improve the process. It was partly due to late preparation for the process, in the sense that when Members realized that the task at hand was very difficult and that things were not coming together, they had begun to set deadlines. One of the reasons they had failed was that they had not brought into the process early enough the elements of inclusiveness and transparency, and made this the multilateral endeavour this had to be. While it was natural to start in tighter circles, this was in essence a multilateral process, so the process had to be improved, and the current situation should be a lesson to all. Regarding the more practical matter of Cuba's proposal, Brazil found that proposal to be perfectly acceptable. The suggestion to include the word "inclusiveness" at the end of paragraph 4 was legitimate. Regarding the future course of action, it was important to take on board what Cuba had suggested regarding no further changes to the text. On allowing time for delegations to consult capitals, Cuba's suggestion seemed reasonable. As far as the process was concerned, Brazil was in the Chairman's hands.

191. The representative of Mexico agreed with Cuba's proposal to insert the word "inclusiveness" in paragraph 4. If this was acceptable, no more changes would be made, and on Friday at 3 p.m. the text as it stood would be accepted or not.

192. The representative of Jamaica said his delegation had listened carefully to the statements under this Item and recognized the points made. It also recognized the flexibilities shown, and supported Cuba's constructive suggestion. Like Mexico and Brazil, Jamaica proposed that consideration be given to the approaches suggested.

193. The representative of El Salvador supported the proposal by Cuba to insert the word "inclusiveness" in paragraph 4 of the text.

194. The representative of Colombia, also on behalf of Chile, supported Cuba's proposal to add the word "inclusiveness" to paragraph 4 of the text and to establish a deadline for consultations of Friday at 3 p.m.

195. The representative of Argentina supported Cuba's proposal to add the word "inclusiveness" to paragraph 4 of the text.

196. The representative of the Dominican Republic supported Cuba's proposal. In an earlier intervention, his delegation had said that inclusiveness was very important in the process of agreeing on a text.

197. The representative of the Bolivarian Republic of Venezuela welcomed and supported Cuba's proposal, which was part of earlier informal deliberations. Nonetheless, it could not be presumed that

⁹ The statement is included in Annex II to the present records.

¹⁰ The statement is included in Annex III to the present records.

the deadline was the same for all delegations, as his delegation could not join the consensus without having received instructions from capital.

198. The Chairman thanked all delegations for their constructive contributions. He recounted an anecdote indicating that when one had something that made everyone uncomfortable, it was a good result. If it made people too comfortable, it was not balanced. Thus, from what he had heard from Members, he got a sense that all the effort put into this process had not been in vain. Members had a reasonably balanced outcome. However, he had heard three things: first was the need for a slight change. He understood that inclusiveness was a basic principle of Members' work and he hoped that adding the wording proposed would be acceptable to all. Second, he understood that after this addition, there would be no further changes. He felt that there could be consensus on these elements, taking into account all that had been said. The third thing he had heard from all was timeframe. He fully understood the need for all delegations to consult with their capitals before they could confirm their agreement. However, Members could not have everything they needed. He did not think Friday would be appropriate, because Friday led into a weekend, and this document needed to be firmly on the ground in view of the Ministerial meetings that were taking place. Otherwise, it would create problems for this process in terms of the expectations coming out of these meetings. He was sure the Director-General was attending one of these meetings, and it would be in the interest of the organization that the latter speak at that meeting with some level of certainty. To do otherwise would not be fair to the system or to the Director-General as the Members' representative at these meetings. On that note, he wished to suggest that any delegation who could not join the consensus with the suggested addition to the possible elements of political guidance should advise him by 6 p.m. the following day, because he was aware of the need for the African and ACP delegations to have clarity as soon as possible. If he did not hear any objection, it would be taken that there was consensus on these elements, and he would then forward them as an official document to the Chairman of the Ministerial Conference for him to include, as agreed, as the consensus part of his statement.

199. The General Council took note of the statements and agreed to the Chairman's proposal.¹¹

(i) *TRIPS non-violation and situation complaints (IP/C/59/Add.1)*

(ii) *E-Commerce (WT/GC/W/645)*

200. Turning to the Decisions to be forwarded to the Ministerial Conference, the Chairman said he wished to start with the two draft decisions to be forwarded to the Ministerial Conference – one on TRIPS non-violation and situation complaints and one on e-commerce. The texts of the draft decisions on which consensus had been achieved were contained in documents IP/C/59/Add.1 and WT/GC/W/645, respectively. He invited Mr Gonzalez (Paraguay), Chairman of the TRIPS Council and DDG Singh, who had been dealing with the Work Programme on Electronic Commerce on his behalf and that of his predecessors, to report on their respective work in these areas. Thereafter, he would also bring to the General Council's attention the other draft decisions that had been agreed in various WTO subsidiary bodies.

201. Regarding the TRIPS matter, Mr Gonzalez (Paraguay), Chairman of the TRIPS Council, recalled that the Ministerial Decision of 2 December 2009 on TRIPS Non-Violation and Situation Complaints directed the TRIPS Council to continue its examination of the scope and modalities for TRIPS non-violation and situation complaints and make recommendations to its next Session. In 2009 Ministers had also agreed that, in the meantime, Members would not initiate such complaints under the TRIPS Agreement. At its reconvened end-of-year meeting on 17 November 2011, the TRIPS Council had agreed to recommend, pursuant to the 2009 Ministerial Decision, that MC8

¹¹ No comments having been received by 6 p.m. on 1 December 2011, the document was circulated in WT/MIN(11)/W/2 that day and forwarded to the Eighth Session of the Ministerial Conference.

decide to further extend the moratorium on TRIPS non-violation and situation complaints so as to allow it more time to continue its examination of the scope and modalities for such complaints. The exact wording of the recommendation was contained in paragraph 3 of the addendum to the TRIPS Council's Annual Report for 2011, circulated in document IP/C/59/Add.1.

202. Regarding e-commerce, DDG Singh said the eighth Dedicated Discussion under the auspices of the General Council on cross-cutting issues under the Work Programme on Electronic Commerce had been held on 20 and 28 October and 9 and 16 November 2011. Participants had discussed the current situation of the Work Programme on Electronic Commerce in the context of preparations for MC8. Members had also considered and approved the report of the Dedicated Discussion to the General Council in document WT/GC/W/645, which included in paragraph 10 a text to be forwarded to the General Council Chair as the input on e-commerce to MC8. As the report indicated, during 2011 a number of initiatives under the Work Programme had been undertaken in the Council for Trade in Services regarding issues such as modes of supply and the electronic supply of services, trade-related principles to support the expansion of information and communication technology (ICT) networks and services and to enhance the development of e-commerce, and advances in computer applications and platforms such as mobile applications and the provision of cloud computing services. These had been based on proposals from the US and EU, and background papers prepared by the Secretariat at the request of delegations.

203. In the General Council, the Council for Trade in Goods and the Committee on Trade and Development, a joint submission had been made by five Members – Cuba, Ecuador, Nicaragua, the Plurinational State of Bolivia and the Bolivarian Republic of Venezuela – on the effective participation of developing countries in e-commerce as a means to combat poverty. This submission also contained a proposal for a decision on e-commerce at MC8. During the course of the Dedicated Discussion, which had included a number of informal meetings, delegations had focused on producing a draft decision for forwarding to Ministers in December. The text of the draft decision was provided in paragraph 10 of the report of the Dedicated Discussion to the General Council in document WT/GC/W/645. This draft decision had evolved in an atmosphere of constructive cooperation and flexibility, and reflected the balance struck among the various issues of concern to delegations. It included *inter alia* a re-affirmation of WTO principles, an emphasis on development and the role of the Committee on Trade and Development in the area of e-commerce, access to e-commerce by micro, small and medium-sized enterprises, including small producers and suppliers, and extending the current moratorium on customs duties on electronic transmissions until the Ninth Ministerial Conference in 2013. Following the usual practice, a factual summary of the Dedicated Discussion had been prepared under the responsibility of the Secretariat, and circulated in document WT/GC/W/644. With the draft decision given in paragraph 10 of the Dedicated Discussion's report, it was hoped that work under the Work Programme on Electronic Commerce would continue with renewed commitment and focus in the relevant bodies to address the concerns of all Members in this increasingly important area of trade.

204. The Chairman thanked Mr Gonzalez and DDG Singh for the work they had undertaken on behalf of all Members, and proposed that the General Council take note of the statements and agree to forward these reports, and the draft texts for decision by Ministers which they contained, to the Ministerial Conference.

205. The representative of Ecuador thanked DDG Singh for the outstanding work he had conducted during the informal consultations on e-commerce that had led to a draft decision for consideration by MC8 that would enhance work of the WTO in this area.

206. The representative of Cuba said that DDG Singh's work and the constructive approach and flexibility of the delegations who had participated in the discussions had led to the drafting of a document that satisfied the interests of all the proponents. The draft decision to be considered by

Ministers would allow Members to continue working to tackle the problems developing countries faced in this area.

207. The representative of the European Union said his delegation considered that non-violation and situation complaints were not applicable to the TRIPS Agreement. That Agreement obliged Members to put in place clearly described legislation and to enforce it. Any failure to comply with these obligations could be directly addressed as a violation of the TRIPS Agreement. As a matter of consequence, there was little practical scope for non-violation and situation complaints under the TRIPS Agreement. However, in view of the lack of consensual conclusion of the discussions on this issue, which had taken place in the regular meetings of the TRIPS Council, the EU could support an extension of the moratorium.

208. The representative of the Bolivarian Republic of Venezuela said that regarding e-commerce, his delegation wished to thank DDG Singh for his transparency and balance in addressing an issue of great importance to developing countries. He also wished to thank the Ambassador of Paraguay for his consultations on TRIPS and their positive outcome.

209. The representative of the United States said his country's position that non-violation and situation complaints were fully appropriate in the context of the TRIPS Agreement was well-known. As his delegation had noted in the past, the failure to allow the possibility of non-violation disputes in connection with the TRIPS Agreement could invite Members to seek creative ways to avoid their TRIPS obligations. However, the US was prepared to join a consensus to extend the moratorium on non-violation and situation complaints until the next Ministerial. Of course, its decision at the present meeting was without prejudice to its continued position that non-violation and situation complaints were fully appropriate in the context of the TRIPS Agreement.

210. The representative of Chinese Taipei said his delegation supported the further extension of the current moratorium on TRIPS non-violation and situation complaints, as well as the current e-commerce moratorium. Given the importance of e-commerce to the economies of developing countries, it was vital for Ministers to ensure that the current practice of not imposing customs duties on electronic transmissions was maintained at least until the next Ministerial Conference in 2013.

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

212. The Chairman said that as he had mentioned earlier, he wished to bring to the General Council's attention the various recommendations for Ministerial action that had been agreed in WTO subsidiary bodies. Regarding the Work Programme on Small Economies, the report of the Committee on Trade and Development in Dedicated Session and the text for action by Ministers that it contained could be found in document WT/COMTD/SE/7/Add.1. On the extension of the transition period for LDCs under Article 66.1 of the TRIPS Agreement, the report of the TRIPS Council containing the text submitted to the General Council with a recommendation to forward it to MC8 was contained in document IP/C/59/Add.2. On LDC accessions, the report of the Sub-Committee on LDCs to the General Council, which contained the draft decision on LDC accession and the recommendation that it be forwarded to MC8, was contained in document WT/COMTD/LDC/19. On the LDCs Services waiver, the report by the Chairman of the Council for Trade in Services in Special Session and the draft decision it contained was in document TN/S/37. He proposed that the General Council agree to forward these reports, and the draft texts for decision by Ministers which they contained, to the Ministerial Conference.

213. The General Council so agreed.

214. The Chairman said he also wished to note that the results of the fourth appraisal of the Trade Policy Review Mechanism, contained in document WT/MIN(11)/6, had been forwarded by the Trade

Policy Review Body directly to the Ministerial Conference, in line with its mandate. This document also contained agreed language for Ministerial action. He wished to warmly welcome the decisions just taken, which represented a considerable achievement and a demonstration of the ability of delegations in this organization to work constructively together, even during difficult times, and to produce meaningful results. He wished to thank all, including the Chairs of the WTO bodies concerned, for their tireless efforts and excellent work.

215. Before turning to organizational matters, he wished to report on consultations he had held on the proposal presented by the Arab Group on "Improving the Guidelines for Observer Status of IGOs in the WTO", and to highlight a few administrative and organizational matters. This proposal had been circulated on 28 October in WT/GC/W/643. His consultations had shown agreement on launching a process to consider this issue. Therefore, he proposed that he, as Chairman of the General Council, initiate a process of consultations on this issue after the Ministerial Conference, and that he report to the February meeting of the General Council about progress in these consultations and ask his successor to continue this process as appropriate.

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

217. Also before turning to organizational matters he had taken up in his consultations, he wished to say a word about how Members would conduct their Working Sessions at MC8. In practical terms, there would be four periods available for Working Sessions spread over two days (16 and 17 December), with one in the morning and one in the afternoon of each day. In terms of how Members organized these periods, he suggested that for consistency with the way Members had operated so far, Ministers should take up in their discussions the three main themes that delegations had been considering for political guidance, in the order they appeared in the matrix: Importance of the Multilateral Trading System and the WTO; Trade and Development; and the DDA. The idea was to discuss one theme in each Working Session, leaving an extra period in case Members ran over the time. Of course, during the dedicated discussions on the three themes, Ministers remained free to raise any issue of importance to them, whether or not this had been captured in the elements for political guidance. He trusted this was agreeable to delegations.

218. Regarding the organizational issues for the Ninth Ministerial Conference, as a matter of course, and in line with its Rules of Procedure, MC8 should take up two issues related to the organization of the Ninth Ministerial Conference: the date and venue of MC9 and the election of officers for that Conference, which appeared as Items 3 and 4 on the MC8 Provisional Agenda. He proposed that Ministers refer these issues to the General Council for it to address during the next two years. He trusted this was acceptable to delegations. Members also had to consider the question of the appointments of Chairs of Negotiating Bodies. In line with the agreement reached at the first meeting of the TNC, these appointments were to be reviewed at each Session of the Ministerial Conference. He proposed that Ministers request the General Council to take this matter up in the February 2012 slate of names exercise for appointment of officers to regular bodies. He trusted this was acceptable to delegations.

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

(b) Election of Officers

220. The Chairman recalled that Ministers at MC7 had requested the General Council to hold consultations with a view to determining the Chairperson and three Vice-Chairpersons of MC8, who would hold office until the end of MC8. On the basis of his recent consultations, he proposed that the General Council elect the following presiding officers for MC8: Chairperson – H.E. Mr Olusegun Olutoyin Aganga (Nigeria); Vice-Chairs – H.E. Mr Johann Schneider-Ammann (Switzerland), H.E. Mr Mustapa Mohamed (Malaysia), H.E. Mr Steven Cadiz (Trinidad and Tobago).

221. The General Council agreed to elect the presiding officers for the Eighth Ministerial Conference.

(c) Request for observer status by Palestine to the Eighth Session of the Ministerial Conference

222. The Chairman drew attention to the request by Palestine for observer status at MC8 in document WT/L/822. He said that unless any delegation wished to take the floor, he proposed that the General Council agree to grant this request.

223. The representatives of the Dominican Republic for the Informal Group of Developing Countries, Ecuador, Cuba, Chile, Argentina, Plurinational State of Bolivia, Bolivarian Republic of Venezuela, Sri Lanka, China, Brazil and Paraguay supported Palestine's request for observer status at MC8.

224. The representative of Ecuador said the promotion of and respect for the right of the Palestinian people to self-determination and participation in international organizations had been part of his country's external policy for many years.

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

226. The representative of Jordan welcomed the General Council's decision.

(d) Attendance of Observers from International Intergovernmental Organizations (IGOs)

227. The Chairman recalled that in line with Members' discussion at the 26 October meeting, the General Council had agreed to revert to this matter at its next meeting. In October, he had proposed that the General Council follow past practice with respect to the attendance of Observers from IGOs. From the consultations he had undertaken on this matter, it appeared that there was no consensus on this approach.

228. The General Council took note of the Chairman's statement.

(i) *Request by the League of Arab States*

229. The Chairman recalled that at the General Council meeting on 26 October, he had informed delegations that a request by the League of Arab States (LAS) for observer status at MC8 had been received. He had then proposed that unless any objection was received by the Secretariat from any Member by 15 November 2011, the LAS would be granted observer status at MC8, he would inform the General Council at its next meeting of the status of this request, and delegations would have an opportunity at that meeting to engage in a discussion on this request. Since then, written communications had been received from two Members stating that they were not in a position to agree to this request, as he had announced in a fax to all Members on 16 November, and there was therefore no consensus to grant the request from the LAS at the present stage. In the interests of transparency of the process, he opened the floor.

230. The representative of the Kingdom of Saudi Arabia, on behalf of the Arab Group, expressed the Group's gratitude to the Chairman and the Secretariat for handling the request of the LAS in a technical and objective manner, and welcomed the support of the membership which, with the exception of two Members, had supported this request. As noted in its most recent communication in WT/GC/W/649, the Arab Group was deeply disappointed and concerned that two Members continued to block consensus concerning the request by the LAS. This action undermined the otherwise unanimous support for the request and was inconsistent with the intent of the guidelines devised to ensure that all intergovernmental organizations with competence over trade policy matters be allowed

to participate and contribute effectively in the work of the WTO. This unfortunate situation could not be reconciled with the consensus-building and decision-making culture that the entire WTO membership had been so keen to preserve over the years in order to safeguard the credibility of the WTO as a rules-based multilateral trading system. In order to preserve the WTO's unique approach to multilateral governance, all Members had to respect the neutral and technical nature of WTO procedures and avoid politicizing the organization. The LAS satisfied the criteria for participating as an observer, because it oversaw trade policy and trade relations among 22 Arab countries. The membership of the LAS constituted a significant economic block and played an important role in promoting growth of the regional economy. The economic importance of the LAS had had a long-standing status under the GATT 1947, and its importance had grown over the past years, during which time it had unfortunately been excluded from observing and contributing to WTO affairs.

231. The Arab Group remained strongly committed to supporting the consensus to welcome each qualified IGO as an observer to MC8. However, it considered just as strongly that all requests had to receive equal treatment by the membership. In light of the asymmetry that had been maintained with respect to the consideration of the request by the LAS, the Arab Group was not in a position to agree to the participation of IGOs at MC8 until the Rules of Procedure of the Ministerial Conference and Annex 2 thereto were upheld in a manner that did not manifest nor tolerate any discrimination against a particular intergovernmental organization. The Arab Group remained hopeful that the two Members in question would reconsider their positions in a timely manner so as to allow all qualified IGOs to attend MC8, and looked forward to receiving positive news in this regard.

232. The representative of Egypt thanked the Kingdom of Saudi Arabia for its excellent leadership of the Arab Group, and fully associated his delegation with its statement for the Arab Group. It was somewhat ironic that after more than ten years, Members were again faced with the same situation, requiring urgent action by the General Council. For more than a decade, some Members had persistently tested the limits of the consensus-building process and had continued to undermine the guidelines established to ensure that IGOs could participate in and contribute to the work of the WTO to ensure the much needed coherence in the world trading system. The case of the LAS required utmost prudence, and Members could no longer afford to turn a blind eye to it. Since 1999, the LAS had submitted numerous requests to become an observer at WTO Ministerial Conferences. Regrettably, all of these requests had been denied, without any recourse or plausible explanation as to why one or two Members had worked to inhibit the LAS from being granted a status that it had previously enjoyed under GATT 1947 up until 1994. Such a position ran contrary to the collective obligation that required Members to ensure that IGOs which had been associated with the work of the Contracting Parties to GATT 1947 be granted similar observer status in the WTO. Hence, the LAS should have been granted observer status at MC8 in accordance with the Ministerial Conference's Rules of Procedure. Blocking the consensus at the present meeting by rejecting the LAS's request sent a very negative signal to public opinion in the Arab, Middle East, North African and Gulf regions. It cast doubt over the WTO's future ability to keep geo-political considerations from adversely affecting the consensus-building and decision-making process that all Members were so keen to preserve.

233. It would be extremely difficult – in today's world and more significantly in the light of the Arab spring – to explain to the constituencies in more than 21 countries in the Arab world, why the WTO had denied the LAS the opportunity to participate in its proceedings and its Ministerial Conference. He asked if one would tell the Arab people, when they had risen to exercise their full rights, that the organization could not allow them to observe a meeting. Egypt could not accept this message. At a time when the world was calling for global economic coherence and collaboration with intergovernmental institutions, regional development banks, economic commissions and think tanks, it seemed the entire WTO membership had to follow an isolated path. As all knew, the LAS played a mandatory role in coordinating the Arab countries' positions on trade and trade-related matters, and assumed an important role in harmonizing both economic and trade policy among its members. It

therefore satisfied the condition that it have the competence for and oversight of trade-policy formulation, as prescribed by the WTO's relevant Rules of Procedure. The LAS also administered the implementation of Arab regional economic and trade integration initiatives, as well as the implementation of the Pan-Arab Free Trade Area (PAFTA). He recalled that under GATT 1947, the LAS had contributed to the work of the GATT and had been invited to its trade rounds, sessions and inter-sessional committees, and had provided input to the various trade-related issues which formed the very basis of the agreement that was being administered today by this organization. Egypt therefore continued to maintain that any request by an IGO for permanent observer status in the WTO should be judged only on the basis of the technical merits of the request and on the premise of the agreed guidelines, and objective and technical non-biased consideration of the request needed to be safeguarded to avoid jeopardizing the integrity of the WTO as a rules-based multilateral trading system. Neither double standards nor a politically motivated pick-and-choose approach should be maintained with respect to granting any IGO observer status in the WTO. All IGOs should be allowed to participate as observers on an equal footing. It would be most unfortunate not to have those who had been closely linked with the work of the WTO attend the forthcoming Ministerial Conference. Egypt called on all Members to uphold the Rules of Procedure in a manner that did not manifest or tolerate any further discrimination against a particular IGO, in order to safeguard the credibility of the rules-based multilateral trading system. It therefore urged the two Members that had expressed reservations on the LAS's request to reconsider their positions so that requests for observer status were granted to all IGOs, in order to ensure the success of the forthcoming Ministerial Conference.

234. The representative of Jordan said his delegation fully associated with the statement by the Kingdom of Saudi Arabia for the Arab Group. The issue of the participation of the LAS as an observer, both in various WTO bodies and in Ministerial Conferences, had been a longstanding matter before the General Council, although it was well known that the LAS had been granted observer status in GATT. There were many questions to consider when an IGO requested observer status in this organization, such as whether the request met the conditions in the relevant Rules of Procedure. In the case of the LAS, it clearly did. Another question was whether the IGO satisfied the condition that it had competence over trade and trade policy. The LAS administered the greater trade area among Arab countries and oversaw the trade policies and trade relations between 22 countries, among them 12 WTO Members and seven countries that were acceding to the WTO. Third, the LAS's request had been submitted within the relevant deadline. There should never be any discrimination in dealing with any request from a qualified IGO, and Jordan could not accept the present situation as constituting a precedent within the organization. All stood against the politicization of any issue in the WTO, and this was the rule under which all Members worked. However, the issue at hand had indeed been politicized. Jordan appealed to the two Members in question to reconsider their positions and to lift their objections.

235. The representative of Kuwait said his delegation fully supported the statements by the Kingdom of Saudi Arabia for the Arab Group, Egypt and Jordan. Kuwait regretted that two Members out of 153 had taken it upon themselves to block consensus on the request by the LAS. This action was inconsistent with the guidelines on granting observer status in the WTO. It strongly supported all qualified IGOs as observers at MC8 and in WTO bodies on the condition that all requests had to receive equal treatment by Members. This kind of political crisis necessitated that Members consider Chapter VII of the WTO's Rules of Procedure.

236. The representative of Qatar said his delegation strongly supported the statements by the Kingdom of Saudi Arabia for the Arab Group and Egypt.

237. The representative of the Plurinational State of Bolivia said her delegation supported the request by the LAS for observer status at MC8, and stressed that it was an inopportune time to deny observership in a trade organization to a region that was undergoing deep changes.

238. The representative of Cuba said her delegation supported the granting of observer status at MC8 to the LAS and rejected any discriminatory attitude in the WTO.

239. The representative of Turkey said that his delegation had taken note of the communication from the Kingdom of Saudi Arabia on behalf of the Arab Group, and had listened carefully to the statement by that delegation. Turkey shared the disappointment and concern expressed in the communication and the statement with regard to the lack of consensus to allow the LAS to participate as an observer at MC8. The organization was again confronted with an impasse that would do no one any good. It would be unimaginable to organize a WTO Ministerial Conference without the participation of key IGOs. Therefore, Turkey called upon the membership to reconsider the severe consequences of such an outcome. It hoped that Members could still reach a consensus and accord observer status to the LAS at MC8.

240. The representative of Pakistan said his delegation supported the statement by the Kingdom of Saudi Arabia for the Arab Group and hoped that Members could develop a consensus on this issue.

241. The General Council took note of the Chairman's statement and of the other statements.

10. Review of the exemption provided under paragraph 3 of GATT 1994 (WT/L/810, WT/L/810/Corr.1 and WT/GC/W/648)

242. The Chairman recalled that paragraph 3(a) of GATT 1994 provided an exemption from Part II of GATT 1994 for measures under specific mandatory legislation – enacted by a Member before it became a contracting party to GATT 1947 – which prohibited the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. On 20 December 1994, the United States had invoked the provisions of paragraph 3(a) with respect to specific legislation that met the requirements of that paragraph. Paragraph 3(b) of GATT 1994 called for a review of this exemption five years after the date of entry into force of the WTO Agreement – and thereafter every two years for as long as the exemption was in force – in order to examine whether the conditions which created the need for the exemption still prevailed. The General Council had last considered this matter at its meeting in February 2011, where it had been agreed that for the purposes of the conduct of the review in 2011, Members would proceed in a manner similar to that in 2009, when the last review under the two-yearly cycle had been taken up. Accordingly, at the February Council, his predecessor as Chair had invited all interested delegations to speak for the record with regard to the review under the current cycle. He had also invited interested delegations to submit comments and questions to the US regarding the operation of the legislation under the exemption, to which the US was to be invited to respond. It had been agreed that these statements, questions and responses, together with the annual report provided by the US under paragraph 3(c) of GATT 1994 – which had been circulated in WT/L/810 and Corr.1 – would form the basis for the present year's review. It had been further agreed that for the purposes of the review, this matter would be on the agenda of subsequent General Council meetings in the course of 2011 as the Chairman deemed appropriate, or at the request of any Member.

243. The General Council had also agreed that it would consider this matter again at its last meeting of the year, i.e. the present meeting, at which it would take note of the discussions held in the course of the review until then, and take any other action it might agree on. The General Council would also take note that the subsequent review would normally be held in 2013. With regard to this exemption, he invited Members to note that, as provided in paragraph 3(e) of GATT 1994, the exemption was without prejudice to solutions concerning specific aspects of the legislation covered by this exemption negotiated in sectoral agreements or in other fora. He drew attention to a questionnaire to the US from Japan with regard to US legislation under this exemption, which had been circulated in document WT/GC/W/648. The responses to Japan's questions were being circulated in document WT/GC/W/651.

244. The representative of the United States said his delegation welcomed the opportunity to participate in a review of the exemption under paragraph 3 of GATT 1994. This was the seventh review of that exemption. The US had continued to provide Members with annual statistical reports pursuant to the requirements of paragraph 3(c) of the exemption, including the most recent one that was before Members at the present meeting. These reports provided detailed annual reporting of vessel orders and deliveries from US shipyards as required by paragraph 3(c) of GATT 1994. Recognizing that there were differing views on the nature of this review, his delegation had again organized informal consultations in which interested delegations had been free to ask questions and discuss issues without prejudice to their national positions. The US had also responded to questions put to it on a more formal basis.

245. The representative of Australia said his delegation appreciated the information provided by the US as part of this review, and the opportunity to consult informally with US experts on this issue. His country had a particular interest in this issue, given its interest in maritime transport and related services and its expertise in building a range of maritime vessels, including lightweight fast ferries. While it recognized the particular sensitivities of the US and many other countries, including Australia, in relation to cabotage and coastal shipping, there was scope for the US to make some commitments on maritime transport and related services that would not contravene the Jones Act. Australia noted that in the context of the Services negotiations, the US had not been asked to make commitments on cabotage and coastal shipping. Despite informal consultations with US officials as part of this review, his delegation did not understand which aspects of the Jones Act prevented the US from making commitments on maritime transport and related services that were not related to cabotage or coastal shipping. It would welcome further information from the US on this issue.

246. The representative of the European Union said that as his delegation had said at the meeting of the General Council on 22 February 2011, he wished to underline once again the EU's concerns with the exemption of the Jones Act from the GATT. The prevailing situation had negative economic consequences not only for the EU's and other countries' shipbuilding industry, but also for the US maritime industry, which was faced with higher costs due to the closure of the US market to foreign-built ships. The EU was therefore a strong supporter of this review.

247. The representative of Japan said his country attached great importance to this review. Since 1999, Japan had submitted a series of questions, including those in the current review cycle. Japan appreciated the US responses, but still felt this fell short of clarifying the need for this exemption. The exemption was a serious deviation from the fundamental principles of the WTO, and his delegation was concerned that its continuation undermined the credibility of the WTO rules as a whole. Japan hoped that a more substantive and effective examination of this issue would be undertaken and the US would make efforts to take concrete actions to improve this situation in future.

248. The representative of Norway said that during previous reviews of this exemption, her delegation had underlined the importance of this issue, as the waiver in essence made it impossible to sell ships to the US. First, Norway had participated and would continue to participate in the consultations regarding the Jones Act. It had reviewed the statistical information from the US in document WT/L/810 and Corr.1. It had also participated in the informal consultation on 3 November. This process had not convinced Norway of the need for this exemption. It still believed that the review should focus on the salient point of paragraph 3(b), which was the examination of whether the conditions which had created the need for exemption still prevailed. Members should now move beyond discussing only the statistical information submitted under paragraph 3(c) and address also the conditions for the exemption.

249. The representative of Hong Kong, China thanked the US for the information provided earlier and the questionnaire recently submitted by Japan, as these had helped his delegation to focus on the major aspects of the review. Like others, his delegation continued to be concerned that the US had

maintained, for more than 15 years, an exemption that was a major derogation from the fundamental WTO principle of national treatment. It also noted that continuation of the exemption was cited as one of the major impediments to the US making market-access commitments in the maritime transport services sector. To this end, his delegation remained disappointed by the outcome of the present review. It urged the US to consider seriously, and in a substantive and meaningful manner, whether the legislation covered by this exemption still served the original objectives, and whether the conditions for retention of the exemption still prevailed.

250. The representative of China said that during the last review of this exemption in 2009 and at the February 2011 meeting of the General Council, several Members, including China, had expressed commercial and systemic concerns regarding this matter. China acknowledged that the United States had responded to the questionnaire submitted by Japan. However, there was a general feeling among interested Members that the review was unsatisfactory due to the absence of meaningful justification for maintaining this exemption. This longstanding exemption, which ran counter to the principle of national treatment, together with the non-substantiated reviews, risked undermining the credibility of the WTO. China joined previous speakers in urging the US to provide a persuasive explanation of the need to continue this exemption.

251. The General Council took note of the statements made in the course of the review in 2011, and that the subsequent review under the two-yearly cycle provided in paragraph 3(b) of GATT 1994 would normally be held in 2013.

11. WTO Accessions: 2011 Annual Report by the Director-General – Statement by the Director-General

252. The Chairman drew attention to the Director-General's report on accessions in triple-symbol document WT/ACC/15 – WT/GC/135 – WT/MIN(11)/3 and invited him to introduce it.

253. The Director-General said he was pleased to introduce his third Annual Report on WTO Accessions. Like his earlier reports on accessions, the current year's report provided detailed information on developments during the year, the factual state of play in individual accessions and the challenges faced on the year's accession priorities. The year 2011 had been a good one for accessions. The organization was now on the verge of welcoming, in the near future, two new LDCs – Samoa and Vanuatu – and the Russian Federation. He also hoped that Members could conclude the negotiations in the Working Party on the Accession of Montenegro at the final Working Party meeting, which had been scheduled for 5 December. The organization had the chance to conclude and register four accessions in 2011. He wished to pay sincere tribute to all Members, Working Party Chairpersons, and a dedicated Secretariat staff who had worked in concert to achieve the gains made in 2011. In spite of these gains, substantial work remained with those governments still in the process of accession. This was why the thematic focus of his report for 2011 was on "best practices" in accession negotiations, the purpose of which was to assist and facilitate acceding governments in their WTO accession engagement. The year 2011 had also marked progress in helping further the accession processes of LDCs, who were ten of the acceding countries. The draft decision on LDC accession was an important step in that direction. He wished to thank Members for the flexibility they had shown to be able to achieve this, under the able guidance of the Chair of the LDC Sub-Committee, assisted by DDG Jara. He trusted that more streamlined accession procedures, together with targeted technical assistance and focused work by the acceding countries, would set the tone for another crop of accessions in 2012.

254. All delegations who spoke thanked the Director-General for his comprehensive report on the state of play of WTO accessions and for his statement.

255. The representative of the Dominican Republic, on behalf of the Informal Group of Developing Countries, said that 2011 had seen a good crop in terms of accessions, and the Group hoped for another successful year in this area in 2012 and in the years to come. In this regard, the IGDC welcomed the action taken by the Sub-Committee on LDCs on the draft decision on LDC accession in the proposal submitted by Bangladesh for a final decision at MC8 to further strengthen, streamline and operationalize the 2002 Guidelines, including benchmarking in goods and services. The IGDC also wished to thank China for funding the establishment of China's programme for the provision of technical assistance to prepare LDCs for accession to the organization.

256. The representative of the European Union said his delegation joined the Director-General in welcoming 2011 as great year for WTO accessions. One should first thank and congratulate the acceding governments for their commitment to join the organization and for going through the serious internal reform process this required. The EU looked forward to similar success stories in 2012, and noted with pleasure that Serbia was on the "to do" list, a country with which the EU had already started a process of deep economic integration. In particular, it was remarkable that two out of the four governments that would join the WTO soon were LDCs, Samoa and Vanuatu, and the others were making good progress, as highlighted in the Director-General's report. For example, the EU planned to sign a bilateral protocol on market access with Laos during MC8. This was evidence that the current system worked well overall, including for LDCs.

257. Nevertheless, the system could be improved, and the EU was ready to proactively promote the consensus which had emerged on an LDC proposal for MC8 to further improve the 2002 Guidelines on LDC Accession. Another point on which the EU wished to mark its full agreement with the letter of the Director-General's report was that accession processes were complex and that one could not "simplify a process which is intertwined with far-reaching domestic economic and legislative reforms", as stated in the report. What could always be improved was the practical exchange of information between the WTO and acceding countries. In this regard, the EU wished to acknowledge the progress that had been made possible in this field thanks to the initiatives taken by the Secretariat with the support of the membership, e.g. on the newsletters and the accession database. These were all useful instruments. The report contained a useful summary of "best practices" for acceding countries. Most of these were common-sense practical suggestions, but the most important was more fundamental. It was summarized at the beginning of the first "best practice" – "Domestic and institutional reform is at the heart of each WTO accession process. At the core of these reforms were the benefits from the WTO accession process". Reforms took time and needed preparation and analytical studies before they were undertaken. Acceding to the WTO was not and should never become a political process. However, when a country requested to join the WTO, it should be aware of sometimes deep economic reforms it would have to undertake which did need thorough internal political assessment. Nevertheless, political will, while essential, was not enough. Means to put it in action were also necessary. In particular, LDCs needed technical assistance to both plan and carry out the necessary reforms. The EU would continue to provide technical and financial support to acceding developing countries, as it had consistently done. In this regard, it was glad to take note of how big emerging economies were slowly but firmly taking up their responsibilities in the system. China's programme for LDCs' accession was an important sign of this, and deserved praise.

258. The representative of China said his delegation wished to particularly thank the Secretariat and the Accessions Division for their great efforts and achievements in 2011. As the Director-General had said, this had been a good year for accession, with the currently acceding countries about to bring the WTO a major step closer to becoming a truly global organization. China also wished to express its appreciation for the recognition – in the annual report and by the statements by the Dominican Republic for the IGDC and by the EU – of China's programme for LDCs' accession. His delegation looked forward to working with the Secretariat and the LDCs in successfully implementing this programme.

259. The representative of Kenya, on behalf of the African Group, said the Group welcomed the accession of the new Members. This was an indication that the WTO was getting stronger, and the African Group congratulated Members for their support for the accession decision on LDCs. It looked forward to further simplification of the accession process for the remaining developing countries and LDCs. With the accession of Russia, he understood that almost 99 per cent of global trade would be under the WTO. One thus wondered why the one per cent was being kept out. Members needed to simplify the process further so that those developing countries, particularly from Africa, who had been left out for a long time could also become WTO Members. The Group was particularly concerned because some countries in Africa were very weak or, like South Sudan, very new. These countries wished to become members of the East-African Community, whose existing members were all WTO Members. He asked how these new countries could be further integrated into the regular economic blocks so they could reap the benefits of the WTO. There were currently nine African countries seeking accession, four of which were developing countries and the other five were LDCs. Something needed to be done to bring these countries into the fold, because it was not good to keep one per cent outside. The Group looked forward to further facilitation of the accession process, and had submitted a proposal in this regard which it hoped would be considered adequately so that progress could be made.

260. The representative of Chinese Taipei, on behalf of the RAMs Group, said these countries shared the Director-General's view that this had been a very good year for WTO accessions and that the prospects for accessions in 2012 were positive. The RAMs Group thanked the Secretariat and the relevant parties for their hard work on this matter and its results. It was important to keep this momentum in 2012. The RAMs Group had always played a supportive role on new accessions, particularly those by LDCs. It looked forward to congratulating the two LDCs – Samoa and Vanuatu – and the Russian Federation, and possibly also Montenegro, on the upcoming decisions on their accession at MC8. It also looked forward to welcoming more new members as they concluded their accession processes in the coming year.

261. The representative of Cuba associated her delegation with the statement by the Dominican Republic for the IGDC. Cuba welcomed Samoa, Vanuatu, and possibly Montenegro, and congratulated the Russian Federation for the commendable efforts, flexibility and pragmatism shown in its complex, lengthy and painful accession process. Cuba supported the Russian Federation and hoped for its prompt involvement in the defense of outstanding development issues. Cuba also thanked the Secretariat for its work on accession processes, Switzerland for its mediating efforts and Georgia for its willing attitude. Cuba, as well as others, could not understand how one of the world's biggest economies continued to be outside this organization. This had been one of the weaknesses that had eroded the credibility of the WTO and the multilateral trading system it represented. Cuba deplored the 18-year delay, which represented a record for accession. A similar process had been undergone by China, and about 30 developing countries were still waiting to accede to the WTO. Clearly, there was still room for improvement and change in the area of accession, and Cuba called for a deep analysis in this area.

262. The representative of Hong Kong, China said the organization could live up to its name fully only as and when its membership was truly global. His delegation was therefore supportive of accession applications of those economies that were readily prepared to follow the WTO rules and to offer meaningful market-access commitments commensurate with their stage of economic development. To this end, Hong Kong, China congratulated the Director-General and those who had worked so hard on individual accession working parties, on the solid progress that had been registered in 2011. In particular, his delegation looked forward to positive action to be taken at the upcoming Ministerial regarding the Russian Federation, Samoa, Vanuatu and probably Montenegro. On a related point, it had noted from the Director-General's report earlier at the present meeting that the Sub-Committee on LDCs had also worked pragmatically towards a draft Ministerial decision to be adopted at MC8 to streamline, strengthen and operationalize the 2002 Guidelines on LDC Accession.

Accession of LDCs was of course the important first step for these countries' meaningful integration into the multilateral trading system. His delegation therefore commended those efforts and would continue to work with Members to take this initiative forward.

263. The representative of Australia said that work on accessions was a key element of the organization's activities, and the large number of countries wanting to join was a testament to the ongoing importance of the WTO. LDC accessions were an important part of this, and his delegation was particularly pleased with the recent progress made in the Sub-Committee on LDCs. The accessions of Vanuatu and Samoa were two other very important LDC outcomes for MC8. These accessions were also particularly important for the Pacific region, and would add to the voice of small Pacific Island states in Geneva, helping to ensure that their interests were reflected in the work of the WTO. Of course, Australia strongly welcomed this, as well as the other accessions that had been concluded in 2011.

264. The representative of the United States said his delegation joined others who had expressed satisfaction on the completion of work on the accessions of Vanuatu, Samoa, the Russian Federation and, it hoped, Montenegro. The US was also pleased with the constructive recent work on LDC accessions, which would be an important outcome of MC8. More broadly, while anything devised by humans could be improved, the accession process was fundamentally sound. By its nature, it was a difficult process, since the applicant had to adapt its trade regime to the WTO. However, this process provided great benefit to the applicants that completed it. The WTO accession process, which had evolved from practices going back to the GATT, had provided the framework for 25 – soon to be 29 – accessions to the WTO, and remained an excellent framework for building trade capacity and encouraging economic reform and development. The US welcomed that two of the completed accessions in 2011 were LDCs. Both Samoa and Vanuatu had noted the economic and development benefits they expected to reap from the revised legislation and other results of their WTO accession processes.

265. The representative of Canada said his delegation joined in the statement by China.

266. The representative of Colombia said his delegation had long insisted on the need to hold a deep systemic discussion on the accession process. Colombia welcomed the progress in this area with the accession of three, and possibly four, new Members at MC8, and the important draft decision on LDC accession, with the prospect of continued work in this area in 2012. Colombia thanked the Members who had shown a substantive interest in this area and had helped in taking a step forward. It also urged Members to continue working on this issue. A clear, transparent and effective accession process would allow the organization to achieve one of its objectives, i.e. universality.

267. The representative of Iran, speaking as an observer, commended the Director-General on his third Annual Report on Accessions, and expressed his delegation's satisfaction with the clear, transparent and updated information on acceding countries' situations. Iran welcomed the positive progress achieved in the accession processes of countries such as the Russian Federation, Montenegro and Vanuatu, and emphasized that this positive progress had a significant impact on the universalization and inclusiveness of the WTO, with a view to strengthening the multilateral trading system. Regarding Iran's accession process, his country had taken another important step by responding to 697 questions put forward by interested Members. Answers to these questions were submitted to the Secretariat on 11 November. Against this background, Iran expected and hoped to see its first working party meeting held at the earliest convenient time. The consultations for setting up Iran's Working Party and appointing its Chair had been initiated even before the submission of the questions on Iran's trading régime. By responding to these questions, Iran had fulfilled its obligation and had shown its serious determination to join the WTO. Likewise, it encouraged and urged the membership to reinforce and accelerate this process so that a tangible output and action-oriented result could be achieved in the near future.

268. The representative of Yemen, speaking as an observer, said his delegation wished to congratulate the WTO Accessions Division, Members and acceding countries who had concluded their respective accessions, for the excellent results achieved in 2011. Yemen was happy to note that while the report was comprehensive and factual, it also included, for the first time a very important section on “best practices” that acceding countries could refer to as part of their own national check-lists. This was an objective addition and kind reminder, in order to achieve an efficient and successful accession. While 2011 had been a very good year for accessions, this had not been the case for his country, due to an internal situation. On the other hand, 2011 could be repeated in 2012, and he was optimistic that Yemen would be next in line to join the WTO in 2012. In the meantime, his country continued to count on the positive support extended by Members to Yemen, as an LDC, to conclude the final steps in 2012. Yemen sincerely hoped that the MC8 draft decision on LDCs accession, which had been adopted by the Sub-Committee on LDCs and endorsed by the General Council at the present meeting, would truly facilitate such processes in 2012 and beyond. His country looked forward to continuing to work with the Secretariat and Members on this all-important issue of accession to WTO.

269. The representative of Algeria, speaking as an observer, said his delegation wished to congratulate the countries that were about to accede to the WTO and to draw the Secretariat's attention to paragraph 24 of the report in triple symbol document WT/ACC/15 – WT/GC/135 – WT/MIN(11)/3, where his delegation had noted certain omissions and errors concerning information provided on its accession process. Algeria would transmit to the Secretariat the corrections it wished to see reflected in the document. It also wished to echo the statement by Kenya for the African Group referring to the Groups' proposal on developing-country accession and the draft decision on developing-country and LDC accessions. This proposal had also been supported by the Arab Group. The WTO would gain by enhancing the transparency of the accession process, and his delegation hoped that MC8 would be an opportunity to discuss this subject and give guidance, so as to facilitate the accession process.

270. The General Council took note of the statements and of the Director-General's report, which would be before Ministers for their consideration at their Eighth Session.

12. TRIPS Council matters

- (a) Review under paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health (WT/L/540 and WT/L/540/Corr.1) – Report of the Council for TRIPS (IP/C/61)
- (b) Proposal for a decision on an extension of the period for the acceptance by Members of the Protocol amending the TRIPS Agreement (IP/C/58)

271. The Chairman proposed, and Members agreed, to take up the two sub-items together. He recalled that in August 2003, the General Council had adopted a Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Paragraph 8 of that Decision provided that the TRIPS Council should review annually the functioning of the system set out in the Decision with a view to ensuring its effective operation, and should annually report on its operation to the General Council. In addition, in keeping with the August 2003 Decision, the General Council had adopted, in December 2005, a Protocol Amending the TRIPS Agreement, which had been submitted to Members for acceptance and which, in accordance with Article X:3 of the WTO Agreement, would enter into force upon acceptance by two-thirds of the Members. In view of the status of acceptances, however, the TRIPS Council at its meeting in October 2011, had agreed to submit to the General Council a proposal for a decision on a third extension of the period for the acceptance by Members of this Protocol. He invited Mr Gonzalez (Paraguay), Chair of the TRIPS Council, to report on these two matters.

272. Mr Gonzalez (Paraguay), Chairman of the TRIPS Council, said that at its meeting on 24-25 October 2011, the TRIPS Council had taken up the annual review pursuant to paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The TRIPS Council's report on this review to the General Council had been circulated in document IP/C/61. The cover note to this document set out factual information regarding the implementation and use of the Decision, the discussion on the operation of the system, and the status of acceptances of the Protocol Amending the TRIPS Agreement. The TRIPS Council's report also contained, in an annex, the record of the discussion that had taken place during the Council's review of the waiver decision. In addition, another annex to the report contained a recommendation for a General Council decision on an extension of the period for the acceptance by Members of the Protocol Amending the TRIPS Agreement. This Protocol, done on 6 December 2005, provided that the "Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference". Given the status of acceptances at the end of this initial period, the General Council, at its meeting in December 2007, had decided to extend the period for the acceptance of the Protocol until 31 December 2009. This period had been extended a second time until 31 December 2011 by a decision taken at the December 2009 General Council.

273. As of the present, 38 instruments of acceptance, including by the European Union (formerly the European Communities), had been notified by Members. The complete list of those Members could be found in the report to the General Council on the annual review of the functioning of the Paragraph 6 system in document IP/C/61. The list could also be consulted on a dedicated webpage that was regularly updated by the Secretariat. In accordance with paragraph 3 of Article X of the WTO Agreement, the Protocol would enter into force upon acceptance of the Protocol by two-thirds of the Members, which currently amounted to 102 Members. Given the present status of acceptances, the Council for TRIPS, at its meeting in October 2011, had agreed to forward to the General Council a proposal for a decision to extend the period for the acceptance by Members of the Protocol once more by a further two years, until 31 December 2013. This proposal was also contained in document IP/C/58 for consideration and adoption by the General Council. He called once more on those Members who had not yet accepted the Protocol to carry out promptly the necessary internal procedures so they could deposit their instruments of acceptance as soon as possible.

274. The Chairman thanked the TRIPS Council Chair for his report. In the light of this report, he proposed that the General Council take note of the report of the TRIPS Council in document IP/C/61, and adopt the draft decision in document IP/C/58 extending the time period for acceptance by Members of the Protocol amending the TRIPS Agreement to 31 December 2013.

275. The representative of the European Union said that regarding Item 12(a), the EU welcomed a focused discussion on the Paragraph 6 system and wished to understand better why developing countries in need, with one exception, had not yet tried to use the system. On Item 12(b), the EU supported extending the deadline for developing countries to sign the Protocol Amending the TRIPS Agreement. It encouraged all Members to use the next two years to accept the Protocol, so that the TRIPS Agreement could be amended for the benefit of public health needs across the world.

276. The representative of Rwanda said her country had taken a step forward and had accepted the Protocol. Accordingly, Rwanda supported the extension of the period for acceptance of the Protocol and urged other countries who had not yet done so to accept the Protocol during the next two years.

277. The representative of Kenya, on behalf of the African Group, reiterated the call by the EU to find out why many countries, particularly developing countries, had not come forward to ratify this Protocol. There were no doubt important reasons for this, and it might be necessary for the TRIPS Council to examine this matter in order to see how to rectify this situation. The Group was aware that the countries which had not even tried to implement the relevant provision faced many practical difficulties, including legal documentation which was at times excessive. Therefore, in helping these

countries to move forward on this matter, it might be necessary to find a mechanism to engage developing countries in order to help them understand how best to implement the relevant provision. This might require developed countries to do more than what they were currently doing, given that only one country had taken advantage of this provision since it had been put in place. As the EU had suggested, it was important to give further attention to this matter. Otherwise, in two years there might still not be a sufficient number of acceptances of the Protocol to amend the TRIPS Agreement.

278. The General Council took note of the statements and agreed to the Chairman's proposal.¹²

13. Amendment to the procedures leading to the certification of HS2007 changes – Draft decision

279. The Chairman drew attention to the draft decision contained in document G/MA/W/108 regarding proposed amendments to the procedures for the introduction of Harmonized System 2007 changes to schedules of concessions using the CTS Database. This draft decision had been forwarded to the Council for adoption by the Committee on Market Access through the Council for Trade in Goods, following its meeting in November. He proposed that the General Council adopt the draft decision in G/MA/W/108.

280. The General Council took note of the statement and so agreed.¹³

14. Procedure for the introduction of Harmonized System 2012 changes to Schedules of Concessions using the Consolidated Tariff Schedules (CTS) Database – Draft decision

281. The Chairman drew attention to the draft decision contained in document G/MA/W/109 concerning a procedure for the introduction of Harmonized System 2012 changes to schedules of concessions using the CTS Database. As with the preceding sub-item, this draft decision had been forwarded to the Council for adoption by the Committee on Market Access through the Council for Trade in Goods, following its meeting in November. He proposed that the General Council adopt the draft decision in G/MA/W/109.

282. The General Council took note of the statement and so agreed.¹⁴

¹² The Decision was subsequently circulated in document WT/L/829.

¹³ The Decision was subsequently circulated in document WT/L/830.

¹⁴ The Decision was subsequently circulated in document WT/L/831.

15. Waivers under Article IX of the WTO Agreement

- (a) Introduction of Harmonized System 2002 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/653/Rev.1)
- (b) Introduction of Harmonized System 2007 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/654/Rev.1)
- (c) Introduction of Harmonized System 2012 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/655/Rev.2)
- (d) Canada – CARIBCAN – Extension of the waiver – Draft decision (G/C/W/657)
- (e) European Union – Application of autonomous preferential treatment to the Western Balkans – Extension of the waiver – Draft decision (G/C/W/658/Add.1)

283. The Chairman said that the draft waiver decisions for the matters listed in sub-items 15 (a) through 15 (e) had been considered by the Council for Trade in Goods at its meeting of 7 November. For these items, the Chairman of the Goods Council was required to report to the General Council. In the absence of Mr Seilenthal (Estonia), Chairman of the Council for Trade in Goods, and on his request and behalf, he would read out the report on the Council's consideration of these matters in a single intervention, and the General Council would then take up each draft decision for action separately. "I would like to report that the Council for Trade in Goods, at its meeting of 7 November 2011, approved the collective draft waiver decision contained in G/C/W/653/Rev.1, which had been made in connection with the introduction of HS2002 changes into WTO schedules of tariff concessions. The Goods Council also recommended that the draft decision be forwarded to the General Council for adoption. Also at its meeting of 7 November 2011, the Goods Council approved the collective draft waiver decision contained in document G/C/W/654, which had been made in connection with the introduction of HS2007 changes into WTO schedules of tariff concessions. At that meeting, the Dominican Republic requested to be included in the Annex to the decision which listed the Members covered by the waiver decision. The Goods Council therefore agreed that a revised version of the collective draft waiver decision, including the Dominican Republic in the Annex, be prepared (G/C/W/654/Rev.1) and forwarded to the General Council for adoption. With regard to the waiver request on the introduction of HS2012 Changes into WTO schedules of tariff concessions, I would like to report that the Council for Trade in Goods, at its meeting of 7 November 2011, approved the collective draft waiver request contained in document G/C/W/655. At that meeting, Honduras, the Dominican Republic, Mexico and Pakistan requested to be included in the Annex to the decision which listed the Members covered by the waiver decision. The Goods Council therefore agreed that a revised version of the collective draft waiver decision, including Honduras, the Dominican Republic, Mexico and Pakistan in the Annex, be prepared (G/C/W/655/Rev.2) and forwarded to the General Council for adoption. Concerning the request by Canada for an extension of its current waiver for CARIBCAN, I would like to report that the Goods Council, at its meeting on 7 November, considered document G/C/W/657 containing Canada's request to extend the duty-free treatment to eligible imports of Commonwealth Caribbean countries benefiting from the provision of CARIBCAN until 31 December 2013. At that meeting the Goods Council approved the waiver request and recommended that the draft decision annexed to G/C/W/657 be forwarded to the General Council for adoption. I would also like to report that at its meeting on 7 November, the Goods Council considered documents G/C/W/658 and Add.1 containing, respectively, a request and a draft wavier decision on the European Union's provision of preferential treatment to the Western Balkans until 31 December 2016. The Goods Council approved the waiver request and recommended that the draft decision in G/C/W/658/Add.1 be forwarded to the General Council for adoption."

(f) Introduction of Harmonized System 2002 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/653/Rev.1)

284. The Chairman drew attention to the draft decision in document G/C/W/653/Rev.1, and proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt this draft decision.

285. The General Council so agreed.¹⁵

(g) Introduction of Harmonized System 2007 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/654/Rev.1)

286. The Chairman drew attention to the draft decision in document G/C/W/654/Rev.1, and proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt this draft decision.

287. The General Council so agreed.¹⁶

(h) Introduction of Harmonized System 2012 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/655/Rev.2)

288. The Chairman drew attention to the draft decision in document G/C/W/655/Rev.2, and proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt this draft decision.

289. The General Council so agreed.¹⁷

(i) Canada – CARIBCAN – Extension of the waiver – Draft decision (G/C/W/657)

290. The Chairman drew attention to the draft decision in document G/C/W/657, and proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt this draft decision.

291. The General Council so agreed.¹⁸

292. The representative of Barbados, on behalf of CARICOM, referring to the submission by Canada in document G/C/W/657, thanked Canada for its initiative and the membership for its support for the extension for an additional two years of the waiver covering CARIBCAN. Initiatives such as these were a critical component in ensuring that the Caribbean region had an opportunity to diversify its economies. Canada and the Caribbean had a long and fruitful relationship. Canada and the members of the Caribbean Community were currently engaged in negotiations aimed at deepening this relationship. It was envisaged that the free-trade agreement that was presently in process, once concluded, would be fully WTO compatible, while at the same time maintaining the development dimension for the region's small economies.

293. The representative of Trinidad and Tobago said her delegation echoed the statement by Barbados for CARICOM. In addition, it thanked Canada for its report on the trade-related provisions of the CARIBCAN Agreement. The longstanding CARIBCAN initiative had without a doubt contributed to the socio-economic well-being of the Caribbean region, evident through job creation,

¹⁵ The Decision was subsequently circulated in document WT/L/832.

¹⁶ The Decision was subsequently circulated in document WT/L/833.

¹⁷ The Decision was subsequently circulated in document WT/L/834.

¹⁸ The Decision was subsequently circulated in document WT/L/835.

foreign investment and value added to manufacturing sectors throughout the region, concomitant with the expansion of regional production and exports. Trinidad and Tobago was one of the major beneficiaries of the CARIBCAN waiver, which had contributed significantly to the growth of free enterprise and the expansion of foreign and domestic investment in non-traditional sectors, thereby increasing the competitiveness of domestic production. Trinidad and Tobago exported to Canada liquefied natural gas, methanol and other manufactured products that were among its major export items. In light of this, the CARIBCAN programme was an important medium-term instrument for promoting her country's economic growth and prosperity. The preservation of this preference would afford Trinidad and Tobago and, by extension, all of CARICOM the stability and predictability to maintain and further strengthen the programme of reforms necessary to further grow competitiveness and expand economic diversification. The CARIBCAN Agreement was a crucial vehicle to advance national and regional efforts at integrating into the global trading system and promoting sustainable development. It would be a much needed cushion in light of the negative impact of the global financial and economic crisis on the region's small, vulnerable economies. The approval of this request was therefore a matter of critical importance in facilitating uninterrupted access by their exporters to the Canadian market as the CARICOM region strove to complete a trade and development agreement with Canada, consistent with Article XXIV of the GATT, resulting in a more permanent arrangement during the two-year timeframe. Trinidad and Tobago applauded Canada for its commitment to promoting the economic sustainability of the Caribbean, and the General Council for making the waiver possible.

294. The representative of Jamaica said his delegation endorsed the statements by Barbados for CARICOM, and Trinidad and Tobago, and thanked Canada for having made CARIBCAN possible.

295. The General Council took note of the statements.

(j) European Union – Application of autonomous preferential treatment to the Western Balkans – Extension of the waiver – Draft decision (G/C/W/658/Add.1)

296. The Chairman drew attention to the draft decision in document G/C/W/658/Add.1, and proposed that, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), the General Council adopt this draft decision.

297. The General Council so agreed.¹⁹

(k) Review of Waivers pursuant to Article IX:4 of the WTO Agreement

(i) *Kimberley process certification scheme for rough diamonds, granted on 15 December 2006 until 31 December 2012 (WT/L/676)*

(ii) *Canada – CARIBCAN, granted on 15 December 2006, from 1 January 2007 until 31 December 2011 (WT/L/677, WT/L/828)*

(iii) *Cuba – Article XV:6 of GATT 1994, granted on 15 December 2006 until 31 December 2011 (WT/L/678, WT/L/826)*

298. The Chairman recalled that in accordance with paragraph 4 of Article IX of the WTO Agreement, "any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates." There were three waivers before the General Council for review, two of which provided that an annual report should be submitted by the Members concerned regarding the

¹⁹ The Decision was subsequently circulated in document WT/L/836.

operation or implementation of those waivers with a view to facilitating their annual review by the General Council. The reports from these Members had been circulated in documents WT/L/828 (Canada) and WT/L/826 (Cuba).

299. The General Council took note of the statement and of the reports in documents WT/L/828 and 826.

16. Committee on Budget, Finance and Administration – Report on meetings of October and November 2011 (WT/BFA/128)

300. The Chairman drew attention to the report of the Budget Committee in document WT/BFA/126 and invited Mr Vaaranmaa (Finland), Chairman of the Committee, to introduce the report.

301. Mr Vaaranmaa (Finland), Chairman of the Committee on Budget, Finance and Administration, said that at its meetings in October and November 2011, the Committee had dealt with the following matters. The Committee had agreed to the financing of the signage system and the catering facilities in the Centre William Rappard from the Members' Transition Operating Fund. A Payment Plan for the Islamic Republic of Mauritania had been proposed to the Committee with the objective of liquidating Mauritania's arrears over a period of 25 years. The Committee had reviewed the budget proposal for the ITC for the biennium 2012-13. Originally, the ITC had proposed an increase of 0.11 per cent for 2012 and 1.09 per cent for 2013, but after discussions, the Committee had recommended that the ITC budget remain at zero nominal growth for the biennium. The Committee had also examined the WTO budget proposals for the biennium 2012-13. In light of the current economic situation and the expected level of activity, the Secretariat had proposed a zero nominal growth for 2012 and a zero real growth in 2013. The proposal included the creation of three new posts in order to reinforce the Secretariat's resources in the dispute settlement area, as well as a number of measures to streamline operations on the Secretariat's side and on the Members' side. These measures included cost savings on document production and meetings, such as the reduction of the overall volume of documents by five per cent in 2012 and another five per cent in 2013, the reduction of printing and distribution of documents and replacing them by electronic distribution, and the improvement of scheduling and conduct of meetings.

302. After discussion, the Secretariat had made a number of additional adjustments to the 2013 budget, leaving only an increase of CHF 1.2 million, corresponding to the loan repayment for the new building. After these cuts, the proposed budget for 2012 amounted to CHF 196 million and CHF 197 million for 2013. The Committee had also examined the Biennial Technical Assistance and Training Plan for 2012-13 amounting to CHF 18 million and 18.6 million, respectively. The financial situation of the DDA Global Trust Fund had been a source of concern. The Committee had recognized the importance of timely and consistent contributions to the Global Trust Fund. The recommendations following these meetings could be found in paragraphs 8, 14, 15, 26, 27, 28 and 35 of document WT/BFA/128. Briefly, these recommendations related to: the Payment Plan for Mauritania in order to liquidate its arrears over a period of 25 years; the biennial budget of the International Trade Centre, with the WTO share of CHF 18.9 million for 2012 and the same amount for 2013; the WTO's biennial budget, amounting to CHF 196 million for 2012 and CHF 197.2 million for 2013; and the endorsement of the target amount for the DDA Global Trust Fund amounting to CHF 18 million for 2012 and 18.6 million for 2013.

303. The representative of Kenya, on behalf of the African Group, referring to the zero-growth budget for the International Trade Centre (ITC), said the Group did not know what that meant because, taking into account exchange-rate losses and the current economic and financial situation, this actually meant a reduction in the ITC budget. This was of course a matter of concern to the African Group, as most developing countries benefitted substantially from the work of the ITC,

particularly with regard to the value-added activities with a number of companies at the national level, and also the consolidation work with global supply chain mechanisms which in themselves were increasing exports and at the same time creating more jobs, particularly in countries like Kenya. Thus, the Group requested that there be a budget revision so that resources could be found from savings elsewhere and re-allocated to the ITC. Rather than zero growth, there should be significant growth in the resources budgeted for the ITC, because of its impact at the country level. Regarding the DDA Global Trust Fund, some political guidance had been proposed, and this should lead to some degree of stability in that Trust Fund, among other areas. The African Group strongly appealed to the Budget Committee to consider re-allocating resources from possible savings, so that the work of the ITC, which was very important to it, was not constrained.

304. The representative of El Salvador thanked the Budget Committee Chair and the Secretariat for their efforts in producing budget proposals that took into consideration the comments made by Members during the Budget Committee meetings, particularly those efforts to achieve a zero nominal growth for the 2012 budget and a limited increase in 2013, which reflected the commitments undertaken by the organization in regard to the construction and renovation of the building. This was consistent with the global economic situation and the austerity measures being implemented by the membership. Concerning Section 10 of the proposed budget relating to funds for trade policy courses, his delegation had already stated its position on the significant cutback in funding for 2012. Nonetheless, as a result of discussions in the Committee, funding had been found to ensure that the reduction in funds under this heading would be less than initially foreseen. Moreover, the Secretariat had given assurances that despite the planned reduction in trade policy courses, technical cooperation and assistance activities would not be affected, in either quantity or quality, over the next biennium, and that these reductions were chiefly aimed at optimizing resources. El Salvador hoped to be able to discuss developments in this respect when the time came for the 2013 mid-term revision. Likewise, it wished to emphasize the importance of replenishing the DDA Global Trust Fund up to the levels planned. These funds would play a key role over the next biennium in financing cooperation and capacity-building activities for developing countries such as El Salvador. His country was pleased to note that one of the commitments undertaken for MC8 was to continue providing the support required to endow the Trust Fund with sufficient resources. In light of the above, El Salvador could accept the budget proposals for the biennium 2012-2013.

305. The Chairman proposed that the General Council take note of the statements, approve the Budget Committee's specific recommendations contained in paragraphs 8, 14, 15, 26, 27, 28 and 35 of its report, including the draft Resolutions referred to in paragraphs 26 and 27, adopt the draft Resolutions on the Expenditure of the WTO in 2012 and 2013 and the Ways and Means to Meet Such Expenditure, in paragraphs 26 and 27 of its report, and adopt the Committee's report in document WT/BFA/128 as a whole.

306. The General Council so agreed.

307. The Director-General thanked the membership for approving the 2012-2013 budget of the organization. By approving a zero nominal budget for the next two years, the organization would be required to streamline its operations in order to be able to continue fully delivering on its mandates. The Secretariat would do its part by improving its productivity and engaging in a number of reforms in its internal processes and services. It would also have to reduce its requirements for temporary assistance. This would not be a simple exercise. Members, for their part, would be called on to contribute to this streamlining exercise. A number of these elements had just been approved, which the Budget Committee Chair had briefly identified. The implementation of these measures would require active follow-up in order to make these savings a reality. There would be a need for flexibility to accommodate some of the specific needs of Members. He counted on the full support of Members and the Chairs to make this endeavour possible.

308. The General Council took note of the Director-General's statement.

17. Review of WTO Activities

(a) Reports of:

(i) *General Council (WT/GC/W/647), Dispute Settlement Body (WT/DSB/54 and WT/DSB/54/Add.1), and Trade Policy Review Body (WT/TPR/284)*

(ii) *Sectoral Councils (G/L/978, S/C/36, IP/C/59 and IP/C/59/Add.2)*

(iii) *Committees on Trade and Development (WT/COMTD/74), Trade and Environment (WT/CTE/18), Balance-of-Payments Restrictions (WT/BOP/R/104), Budget, Finance and Administration (WT/BFA/127), and Regional Trade Agreements (WT/REG/21)*

(iv) *Working Groups on Trade, Debt and Finance (WT/WGTDF/10), and Trade and Transfer of Technology (WT/WGTTT/13)*

(v) *Committees under the Plurilateral Trade Agreements (GPA/110, WT/L/827)*

309. The Chairman said that before taking up this Item, he wished to say a few words regarding the reports Members would be considering. On a number of these reports, delegations had already had a substantive discussion in the respective bodies. He therefore suggested that, as usual, Members not repeat those discussions in the General Council. He also suggested that delegations take the floor only if they felt they had to draw particular attention to any aspect of the work reported on, or to add to a previously expressed position. He hoped that in the interests of maintaining the efficiency of their work, delegations would keep these thoughts in mind in requesting to speak. He wished to underline that all reports from the respective bodies and from the Director-General would be forwarded to the Ministerial Conference for the consideration of Ministers. He suggested that Members take up the reports under this Agenda item, which had been drawn up in pursuance of the Decision concerning procedures for an annual overview of WTO activities and for reporting under the WTO, in document WT/L/105. He invited any Chairpersons who wished to draw particular attention to some aspect of the work carried out in their bodies, or who wished to add anything to their reports, to take the floor.

310. Mr Niggli (Switzerland), Chairman of the Committee on Government Procurement, said he wished to inform delegations of the state of play and systemic importance of the renegotiation of the Agreement on Government Procurement (GPA). At the present time, the GPA parties had before them a golden opportunity to respond forcefully to the economic crisis and strike a powerful blow for open markets and the effective management of public resources. It was an occasion that should not be squandered. For more than ten years, the parties to the Agreement had been negotiating to update the GPA rules on public procurement and further open markets for their respective suppliers. A deal was now firmly within their grasp, and the GPA Ministers could clinch the deal when they came to Geneva in roughly two weeks. An updated GPA would respond directly to the deteriorating international economic landscape. Since the onset of the crisis, governments had had to confront inter-related challenges – maintaining and, where possible, enhancing the openness of markets, and promoting the efficient and effective management of public resources. A strengthened GPA would assist in responding to both sets of challenges. The revised Agreement would modernize the existing one, which was at present completely outdated, making it more flexible and easier to implement. It would create new commercial opportunities for enterprises valued at \$80-100 billion per year and would set in train future WTO work to ensure the continuing relevance of the Agreement in the decades to come. Moreover, it would facilitate the adoption of modern procurement tools that could provide important savings for governments and benefits for citizens – for example, by facilitating

efficient and competitive public infrastructure investment, it would contribute directly to international trade facilitation at a time when this was a priority for all Members.

311. The revised Agreement was also crucial to responding adequately to the growing interest in the Agreement on the part of Members that were not currently parties to it, through the improved provisions on S&D treatment and greater flexibility that it provided. With election cycles beginning in several major countries, the window of opportunity for the parties to conclude the revised Agreement would almost certainly close following MC8. It was vital that all parties understand that the package on the table now, with perhaps just a few final top-ups, was the best they could achieve in the present political and economic environment. A failure to conclude the negotiations in December could have very serious consequences. The improved text on which the parties had worked for so long would likely start to go stale, and some key parties to the negotiations might well come under pressure to withdraw concessions that had been offered. It had been seen before in this house how packages that were not harvested when they were ready could subsequently fall apart. As he had already noted, the GPA renegotiation was now largely finished. Only a very few remaining issues concerning coverage and the final provisions of the revised Agreement remained to be settled. In this context, it was urgent that the GPA parties now strike the final compromises required to conclude the negotiations and enable the revised GPA to come into force. This would require leadership, flexibility and pragmatism from all parties, but in particular from the three largest – the EU, Japan and the US – who largely held the keys to success. However, if these qualities could be shown in sufficient measure, the signal they would send would be heard around the world.

312. The representative of China thanked the Chairman of the GPA for his efforts on this matter. China attached great importance to its accession to the GPA and had just submitted its second revised offer that morning. Compared to the earlier submissions, this covered not only central Government entities but also some sub-central ones. This showed considerable progress in response to the requests of many parties to the GPA. China would continue to engage constructively with interested parties on its GPA accession negotiations, guided by the principle of reciprocity.

313. The General Council took note of the statements, adopted the report of the Committee on Trade and Development in document WT/COMTD/74 and took note of the reports of the other WTO bodies, including the reports of the Committees under the Plurilateral Trade Agreements, in documents WT/DSB/54 and Add.1, WT/TPR/284, G/L/978, S/C/36, IP/C/59, WT/CTE/18, WT/BOP/R/104, WT/BFA/127, WT/REG/21, WT/WGTDF/10, WT/WGTTT/13, GPA/110 and WT/L/827. These reports would be forwarded to the Ministerial Conference.

314. The General Council then adopted the draft report of the General Council contained in document WT/GC/W/647, on the understanding that the Secretariat would make the necessary adjustments to that draft report to include matters that had been considered at the present meeting.²⁰ The Report would then be forwarded to the Ministerial Conference.

18. Appointment of Officers to WTO bodies – Announcement by the Chairman pursuant to paragraph 7.1(a) of the Guidelines (WT/L/510)

315. The Chairman recalled that the Guidelines for the Appointment of Officers to WTO bodies in document WT/L/510 provided that the outgoing Chairman of the General Council would conduct consultations on the appointment of chairpersons to the WTO bodies in Groups 1, 2, 4 and 5 of the Annex to the Guidelines. The Guidelines also provided, in paragraph 7.1(a), that in order to promote transparency, the selection process should be started with an announcement by the Chairman at the General Council meeting held in December each year. Accordingly, he wished to inform the General Council that he would be starting the selection process for the appointment of Chairpersons to the

²⁰ The Annual Report of the General Council was subsequently circulated in document WT/GC/142.

WTO bodies in the Groups just mentioned. In accordance with Paragraph 7.1(b) of the Guidelines, he would be assisted in the selection process by the serving Chair of the Dispute Settlement Body, Mrs Johansen (Norway), and by Mssrs Gero (Canada), and Matus (Chile), former Chairmen of the General Council. In line with paragraph 7.1(d), Mrs Johansen, Mssrs Gero and Matus and himself would communicate, as early as possible, a specified time-period in which they would be available to hear the views and suggestions, if any, of Members, individually and/or in groups. Furthermore, as provided for in paragraph 7.1(c) of the Guidelines, a list of past Chairs of major bodies was available to delegations at the present meeting in order to provide some structure for their subsequent deliberations on the possible distribution of Chairs based on past practice and the need for balance. In accordance with paragraph 2.1 of the Guidelines, representatives of Members in financial arrears for over one full year could not be considered for appointment.

316. The General Council took note of the statement.

19. Proposal by Ecuador on Policy Space for Financial Regulation in the Committee on Trade in Financial Services

317. The representative of Ecuador, speaking under "Other Business", said that at the meeting of the Committee on Trade in Financial Services on 31 October 2011, his delegation had proposed that a paragraph be submitted for consideration by Ministers at MC8, with a view to its inclusion in the final document of that meeting, recommending that the Committee should continue working on the preservation of policy space for macro prudential regulation. In 2011, substantial work had been done by the Committee on the impact of the international financial crisis on trade in financial services. The Committee had concluded, *inter alia*, that countries had had to take broad regulatory measures to mitigate the effects of the international financial crisis, and that it was necessary to maintain policy space to implement those measures as well as to ensure proper and consistent reforms at the global level. Ecuador had further reminded the Committee of the work being done by various international organizations, such as the IMF and the UN Commission of Experts on Reforms of the International Monetary and Financial System, to regulate the financial sector, given the magnitude of the world financial crisis. This had led to substantial reforms being proposed as a matter of necessity to ensure the certainty, transparency and regulatory capacity of financial systems. Consequently, Ecuador's priority in terms of foreign policy was the construction of a new international financial architecture at the Latin American level, under which the financial sector would become a tool to foster production and development in the region. In view of the foregoing, Ecuador considered it important that Ministers at MC8 work to clarify how the WTO Agreements, and specifically the GATS, supported developing and least-developed countries in the light of the need to maintain policy space for financial regulation as a mechanism to counteract the crisis.

318. In the case of Ecuador – a small, open and dollarized economy – the need to maintain a secure policy space was critical to preventing a repeat of the effects suffered by the country as a result of the crisis at the end of this past century, which had caused a sudden and uncontrolled outflow of capital, the collapse of the country's financial system, the loss of its monetary sovereignty, and a major exodus of Ecuadorians to other countries. In short, the objective of this proposal, as stated in the report of the Committee on Trade in Financial Services of 4 November 2011, was to gain a clearer understanding of the practical effects of the GATS on Members' efforts to establish macro prudential policies aimed at strengthening their financial systems, taking into account the conceptual developments of the past few years in areas such as the reform of the international monetary system, the role of reserve currencies, the effects of global economic imbalance, and the management of institutions regarded as "too big to fail". Ecuador's proposal had received wide support from Members, and although some had deemed it not necessary to include it in the final document of MC8, it had remained on the Committee's working agenda for the coming year. His delegation emphasized that although its proposal had been addressed at the last regular session of the Committee on Trade in Financial Services in 2011, this should not have prevented it from being recorded in the Committee's final

report and in the report of the Council for Trade in Services. Had the proposal been included in those annual reports, the General Council would officially have been apprised of a proposal which his country considered important for MC8. Ecuador's proposal had been prepared in strict compliance with the agreed "gentleman's agreement" as set out in the Minutes of the General Council meeting on 27 July 2011.

319. The representatives of the Plurinational State of Bolivia, Cuba, Argentina, Dominican Republic and El Salvador said their delegations supported Ecuador's proposal.

320. The representative of the Plurinational State of Bolivia said her delegation wished to make two points on this matter. First, in the context of the current financial crisis, a review in this organization of the WTO rules pertaining to the financial sector would be most pertinent, in order to promote the preservation of public policy space, especially for developing countries. Nonetheless, thought should simultaneously be given to how to strengthen financial regulation in the countries that were the origin of the crisis, where lack of proper regulation had allowed the present crisis to occur, driving many countries close to the brink. The second point concerned the treatment of this topic in the report of the Committee on Trade in Financial Services. The topic had not been included as it should have been – the reports of other WTO Committees covered discussions up to the final day of the respective meetings. Bolivia was concerned about this type of situation and felt that that this particular case should be remedied, for example, in the form of an addendum.

321. The representative of Cuba said Ecuador's proposal had received widespread support, and given its importance and interest to many developing countries, it should be part of the record of the General Council and mentioned in the context of MC8. Cuba wished to stress that Ecuador had complied with all requirements throughout the process, but this matter had still not been included in the report of the Committee on Trade in Financial Services. In this regard, Cuba supported the statement by Bolivia.

322. The representative of Argentina said the regulation of financial services was of paramount importance, as the recent financial crisis had demonstrated. Therefore, the Committee on Trade in Financial Services should examine to what extent WTO provisions provided a margin for Members to adopt regulations that would help guarantee the integrity and stability of the financial system, especially in times of crisis.

323. The representative of Turkey thanked Ecuador for its statement. There was merit in discussing these issues in depth in the WTO. Turkey looked forward to the continued dialogue on this subject in 2012 in the Committee on Trade in Financial Services on the basis of relevant proposals, and eventually a background paper by the Secretariat.

324. The representative of Barbados said her delegation believed there might be scope for compromise and that it might be possible to continue discussion at the level of the relevant Committee.

325. The representative of Chile said this was a matter of principle. All committee reports had to reflect what had happened in the respective committees. Therefore, if this issue had been discussed and raised in the Committee on Trade in Financial Services, it should have been reflected in that Committee's report.

326. The representative of Dominican Republic said his delegation shared the concern raised by Chile.

327. The General Council took note of the statements.

20. European Union out-of-quota sugar exports – Statement by Brazil

328. The representative of Brazil, speaking under "Other Business", said his country was following with concern the recent decision by the EU to authorize exports of 700,000 tons of out-of-quota sugar for crop year 2011-2012. These exports were in breach of the EU's WTO obligations. He recalled that a decision to allow exports of 650,000 tons of out-of-quota sugar for crop year 2011-2012 had been published in April 2011. Another decision to allow exports of 700,000 tons, from September to December 2011, had been published in May 2011. Despite the fact that the period of reference for these 700,000 tons of out-of-quota sugar exports was crop year 2010-2011, a large majority of such exports would occur during crop year 2011-2012, which began in October. Therefore, the EU had authorized exports of 2,050,000 tons of sugar, most of it taking place during crop year 2011-2012, exceeding by far and by any standard its export subsidies' reduction commitments. It was noteworthy that in the past three crop years, the EU had breached its WTO export subsidies' reduction commitments regarding sugar in at least two of them, without a shadow of a doubt. These actions by the EU were particularly troubling in light of the findings by the panel and the Appellate Body in the EC-Sugar dispute. The DSB rulings and recommendations in that dispute were not optional commitments that could be disregarded every time the subsidized sugar production overshot the relevant regulatory targets. Brazil, as well as other affected Members, was monitoring the situation closely, in Geneva and in Brussels, and urged the EU to take actions to rectify this situation.

329. The representative of Australia said that along with Brazil and Thailand, Australia had taken successful action in the WTO against the EU in respect of its subsidised sugar exports. This process had determined that all out-of-quota sugar exports were in receipt of export subsidies. However, the latest decision to authorise a further 700,000 tonnes of exports meant that EU out-of-quota sugar exports in the 2011/12 marketing year were likely to exceed the export subsidy quantity commitment level for sugar, as had also occurred in 2009/10. Australia was also concerned that this action would depress the world sugar price, to the detriment of unsubsidized Australian sugar producers, and encouraged continued over-production in the EU. It also stood to unwind the important reforms the EU had undertaken since the WTO dispute. His delegation was closely examining the action taken by the EU and asked the EU to respect its WTO export subsidy commitments.

330. The representative of the European Union said the EU had been given notice only that morning that this issue would be raised at the present meeting. It was hearing for the first time the arguments that suggested the alleged non-respect of the EU's WTO commitment. Time was needed to look more closely into these arguments, and his delegation was thus not in a position to give a substantive reply at the present meeting. It had taken note of the concerns expressed and would report these elements to capital. The EU suggested that this issue be raised first in the Committee on Agriculture in the presence of relevant experts. Having said this, it assured Brazil and Australia that as a matter of principle, the EU had always taken due care to abide by its WTO commitments with respect to sugar exports, in particular in conjunction with its export subsidy commitments.

331. The representative of Thailand said her delegation shared the concerns expressed by Brazil and Australia regarding the EU's authorization of out-of-quota sugar exports for the marketing year 2011-2012. This authorization of exports ran the risk of exceeding the EU's 2011-2012 marketing year commitments. Thailand, together with Brazil and Australia, would closely monitor this situation, and hoped the EU would adhere to its export subsidy reduction commitments.

332. The representative of Colombia said his delegation shared the concerns expressed on the matter raised by Brazil and seconded by Australia. This matter should be examined carefully, starting with the Committee on Agriculture.

333. The General Council took note of the statements.

21. Chairmanship of the Working Party on the Accession of Algeria – Statement by the Chairman

334. The Chairman informed Members that following consultations with Members of the Working Party, and in keeping with usual WTO practice, it had been agreed that Mr Roux (Belgium) would serve as Chairman of this Working Party, replacing Mr Valles Galmés (Uruguay), who had left his post in Geneva and was no longer available to serve in this capacity. On behalf of the General Council, he wished to thank Mr Valles Galmés for having served as Chairman of this Working Party.

335. The General Council took note of this information.

22. Administrative measures for Members in arrears – Statement by the Chairman

336. The Chairman, speaking under "Other Business", recalled that at its meeting in May 2006, the General Council had approved a recommendation from the Committee on Budget, Finance and Administration regarding revised Administrative Measures for Members in arrears. Among these Administrative Measures was a requirement that, at each meeting of the General Council, the Chairman of the Committee on Budget, Finance and Administration should provide information with regard to which Members were under Administrative Measures in Categories II through IV. He invited the Chairman of the Budget Committee, Mr Vaaranmaa (Finland), to provide the Council with this information.

337. Mr Vaaranmaa (Finland), Chairman of the Committee on Budget, Finance and Administration, said that as required by the decision of the General Council, he would list the Members under Categories II through IV of the Administrative Measures as at 30 November 2011. There were two Members in Category II: Nicaragua and the Bolivarian Republic of Venezuela. There was one Member in Category III: Uganda. There were five Members in Category IV: Chad, Djibouti, Dominica, Guinea-Bissau and Sierra Leone.

338. The Chairman said that under the revised Administrative Measures, he was also required at each Council meeting to request those Members in Categories III and IV of the Measures to inform him, before the next meeting of the General Council, as to when their payment of arrears might be expected.

339. The General Council took note of the statements.

ANNEX I

Statement by Ecuador at the informal meeting of the General Council on 24 November 2011

At the request of the delegation, the statement by Ecuador at the above-mentioned meeting is included below as part of the Minutes of the General Council meeting.

We would like to make the following comments regarding "The Importance of the Multilateral Trading System and the WTO". Paragraph 47 of the Doha Declaration has repeatedly been referred to as an alternative, pragmatic approach for moving the Doha negotiations forward in certain areas, despite the membership not yet having reached agreement in this regard. In our view, paragraph 47 must be considered within the framework of the Work Programme contained in the Doha Declaration. It cannot be considered in a vacuum or in the light of particular circumstances or subjective assessments. In this respect, our first comment is as follows. During the preparatory process for the first Ministerial Conference in 1996, developing-country Members highlighted the problems they were facing in relation to various agreements adopted during the Uruguay Round. This was reflected in paragraphs 10 and 13 of the Singapore Declaration. During the preparatory process for the second Conference in 1998, developing-country Members reiterated these concerns. The Geneva Ministerial Declaration acknowledged the importance of this matter, which was reflected as an item in the Work Programme. During the preparatory process for the Seattle Ministerial Conference, and at the Conference itself, developing-country Members once again brought this issue to the fore. In May 2000, during the preparatory process for the fourth Conference, the General Council adopted a decision on this issue, which established, among other things, that appropriate decisions would be taken during that Conference. In fact, "implementation-related issues and concerns" became the first component of the Work Programme adopted in Doha and a matter to which the "utmost importance" was attached. Paragraph 12 of the Doha Declaration confirms this assertion.

Our second comment is as follows. Largely as a result of the process undertaken by developing-country Members in respect of implementation-related issues and concerns, the Doha Declaration resolved to place the "needs and interests" of the developing countries at the "heart" of the Work Programme. More specifically, it was agreed that "enhanced market access, balanced rules, and well-targeted, sustainably-financed technical assistance and capacity building programmes have important roles to play". Ministers also reaffirmed that provisions for special and differential treatment were an integral part of the WTO agreements and agreed to review all special and differential treatment provisions with a view to strengthening them and making them more precise, effective and operational. We therefore believe, in the light of the Work Programme agreed at Doha, that paragraph 47 should be a tool used, if not exclusively, then primarily, to promote the progress and conclusion of the negotiations and the earliest possible implementation of development-related aspects. With regard to the issue of "Trade and Development", we would like to make the following comments: At the last meeting of the Committee on Trade and Development, the African and Arab Groups presented document WT/COMTD/W/182. In this respect, as we stated at that meeting, we agree that: The Committee on Trade and Development needs to be strengthened as the focal point for the consideration and coordination of work on all development issues at the WTO. The monitoring mechanism for S&D treatment provisions needs to be properly established so that we have an institutional and permanent body that will, at some point, enable these provisions to be "more precise, effective and operational". One of the documents circulated on 21 April 2011, TN/CTD/26, states that "[a]s for the 28 proposals annexed to the draft Cancún Ministerial Declaration, Members have a shared understanding that there was an in-principle agreement to these proposals on an *ad referendum* basis, and what remains is their formal adoption by the membership at an opportune time". It is

therefore necessary to adopt the proposals which are still relevant. In short, we agree with the importance that is attached by the co-sponsors of the aforementioned communication to preserving and giving effect to the Committee on Trade and Development's mandate. We believe that the effective revitalization of this mandate will not only have a positive impact on the multilateral trade negotiations, but that it is vital to the smooth functioning of the multilateral trading system.

ANNEX II

Statements by delegations at the informal meeting of the General Council on 29 November 2011

At their request, the statements made by a number of delegations at the above-mentioned meeting are included below as part of the Minutes of the General Council meeting.

1. Cuba

Cuba appreciates the commitment and efforts made by the Chairman and the Director-General to find a way forward. Since the beginning, Cuba has not supported the idea of preparing for the Ministerial Conference a declaration with a part requiring consensus, because we knew this was going to be a difficult process. Nevertheless, Cuba has allowed the process to move forward. I wish to highlight that Cuba would agree to a consensus part in the Ministerial Declaration, only if there is real consensus and this consensus reflects the principles of transparency and inclusiveness. Cuba does not feel that its interests and ideas are represented by the ideas put forward by a group of countries. Of the various groups of Members Cuba is part of, only the delegation of Barbados as coordinator of the SVEs has informed us of the developments in this process. Once again, we are astonished by the non-democratic way negotiations are conducted in this organization, where great powers and hegemonic forces lead the process. However, we are not going to jump off the moving train, but we will stay on the train only if at one point there is an opportunity for each of its passengers to feel comfortable, equally represented and taken into account. Cuba considers that two of the elements presented by the Chairman are already advanced, because they coincide with elements that have been previously flagged and that we can live with. However, on "Trade and Development", we have some difficulties with the redefinition of the concept of "small and vulnerable economies", which is a well-recognized concept in this organization and one that should continue to be reflected in our work. Our main concerns are with the third element. At the previous Ministerial Conference we committed to moving forward on the basis of the guidelines adopted in Doha, and so far there have been no attempts to redefine the balance in terms of negotiating strategies or tactics. This is no longer the case. My delegation is willing to discuss, and I ask you, Mr Chairman, whether you have planned any open-ended consultations that would allow each Member to feel represented and have a say in this process. There is a need not just for transparency, but for transparency and inclusiveness, and inclusiveness means full participation by all. Cuba did not grant its representation to anyone else and wishes to take part in an open discussion to achieve consensus.

I will now address our concerns under the third element, paragraph by paragraph. The first paragraph recognizes that we are at an impasse, but it seems to indicate that the impasse is linked to the Single Undertaking, which is not true. The impasse is not to be blamed on the Single Undertaking, but on the lack of political will. Cuba cannot join a consensus on a text that links the impasse in the Doha Round to the Single Undertaking. The second and third paragraphs do not raise particular concerns. The fourth paragraph identifies the need to "explore different negotiating approaches". Cuba cannot accept the word "different". What we could accept is that Members explore the wide variety of possible approaches that can be taken, but "different approaches" implies that what we have been doing until now is useless and that we are going to do something different. This is not the answer, and Cuba will not support a consensus that discards our work so far. We are also concerned that, while the third paragraph makes reference to both transparency and inclusiveness, when it comes to planning for the future, the fourth paragraph refers only to the principle of transparency. Where is the principle of inclusiveness? Where is the sense of participation? The word "inclusiveness" should be added to this paragraph. The fifth paragraph says that advances will be prioritized in those areas "where progress can be achieved". Who will determine where there may or

may not be progress? Are we going to grant the right to veto to the big economies and let them impede the debate? How can we hope to make progress, for example, on special and differential treatment or on transfer of technology or in other development-related areas where the big economies have hindered progress? It is clear in this paragraph that we will allow some Members to give the green light to some issues and not to others. Of course, Cuba could explore this option when the time comes, but not when it is limited, as indicated in the document, only to some areas where the big economies will have the final word. The sixth paragraph indicates that, with respect to the rest of the Single Undertaking, where there are the biggest disagreements coinciding with the demands of the developing countries, Ministers will intensify their efforts to "look into ways that may allow Members to overcome the most critical and fundamental stalemates". It appears that the areas where progress can be achieved and that are of interest to developed countries will clearly move forward, but for the areas that pose obstacles and that coincide with developing countries' demands, Members may be allowed to progress only if the right conditions are in place. Finally, what really concerns us is that in the "Doha Round" element, the development dimension – which has been the essence and the guiding principle of our negotiating efforts – only comes at the end, as an afterthought. Although Cuba recognizes that there has been progress with respect to previous drafts, we are still far from having consensus on this document. We are ready to spend the necessary time to conduct negotiations and reach consensus, but this document does not have consensus. Its text is not balanced enough to represent the points of view of all Members. We hope that an open and comprehensive negotiation process can be held. We will take part in and contribute to such a process in a constructive way, but at the moment there is no consensus, and without consensus there cannot be a consensus document for the Ministerial Declaration.

2. Ecuador

With regard to paragraph 1 of the section entitled "Importance of the Multilateral Trading System and the WTO", we agree that the rules-based multilateral trading system is a fundamental asset which must be strengthened and made more responsive, particularly in respect of the needs of the majority of its Members, i.e. the developing countries. We therefore propose adding the following text:

"1. Ministers emphasize the value of the rules-based multilateral trading system and agree to strengthen it and make it more responsive to the needs of Members, particularly of developing-country Members, especially in the current challenging global economic environment, in order to stimulate economic growth, employment and development.

"2. Ministers underscore that the WTO's role in keeping markets open is particularly critical in light of the challenging global economic environment. The WTO has a vital role to play in the fight against all forms of protectionism and in promoting economic growth and development. Ministers also acknowledge that experience has shown that protectionism tends to deepen global economic downturns. Ministers fully recognize WTO rights and obligations of Members and affirm their commitment to firmly resist protectionism in all its forms, while preserving their policy space in order to address more effectively the current economic crisis."

With regard to the negotiations on the Dispute Settlement Understanding, which are referred to in paragraph 4 of the section entitled "Importance of the Multilateral Trading System and the WTO", a limited number of specific, mainly procedural issues have been identified in respect of which clarifications or amendments could be made. Of these issues, however, the ones on which most progress has been made are of relatively minor importance on the whole. Some issues of key importance have yet to be negotiated, such as those relating to "effective compliance" and "developing-country interests". We therefore believe that it is not appropriate, convenient or realistic to talk about an "end game" in this area. Regarding the section entitled "Trade and Development", we feel that the wording of paragraph 2 should be supplemented by a general reference to the following aspects: enhanced market access, balanced rules, and well-targeted, sustainably financed technical

assistance and capacity-building programmes. We therefore propose inserting the following text after "multilateral trading system":

"2. Ministers reaffirm the need for the WTO to assist in further integrating developing countries, particularly LDCs and economies that are small and vulnerable, into the multilateral trading system by, inter alia, enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programmes."

With regard to paragraph 4 of the section entitled "Doha Development Agenda", we believe that any new alternative considered must be fully functional, particularly with a view to meeting the principal objective of ensuring that developing countries secure a share in the growth in international trade commensurate with the needs of their economic development. To this end, we propose adding the following text:

"4. In order to achieve this end and to facilitate swifter progress, Ministers recognize that Members need to more fully explore different negotiating approaches, while respecting the principle of transparency and the overarching goal of ensuring that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development."

3. Honduras

We wish to thank the Chairman for his report and welcome the outcome that he has presented on the basis of his consultations. Honduras was not invited to take part in the consultations, and for this reason we wish to ask some questions regarding the elements that were presented today. We hope to have more conclusive comments once we have seen your text. The word "protectionism" is mentioned more than once in the document – "all forms of protectionism" and "to resist protectionism". My question is what do you mean by "protectionism"? We have a clear idea, and yet, from what we heard, it sounds as though it has been given a different interpretation which would further hinder progress in the Doha negotiations and would eliminate the special and differential treatment that economies, such as Honduras, benefit from. Moreover, we would like to know whether there is an attempt to redefine the Single Undertaking. The Doha Declaration, in the section entitled "Organization and Management of the Work Programme", paragraph 45 clearly establishes the following: "When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results." And paragraph 47 clearly states that "[a]greements reached at an early stage may be implemented on a provisional or a definitive basis." The Doha Declaration grants us the possibility to reach agreement within its mandated areas. In light of this, we ask whether there is an attempt to give another meaning to the Single Undertaking. Another element that we consider important and which falls under "The Importance of the Multilateral Trading System and the WTO" is the document circulated by the Director-General in WT/MIN(11)/15. We would like to know how this document will be treated, when it will be discussed, whether it will be included in the text for Ministers and how Ministers' comments in this regard will be collected.

4. Mauritius for the ACP

Thank you very much for your very comprehensive report, but more particularly to thank you for the wide-ranging consultations that you have been holding in order to steer the process forward towards MC8. As you have said yourself, these consultations were long, they were sustained over a period of time and they embraced a large number of delegations in different configurations. I myself have taken part in a number of them. And I also agree with you that your approach was to try to

achieve incremental progress, little by little. I also take note of the state of play of the matrix which you have presented, in terms of the committee reports that Ministers will have to note, the decisions they will have to take, and the elements of political guidance on the three clusters of issues that they will be called upon to provide, apart from, of course, articulating any view that they may wish to articulate. Let me say that in the committee reports, this is a very important element for the ACP, because in those reports, although they are in summary form, there are a number of very important issues that are now on the agenda of WTO committees, which will keep us busy in the course of the coming months. I am also glad that in the decisions that we are taking, there will be a number of decisions on the LDCs. In fact, most of the decisions are related to LDCs. This is a very good sign for the WTO and shows that it is sensitive to the needs and problems of LDCs. In terms of elements of political guidance, I have listened carefully to your report and as I have said in many of the consultations, it was not easy. I take the point that you made. Some of those elements may look too general in nature, and almost everybody felt more specificity was desirable, including the ACP, but unfortunately in the circumstances we could not move beyond the level of detail that already exists in those guidelines. And looking at the long report on these elements of political guidance, I take note and I would rather affirm that they are not necessarily a completely minimalist agenda. There are some very important elements there, and we certainly, from the ACP side, would like to take this as a basis to carry our work forward in the coming months and over the next year.

Now in the cluster on the importance of the multilateral trading system and the WTO, we are glad that the intention is to provide a very strong and important political message to the world outside, whereby we reaffirm certain basic and core principles of the multilateral trading system. But in actual fact, it goes beyond just reaffirming those principles and core values, and gives us a basis, in some of the elements proposed, to consolidate the institutional work of the WTO as from next year. I am indeed very pleased with the trade and development chapter, because this is very near and dear to the ACP in particular, and I am sure to the African Group, the LDCs, and other developing countries, because this is an issue which is at the heart of the multilateral trading system. We welcome some of the positive political orientations that have been given, in terms of strengthening or trying to make the CTD a more operational Committee in terms of it being the focal point for development work in the WTO. We also note the number of orientations given for LDCs, and also the need to integrate both LDCs and SVEs into the multilateral trading system. This we would like to stress and make it clear, without creating a new category of countries. We note the slight progress made on cotton. Cotton is an important issue for the ACP, the African Group and the LDCs, and we are glad to see that at least there is reaffirmation of the cotton agenda in the political orientations that Ministers will give. We also take note of the orientations given in the DDA part of your report. Indeed, we are glad that there is a positive reaffirmation of the DDA mandate and of the need to work within the DDA Single Undertaking and to continue to try to conclude the negotiations. At the same time, it leaves an opening to look at other approaches, other steps that we can take in order to advance those negotiations and try to make progress. So overall, I would say perhaps we could have gone further, perhaps there could have been more specificity, but unfortunately the specificity that is demanded by one delegation is not necessarily on the same wavelength as the specificity demanded by another delegation. So this is why we have reached where we have reached. As I said at the beginning of my statement, where we have reached is not simply a minimalist agenda but, according to me, it contains important elements and a very secure basis to carry on with our work on the three elements, on the three bases of your matrix for the WTO in the coming years. So, let me thank you once again for this work and for reporting this convergence, and the ACP reassures you that we will continue to work with you through and up until MC8 in order to have a smooth and very successful Ministerial Conference.

ANNEX III

Report by the Chairman of the TNC under Agenda Item 2 (JOB/GC/16 as corrected by JOB/GC/16/Corr.1)

The 8th WTO Ministerial Conference will be an occasion for us to review the entire breadth of WTO work and for Ministers to provide political guidance for our future work.

We all know that these are not ordinary times. The outlook for the global economy has worsened considerably in recent months. After the encouraging signals of recovery seen at the end of 2010, risks and uncertainties are now increasing. Global activity is slowing down, economic performance continues to be uneven across countries, debt levels and financial markets' volatility are rising, high unemployment persists in many countries, and confidence is falling sharply.

These risks are aggravated by perceptions that governments' responses to these challenges have so far been insufficient to provide opinions and markets with a convincing exit strategy framework. This is the reality that we face as a backdrop against which our meeting will be taking place. As a result of that, world trade has grown more slowly than expected in recent months.

I believe it is therefore important for our Ministerial Conference to send signals that trade openness can remain a stable trade anchor to the world economy. The last thing the world economy needs is more cacophony.

You will recall that at the 26 October General Council meeting, I reported in extenso on the elements I had heard from Members at that time on the current and next steps in the DDA. In reporting on those elements, I indicated that they had been built upon on the basis of incremental convergence and a bottom-up approach, following our well established principle of no surprises. I also indicated that they were work in progress. I detected broad convergence on these elements.

Since my last report to the General Council on 26 October, I have continued my consultations whose focus has been on part three of the matrix proposed by the Chair of the General Council – elements for political guidance under the DDA. In my consultations, I have met with a large number of individual delegations, with Group coordinators, and with delegations in various group formats including a focus green-room like group of Members covering a broad range of the membership on Sunday, Monday and Tuesday. We also had the informal HoDs meeting where the combined elements for political guidance, including on the DDA were shared and discussed with the wider membership. As always, I have coordinated this work with the Chairs of negotiating and regular bodies and with the Chairman of the General Council.

The elements for political guidance under all three themes were circulated after yesterday's HoDs in document JOB/GC/15. I do not intend to read out the elements today as delegations have already had a chance to look at them. I would only wish to outline a few elements to provide clarity on some of the questions and concerns expressed by some delegations during yesterday's informal HoDs.

First, in my consultations I did not hear any signals or proposals to give up on the objectives you set when the Doha Development Round was launched. What I heard in my consultations is that all Members remain committed to working to deliver on the Doha mandate. So, the Doha mandate and all the principles enshrined in the Doha Ministerial Declaration, including the single undertaking, transparency and inclusiveness continue to guide our work forward.

I also sensed in my consultations convergence emerging around the idea that Members advance negotiations in areas where progress can be achieved, in line with our existing provisions that allow Members to reach agreements based on consensus earlier than the full conclusion of the single undertaking. Obviously it is for the Membership to see which are these areas as it is for the Membership to negotiate and reach agreement.

Lastly, I wish to clarify that in my consultations there was convergence that work should continue on the basis of progress already made and that any agreement reached at any time will have to respect fully the development component of the mandate. The strong language used in this respect provides clarity on the importance of the development component of our work, which is not relegated in any way simply because it appeared as the last paragraph of the elements for political guidance.

Let me be very very clear on this point, this is not about reinterpreting the Doha mandate, or reinterpreting the principles included in the Doha mandate. I hope that these clarifications help dispel concerns that were expressed by some during our meeting yesterday.

Looking ahead, we heard yesterday that one of the sessions during the Ministerial Conference will be devoted to discussing the Doha Development Agenda. The elements for political guidance provide us with a shared sense of direction. What is needed now is to operationalize these elements. I would therefore encourage Ministers to use their interventions at the upcoming Ministerial to provide guidance in this respect to ensure that real progress can be achieved in 2012. Guidance is needed both in respect of where and how progress can be achieved in the shorter term as well as on how to overcome the stalemate in areas where convergence has proven challenging. In doing so, I believe that Ministers need to address the essential question which in my view is behind the current impasse: different views as to what constitutes a fair distribution of rights and obligations within the global trading system, among Members with different levels of development. This is a political question to which a political response will be required.

With regard to the current state of play in each area of the negotiations, my intention is not to read this out at today meeting. I will circulate the latest developments in all areas of the negotiations as an Annex to this report in a JOB document immediately after this meeting so that it will form part of the records of this meeting. That concludes my report, Mr Chairman.

Annex

State of Play in Negotiating Groups

In **Agriculture**, Ambassador John Adank was confirmed as Chair of the Special Session in a formal meeting of the Group on 18 November. I welcome Ambassador Adank and wish him every success in his tenure.

It is my understanding that the last report (TN/AG/26) dated 21 April 2011 by the previous Chair, Ambassador David Walker, remains an accurate assessment of the status of work on the outstanding issues in the negotiations on agriculture. Since that report there have been a number of informal consultations as well as bilateral and plurilateral meetings among Members. On 30 May 2011, in a Room E format, some Members reported on their bilateral and other contacts, including clarification meetings on domestic support and market access.

There have also been recent consultations on cotton, following a proposal from the C-4 contained in document TN/AG/SCC/GEN/11. These consultations confirmed the commitment of Members to on-going dialogue aimed at progressing the mandate contained in paragraph 11 of the

Hong Kong Ministerial Declaration to address the issue of cotton "ambitiously, expeditiously and specifically". Consultations also highlighted the value Members continue to place in on-going and regular periodic reporting on the Cotton issue, including through my Consultative process on Cotton. The consultations have also highlighted the useful work being undertaken within the Consultative process to advance development assistance aspects of the issue. However, these consultations have confirmed that not all Members are in a position to agree to the C-4 proposal, particularly the interim measure to freeze trade distorting support for cotton at current levels. When the Chair reported back to the Group many Members expressed support for further efforts to determine whether cotton could be advanced at MC8.

The Chair of the Group has indicated his intention to consult with Members on the organization of future work in the Group, consistent with the outcome of MC8.

On NAMA, the Negotiating Group met in the context of open-ended transparency sessions, Room D sessions and in small-group meetings. The objective at these sessions was to make progress on the working documents concerning the Ministerial Decision on Procedures for the Facilitation of Solutions on Non-Tariff Barriers (Horizontal Mechanism); Understanding on the Interpretation of the Agreement on Technical Barriers to Trade with respect to the Labelling of Textiles, Clothing, Footwear, and Travel Goods (textile labelling); and TBT-related Transparency issues (transparency) contained in respectively Annexes A, B and C of TN/MA/W/103/Rev.3/Add.1. The discussion on textile labelling and transparency was based on a list of open issues which the Chairman had circulated in early July. On the Horizontal Mechanism, apart from a general Room D discussion, no further work was done on the working text.

On **textile labelling** some progress has been made on the question of scope insofar as there was an understanding reached among the Members of the small group that intermediate products would be covered by the Understanding. Some outstanding issues remain including country of origin.

On **transparency**, some progress has also been made and the group has focused on the existing format for the notification of draft measures under the TBT Agreement and examined possible additional elements drawn from the working text on transparency. Some of the issues which remain include whether or not there is need to identify any parts of the proposed technical regulation or conformity assessment procedure which deviate from the relevant international standard on which the proposed technical regulation or cap is based. Another issue is who should be able to provide comment and thereby influence the development of draft regulations. The questions of special and differential treatment and technical assistance also need to be addressed at the appropriate time.

Lastly, the **tariff component** of the negotiation still represents a challenge and the situation has not changed since the Chair's April report and my report on my consultations on the NAMA sectoral negotiations. The future work of the negotiating group will depend on the direction given by Ministers on the DDA at MC8.

Progress in the area of **Trade Facilitation** is reflected in the 11th revision of the Draft Consolidated Negotiating Text (TN/TF/W/165/Rev.11). It captures the state-of-play on the text-based negotiations and the progress achieved by the Negotiating Group.

Based on Members' views and the positive feedback the Negotiating Group Chair received to his suggestions in the Group's meeting on 11 November, further negotiations will continue to be based on the bottom-up, transparent and inclusive process that has delivered considerable results and allowed Members to significantly improve the Draft Text and to reduce the number of brackets existing at the beginning of the year by over one-half. The Group will continue to make use of the facilitator process that Members have developed as a complement to formal meetings of the Negotiating Group, and it will be expanded to cover all elements of the Draft Agreement.

In order to allow all Members, including those with small delegations, to participate fully and effectively in this work and to ensure that the facilitator process can proceed smoothly without any overlap of activities, NGTF meetings will be held with reasonable intervals in between, leaving adequate time for Members to engage in the inter-sessional activities and to properly prepare for the negotiations in this Group. Two meetings of the NGTF have been scheduled in the first half of 2012. An additional one-day meeting will be held on 31 January 2012 to organize further work in detail.

Overall, the status of the services negotiations remains largely unchanged since April, as described by the Chair of the CTS Special Session, Ambassador de Mateo, in his latest report (TN/S/34). The picture with respect to LDCs and services is, however brighter. The long-standing waiver proposal to cover special treatment granted to LDCs has now reached the final stage. As outlined in Ambassador de Mateo's Report (TN/S/37) issued this week, Members have now given their collective support to the draft text of a waiver, to be submitted for adoption at the upcoming Ministerial Conference.

During the past several weeks, Ambassador de Mateo, assisted by Ambassador Johansen of Norway, have put considerable effort into resolving the remaining differences between delegations arising from the draft text. Credit must also be given to delegations, who exercised flexibility in moving toward their collective support for the text. I am confident that the decision on the waiver at the Ministerial Conference, and the related granting of preferences by Members, will be effective in enhancing the development of trade in services for the least-developed countries.

On Rules, as you know, at a meeting of the General Council on 26 October 2011, the Chairman of the General Council reported a consensus among Members to appoint Ambassador McCook as Chairman of the Negotiating Group on Rules. Ambassador McCook expects to call a meeting at an appropriate time so that the Group may confirm his appointment.

There is little new to report on the Rules negotiations at this time. On 21 April of this year Ambassador Dennis Francis circulated documents to all participants reflecting the work of the Group on antidumping, subsidies and fisheries subsidies (TN/RL/W/254) and regional trade agreements (TN/RL/W/252). The documents reflected the efforts made by the Group in late 2010 and the spring of 2011 as well as the movement achieved in the negotiations. Since that time, there have been no meetings, either formal or informal, of the Group.

As regards the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, the Chairman of the Special Session of the Council for TRIPS issued a detailed report in document TN/IP/21, dated 21 April 2011. The report provides a comprehensive and factual representation of the various phases of negotiation, the concerns and interests at stake, the working methodologies used, and the dividing issues. In particular, it describes the intensive phase of negotiations which took place from January to April 2011, culminating in a Draft Composite Text in treaty language. This text emanates exclusively from delegations and is contained in JOB/IP/3/Rev.1, attached to the Chairman's report.

Since this report, the Chairman held two informal group consultations on 7 July and 27 October 2011. The purpose of the group consultations was to hear delegations' views on how best to proceed with future work, including any clarifications and reflections on technical aspects of the low-conflict elements of the Draft Composite Text. The general view was that the text had laid down the foundation for future work. On work of a purely technical character on the low-conflict elements of the text, the view was that it would be difficult to proceed with such work at this stage in the absence of greater clarity regarding the overall process. Another view was that it would not be even possible to work on low-conflict technical issues as long as the mandate, clearly limited to wines and spirits, was not respected.

On **Special and Differential Treatment**, work in the Special Session of the CTD has progressed, albeit somewhat slowly, after April 2011. Members have engaged constructively on the Agreement-specific proposals and although some movement has been witnessed, positions remain divided on certain aspects of the text that Members have been considering.

On the Monitoring Mechanism text-based discussions have proceeded on the basis of Chair's last non-paper. This work has been facilitated by textual proposals tabled by some Members on the preambular language. In addition, some ideas with respect to other elements are also on the table that, in the Chair's view, could help advance the work in coming months. The Chair plans to continue his consultative process after the Ministerial Meeting.

On **Trade and Environment**, the Chairman of the General Council reported a consensus among Members to appoint Ambassador Harun of Malaysia as Chairman of the Special Session of the CTE.

On 21 April of this year Ambassador Teehankee circulated documents to all participants reflecting the work of the Group since the intensified work programme in 2010 and early this year including draft texts. His report also identified areas that would require further attention from Members to bring the negotiations to a successful conclusion on all three parts of the mandate in paragraph 31 of the Doha Ministerial Declaration. Since that time, there have been no open-ended meetings, either formal or informal, of the Group.

The **DSU negotiations**, which are part of the Doha Work Programme but placed outside the Single Undertaking, have continued to move forward constructively. As indicated in the Chairman's Report to the Trade Negotiations Committee on 21 April 2011 (April Report)¹, the July 2008 text endorsed by participants as basis for further work has brought focus to the discussion and provided a unified basis for continued work.² Participants have engaged in recent work in a constructive spirit and measurable progress has been made in a number of areas. Specifically, participants were close to an understanding on draft legal text on sequencing, had identified key points of convergence on post-retaliation, and had conducted constructive work on third-party rights, timesavings and various aspects of effective compliance.³

Since the issuance of the April Report⁴, several further consultations have been held.⁵ In this context, participants further discussed flexibility and Member-control, panel composition, strictly confidential information, transparency and *amicus curiae* briefs, and mutually agreed solutions. In this period, further consultations were also initiated on remand, effective compliance and developing country interests. During this time, the Chairman noted that participants made substantial progress in particular towards draft legal text on mutually agreed solutions, suspension of panel proceedings and the notification of retaliation measures.⁶ Revised draft legal text has also recently been introduced on strictly confidential information, remand and third party rights, building on recent work in these areas.

Based on the Chair's recent consultations, he noted that participants appear to be fully committed to continuing to work constructively for the successful completion of this work, toward a

¹ See TN/DS/25.

² See Appendix A to TN/DS/25.

³ See the Chairman's summaries of work in Appendix B of TN/DS/25.

⁴ See the Chairman's report to the TNC in TN/DS/25.

⁵ Meetings were held in the weeks of 3-13 May, 20 June, 29 July, 26 September and 14 November 2011.

⁶ See the Chairman's summaries of recent work in JOB/DS/1, JOB/DS/2, JOB/DS/3, JOB/DS/4 and JOB/DS/5 (to be issued).

rapid conclusion of the negotiations.⁷ The next meetings are scheduled for the week of 30 January 2012. At that time, discussions will return to remand, strictly confidential Information, panel composition, flexibility and Member-control, third party rights, developing country interests and effective compliance.

Lastly, the **two TRIPS implementation issues of GI extension and TRIPS-CBD** have been the subject of the technical consultations I have been holding in my capacity as DG and not as TNC Chairman. The consultations with a small group of delegations representing the various positions were, as mandated by paragraph 39 of the Hong Kong Ministerial Declaration, regularly reported to the TNC and the General Council. My last written report, which covers the period from March 2009 to April 2011, is contained in document WT/GC/W/633 – TN/C/W/61, dated 21 April 2011. It summarizes the process and the main points addressed by delegations. Since this last report, there have not been any consultations.

⁷ See TN/DS/M/35.