



General Council  
26 November 2013

## MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD ON 26 NOVEMBER 2013

*Chairperson: Mr. Shahid Bashir (Pakistan)*

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<sup>1</sup> The proposed agenda was circulated in WT/GC/W/677.

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## 1 REPORT BY THE CHAIRMAN OF THE TRADE NEGOTIATIONS COMMITTEE

1.1. 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.

1.2. The Director-General<sup>2</sup>, Chairman of the TNC, recalled that since the last meeting of the General Council in October, the TNC had held three informal meetings on 14 and 25 October and 12 November.<sup>3</sup> In conjunction with the General Council Chairman, the TNC had also held an informal HODs meeting on 1 November. He thanked the Chairs and the Secretariat for their work over recent weeks.

1.3. He said that when he had accepted the position of Director-General he had told Members that one of his priorities would be transparency and inclusiveness. He had often heard that truly productive meetings could only happen with a small number of delegations, behind closed doors. He had never accepted that. He had always felt that all delegations had to take part in the decision-making process. Of course meetings in smaller configurations were needed to speed up the process, but the results of these meetings had to feed into a more open, transparent and inclusive process. He had put these ideas into practice as the list of meetings for October and November showed.

1.4. He recalled that, in recent weeks, over 150 hours of negotiations had been completed in room W, D and E meetings alone. The last meetings had been open-ended in Room W. He said that perhaps this was not the most efficient way of doing things and he apologised for that. The last meeting had started on Sunday at 10am and had finished at 7am the previous day. He thanked everyone for the tremendous effort carried out over the previous couple of months. He hoped Members would forgive him for having pushed so hard and for trying to get efficiency through unorthodox procedures like the 60-second rule. He wished to think that these often unpleasant procedures were necessary to help cover so much ground over such a short period of time. He believed Members had achieved a lot and had done so hearing all voices and allowing for a process where everyone knew what was happening and where the trade-offs were accessible to all. More than that, each Member had had a chance to defend their national interests to the fullest extent. He was proud of that particularly because this inclusive process had not prevented them from making progress. In fact, more progress had been made in just the past few weeks than over the past five years. The ship had almost sunk a few times, but everyone had managed to keep it afloat and on course.

1.5. He stressed that, over the last few weeks he had seen the WTO the way it should be. Members had been negotiating. Members had been dynamic. Members had worked hard to get an agreement: engaging capitals, seeking common ground, making compromises. Members had worked through weekends, around the clock, and had lost sleep. He had not seen such effort and engagement since July 2008. And in contrast, back then, just a few delegations had been active actors throughout. As a result of these efforts and engagement negotiations had been concluded in a large number of difficult and sensitive areas. The texts before Members at the present meeting showed this quite clearly. He noted that the set of documents included the following:

- a. Four draft decisions on Agriculture:
  - i. The Draft Decision on Agriculture General Services – JOB/TNC/28
  - ii. The Draft Decision on Public Stockholding for Food Security Purposes – JOB/TNC/29
  - iii. The Draft Decision on Export Competition – JOB/TNC/31
  - iv. The Draft Decision on Tariff Rate Quota Administration – JOB/TNC/30
- b. The Draft Trade Facilitation Agreement – JOB/TNC/35.

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<sup>2</sup> The Director-General's statement was circulated in JOB/GC/59.

<sup>3</sup> The Director-General's statements at these meetings are contained in documents JOB/TNC/23, 26 and 27, respectively.

- c. Five documents in the Development/LDC pillar:
- i. The Draft Decision on the Monitoring Mechanism on Special and Differential Treatment – JOB/TNC/34
  - ii. The Draft Decision on Duty-Free and Quota-Free Market Access for LDCs – JOB/TNC/33
  - iii. The Draft Decision on Preferential Rules of Origin for LDCs – JOB/TNC/24
  - iv. The Draft Decision on Cotton – JOB/TNC/32
  - v. And the Draft Decision on the Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of LDCs – JOB/TNC/25

1.6. He recalled that these ten texts had been negotiated as a Package. Members had made compromises and showed flexibility with the understanding that their contributions would be reciprocated in other areas of the negotiation. The work had not been finished in all negotiating areas and, therefore, none of these texts could be understood to be fully agreed. Each one of them had a square bracket at the beginning of the text and another at the end. These documents were simply a snapshot of where the negotiations were at that point in time. They consolidated the progress made so far and did not incorporate anything that happened after 7 a.m. the previous day. They were the documents negotiated in the open-ended meetings in room W. Many had asked for adjustments of the texts where they felt further progress could be made, or where there were specific difficulties in some areas. He did not make the requested adjustments, because other Members had not had time to comment on them. He had therefore kept the texts intact as they were at 7 a.m. the previous day.

1.7. He noted that there was one slight change made to the export competition text in order to take on-board some of the language proposed by Cuba as the last meeting on that issue was finishing. As Members did not have the opportunity to come back to that text in the negotiating process, he had taken the risk of including some elements of the Cuban proposal to the text even though he had not had the chance to test it with other Members. As Members had not discussed the proposal in that meeting he had not applied the full scope of the proposal, but he thought some elements were useful and appropriate as they referred to S&D treatment for LDCs and NFIDCs. He hoped he had not upset the balance Members were seeking. Nonetheless, none of the texts were fully agreed so Members could revisit these adjustments in due course. Since there would no longer be further open-ended meetings between then and Bali, the documents would not be revised. He nonetheless encouraged Members to continue seeking convergence wherever this was possible. Any further results would be taken to Bali and could be incorporated in the consolidated texts at the appropriate time.

1.8. In his assessment, after the hard effort put into the negotiations, there was good news and bad news.

1.9. The good news was that Members had come very close to fully agreed texts. As far as the Geneva process was concerned, Members had managed to get convergence in almost all areas. Except for the Trade Facilitation text, the other documents were either entirely or mostly clean of square brackets. They were not agreed texts but they were "stable". Delegations might want to revisit them, but in the process in Geneva, Members had managed to conclude negotiations. Even Section II of the Trade Facilitation text – the largest iceberg until a couple of days earlier – was now virtually "clean". Members still needed to conclude work on some of the provisions for LDCs, but otherwise there was a stable and finalised text. He was afraid the same could not be said of Section I. Members had cleaned much of the text but some issues remained unresolved. He did not think the challenges in those issues were insurmountable. On the contrary, he believed the landing zones were discernible to Members.

1.10. The bad news, however, was that over the last few days, Members had stopped making the tough political calls and this had prevented them from getting to the finish line. They were indeed close, but not quite there. What remained to be negotiated was not something that could be easily

managed by the Ministers in Bali. Although Members could discern the landing zones in most – if not all – of the pending issues, the bracketed areas were too many and too technical in nature.

1.11. He said that holding negotiations in the short time in Bali would be simply impractical with over 100 Ministers around the table. He did not believe that small negotiating meetings behind locked doors would do the trick either. Anyway, they were not an option. Even at this critical juncture, he did not believe Members would be ready to abandon the transparent and inclusive nature of the negotiations. Moreover, many Members had expressly stated that Bali should not be a negotiating Ministerial Conference and he agreed with them. It would not be feasible and would not be successful. Members were not going to Bali with a set of finalised documents that could allow the Ministers to announce to the world a set of multilaterally agreed outcomes – the first since the WTO was created.

1.12. He said that, at that point in time, one could not tell the world that the Organization had delivered and he would inform the Ministers that Members had failed to find convergence. He would tell them that Members had come truly close to a successful outcome, but that, once more, the finish line had eluded them. Failure in Bali would have grave consequences for the Multilateral Trading System. Most of the Members knew this. Members would fail not only the WTO and multilateralism but also the constituencies at large, the business community and, above all, the most vulnerable. Members would fail the poor worldwide. Not a single human being living in poverty anywhere in the world would be better off if there was failure in Bali.

1.13. What Members had on the table for Trade Facilitation would deliver jobs and opportunities in times of unemployment and slow growth. It would also deliver technical assistance and capacity building for the better integration of developing and least-developed countries into global trade flows. What Members had on the table would deliver for the least-developed countries in several areas:

- a. Improvement in market access schemes of duty-free quota-free;
- b. Simplified and more accessible rules of origin for their exports;
- c. Improved market access for the services sector; and
- d. A renewed push for the cotton negotiations.

1.14. What was on the table would also deliver a mechanism for the review and strengthening of S&D provisions in all WTO Agreements. And what was on the table would deliver on very significant agricultural issues. In this pillar, the results would:

- a. Set a track for a reform of export subsidies and measures of similar effect;
- b. Provide for a better implementation of tariff rate quota commitments; and
- c. Provide a temporary shelter for food security programmes and put in place negotiations that would address concerns regarding the sustainability of legitimate food security and food aid programmes.

1.15. The worst of all was that if this failed, everything would be lost, for no justifiable reason. He believed that nothing that was on the table required any Member to go beyond what was doable. One might not get all that they sought, but no unmanageable contribution was required from anyone. Above all, one should not accept the inevitable simplistic assessments that would show up over the next few days about why Members were at an impasse. This was not about developed versus developing countries. This was not a North – South divide. Members had all tried. He had seen the developing and least-developed fully engaged and showing the impetus and flexibility required for a successful conclusion of the negotiations. Only those that truly wanted an outcome would show such a disposition. He had also seen developed Members trying hard to get to the finish line.

1.16. The negotiations on Section II of the Trade Facilitation text had made it abundantly clear that both sides wanted a successful outcome. Sure; it had been a rough, tough and bloody

endeavour. That's how negotiations were. But he was proud of the effort and of the engagement. Both North and South wanted this to end successfully.

1.17. He further said that this was also not about lack of time. If Members had a few more weeks, they would still not make it. Over the last few days he had begun to see signs of backtracking and inflexibility and time would not remedy this situation.

1.18. This was about specific, localised difficulties. All of them perfectly workable if the will was there. The landing zones were reachable. But it had been proven that the final yard could not be crossed with normal negotiating practices. Members were in a new stage now and the final few steps had to be taken together by Members. They would need to talk to each other over the next few days, to figure out a way forward. He would be consulting with them and would do everything he could to facilitate discussions. But it was up to Members to find the solution that everyone wanted to see. If they were to get this deal over the line it would need political engagement – and political will. Ministers would need to decide what future they wanted to see – both for the issues on the table – and for the WTO.

1.19. It aggrieved him to have to say this again and he was sure it was difficult for Members to be in this position. So close, but not quite there. Members had been in this situation before, had let the opportunity go by, and had sorely regretted it. If they missed the opportunity given this time around, they would regret it a lot more, for the costs would be even greater. Members had reached the end of the process in Geneva and had come as far as they could and would brief their authorities on the situation faced. Ministers would have an opportunity in Bali to address it.

1.20. Therefore his recommendation in light of the nature and shape of the documents was that he would recommend that the General Council take note of the documents which he would simply use to brief Ministers on the state of play as of now – but not as agreed texts for adoption.

1.21. All delegations which spoke thanked the Director-General, Chairman of the Trade Negotiations Committee, for his report and for his tireless efforts.

1.22. The representative of Indonesia said that MC9 was right in front of Members, that he could see the finish line and that Members were almost there. Everyone had already worked hard during the last 11 months. With engagement, lowering the ambitions, and increasing the flexibility, Members could get to convergence. He asked why, at that point, delegations still looked back at the starting line and still kept back some flexibilities. He noted that Members had their own national interests and problems, and that they had to show more trust in each other. The future of the Organization was at stake. He asked the DG, together with his team, the GC Chair, and all delegations to make the final acceleration and to bring the complete Bali Package. Efforts had to be memorable, so as to make the Organization exist forever.

1.23. The representative of Morocco, on behalf of the African Group, said that the DG had led the negotiations with a great deal of skill, sensitivity, openness and patience. There were very deep divergences but thanks to his efforts, Members had been able to narrow the gaps, particularly in Trade Facilitation. The question was whether Members could have done better but that was difficult to answer. In the past, the WTO had never worked in total transparency, nor on an inclusive basis where each and every Member, big and small, were able to be present in the room, listen, speak, contribute, defend their positions. The WTO had never had so many meetings on the eve of a Ministerial: the number of hours and days, the amount of time spent on the negotiation of the Bali Package was a record. That meant that Members were all committed to reach a balanced Package on Agriculture, Trade Facilitation and development issues. Much progress had been made. He noted that many things had seemed taboo or impossible and recalled several discussions in which delegations had spoken of red-lines. However, in the past few days no one had been speaking of red lines: delegations had been seeking landing zones. For this he wished to thank the representatives of the US, of the EU as well as his fellow Group Coordinators.

1.24. Members had been open, ready to listen and to understand the concerns. It was that flexibility which had enabled delegations to tidy up almost the entire text on Trade Facilitation. The debate had been lively, delegations had had tough discussions over words, but it had been fully legitimate and Members had understood and respected one another, which had enabled them to achieve what had been achieved on Trade Facilitation. He was pleased with respect to the positive

results reported by the Director-General on development issues, cotton and the operationalization of the Services waiver for LDCs. These were positive facts for the Organization; they showed how good the method was that had enabled Members to reach this result. On Agriculture, he recalled that there were a lot of developing countries involved in the negotiation and there as well there was major progress. The hope was that Agriculture was included in the Package.

1.25. He recognized that there were still some outstanding difficulties but he believed that the remaining issues were not insurmountable. There were issues of national position, there was a political dimension, and that meant that Members had other stakeholders involved other than those actually sitting in the room. But would Members allow themselves to go to Bali and announce to the world that they had failed? He stressed that delegations had not failed, because negotiators had done what they had been given the responsibility to do. They had negotiated and had undertaken a collective effort with a great sense of responsibility which had enabled them to have all the texts on the table. However, in any negotiation, there was a political side and negotiators were not responsible for the political side. That was up to the Ministers. Members in Geneva had not failed, and he did not believe that they could imagine a failure in Bali.

1.26. Negotiations were then moving to a higher level – to the political level. It was up to the Ministers to say whether they were committed to the WTO and whether they wanted to save the Multilateral System. It was up to them as well to say whether they were willing to sacrifice all the work, the negotiations and the concessions that they had made thus far. It was up to the Ministers to say that Members had failed: he did not believe that any Minister, in any Capital, developed or developing, could say that their negotiators had failed.

1.27. The Conference could not be closed before it had begun. Negotiations had to continue to deal with the tiny amount, the 10% that remained. That 10% should not kill the 90% that had been negotiated, reinforced and strengthened. Delegations had to be able to convince their Capitals that this balanced Package was a Package for history. Members could either save the WTO or use national positions to kill it. It was easier to kill than to preserve, but he believed that Members had to go to Bali with the commitment to continue their discussions.

1.28. He stressed that the Director-General should continue his consultations to find solutions. He did not agree that Members could not continue negotiations in this format. The format was probably not viable in Bali, but there could be a format involving those countries with direct problems. The DG could then come back to the plenary format and inform Members of the results of the discussions. He recalled that, the previous days, while in an open plenary meeting, the G-77 had discussed directly with the US and the EU, and these bilateral discussions had allowed them to come back and report on the results. This approach could be used in Bali and political alchemy could offer the solution.

1.29. Members should be proud of what had been done thus far and they should not be discouraged. It was only on 6 December at midnight, if there was no agreement, that one could say that they had failed and the Bali Package had not been concluded. He reiterated the appeal made by Indonesia to those countries that had direct, firm positions, who wished to have further concessions and who wanted to find solutions. He appealed to those countries to face up to their responsibilities so that delegations could try to find solutions to the problems. Each Member should go to Bali with the commitment, determination and resolution to solve the problems. If Members had these ingredients, then they would succeed, so that Bali would not be a black spot on WTO's history, but be a rock which would strengthen the foundations of the WTO and multilateral negotiations.

1.30. The representative of the Solomon Islands, on behalf of the LDC Group, said that the DG's assessment was balanced and that the LDC Group appreciated his leadership. It was now critical that Members should hear the DG's call. The work had to be accomplished, and failure would not be in the interest of any Member. For LDCs, the success of Bali was not an option. LDCs were marginal participants in world trade, and Bali provided an opportunity to Members to further assist LDCs in their beneficial integration in world trade. Bali should not fail to deliver on promises made to LDCs. A solid LDC Package could not only boost the morale of LDCs but also reinvigorate the Multilateral Trading System.

1.31. A lot of work had been undertaken to prepare the LDC Package. Members had worked out multilateral guidelines for preferential rules of origin. In the area of Services, a process was being initiated to operationalize the LDC Services waiver which he hoped would result in meaningful outcomes for LDC Services and service suppliers. Outcomes had also been worked out both for DFQF market access as well as for addressing trade and development assistance aspects of cotton. All these elements – though not fully to the aspirations of LDCs – could assist them in their efforts to accelerate economic growth and development. They could not afford to throw this away.

1.32. As regards other deliverables in Bali – Agriculture and Trade Facilitation – Members had come a long way. The LDCs had approached these negotiations with necessary flexibility. They had made considerable progress and they firmly believed that the outstanding issues could be resolved. The LDCs were ready to play their part in this process to secure a meaningful outcome in both areas. As Members prepared to finalize at Bali the Package, he wished to emphasize that Bali was not the end of the road.

1.33. With respect to LDC specific language in section II of the draft text on Trade Facilitation, his understanding was that it would capture additional flexibilities for LDCs. He underlined that any TF text should be sent to Ministers only after LDC specific language had been fully incorporated in the text. He recalled that, at the last Ministerial, Members had committed to explore different negotiating approaches as Members made progress on the Doha Round. They had embraced the principle that whatever progress they could make should not be halted. The LDC Package was almost ready for Ministers' approval. Substantial progress had already been made in other areas of the Bali deal. At this juncture, LDCs requested all Members not to give up. LDCs fully agreed with the DG that Members were almost there: abandoning now would only undermine their own ability and credibility.

1.34. He recalled how difficult it had been to achieve results in the WTO and that for 20 years it had not delivered. Many times Members had reached a mark of near-delivery, but they had failed. This time there was an opportunity, especially in view of an objective assessment of progress Members had made so far. Results, however minimum and modest, could only ensure the Organization's credibility – the Organization that Members collectively had instituted and collectively needed.

1.35. The representative of Australia shared the message from previous interventions that Members were not ready to give up, that the issues were not insurmountable and that Members could still deliver a Package at Bali. He agreed that Members had made more progress in the past few weeks than he had seen for a very long time and it had been very clear, including in the last few days, that the vast majority of Members was ready to complete a realistic Package of outcomes in Bali. Members were not there yet, but he was not ready to give up and urged the Director-General to continue working with Members. It was the Membership's responsibility but they needed the DG's help to find a way forward to deliver an outcome in Bali. It was clear that a Package was the only way to get a result. He believed that, given the small areas of fundamental problems, there had to be a way to move past those differences that divided Members and to unite on a whole balanced Package. Members knew what the expectations in all the areas of the Package were; it was now time to find a way to deliver. He urged the Director-General to help Members to find that way and all other Members to commit to that outcome as well.

1.36. The representative of Jamaica, on behalf of the ACP Group, said that in Jamaica, sprinters were taught to run through the line, not to the line. This had been famously disregarded by their most famous sprinter in Beijing where he had not run through the line. The good thing was that he was already so far ahead of the field that he was in no danger. He would not recommend the same approach for the process in which they were now engaged.

1.37. He noted that the Director-General had placed the issue before Members in their hands and had explicitly said that they had come as far as they could in Geneva, but not how far they could now go. He commended him for the extraordinary efforts that he had made to invigorate and guide the negotiating process to help Members secure the significant progress that had been made. He also commended him for the transparent and inclusive manner in which he had carried forward the negotiations through the Room W process. Delegations, especially the smaller ones, had valued the ability to engage in this way and also in many of the consultations in smaller configurations.



1.38. He said that the ACP Group had sought to advance the interests of its members in the negotiations, in line with clearly enunciated principles, while at the same time endeavouring to help forge convergence across the membership. The ACP Group had worked closely with the African Group and the LDC Group in the G-90 format to secure mutual objectives. It had also worked to forge wider convergence with other developing countries in particular, and all Members in general, in pursuit of their shared goals. At their Ministerial gathering in October, in preparation for MC9, ACP Ministers had declared their commitment to the efforts to achieve a successful outcome in Bali. That commitment remained - especially bearing in mind the importance attached by the ACP to the rule-based Multilateral Trading System and the recognition of the important contribution that a successful Bali outcome would make to the agenda of the WTO and the MTS.

1.39. While he would have liked to have made some more progress than was reflected in the texts that were before them, he felt that an outcome remained within reach although it was clear that Members had to do more to achieve it. The ACP Group was pleased that in Section II of Trade Facilitation text, Members had secured an outcome that was substantially stabilized around the principles set forth in the Annex D and Hong Kong mandates, and on the basis of a process to which Members had attached great importance. Members had been able to benefit from a shared vision in the negotiations on Section II. The flexibilities shown by key partners were a welcome feature of their efforts in the final stages to build convergence, especially around key elements of paragraphs 1, 4 and 6 of the consolidated Section II text.

1.40. The Group also welcomed the significant progress in Section I, but shared the DG's assessment that there remained a number of substantive matters still to be resolved. The Group was heartened that the issues underlying these unresolved matters were well known and the options for addressing them were laid out. Of course, knowing more precisely what the problem was did not in itself lead to a solution - but it helped. With Section II more or less stabilized and to be complemented by the finalisation of further LDC specific flexibilities, the Group hoped that if there were any outstanding Section I provisions for which time or resources were a key factor, these could now be more clearly addressed. Members would be able to signal a way forward for dealing with the outstanding matters, one way or another.

1.41. On Development, there was no question that the ambition level was low. The agreement reached on the Monitoring Mechanism proposal by the African Group cleared the way for an acceptable outcome on this issue but Members still had to address the Group's proposal that there be a meaningful decision on post Bali work on S&D. This was a condition linked to the outcome on the Cancun 28. The ACP Group would give its full support to the efforts to secure this, recognizing that a meaningful conversation on post-Bali had not yet taken place.

1.42. On LDC issues, the levels of ambition on key proposals of the Group had been lowered in the final outcomes. The Group recognized and supported the approach taken by the LDC Group, which was to find compromise outcomes that could enjoy consensus while remaining committed to pursuing solutions that could adequately and effectively address the concerns of Members and promote their integration into the MTS.

1.43. On Agriculture, the Group was encouraged by the progress made in reaching agreement or understanding on the key proposals of the G-20 and G-33. The Group was pleased that in certain areas in which the interests and concerns of the ACP Group arose, the measures advanced had taken these into consideration. He was hopeful that the proposals in this pillar would secure and retain the support of all Members.

1.44. On the matter of the horizontal assessments, logic dictated that their benchmark be the acceptance of the outcomes agreed by the key proponents in each of the three pillars. The perspectives for example of the G-20, the G-33 and the African Group in the areas of Agriculture and development and those of proponents of key elements in TF remain key factors for consideration by anyone making the assessment.

1.45. On post-Bali, the Group had already flagged the importance of work on S&D, and the commitment to completion of the DDA in a development focused programme of work, were of the highest priority for the Members. On the issue of the Bali Package itself, he was sure that Members remained committed to ensuring that Bali provided a landing zone for the Package.

1.46. He looked forward to the DG's thoughts on how Members could proceed to complete the Package as a whole, even in the face of a punishing timeline. The ACP Group would support any final effort that was realistic and retained the commitment to the FIT principles. He shared the view that Bali should not be a negotiating Ministerial while recognizing that as the highest body of the Organisation it ultimately had to play the deciding role.

1.47. The representative of Chile recalled that the Director-General had warned Members several times. Errors in political calculation, lack of time or other matters meant there was no concrete agreement for Bali. He said that experience had shown that it was not possible to take a document to Ministers for them to settle it, when it had about 40 themes still open in Trade Facilitation and disagreements in the Agriculture pillar. He believed that there were only two options: to give up or to commit. If Members decided to give up on the Bali Package, not only would they lose what they had managed to achieve with so many efforts, but this would lead to harmful consequences for the institution, both in the short and long term. Consequently, the realistic option was to continue. This would mean sending the Ministers the set of what Members had negotiated up to date in the three pillars as a Package. Ministers could then take note of these important advances and could instruct negotiator to finalize the Package so that this could be adopted in a new Ministerial Conference. A reasonable deadline for this purpose would be two months for effective negotiations, which would imply a new final meeting in the spring of the northern hemisphere.

1.48. But this would only be possible if all Members were ready to make concessions. Without this attitude, there would be no success. He believed that this was a credible and realistic alternative. It was credible, because Members were indeed very close to the goal and it was realistic because the work done in the last few weeks had showed that it was possible to make progress. Certainly, it was more complex than in the past, more difficult, perhaps even painful. But the documents that were before Members show that it could be done. If Members opted for this path, they would be showing the world that the WTO was able to make progress in negotiations on the basis of consensus and cooperation. He acknowledged the work of the Director-General and the Secretariat, who had been able to maintain the pace of negotiations in accordance with the circumstances. His participation and leadership in each of the stages in the process were of fundamental importance. As Winston Churchill had said, "*it's not about doing the best but doing what it takes*".

1.49. The representative of United States joined others in appreciating the Director-General's efforts at attempting to facilitate a deal for MC9. Like others, on the previous Sunday night, he had been hopeful that eight weeks of around the clock toil by Members could lead to the first multilateral trade deal in two decades, the first multilateral trade deal in the history of the WTO. But by 7 am on the Monday morning, it had appeared that the deal was no more. Today he was worried, alongside so many in the room, that a once in a generation opportunity might have slipped the grasp of Members.

1.50. He recalled that he had been in Geneva for three and half years and many times the previous week, it had been striking to him how alive the institution felt. Bustling hallways, excited clusters of conversations swapping rumours between meetings, empty vending machines, Room W with text up on the big screen and negotiators filling every seat. It had felt like a place where things happened and it had been the first time that he had felt that way during his tenure. Equally striking had been the interest of global stakeholders in what Members were doing. They had been calling and e-mailing, sceptically at first wondering if a deal was really possible. And later with cautious hope, often after learning about particulars of the deal they would say: "Good luck. This would be good for the Multilateral Trading System".

1.51. The United States was among the vast majority of Members who had worked hard to have a deal for Bali. It cared about the institution and had seized this chance to keep the negotiating rooms busy, to earn the respect and attention of stakeholders from around the world. It had been a privilege to work with so many distinguished colleagues over the last several weeks and months. By now delegations knew each other very well. He had particularly appreciated the efforts of the many in the waning moments who had worked together to bridge the gaps, to consider creative options for resolving issues, to bring Members closer together rather than finding new ways to drive Members apart.

1.52. Yet despite all of these efforts and good faith, Members were not there yet and in an Organization that operated by consensus, a small handful of Members could keep the majority

from achieving success. The lowest common denominator could become, *de facto*, the highest common denominator. He was worried that this might be happening. He was sceptical that those who appeared to be refusing to reach agreement could now be convinced by just another long night of negotiation. Indeed, he agreed with the assessment of the Director-General that the Geneva process had run its course. Further work in Geneva, even if there were time, would run the risk of yet more hostage-taking. Nor did he agree with those who expected magic solutions to emerge through negotiations by Ministers in Bali and he wondered how that would work. He asked if Members were proposing to put text up on the screen and ask a plenary session of the one hundred and fifty nine Ministers to find words where they in Geneva could not. Would the Membership accept a green room where thirty Ministers cut a deal, while one hundred and twenty nine waited outside in the hallway? Having learned the hard way from previous Ministerial Conferences, Members had said for months that Bali could not be a negotiating session. Nor should this body contemplate rewarding the intransigent few with new concessions.

1.53. The United States had taken the Director-General seriously when he had said that Members had been in the end game and it had left its best offer on the table. In pursuit of an agreement with its trading partners, the United States had demonstrated its flexibility on tough issues such as Section II and in that case, with willing partners, they had found agreement together. The United States had negotiated hard, but it had done so in the spirit of problem solving, making principled compromises when necessary, to help solve a puzzle that had blocked negotiating progress for a decade. Having made those tough compromises, the United States stood by the deals that had been reached. He had heard someone suggest taking a couple of months after Bali to tie up negotiations. He was afraid that would not work. Members had all known for two years that Bali would be a moment of reckoning. What Members could not decide by then, would not fall suddenly into place in the weeks thereafter. Like others, he was not sure about the path forward and would use the next few days to consider carefully the next steps. After having had a taste of the potential of the institution, when Members had worked together, after the actual texts had been in their hands, it seemed hard to contemplate going back to the quiet, dark hallways of the old WTO, but that was a prospect that was present again and Members knew it all too well. The United States would look for answers with those who were working to keep the lights switched on.

1.54. The representative of Korea thanked the Director-General for his hard work, together with the three Chairs, Friends of Chair, the LDC facilitator, the Secretariat and all Members towards finalizing the Bali deal. However, Members knew that they were not there yet. The current situation was quite critical to the success of MC9 and the prospects for the MTS and the global economy. Since early September, Korea had been pleased about the substantial progress in the preparation for MC9, although it was slow. Members had managed to produce agreed papers and referendum on Agriculture, development and LDCs. On TF, Members had also eliminated hundreds of brackets in a short period of time, although some still remained.

1.55. He said that Members were faced with serious challenges: first, there were still some icebergs in the text, although not insurmountable. Second, Members had too little time to finalize the pending problems before Bali. Third, it was regrettable to see some Members still posturing and even back-tracking. But, in his view, there was some good news too. He had noticed a solid trust among some key players, and he had also noticed that Members trusted the Director-General as TNC Chair. Members had achieved a lot so far and the landing zone was within reach. It was necessary now to figure out a pathway. Failure in Bali was not an option, and deferment was also not an option. He urged Members, and particularly key players, to show their leadership by cooperating and compromising with each other. Until Bali, Members should make a bold decision to drop and to trim down some outstanding issues which could not enjoy consensus in order to deliver in Bali. The Package that could be harvested in Bali would serve as a strong momentum for further strengthening the MTS and the revitalization of the DDA negotiations. Korea would continue to engage and contribute in the final stage toward the success of MC9.

1.56. The representative of Brazil said that his delegation had been working with determination and a constructive spirit for the achievement of a significant Package of results in the Bali Ministerial Conference. The Brazilian delegation had demonstrated this both with its words and with its moments of silence, and even more so with its concrete moves. Brazil had received with a favourable disposition the product of the intense negotiations, even if it was less than what his delegation had wanted, because this had been a complex effort towards a consensus he believed was possible. It was with that spirit that he had submitted the progress that had been made until now to the consideration of the highest authorities and Members could be certain that this very

positive determination would guide Brazil's engagement in the important and challenging work ahead. Brazil was ready to continue negotiations before Bali and in Bali.

1.57. The representative of Japan agreed with the DG's assessment on the state of play and commended his leadership and strenuous efforts. Regarding the way forward, as the DG had stated, with some few remaining issues on Section I, most of them of a technical nature, Members could not bring the draft text Package as it was to Bali. Negotiating among Ministers would be just impossible and chaos should be avoided. At Bali, Ministers could instruct negotiators to continue and finish the negotiation by a certain point in 2014, based on the understanding not to reopen the discussion regarding the issues where convergences had emerged. However, he wondered if Members could deliver that. He highlighted that, with these factors in mind, the fate of the Package depended on those Members who still continued to play risky games at the end game stage. If Members were to solve the remaining bracketed issues, they had to show needed flexibility. Beautiful words alone could not work.

1.58. The representative of South Africa expressed disappointment that the Bali Package had not been concluded. He said that his delegation had not been part of the narrative that failure to conclude such a Package would be fatal to the Organization and the Multilateral Trading System, and was not part of the all or nothing approach adopted by some. He believed that the reasons for this were simple: the WTO was and continued to be in crisis due to the prolonged impasse in the Doha Round. The main reason for this was, in his view, the high and unrealistic demands of some Members. The crisis was then exacerbated by a shift of the resources and energy of the largest and richest Members, towards transcontinental and mega-bilaterals. An all or nothing approach was another attempt to shift the focus of attention, from the needs and interests of the poorest Members towards that of major business interests. Nevertheless, the majority of Members were willing to do what it took to rebuild support in the rich countries for multilateralism and the Doha Round. This was reflected in their active participation in the Bali Package negotiations. Members had worked hard during the past few months, spending long nights and several weekends trying to conclude an agreement on Trade Facilitation. However, despite several hundred hours of overtime on these proposals of the proponents, Members could not meet the deadline for Bali.

1.59. He pointed out that there were some lessons to be learned. First, a proponent-driven process had limits and should be converted to a multilateral process owned by the Membership. Many of these proponent-driven proposals should have been withdrawn months before, or their high ambition reduced. However, several of these proponents maintained these proposals that had little chance of gaining convergence, holding up progress and resulting in the collapse of the negotiations, under the sheer weight of some much resolved technical and political issues. However, there was no doubt that Members had made some real progress, even in Section II of the text, reflecting their willingness to find solutions. This flexibility should have come much earlier in the negotiations. An approach of brinkmanship had always suffered the danger of coming too late to save the day. He paid tribute to the extraordinary resilience and tenacity of the Director-General: his mastery of the technical issues under discussion, an ability to craft balanced solutions to intractable problems, was indispensable to getting Members that far. He had succeeded in building an inclusive approach to the negotiations. However, he wished to caution against the all night pressure cooker technique from being used again: a negotiation by exhaustion approach would only favour those who had the technical expertise and capacity.

1.60. He also said that the failure of the Bali Package had to also lie in its construction. In the wake of the prolonged impasse in the Doha Round, an "LDC plus" approach to an early harvest favoured by the majority of the Members had been substituted by a "Trade Facilitation plus" approach. Whilst Members had agreed at several Ministerial and TNC meetings to have a balance between the three pillars of the Bali Package, development and LDC issues, Agriculture, and Trade Facilitation, the final texts were clearly imbalanced. The LDC pillar remained weak, postponing the legitimate demands of the poorest countries into promises of delivery in the future. The Agriculture pillar contained temporal solutions that would expire in a few years and created an opt-out clause for the largest economy. And the monitoring mechanism, meant to provide creative solutions for developing country concerns, might be more restrictive than the existing Committee on Trade and Development. On the other hand, the proposed Trade Facilitation text had become expansive and extensive, containing many new obligations for developing countries and with uncertainties on the delivery of assistance remaining in the text. There were some underlying questions which cast a huge shadow over the negotiations for Bali. He wondered about the fate of the Doha Development Agenda and whether the major developed countries would insist on new pathways that shifted the

focus of the WTO to the issues and interests of the developed countries and to plurilateral approaches that excluded the majority of developing countries. Unfortunately, that had been no discussions on those issues in preparation for Bali, nor had Members even placed these questions on the agenda for Bali.

1.61. In terms of what should be done at Bali, his Minister had clearly instructed him not to bring those texts, especially the highly technically complex and heavily bracketed Trade Facilitation text, to Bali for Ministers to negotiate. Past experience had clearly indicated that Ministerial meetings had not offered a conducive environment for negotiations. They were highly politicized forums under the full glare of global attention. It was not the place where Members showed flexibilities, but positions tended to harden under the pressure of stakeholders and NGOs. Members should use Bali to gain insights of Ministers and the many stakeholders and NGOs gathered on how they could regain support to strengthen the multilateral, rules-based system, that had served humanity well since the Second World War, to reignite multilateral negotiations in the WTO, by a return of Members from mega-regionals and bilateral and plurilateral negotiations, and to rebuild the WTO's legitimacy by addressing the concerns of developing countries. The Multilateral Trading System needed to be reformed. It needed to shift decisively from its tendency to be driven by the narrow mercantilist interests of its largest members, towards a more balanced approach that prioritized development, employment and equity for all.

1.62. The representative of Sierra Leone supported the statements of the LDC Group, the African Group and the ACP. Sierra Leone was a least-developed country: she said that if anybody believed that least-developed countries did not want to move out of the situation, they were making a mistake. What she asked for as an LDC was not that LDCs stayed in that status forever, but that LDCs could get the bus that would move them out of that status, and play a role, both in communities and in society. As for Sierra Leone's specific situation, Members knew that it had come out of a civil war and had then come up with the Agenda for Prosperity. Sierra Leone's goal was to reach medium-income status by 2035, and the new Agenda for Prosperity launched by the President gave trade prominence. She noted that her country had a lot by way of natural resources, every mineral in the world, marine resources, but still remained very poor.

1.63. Sierra Leone had looked at trade issues and had seen that the improvements that could be made, through the WTO process, would be beneficial so that it could benefit from the resources it had. This was why Sierra Leone had high expectations from MC9. She commended the Director-General since he had made it possible for more countries like Sierra Leone to take part actively in the negotiations, something she had not seen in other negotiating processes before. Sierra Leone wished to plead to all Members to put all efforts into the conclusion of a successful Package, be it in Bali or post-Bali. The contents of the Package that related to LDCs were extremely important for future development. She appealed to all Members that when they looked at Bali, they should consider the least advantaged sectors of the international community and make efforts to ensure that the process be used to boost their development.

1.64. The representative of Uruguay said that the Director-General's report provided a good picture of where Members were, and showed that the results for the Ministerial Conference would be scant, particularly in Agriculture, where Uruguay had not only shown great patience but also a constructive attitude. Uruguay joined those who had expressed frustration in the face of lack of progress in this field of such great importance, both internationally and as an engine of development for several countries. Uruguay had come into the negotiations in a flexible and constructive way. Far from accepting a vision that the Organization was dead, Uruguay had tried with others to strike a proper balance which was of benefit to everyone's development, particularly the development of the LDCs. Uruguay had hoped that the Ministerial Conference offered an opportunity to reassume a serious and political commitment to the Multilateral Trading System.

1.65. Uruguay believed that global problems should be solved with global solutions, and that Members should take the proper responsibility in seeking solutions. The reality demanded solutions and dynamiting the Organization was not the proper way out. It was true that the negotiations should be balanced and until Members understood that everyone should benefit from the results, unfortunately, there would be no way out. Uruguay joined those delegations that repeated the call for responsibility and that continued to put efforts in order to ensure that results would be to the benefit of all. The WTO was in a very delicate situation and Uruguay wished to appeal to all Members to be cautious and find a way out in order to revive the WTO.

1.66. The representative of Mexico said that his delegation deeply regretted the fact that the Bali Package had not yet been achieved. He recalled that all Members had stressed the need of making Bali a success and the importance of substantive results to contribute to the development of trade, of countries, of the Least-Developed Countries and the creation of jobs at a time when the world economy was still weak. He said that political will and the necessary flexibility had not been reached in time to bridge the remaining gaps and to enable an agreement on the Package. As the Director-General had said, the points of disagreement were noted and there was no doubt that they could be resolved. The preparatory stage of MC9 was coming to an end, and it did not seem suitable to have a further negotiating meeting. He believed that the progress made over the previous weeks was of such great importance that it should be given an additional opportunity to be turned into a WTO agreement, which could be adopted as an unofficial agreement. He was certain that the Director-General would continue his intensive consultations to explore new ways of moving forward and seeking possible solutions to issues that still needed to be solved. These issues were not many, and they could be solved. He believed that a Package was still possible and therefore he urged the Director-General to continue his consultations and to endeavour to bridge the remaining gaps. To paraphrase a concept in Jean-Paul Sartre's "Being and Nothingness", if Members cooperated, they would succeed, but egoism would lead to collective destruction.

1.67. The representative of Cuba, on behalf of the Bolivarian Alliance for the Peoples of our America (ALBA)<sup>4</sup>, underscored that the content of the Bali Package should be fair and balanced, and should take into account the interests and needs of developing and least-developed countries. Development, as the core premise of the Doha Round, should be honoured in the Bali Ministerial meeting. The necessary balance of the Package had not been achieved, and Cuba was concerned by this imbalance, which continued to exist between and amongst the various themes where Members could have hoped to reach agreement at MC9. Thus far, what Members had on the table was a possible legally binding agreement on Trade Facilitation, a theme where the countries for which she spoke were not *demandeurs* and which was of particular interest to developed Members. Whereas on the themes of Agriculture and development, which were of great interest to developing countries, who formed the majority in the Organization, the results that might be achieved were modest and in some cases were solely political statements which were not binding. Cuba and the other members of ALBA were concerned that binding commitments had not been established for developed countries on all issues in the Bali Package and more particularly for Agriculture. She believed that after MC9, the negotiating process for the working programme of the Doha Development Agenda should be continued to its final conclusion, putting development at the core of the work.

1.68. She said that Members could not take up new challenges or new agendas if they had not yet managed to deal with the still outstanding challenges which were part of the current Round. Maximising the efforts to finalize the Doha Development Work Programme should be the only post-Bali work programme and therefore new issues should not be introduced. They would overburden the agenda and become a distraction on the way to a successful conclusion of the Doha negotiations, which should remain the sole priority. She also stressed that Members should not move towards new negotiation approaches such as plurilaterals either. MC9 should take a formal decision that the reactivation and conclusion of the Doha Round should be the priority of work in the WTO in moving forward.

1.69. On behalf of Cuba, regarding the proposed text on the monitoring mechanism, she recalled that Cuba, together with Bolivia, Nicaragua and Venezuela, had told the Secretariat that they would not accept it for the following reasons: first, it did not correspond to the original intention of the African Group, i.e. to create a monitoring mechanism to strengthen the provisions of S&D treatment. Secondly, the language proposed had limited the functions and scope of the monitoring mechanism solely to reviewing aspects of implementation of provisions relating to S&D treatment and not to strengthen them. Thirdly, it did not provide any added value, as the functions of analysis and review of the S&D provisions were usually carried out by the CTD in special session according to the mandate it was given from its very creation. Fourthly, it should provide or propose specific actions, including in the General Council, with a view to strengthening the provisions on S&D and providing a mandate to regularly review their operation, use and effectiveness. She believed that the text presented did not meet those objectives and said that either those elements should be included or that Members should continue the analysis post-Bali. She supported those who had said that Bali could not be considered as the end of the road but

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<sup>4</sup> Plurinational State of Bolivia, Cuba, Ecuador, Nicaragua and the Bolivarian Republic of Venezuela.

rather an opportunity to continue and to renew political commitment to a Multilateral Trading System which was fair, balanced and focused on development.

1.70. The representative of Hong Kong, China said that some Members had not shown the political willingness to allow final compromises to happen. He had found this inexplicable given the limited ambition of the Package. He believed the Director-General had left the door open for Members to close the existing gaps, particularly in Trade Facilitation. This was for Members to do, but they could not do it without the Director-General's impartial, but highly perceptive, calls. He said it would be impossible to achieve that in Bali, so he urged delegations to give another twenty-four hours to cross the finish line with the Director-General at the helm. With respect to Trade Facilitation, he urged Members to table their calls on the outstanding issues: if they could not be agreed in Geneva, it would not happen in Bali. With respect to Agriculture, if texts were not stable, then he would endorse the Director-General's view that Members had failed. He had been saddened by some comments who had mentioned the Bali Package in the past tense. This would mean that the WTO negotiating arm would be meaningless.

1.71. Regarding Trade Facilitation, as Friend of the Chair on Section II, and referring to the LDC elements, he said that this issue simply had not been discussed in Room W. That was a process issue and nothing to do with the substance or LDCs unwillingness to discuss it. Members could not allow Section II to go forward with an "LDC placeholder" in the text, where there should be concrete text. He had been working with LDC stakeholders on concrete provisions for the areas of the text which remained unfinished. He asked Members to agree to allow the fruits of their labour to be included in the texts that were sent to Ministers.

1.72. The representative of the Bolivarian Republic of Venezuela supported the statement by Cuba on behalf of ALBA. He expressed his delegation's gratitude to the DG for his report and for his admirable efforts to achieve a balanced result at MC9, and recognized the balanced and fair way the DG had guided the WTO during this historic time. Venezuela had participated in the negotiations on the understanding that developing countries not only required a gradual process for adaptation, which to date had been unfair, unequitable and that had systematically led to inequalities, but also that financial and technical cooperation was required as well as a readiness to apply special and differential treatment. Unfortunately, however, the Bali Package as it was on the table did not provide balanced results. For countries that needed to preserve the available political space, a binding agreement, such as Trade Facilitation, would accentuate the inequalities that already characterized the Multilateral Trading System.

1.73. As for Agriculture, it had been suggested that Members enter into onerous commitments, such as those stipulated in the draft understanding concerning tariffs and tariff quotas, but at the same time there was an attempt to set up special and differential treatment, yet once more in favour of developed countries. The peace clause, something under which developing countries had hoped to obtain some flexibility, contained so many conditions that it would be difficult for Members to invoke it. Furthermore, Members still had a long standing issue pertaining to cotton. He reiterated his delegation's reservation about the draft decision in connection with the monitoring mechanism. Still on Agriculture, there was one issue of major interest to the developing countries regarding trade distorting subsidies. Developed countries would continue to apply their trade distorting measures through export subsidies and there was an attempt to put in a new proposal without binding effect. Venezuela was concerned about the systemic future repercussions which would run counter to the growth interests of developing countries.

1.74. He agreed that the Ministerial Conference should not be a negotiating conference. He believed that Members should have a Ministerial Conference which focused on how to solve the problems of developing countries, which should remain the priority for the Organization. His delegation did not wish to have surprises in Bali: it was his delegation's hope that the negotiations on issues in the Bali Package would be renewed after the Ministerial Conference so that they could be finalised. Members had not yet met the pending challenges which were part and parcel of the current Doha Round and they needed a new focus in the negotiations.

1.75. The representative of Kenya supported the African Group and ACP statements. Kenya had also taken note of the considerable amount of energy and effort that had brought the Package that far. Members knew that, since its inception in 2001, the Doha Development Agenda had walked a long walk and endured very challenging and hostile conditions to be where it was. Among the options that Members had, the key was to ensure that the DDA was safeguarded and navigated

against any further global turbulences to enable it to deliver on development, the premise on which the round had been launched. He stressed that MC9 should remain a non-negotiating Ministerial. It was on this understanding that Members had prepared their Ministers both mentally and psychologically for MC9 and therefore they expected no surprises in Bali. Regarding the Bali Package, the overall balance and ambition still remained skewed and therefore some serious rebalancing remained to be done. This was the only way of ensuring that development continued to remain central in any outcome on the DDA. On Trade Facilitation, it was important that Members continued to work for the right balance and ambition between Sections I and II of the draft text. To this end, it was critical that Members who lacked implementation capacity be accorded reasonable flexibility of self-designating the three categories of Section I and also be enabled to acquire appropriate and effective implementation capacity that would empower them to undertake obligations and commitments, particularly those related to Category C measures. On the Monitoring Mechanism, its role and function should be seen to be complimentary and supportive to those of the Committee of Trade and Development, rather than conflicting them. Duty-Free Quota-Free should be addressed in a balanced manner for purposes of mutual gain. The Kenyan delegation fully recognized the time and energy the Director-General had invested in the negotiation since he had taken office. Kenya commended his transparency and inclusiveness and stood ready to continue to engage constructively in moving the process forward.

1.76. The representative of Argentina agreed with the DG's evaluation and that the process had concluded in Geneva and also that it was impractical to negotiate in Bali. His delegation had a feeling of deep dissatisfaction over what had happened in the course of the previous days. His Government was convinced the playing field was not level in WTO, because while recognition of its historic demands in Agriculture were denied, acceptance of binding commitments were being imposed on it, such as in Trade Facilitation, which were difficult, if not impossible for it to comply with. Nothing which had occurred in recent days had charged that conviction, which was why Argentina could not join the consensus on what had been achieved thus far.

1.77. However, Argentina's commitment to multilateralism was very deep, and it believed WTO was the only place where the trade concerns of developing countries could be met, which was why his delegation had continued to participate constructively in the process. In Bali, Ministers should take note of what had been achieved, and give delegations a mandate to continue the negotiations and resolve the outstanding issues in all areas, in Agriculture, Trade Facilitation and Development. His delegation agreed with Cuba's concerns in this latter area. These negotiations could take place in the second half of the following year, and lead to a special Ministerial Conference to endorse the work aimed at turning the DDA into a truly fair and balanced trade negotiation.

1.78. The representative of Botswana said that the smaller and weaker developing countries as well as the least-developed countries needed the WTO to deliver on the Doha Development Agenda. For that to happen, they depended on the Members who had the wherewithal, both developed and developing, to midwife the delivery. Botswana was very encouraged by the progress made on some of the issues under negotiation, especially Trade Facilitation. Everyone would be worse off with a failure, especially as there was so much on the table. Botswana remained hopeful that the remaining hurdles might be overcome. He also said that the Director-General should find a way of keeping alive what had been achieved so far, so that when Members next discussed these matters, they would not start from the beginning.

1.79. The representative of China regretted that Members had not yet succeeded, when there were only a few brackets to be removed and a few hard-core issues to crack. China would never accept that that was the end of the journey. On the contrary, China believed that the draft texts for a small but meaningful Package which had been tabled were all in good shape. He was confident that if Members made the political call, they would be able to have a deliverable at the MC9 and to demonstrate to the public community that the WTO negotiating function was still alive. Therefore, he appealed to every Member to seize the historic opportunity to make the last stretch and secure an outcome in Bali. China would continue to work in that spirit with all other Members in the run up to Bali, and during Bali, until the last minute.

1.80. The representative of Tanzania supported the statements by the LDC Group, the ACP and the African Group. He believed that no one had underestimated the Director-General's efforts in the previous weeks. Members had managed to cross highly contentious grounds and haul back some positions, particularly on Trade Facilitation. All was based on honest positions. It had been simply too hard to cross some hurdles. Members had tried the best that they could. The remaining



obstacles in the text appeared to require additional contemplation and active consultation among Members. He supported the process and believed that the expected positive results were too dear to relinquish at that time. His delegation was ready to engage in the negotiation right after the meeting. He looked forward to seeing positive flexibilities on the few left bracketed areas in the Trade Facilitation text. He stated that LDCs should not seem to be those who had destroyed the negotiation.

1.81. The representative of Canada said he was particularly struck by three aspects of the Director-General's assessment. The first was the importance of the agenda to poverty reduction and to growth. It was apparent to everyone around the world that Members were witnessing a very sluggish recovery. All the data, all the studies, whether from the WTO or independently pointed out the contribution that liberalized trade could lead to creating jobs and to helping to restore growth and thus not bringing that to a speedy conclusion was damaging prospects for recovery. It was against that backdrop that he was struck by a second aspect of the remarks and that was that the agenda was neither north nor south but rather something that contributed mightily to growth throughout the world. Mostly all independent studies pointed out that the biggest economic gains from Trade Facilitation would be in developing countries, the biggest creation of jobs would be in the developing countries and thus what Members had managed to put together was a Package that had to be viewed not only as balanced, but as being in the interest of all. He was, as a result, saddened not only by delegations not bringing it to a conclusion, but also by listening to colleagues and the danger of some rhetoric returning to the table that failed to acknowledge the common interests of Members on behalf of their people, their workers, in pursuing the agenda. Members had admitted long before that it was a modest Package. This was no longer an early harvest after many years, but it was a harvest, a foundation for looking forward to bigger gains for their economies and their peoples. The third aspect that had struck him was the observation that time would not remedy the situation and thus he was concerned at the notion offered by some delegations that Members should just roll over and find a more propitious time in the future to piece together an agenda. What he had taken from the DG's assessment was that time was of the essence; it was therefore imperative that Members did everything possible at the present, during the following day, at Bali and potentially beyond, to build on what had been done to date, to nail that down and to move forward from there.

1.82. The DG had asked for Members' views as to what should be done; it seemed to him that the answer was somewhat pointed and somewhat obvious. Members should continue working on the basis of the text distributed. First, Members should simply agree that whatever had been done could not be re-opened or moved backwards from the agreements reached to date. Members would do so on the basis of the principles that the DG had respected of fully inclusive and transparent work. Second, Members should take advantage of time remaining in Geneva to see whether there was any prospect of reducing brackets further and of making some practical progress at a technical and senior official's level. At Bali itself, he accepted what sounded like a collective assessment that it might not be possible to have a Ministerial meeting serve as negotiating forum. On the other hand, in most democratic societies, it was Ministers who decided: officials proposed and Ministers disposed and thus it could not be merely a ceremonial occasion. It seemed to him that Ministers should be invited to endorse the work done to date and to help lock it in as the basis for further work. Ministers should give a direction to complete this work as soon as possible. He endorsed the earlier observations from Chile and others that the deadline should be very short for any further work. And third, it seemed to him Ministers should invite delegations, whilst completing the text, to look forward. Ministers should invite delegations to help them endorse, at that early meeting, not only the results of the Package but future directions. He felt that Members were not responding to the needs of people. It was with sadness that he had listened to some rhetoric that sought to ascribe narrower interests, and he admitted that there was more to be done beyond Bali, which he had hoped could have been achieved beforehand. His delegation stood ready to continue working intensively.

1.83. The representative of the Plurinational State of Bolivia endorsed the statement by Cuba on behalf of ALBA and also supported the statements by Sierra Leone and South Africa. She thanked the DG for his hard work, patience, technical capacity and his efforts to find constructive solutions at every step preceding the present meeting. The progress report presented by him showed where Members stood. She commended the DG for his efforts in attempting to achieve results and particularly for the open and participative way in which the negotiations had been run. It was the first time since she had been in Geneva that she had witnessed a true multilateral negotiation in the WTO. It was not a small group of countries taking decisions for all Members, as had been the

case in the past. Her delegation was proud of the process that had been adopted and for being able to participate, since it was a very small one. The process was a long and difficult one, but it was more open, transparent and democratic. Multilateralism had finally returned to where it should always have been. Although the documents were not finalized, one had to recognize that much progress had been made with the new process, much more than in past years. The responsibility for results lay with all Members and reflected the state of the situation in the Organization. Members had always known that the DG had a very difficult task in front of him, having inherited imbalances from the past. Members were aware that he had tried to do the best for all. However, going to Bali and exposing the Ministers to the dangers of such a complex negotiation had more disadvantages than advantages and the results would be uncertain at that level of decision-making. It could even further endanger the credibility of the Organization. She believed that the DG had taken the right decision; a difficult one but a necessary one. Her delegation would therefore continue to work together with other Members in a process still to be defined but which had development and the interests of developing countries at its centre and not swept under the rug or on the margins as if it was an undocumented alien with no place in the Organization. On the contrary, Development had its full place in the Organization. That was what her delegation felt should guide Members in the future. She expressed her delegation's confidence in the DG in these difficult times and hoped that Members would in the next few years achieve positive results for all, not just for the minority as had been the case in previous years.

1.84. The representative of European Union expressed his appreciation for the DG's efforts and said that the work that had been done using new ways and processes was really ground-breaking in many ways for the Organization. A tremendous amount of work had been achieved collectively and a lot of distance had been covered in the negotiation of the Bali Package. Most texts were stabilized, except Section I of the Trade Facilitation Agreement. Section I was a core part of the Bali Package, both for developing and developed countries as well as traders all around the world. It was a very striking aspect that this was not a North-South negotiation, nor a negotiation between developing and developed countries. Reaching a result on the Bali Package was an opportunity for all in the Organization. Important steps had also been achieved in Agriculture and Development. Regarding Section II of Trade Facilitation and LDCs, his delegation was open to the LDCs' requests, both in substance and in process. He agreed that Members had reached the end of the road in Geneva and also stressed that this should not be seen as failure. However, he was very concerned with the state of play. He had taken note of the fact that the DG would take these texts to Bali to be used as a briefing for the Ministers and believed it was the right way forward.

1.85. He noted that the DG had placed the responsibility where it belonged: it was up to the Members to find solutions and to move forward. At the same time, the DG had given Members a direction; he had encouraged them to seek convergence on substance for the remaining issues and to talk to each other. He agreed that Members were almost there and believed, as others had said, that Members were simply too close to do anything else than strongly persevere. In the coming days, the EU would continue to intervene to seek further convergence, particularly on unfinished parts of the text and create the best possible conditions for Ministers in Bali; first, to take the Bali Package forward and second, to engage to an open and forward looking discussion. He looked forward to Bali and reiterated his support for the DG and confidence in his guidance for the next steps.

1.86. The representative of Ecuador supported the statement made by Cuba on behalf of ALBA. With respect to Agriculture, Ecuador believed that Members would not achieve the promise of getting rid of export subsidies, and the main distortions in agricultural markets would continue and even worsen. Members had not even seen the opening of markets for the main products of developing countries as important enough. This should be dealt with in the context of post-Bali, and Agriculture should be treated together with the other elements of the Doha Work Programme and should be a priority for WTO's work. With respect to Trade Facilitation, self-designation had been confirmed and reconfirmed as the basic principle of the negotiations. However, there were still attempts to limit this prerogative of developing countries. For example, in paragraph 4.5 of the current text, it should be stated clearly that the Committee would take note of notifications without deadlines or procedures to be carried out. The capacity to implement as a *sine qua non* condition for the enforceability of commitments had been flagged as a basic principle of these negotiations. This principle had been confirmed in the HODs meeting the previous week, in which it had been agreed to include in paragraph 1.2 a final sentence along those lines. Full operability needed to be ensured. In the early morning of 25 November, a few Members had proposed a

cross-cutting paragraph and Ecuador had expressed its concern in that respect since it had the potential to bring even greater imbalance to the process.

1.87. He believed that Bali should not be a negotiating conference. No-one could justify disagreement on specific issues at the technical level being taken to the Ministerial level. In concluding, he congratulated the DG for his efforts and leadership. Ecuador recognized the high level of transparency that had been promoted by him and transparency could not be undermined, but should be even more deep.

1.88. The representative of Barbados, on behalf of the SVEs, recognized the DG's tireless efforts to have a Bali Package that included elements of Agriculture, Development and Trade Facilitation. She trusted that the Bali Ministerial would also serve to reiterate the importance of development and a continuing commitment to existing and future flexibilities for small economies. She stressed that it was important that all elements of the Package were known before delegates left for Bali, to ensure that Members continued to operate in a no-surprises manner. The SVEs had expressed a preference for conclusion of the Package in Geneva, rather than in Bali. She was sure that, following the DG's address, the SVEs would support attempts to conclude the outstanding matters in the remaining areas. Whatever happened in Bali, a post-Bali agenda was important for many SVEs, as they still required that attention be paid and solutions be found to some of the critical areas facing the group. The Organization had to refocus on the outstanding issues and the existing mandates, including concrete measures to ensure the fuller integration of small economies into the Multilateral Trading System. Whatever the outcome, the SVEs reiterated their support for the WTO and to the Multilateral Trading System.

1.89. On behalf of Barbados, she said she never shared the view that Bali would determine the future or the credibility of the Organization or the Multilateral Trading System. The world needed a Multilateral Trading System and she believed that there was hope for a properly managed WTO in the future.

1.90. The representative of Paraguay said that post-Bali was of the essence. Members needed a renewed mandate from Ministers based on the progress which had been made, especially over the previous few weeks. The progress had to be consolidated and the Ministers had to pronounce themselves on this. The mandate had to be based on the present texts. Delegations needed a mandate to complete what they had been doing over the previous weeks. Bali would be a great moment for all Members to say that they had only just begun. Members were indeed going to Bali with a renewed hope that nothing was impossible, especially because there was a new momentum at WTO and it should not go to waste. Members owed this to themselves and Bali should become the new launching pad. In this regard, Paraguay joined Chile and Argentina in proposing that an extraordinary Ministerial meeting be held over the next few months.

1.91. The representative of Switzerland appreciated the inclusive way in which the DG had handled the negotiations and his tireless efforts to bring convergence on the different aspects of a potential Bali Package. Members had made enormous progress but had not reached the goal to go to Bali with a negotiated Package, with nothing left to be decided by Ministers, at least not yet. He noted that some had said Members had not failed, and said that this was the optimistic view. For the time being Members were back on the losers track. They had seemed to confirm to the outside world that in the WTO they could not conclude trade agreements. It looked as if Bali would not be a stepping stone for the conclusion of the Doha negotiations and even that Members might never finish of the Doha Development Agenda. Many issues would probably not be on the table for many years ahead. This also seemed to confirm the widespread opinion that it was advisable to search for trade solutions outside WTO – at least for the Members who had this possibility. This was very regrettable, in particular for the more vulnerable Members who had fewer possibilities to join regional trade agreements.

1.92. That being said, Switzerland remained committed to WTO and the Multilateral Trading System. He hoped this commitment was shared by the membership of the Organization as a whole and that Members could get back on the right track, and he would prefer this to happen in the very short remaining time before Bali. He did not believe in extending deadlines for concluding the Package. He agreed with the DG, that the TF text, as it was, could not be submitted to the Ministers. In TF there were still several brackets. The key to unlocking them needed political will in particular, from some - rather a very small number - Members. He knew that this was difficult for them, but he urged all colleagues to still check with their capitals to see if giving a hand to find

solutions on the open issues would not be worth it, for the Multilateral Trading System on which all Members depended. It was the hour of truth. He asked if Members really attached importance to the Multilateral Trading System and if they were ready to support it. If the answer was yes, then Members should show this in the following 24 hours and Switzerland was ready to go for a further night session.

1.93. The representative of Norway said the DG had presented a sobering report. It was now up to Members to face up to the responsibility. Norway was not ready to give up and did not like to talk about the Bali Package in the past tense. He thought Members should listen to the calls of countries such as Sierra Leone and others. As the DG had said, this was not a North-South issue. Members should take careful note of the fact that they had not succeeded at that point in time, but they should use the time available to do whatever was necessary to agree on a Bali Package. He also believed that Members needed the DG's facilitation and urged all to use the time available in cooperation with the DG to try to go forward, because all knew that if they did not succeed, they would not restart in January as if nothing had happened. Hard lessons had shown that this was not the case. Members had failed in 2008, and they had not really got back up to scratch yet. All Members needed to be responsible and this would open up the possibility to continue after Bali with the core areas of the Doha Development Agenda - Development, NAMA, Agriculture and Services. Members could not afford to let go of the opportunity to get back on track in the Organization.

1.94. He agreed that the LDC text needed to be brought into the TF document to be taken to Bali. He hoped that the texts that Members had put on the table would be used. He also hoped that there would be no more backtracking or tactical manoeuvres. He encouraged Members to make every effort to find convergence in the few remaining hours. Norway stood ready to continue until it was over.

1.95. The representative of Colombia said that the consultations had been very inclusive and that the endeavour to reach landing zones had seemed almost impossible to achieve a few months before. Members now had stabilized texts, or advanced texts, in all of the areas that had been agreed to be included in the Bali Package. However, as some had said, Members were near but not there yet. The only way of coming up to the level of the tasks and the expectations held by the world was to reach a conclusion. Members could not let this ship go down. He believed that most of the largest icebergs had been avoided. There were still a couple but these needed another dosage of political will and flexibility which would enable taking these texts to a safe harbour. Delegations needed to consolidate the success that had been achieved and convince Ministers to take decisions and give them the necessary instructions, as Chile had said *inter alia*, for a reasonable period of just a couple of months after the Ministerial. A clear mandate could be enough to conclude on the outstanding issues. The post-Bali work would depend on this and it was an important step in defining the future of the WTO. Colombia remained as committed as ever to the Organization and would continue to be prepared to work actively and positively in the negotiations. He was convinced that the outstanding issues could be solved.

1.96. The representative of New Zealand commended the DG for the tremendous energy and dedication that he had shown since his arrival in September and for having pushed all Members to do things that they had gotten out of the habit of doing in the Organization; to agree, and to find consensus. It was clear that since 2008, Members had completely lost their way and there were signs that Members were now at least starting to regain some of this capacity. This was reflected in the very significant progress that the texts he had brought forward comprised. But Members did not have final agreement and in particular on a TF text which still included many bracketed areas. The DG's assessment of the situation and the prospects for securing consensus, in the time available, were therefore an important wake up call to all. New Zealand was certainly not giving up on the goal of having a Package of decisions agreed in Bali but time was now very limited.

1.97. It was very clear that the only way to bridge the gap was if Members who knew that their positions might be among those standing in the way of a final agreement, were prepared to leave the room after the meeting and immediately seek the necessary political flexibility to compromise, to communicate that clearly to the DG and to engage urgently with others who were key to a solution. In that regard, he trusted the DG's judgement in briefing Ministers in Bali on where things stood. That would obviously need to take into account the information that the DG had brought forward and any further information, regarding any flexibilities that could unlock the Package. It seemed to him that within the Organization, Members were often looking to someone

else to fix the problems for them. The reality was that Members needed to face up to their responsibilities and some, both developed and developing, had a much more important stake, influence and consequential responsibility to help fix them.

1.98. He was fully aware that any outcomes needed to be the subject of consensus among the whole Membership. However, Members would never get there if the differences among some of the key players on any given issue meant that there was no scope for wider agreement. The message that all Members needed to take away was to face up to their responsibilities. Members knew that the DG would do everything he could to help fix it but he could not do it alone and if Members were seeking his assistance in resolving their difficulties, they needed to give him the permission space to assist, by coming up with solutions that they could accept but could not propose themselves. Members had seen how this could work in recent weeks but they had also seen instances where it had not been so clear that they were prepared to provide that permission space. For his part, he would support any realistic effort to resolve remaining differences in the very limited time available, but if there was to be an effort, it could only succeed if it was a genuine and honest one, initiated without delay. Members should avoid anything that was simply a process of going through the motions as this would only make things worse.

1.99. The representative of Egypt, on behalf of the Arab Group, said that Members had worked very hard and had acquired several things: that should not be wasted. The Group was very much supporting the DG's efforts. It found it regrettable that Members could not go to Bali with a balanced Package with which all were satisfied to the extent that they could present it to the Ministers, who could endorse it and guide Members with regard to the way forward, and keep the multilateral trade negotiations on the right course. The subjects of the document that were distributed were very important. All of them were a plus for all countries and had to be there. The Arab Group would continue to be supportive of the DG was ready to exert all efforts in order to still make Bali an important milestone in the work. A lot of road had been covered and the Group did not want to restart from square one. Many delegations, if not all, had acquired something, which might not have been one hundred per cent satisfactory, but with some issues still remaining, all had gotten things. If Members looked back to May or June, they would see that they had done a lot, in TF, in Agriculture, in Development, even though development had had the least focus, which was not satisfactory.

1.100. There was always room for more work. Work was in fact in progress, and what Members had agreed on was open to more improvements in the future. This was a dynamic process. Therefore, this was not the end and Members should not forget what they had already acquired. Members should consider objectively what they had in these documents, look at the most important issues that were still lacking convergence, and try to get to some convergence on these. Issues that were of less importance could be disposed of for the time being, without harming the whole construction and looked at again in the future. There were lessons to draw from this experience, at all levels. Members had entered into negotiations with too much ambition, without being realistic enough to see what they could get, and what they could not. Sometimes there was also lack of mutual understanding of the concerns of different parties. Members had to overcome this state of mind and see where ambitions could reach and stick to that without over-exaggerating, taking into account the whole context. An understanding of the concerns and the needs of the others had to be there, and this applied to both developing and developed countries.

1.101. The Arab Group did not want to see the Doha mandate disappearing or becoming a dead letter. Members had to work together to achieve mutual benefits as much as possible, taking into account the problems of the least advanced, of the developing countries and of the less privileged positions in the world. The Group agreed that this should not be regarded as a failure. A lot had been achieved, and now the question was how to invest the remaining time, even if it was very little until Bali. It agreed that Ministers should not negotiate in Bali because it would make things much more difficult. Ministers in Bali could acknowledge the progress achieved, and that there were still some difficult areas. They should mandate delegations to continue work on the difficult areas without overlooking what had been achieved. Members needed to know now what was expected in Bali and what would be post-Bali. This was very important because one could not start from the very beginning, or all stood to lose what had been achieved so far, even if in the view of some delegations it was not the maximum that they could have wished for. All would have liked to have achieved all of what they wanted, but this was not possible as far as negotiations were concerned. The Arab Group have a thorough and deep analysis of what had been achieved, what was remaining, to prioritize and try to invest the remaining time.

1.102. The representative of Brunei Darussalam, on behalf of ASEAN, said that from the beginning ASEAN had been supportive of a successful Bali Ministerial and of the process conducted by the Director-General. ASEAN wished to see the Director-General continue to take the lead as Members approached the Bali Ministerial. This task could not be left to Ministers in Bali. Delegations in Geneva had to recommend the way forward now. They were almost at the finish line with just a few more yards towards success. Members could not throw away those parts of the Bali Package that could be finalized in Geneva. Members should continue with the positive momentum they had had consider the options they had.

1.103. He invited the DG to continue his intensive consultations with the key players and to report to Members on the result as soon as possible. He acknowledged that this was going to be tough and difficult. The other option was for the DG to conduct another HODs process within 24 hours as proposed by Hong Kong, China, as another attempt to find consensus on the Trade Facilitation draft text. He said that Members had to accomplish their work on the Bali Package for the credibility of the Multilateral Trading System. As a region of developing and least-developed countries, ASEAN had continued confidence in the Multilateral Trading System.

1.104. The representative of Trinidad and Tobago commended the Director-General for his tenacity and strong leadership, as Members worked arduously to achieve a balanced Bali Package. He recalled that the DG had warned at the last informal TNC meeting that "in the next few days, I will push you to the limit", and indeed he had done so. Many had questioned the commitment of some Members to the Multilateral Trading System, however, for his delegation, the one hundred and fifty hours of negotiations invested over the last few weeks were an indication that all remained committed to the Organization and to the System. Even if Members had not achieved exactly what they had hoped, he believed that the WTO could still deliver for the weakest and most vulnerable Members of the institution, in Bali, and more importantly, post Bali. Members therefore should use the energy of the last few weeks to build on what had been achieved in each of the pillars of the Bali Package and more importantly, to reinvigorate the DDA negotiations. The Development Agenda had to remain at the core, to ensure that the WTO addressed the concerns and met the needs of its poorest and more vulnerable Members. MC9 was an important opportunity to say to the myriad of stakeholders that the negotiation function of the WTO Multilateral Trading System was alive and functioning; that the WTO could deliver trade deals. Members should therefore explore all the options available to ensure that MC9 was a resounding success. The light at the end of the tunnel had become brighter. He urged all colleagues and trusted that all Members would retain that momentum to secure a successful MC9. The DG had led Members like a fearless military general and everyone knew that military generals would never give up until the objective had been overcome. In Trinidad and Tobago, there was a mentorship programme for young people that carried the motto, "if it is to be, it is up to me". For Bali and MC9: "if it is to be, it is up to us".

1.105. The representative of the Dominican Republic, on behalf of the Informal Group of Developing Countries (IGDC), commended the DG for his unceasing efforts, his caution, his transparency, and his respect for inclusiveness. He had almost managed to make the Bali Package magic, as he had managed in the agricultural proposal on TRQ administration.

1.106. On behalf of the Dominican Republic, he said it was now up to Members to complete this magic and ensure in the time left to them in Geneva that they cleaned up what remained to be done. Most of the key points had now been covered and dealt with, and the rest were issues where technical flexibility was lacking. He said that some of the fundamental parts of what Members had achieved in some of the proposals had been the result of a magic atmosphere that had been present as they looked towards Bali. He was afraid that this atmosphere might be lost after Bali and that the very delicate balance that had been struck in some texts would not be recoverable. Members had already witnessed partial negotiations where results had been achieved, commitments that had never been fulfilled, even those contained in Ministerial Declarations. The present was a time where Members were not allowed to fail, could not be cowardly, could not throw in the towel and hand over to Ministers in Bali. He therefore urged his colleagues to complete the magic that was to be found in the Bali Package. Members should not complain but should act. It was not the time to be defeatist but optimistic, not the time to talk about half empty glasses, but half-full. He hoped that Members could be worthy representatives of the commitments they had to their own peoples and that they would be able to work towards further human progress.

1.107. The representative of India commended the DG's leadership, his inexhaustible reserves of patience and stamina and his efforts. Despite taking over the reins of the WTO at a fairly late stage in the negotiations, he had added tremendous dynamism and focus in the collective effort to achieve a Package. This process had been totally inclusive and transparent, a remarkable achievement considering the past history. But this had raised the stakes for all to be jointly responsible for ensuring a successful outcome in Bali. He was saddened that, despite the DG's strenuous efforts and the deepest commitment shown by all the delegations in Geneva, Members had not collectively been able to go past the finish line. He shared the DG's sombre assessment of the situation and the implications of the failure to deliver a Bali Package. He agreed fully with his statement that none of the texts, quite apart from the incomplete Trade Facilitation final draft, had been fully agreed upon and that each of these texts had one square bracket at the beginning and one at the end. He had taken note of the DG's statement that many delegations had asked for adjustments to these texts and that, due to lack of time to engage with the rest of the Members on these adjustments, with the exception of the proposal made by Cuba to the export competition text, these adjustments could not be discussed or incorporated in the draft texts. These adjustments to the draft texts would have to be taken up before they could be in final shape.

1.108. Against this backdrop, Members needed to take a pragmatic look at the various options before them. Most Members had stated that Bali should not be a negotiating Ministerial. At the same time, Members had to be realistic also about what could be achieved in the days before Ministers congregated at Bali. Work still remained to be done and some divergences continued on important issues. Members had to make a call on whether they wished to place the unresolved issues before Ministers in Bali. Many delegations had stated more time was needed to arrive at a consensus on the whole Package, but the enormous effort and achievement of the negotiators in Geneva should not be thrown away and some parts should be laid out to enable a successful harvest, if possible at Bali itself, or if not, within a reasonably short period thereafter. India had not given up hope and would be willing to join in efforts to harvest at least those outcomes which benefited the poorest countries. India would also be willing to join in any effort before Bali to close the remaining gaps in the Trade Facilitation text. An equally important issue which had been neglected in the work so far was that of the post-Bali agenda and work programme. The unfinished Doha Development Agenda should continue to be the main focus in the post-Bali phase and getting the Ministers to exchange views on how to make that possible would be extremely valuable. He said that India remained ready to engage constructively with the membership to find solutions and to ensure a successful MC9.

1.109. The representative of Singapore commended the DG for his dynamism and determination which had taken Members farther than they had ever come before, despite the icebergs encountered. He recalled that Members had already taken a collective decision that Bali would not be a negotiating Ministerial: it would not be successful if Ministers were pressed into a negotiation they did not ask for. There were technical solutions to many of the problems which, if Ambassadors had not found, should not be raised to Ministers. Having any form of Ministerial negotiation in Bali would not lead to a productive outcome. He stressed that Members were truly close, and that they should not do anything that would erode that position, nor anything which would block their view of the finish line which they could all see.

1.110. Members had appointed the DG, had put their trust in him, and then had imposed on him to do the impossible. Members had wanted to drive the Organisation to say one thing, but had done another. They had said they were supporting him and upholding the Multilateral Trading System, and then had proceeded to block progress by being inflexible and unaccommodating. Members had agreed with him that no unmanageable commitment was asked of anyone, but they were plainly and simply unwilling, despite his best efforts, to commit.

1.111. He agreed with the DG's observation that in the last, most critical parts of the past weekends, some delegations had stopped making the tough political calls. He recalled that, throughout the process, he had negotiated more with his capital than with his counterparts. He did not see this same dynamic happening evenly amongst his counterparts. He said that where "localised specificities" needed accommodating, they used capitals as an excuse not to resolve problems, rather than persuade them of the value in agreeing. This was not across the board, but had happened selectively. In the area of work which he had the privilege to chair, he had seen that commitment and constructiveness. All sides had given, and then when the crunch time came, had given again, and the outcome was balanced.

1.112. In his view, there was nothing in substance which could not have been completed already. Many of the differences left were ideological and tactical positions, not substantive ones. Unfortunately, it had led to the conclusion that those tactical positions were to push the rest who had been flexible and accommodating to give up the broader interests of the collective and meet the demands of a minority. Regarding the Monitoring Mechanism, and speaking as the Ambassador of Singapore and not the CTD SS Chair, he found it disappointing that, even after Members had collectively agreed on something meaningful which was worth 200% more than the words of the mandate that initiated that work, there were still ideological statements being made which suggested an ignorance of the real significance of the very text adopted.

1.113. The good faith of the silent majority should not be taken for granted, nor should it be abused. Many had kept constructively silent, but not disengaged, over the past weeks. So it did not go unnoticed that early in the morning on Monday, one delegation had actually stated that if the Room W gave that delegate "everything I want", there would be no problem. As stated by the DG, there was no delegation which would get everything they wanted. Members all gave, and then gave again. That these words were even uttered required Members to wonder whether all parties truly valued the Multilateral Trading System, or indeed whether all wanted a success to protect the WTO. He agreed with Morocco who had noted that some were using their national positions to kill this Organisation. If the Organisation meant less to some than the rest, then their willingness to jeopardise the Organisation should also form part of the balance being contemplated.

1.114. He strongly associated himself with those Members that wanted the Package before them. But he did not associate himself with those who had said that they would not give up because they wanted to reopen matters to get everything they wanted. As far as Singapore was concerned, there was only one deal on the table, and it was the one contained in the document RD/TNC/1 which had been circulated that day. He kept an open mind to ideas from Members, and from the DG, on what next steps could be taken to the final landing of that deal. Members were close, but success was prevented. He thought it should be clear that Members were not in the business of reopening RD/TNC/1. On the contrary, they should be firmly committed to finishing the business started with the DG on 1 September 2013. There were no new elements to be added, although there was always the option to drop items if the collective belligerence prevented a balanced solution.

1.115. He said that what Members would do in the succeeding days was also their decision. While the DG had respectfully asked for Members' views, Members had not given the DG enough specifics to work with. Some of the key stakeholders had expressed the need to pause and reflect. That was fair, as the stakes were higher for them, and he took comfort that they were committed to keeping the lights on in the building. He just hoped they were not again asking him to do the impossible. If Members pressed on to negotiate over the next two days in Geneva, they would create a sense of anxiety. Others were saying that negotiating in Bali was not an option. While he stood ready to undertake Ambassador-level work at any time or format the DG decided, he wondered if there would be any point unless Members saw a change to the tactical positions witnessed over the weekend which so many speakers had recalled.

1.116. If there was no market to negotiate with changed positions, then the logical thing was to consider work after Bali. He stressed that he had spoken of Bali and the Package in the present tense. He supported those who had suggested that the DG send the Package to the Ministers in Bali and seek their political decision to commit to that Package, with no variations. The difference was that in Bali, the DG would have the chance to have the exact same conversation with Ministers, especially in private. Ministers could then instruct the DG and delegations to resolve the remaining issues on the following basis: either compromise and resolve, or drop and delete. Nothing else. No new texts, no new additionalities.

1.117. The representative of Cameroon joined others in commending the Director-General. His assessment of the situation was correct that Members had not been able to reach a final agreement. The work that remained was not to be overestimated nor underestimated. At this stage, Members needed to focus on the arrival point and not on where they had started from. Members had to focus on solutions, not on problems. As to the way to reach an outcome, Cameroon believed that the Geneva texts had to be preserved and presented to Ministers in Bali. Bali was not the last stage, although it was a crucial one. Members should not try to have a Bali Package at all costs, at a very high cost. Ministers should be invited to take into account what was presented to them and they would certainly not agree to backslide nor to un-do what had already



been sufficiently stabilized. As Ministers, they would then instruct their negotiators. Without overlooking the post-Bali agenda and the strengthening of the Multilateral Trading System, seeking a balance in the Package should be Members' priority and they should reach a conclusion by the spring, as Chile had outlined. In concluding, he supported the comments made by the African Group, the ACP Group and South Africa.

1.118. The representative of Costa Rica said that the DG's contribution had been decisive in achieving progress in the negotiations and extended his recognition to the valuable work accomplished by the Chairs and the friends of the Chair. Members had achieved convergence on the broad majority of the issues within the three areas of the Bali Package. There was very little that remained to be resolved and solutions had been identified so that those few countries that were not yet on board would be able to board the vessel, so that Members could all complete the crossing, which was so important for them and the Organization. The progress that Members saw reflected in the ten texts had real value in substance and, if agreed, would contribute to promoting trade, job creation and towards the fight against poverty. An agreement on the package in Bali would furthermore send a signal that the WTO multilateral negotiations were able to produce agreements. If agreement was not possible in Bali, the opposite message would instead be sent and this would be very serious for the system.

1.119. However, trade negotiations would not stop, as efforts to promote growth could not be put aside. But the negotiations would not happen in the WTO and Members would not all be there to participate. It would be difficult to avoid trade liberalization efforts outside if Members confirmed their inability and capacity to negotiate such agreements in the WTO. He was confident that Members would be able to do so in respect of agreements where they could all gain, such as in Trade Facilitation. Costa Rica reaffirmed its determination to achieve agreements on the basis of the ten texts and its commitment to the Multilateral Trading System. Costa Rica's silence in previous days was a sign of flexibility and not a sign of a lack of interest. He agreed that Members should use the remaining hours in Geneva to attempt to resolve differences to enable Ministers to approve the results in Bali. That should be a genuine effort - this was the safest way to attempt to preserve what Members had achieved in terms of progress.

1.120. The representative of Uganda supported the statements by the Solomon Islands for the LDCs, Morocco for the African Group and Jamaica for the ACP Group. He said that his optimism about the Bali Package had almost eroded completely in the seventy-two hours that had gone by since Monday morning. He thought that there would probably not be a possibility of the Director-General coming up with anything in the form of a report or if he could come with one, it would not be able to effectively meet most of the expectations of the majority of delegates. True to his leadership qualities of self-confidence, vitality, spirit of inclusiveness, resilience and functional versatility, the Director-General had indeed managed to present the fruit of his tireless efforts. Of course, many delegations were not comfortable with the report, the landing zones seemed to be rough and turbulent. Uganda and the LDCs felt greatly let down; some very important language had to be incorporated in the Director-General's document for the Bali Package. He joined others who believed that Bali should not be a negotiating Ministerial. He therefore recommended a post-Bali process that would look at these documents with a view to including them in the framework of the DDA.

1.121. The representative of Chinese Taipei, on behalf of the RAMs Group, commended the Director-General for his outstanding leadership, expertise, ability and tremendous hard work in guiding Members towards achieving a balanced deal before Bali. It was sad that Members had not reached the final deal, although they had ironed many differences after more than 150 hours of work in rooms D, E and W, since the Director-General had taken office in September. She said that the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, like other Members of the RAMs Group, believed that Members could and should enjoy the benefits of further trade liberalization through the Multilateral Trading System. It was disappointing that the Organization had not been able to deliver very meaningful negotiation outcomes for almost the past two decades. In particular, her delegation felt frustrated that after many months of hard work, Members had almost reached the final point of having a balanced and successful Bali Package. But, Members were just not there yet. Nevertheless, she still had full confidence in the Multilateral Trading System, and in Members' ability and willingness to reach a balanced deal. A successful Bali Package was an indispensable cornerstone for the fulfillment of the Doha round negotiations in the future. Members should not give up any hope even when it was dim. Her delegation stood ready to fully engage in continuous negotiations whenever they took place.

1.122. The representative of Honduras said that the Organization had more hope than ever with the Director-General at its head. Honduras would follow his guidance with respect to the document that he had given Members that morning. Honduras believed that Members should not feed hope but rather exert best efforts to achieve a significant success in Bali, in the interests of the credibility of the Multilateral Trading System. If Members did not achieve their objective, after the Bali Ministerial Members should take up once again the challenge given to Members by the Ministers in 2001, following the process that the Director-General had established.

1.123. The representative of Philippines said that Members still had the initiative and the momentum; and, should not allow this precious commodity to slip away. The usual refrain "so near yet so far away" was not good enough anymore. Members should finish the Bali Package in Geneva and return to the negotiation table right away.

1.124. The representative of the Kingdom of Saudi Arabia commended the DG's efforts to find landing zones for many difficult issues and to finalize a Package for Bali. He agreed with his assessment and thought there was no time for more negotiations in Geneva before MC9. Likewise, he did not think it would be practical to expect Ministers to negotiate and solve very technical issues during the Conference, it was just not doable. Even though Members had not achieved an agreement on a complete Package for Bali, it would be unjust to call it failure. Progress had been made and with more political commitments, the Package could be finalised in the near future.

1.125. The representative of Panama said that the efforts of the Director-General had been titanic and he had managed to inspire delegations to make equally titanic efforts. He believed that it was important to continue this work to achieve as complete as possible a Package in Bali. This was not a magic process; it was a working process, one of persistence. As some had said, the Geneva process was over but only insofar as there was a "Geneva Process", a procedural stage, which had various objectives. One was to complete a full Package of agreed texts so that the Ministerial would not be a negotiating session and Members should continue on this path. Members needed to do what they could. What they had in the documents before them was the result of hard negotiations, countless meetings and efforts. The possible "plan B" for the Geneva Process was to transmit the Package of documents in a state of advanced stabilization. Members had managed to achieve the "plan B", but as many had said, that was not enough for a final Bali outcome. Thus the Geneva Process of the negotiations should go with "plan A" or a much more advanced set of documents, and it should continue working to achieve that.

1.126. Members could focus on an experience that many had had together with the Director-General; the process of achieving results in the last UNCTAD Ministerial. He recalled that in that process, in Geneva, they had negotiated what they could on a very intensive basis, to get through the procedural stage of being able to send a set of documents to Ministers in Doha. Once that procedural stage had been completed they had had a set of documents with many square brackets, but they had then continued negotiations in Geneva at the same intensity in order to get rid of even more square brackets and reach greater convergence. This had resulted in the set of revised documents which had been handed out in Doha and distributed as revised documents. Negotiations had continued there, with texts that had fewer square brackets, fewer points of discord. The Director-General had been through that process himself and the controversial points were very important. Therefore, Members should continue the intensive discussions and negotiations in Geneva, in multiple formats as had been done and just as intensively. It was a question of persistence and work, not magic. Members needed to continue during available time in the same way, in the same intensity as in the past weeks and should be working intelligently and with flexibility. If they did not continue, they would believe in magic and not in work, and it would be like giving up. Members would not be doing their job of being persistent. His delegation would be in any meeting that could be organized jointly with other delegations in order to be able to present documents to Ministers in Bali.

1.127. The representative of Benin, on behalf of the C-4, and also on behalf of the Minister of Burkina Faso, endorsed the statements by the African Group, the LDC Group and the ACP Group. The intensive work undertaken by Members, in various formats including the Room W broad plenary meetings, had enabled them to take negotiations closer to Bali, not only physically and geographically, but also in terms of the outcome of this work. That is why Members should not have doubts about the possibility of having a final Package for Bali. On the issue of cotton, the C-4 urged Members to make the necessary responses in order to find solutions, both from the trade and development perspectives, bearing in mind the vital character of cotton for the economy in

African and LDC cotton-producing countries. The C-4 recommended that the request by the LDCs included in the Package should be looked at carefully and dealt with usefully, taking into account their specific needs. The results for Bali were standing before Members. He said that the C-4 believed that there was hope and possibility for achieving success in the future.

1.128. The representative of Guatemala noted that, in just a few weeks, Members had reached the point of being very close to an agreement, which some were calling modest, others necessary, and others insufficient. His delegation had not heard anyone say that they did not recognise the importance of reaching an agreement. For Guatemala, the only option available was to conclude what Members had started. The Ministerial Conference would give the opportunity to Members to approve the texts as they currently stood so that they could serve as a basis for further negotiations. Secondly, Members should exchange opinions and take the political decisions which would enable them to conclude on the outstanding items. Thirdly, Members should establish a Work Programme with a view to concluding the Package successfully. That was for the short term. Members had picked up momentum and the world would not wait. If Members could not achieve an agreement in Bali, it would increase pressure on the Organization and the need for a rapid agreement.

1.129. The representative of El Salvador said that, regarding Trade Facilitation, the decision needed to be political. Taking the Package to Ministers was a risk. It was not the same to talk about defeat or failure in Geneva as it was to speak of a Ministerial failure in Bali. Members should carefully ponder the situation. He said that with the little time available, however hard it sounded, Members needed to continue working intensely. Bali could not be a forum for negotiations, and Members needed to be aware of the great risk that that would pose. The solution of having an extraordinary session of the Ministerial Conference, as proposed by Chile, was a very reasonable alternative. The decision taken needed to be one that maintained the integrity of the WTO. Members had made much progress and they should not miss that opportunity, so necessary for the protection of the institutionality of the Organization, and for the Organization to make its contribution to a very complex world. He thought one last effort was something that Members owed to future generations and to their citizens. This was not the final Package. It was a Package which would enable Members to continue after Bali on the basis of the Doha agenda and the rest of the pillars that had to be concluded. El Salvador would continue to make every effort to achieve the goal. He thanked the Director-General again because what he had promised in his campaign, he had done; inclusivity was there. He asked that Members continue in this way and stressed that they should not be discouraged.

1.130. The representative of Pakistan said that the DG had been able to energise negotiations by leading from the front. She knew, with regret, that the number of brackets did not allow Members to conclude things before Bali, but the signs of engagement that had been shown by Members in the preceding three months were a reflection of the energy and vitality which negotiations brought to the institution. Members needed to preserve the progress made and remain constructive to take the process forward. She joined those who believed in continuing the march for the strengthening of the Multilateral Trading System, which needed to deliver in increasing jobs and alleviating poverty through shared prosperity.

1.131. The representative of Bangladesh supported the statement by the LDC Group. There was no doubt that, with regard to the non-completion of DDA, the LDCs would suffer most. If no outcome could be achieved in Bali, it would make the conditions of the LDCs worse. Therefore, his delegation urged all Members to make a last effort to have the Bali Package cleared in Geneva. That would set the tone to conclude the DDA in the near future.

1.132. The representative of Dominica, on behalf of the OECS, supported the statements by the ACP Group and by the SVEs. He stressed that it had been a very long and arduous process in the past few days, but also the most transparent and inclusive process that Dominica had seen. The assessment of the Director-General of the state of play and the way forward was very sobering and also disappointing. The OECS were among those who had wanted and continued to want a success at Bali, based on delivering on all elements of the Bali Package as well as a roadmap for reinvigorating the negotiations on the rest of the DDA in a post-Bali work programme. The OECS had been part of the consensus when Members had agreed to pursue an early harvest in the run up to MC8 and then in the run up to MC9. They had and continued to support an outcome on the LDC issues, which were the most in need of a development outcome from the DDA negotiations. As part of the G-33, they also supported an outcome on the G-33 proposal. Dominica attached

critical, substantive and systemic importance to an outcome on development, particularly the monitoring mechanism. However, it was on Trade Facilitation that they had the most intensive interest. In this regard, their Capitals had communicated quite clearly that the Trade Facilitation text, particularly on Section I, offered very little additional impetus over existing policy goals and objectives. They could have lived with a far more ambitious set of Section I disciplines, backed by a Section II which provided the mechanism for obtaining assistance and support. In that regard, the OECS was heartened that progress had been made on Section II to arrive at a text that was almost free of internal brackets, based on the ACP proposal. It was now up to Members to see what could be done. Having serious negotiations in Bali with Ministers could be difficult, but the OECS had heard the call that morning for not giving up and the need to make a last effort moving forward and supported that stance to the extent that it was possible.

1.133. The representative of Niger supported the statements by the African Group, the ACP Group and the LDCs and called for sustained consideration for LDCs that needed further efforts to enable them to move forward in their development. Further flexibility was needed. Members needed to be open-minded and show that the accomplishments as consigned in the documents on the table would be able to be strengthened, if possible in Bali.

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

1.135. The Director-General thanked all delegations who had spoken words of encouragement and support, which meant a lot to him. For him, the toughest part was being at the table, sympathizing with the two sides and being unable to help, having tried to find common ground. Even more difficult was trying to get Members to move and push without overstepping each other's red lines. The overall message that he had heard, from the overwhelming majority of delegations that had spoken, was that Members were indeed close, and that they should not give up, but they should keep trying instead. He would reflect on that. He would be talking to Members in the following days and in Bali to see how they could seize that opportunity to the best of their ability.

1.136. He needed however, to give Members his honest assessment about what they could do, realistically, over the following days, or months. He believed that Members were very, very close and he had heard delegations saying "so near and yet so far" but he thought they were so near, and yet so near. He did not see the outcomes as something too far away. But, Members had to be realistic about the political realities that they faced. He believed that Bali was not amenable to a negotiating exercise. Ministers could not be put around a table, in a large or small format, with the text before everyone. He had also heard some suggestions that Members should push the work further, over the subsequent days or hours before even getting to Bali in the hope that they could get a bit closer and then be in a position to make the final effort in Bali. His assessment was as good as any one of the Members' assessments, and having had the benefit of some private consultations, his assessment was that pursuing negotiations in Geneva any further would only lead to backtracking. It was not going to lead Members closer; it might even take them further apart. He was not saying that the subsequent few days in Geneva would be wasted. He would be consulting, talking to Members, working and preparing for every scenario that he could imagine developing at Bali. He did not know what those scenarios were but Members had to be ready for all of them. If Members had scenarios that they wanted to add to his list, they should tell him in the coming hours, but he thought that the scenarios were probably the same.

1.137. With regard to Bali, he did not envisage that a typical negotiation around a text, trying to close the last gaps of a technical nature, was something that the Ministers should be doing. Ministers needed to talk, engage and figure out what they wanted. Ministers would therefore be sovereign, would be playing their hands and he would be there to help, to facilitate and to implement whatever Ministers decided. They had to explore all options; they would have to decide what they wanted, not only for the deliverables, but also for the Multilateral Trading System as a negotiating forum. He had said it several times; there would be a very significant blow to the Organization if Members did not conclude the Package. He had not been saying this only after he took the office; he had been saying that for a long time. He had been saying that since 2008, when Members could not close the deal.

1.138. He had heard many delegations saying that bilaterals and plurilaterals should not be happening. However, one could not have control over that. They were going to happen. Members had two options: they could deliver and therefore keep the negotiating forum in Geneva alive, or it

would be going away. The Multilateral Trading System was not going to disappear, but the negotiations would not be there. For him was quite clear, and Ministers would have to make that call too. He had also heard many delegations mentioning the possibility of continuing negotiations after Bali; however, he did not believe that any process after Bali was going to approximate positions, particularly if there were no very significant change in terms of political environment. Members could not simply come back to Geneva and continue negotiations, and hope that it was going to change. It would only change if there was a political decision that the Ministers, particularly the Ministers of the delegations which were more active, all made a collective decision. If there was that decision, in his view, it would happen, even in Bali. But that political engagement had to be there. If it was not, Members were not going to do it. He remained in the hands of the Members and of the Ministers. He would be doing everything he could to help Members get there.

1.139. He would speak to some Members. He was not going to have any more open-ended meetings, they were not necessary. He would be consulting with Members, probably with group coordinators and others over the subsequent days to get some more views and see how they should prepare their Ministers to get ready for Bali. He would also be talking to Ministers, including the Chairman of the Conference, Minister Gita Wirjawan, as it was important that he was briefed. He would be doing his utmost to help Members get the Bali Package done. But that would not be enough. He needed Members' efforts. In concluding, he thanked the Secretariat, the Chairs, and all Members.

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

## **2 WORK PROGRAMME ON SMALL ECONOMIES – REPORT BY THE CHAIR OF THE DEDICATED SESSION OF THE COMMITTEE ON TRADE AND DEVELOPMENT**

2.1. The Chairman recalled 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 regularly reported to the Council on the progress of work in its Dedicated Sessions on this subject. He drew attention to the Report submitted by the Committee on Trade and Development in Dedicated Session to the General Council in document WT/COMTD/SE/8 and invited Ms Williams (Barbados), Chair of the CTD, to report on developments in this area.

2.2. Ms Williams (Barbados), Chairperson of the Dedicated Session of the CTD, recalled that since the most recent report to the General Council on the Small Economies Work Programme, there had been one formal and several informal meetings of the CTD in Dedicated Session. These meetings concerned first, a Workshop held on 23 October on the Effects of Non-Tariff Measures (NTMs) on the Exports of Small Economies, and second, several consultations on the Dedicated Session's report to the General Council.

2.3. The Workshop on 23 October had featured three sessions: the first had included recent research by international organizations on NTMs in general and how they affected the exports of small economies; the second had focused on national experiences with meeting NTM challenges and had featured presentations by delegations from Jamaica, Sri Lanka and Trinidad and Tobago. Finally, a third session had featured efforts by developed countries and international organizations to build capacity in order to help small economies meet NTM challenges. A Secretariat background paper (WT/COMTD/SE/W/28) had been prepared for the workshop and was accessible on the WTO's website as were all presentations and audio recordings of the various statements made. The record of the workshop would appear in the official minutes of the 26<sup>th</sup> Dedicated Session in due course.

2.4. Concerning the several informal consultations held since October, she was pleased to report that document WT/COMTD/SE/8 had been adopted by Members on 7 November and had been forwarded by the Dedicated Session to the General Council with recommendations for future work. In this report, Members had proposed that the General Council make a recommendation to the 9<sup>th</sup> Ministerial Conference requiring Ministers to reaffirm their commitment to the Work Programme on Small Economies and to take note of all work conducted to date, especially the work undertaken since MC8 on the effects of Non-Tariff Measures on Small Economies.

2.5. Members had also proposed to the General Council that it instruct the Secretariat to provide relevant information and factual analysis for a discussion to take place in the course of next year in the CTD Dedicated Session, in the areas identified in item k of paragraph 2 of the Work Programme and, in particular, on the challenges and opportunities experienced by Small Economies when linking into global value chains in trade in goods and services. She said that the Dedicated Session was looking forward to having the General Council forward these recommendations to Ministers.

2.6. The representative of Barbados, on behalf of SVEs, said that the Chair's report outlined the positive work that had been done within the Committee on Trade and Development under the Work Programme on Small Economies. The Workshop on NTM's coupled with the WTO Secretariat's background note (WT/COMTD/SC/W/28) had provided for an informative and instructive debate which had not only revealed that NTM's presented real challenges to the exports of small economies but had also highlighted some of the work that was being done by countries, agencies, and international organizations to assist with building capacity to deal with NTMs. In that regard, SVEs were pleased that Members could report positively to Ministers at the Ninth Ministerial Conference on the work that had been done in accordance with their Mandate two years prior. SVEs looked forward to reviewing the main conclusions of the workshops in 2014. She thanked WTO Members for their spirit of engagement and their commitment to the Small Economies Work Programme, as demonstrated in their recommendation to Ministers to reaffirm the Work Programme and the adoption of the areas for future work as set out in WT/COMTD/SC/8. SVEs looked forward to working with Members in the post-Bali stage on the Small Economies Work Programme in the CTD Dedicated Sessions as well as in the regular work of the WTO on the DDA Negotiations.

2.7. The Chairman noted that the Council would take action on the report by the Dedicated Session on Small Economies in WT/COMTD/SE/8 under item 4(a) of the agenda.

2.8. The General Council took note of the report of the Chair of the Dedicated Session of the Committee on Trade and Development and of the statement.

### **3 THE DEVELOPMENT ASSISTANCE ASPECT OF COTTON – PERIODIC REPORT BY THE DIRECTOR-GENERAL (WT/GC/154 – WT/CFMC/DG/6 – WT/MIN (13)/3)**

3.1. 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.

3.2. 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.

3.3. He invited Deputy Director-General David Shark to introduce the Report in document WT/GC/154 – WT/CFMC/DG/6 – WT/MIN(13)/3 on behalf of the Director-General.

3.4. Deputy Director-General Shark, on behalf of the Director-General, said he was pleased to introduce the Periodic Report on the Development Assistance aspects of Cotton on behalf of the DG. Progress had been made since the last Periodic Report was circulated in 2012. This progress had been reflected in the sixteenth version of the Evolving Table on Cotton Development Assistance, which had been recently issued. The Evolving Table was considered to be the centrepiece of the work of the Consultative Framework Mechanism on Cotton in the implementation of its mandate on cotton development assistance.

3.5. The numbers in the Report indicated that concrete results had been achieved. There had been an increase in the total value of commitments and disbursements, and, importantly, the gap between them had narrowed. And, perhaps just as significant, was that the results pointed to progress in the enhanced dialogue between providers and recipients of development assistance, which the Mechanism aimed to foster. He commended the traditional members of the development

community for their engagement in the consultative process, in particular Australia, Canada, the European Union and several of its Member States, Japan, Switzerland and the United States. In addition, he welcomed the greater involvement of, and contributions from, a number of developing countries, in particular Brazil, China, India and Pakistan. Contributions had been received from several multilateral institutions. As a result of this engagement there was now a strong partnership between the providers of development assistance for cotton and its beneficiaries.

3.6. The discussions in the consultations had been enriched by improvements in the presentation of the quantitative information and by greater qualitative assessment of the implementation of the different projects and programmes. The C-4 continued to regularly submit information on their work, as reflected in the "Table on Domestic Cotton Sector Reforms". Members more broadly remained engaged in the Consultative Framework Mechanism on Cotton. But, it was necessary for all the actors to continue to work towards achieving complementarity between the two aspects of the cotton dossier, i.e. both the trade and the development components.

3.7. Finally, he wished to say he was pleased to be taking this work forward on behalf of the DG as Chairman of the Consultative Framework Mechanism. On that note, he wished to thank the outgoing Chair, former DDG Harsha Singh, for the pivotal role he had played in taking this important work forward.

3.8. The Chairman noted that the report by the Director-General had already been circulated as a MC9 document.

3.9. The representative of Benin, on behalf of the C-4, thanked the Deputy Director-General for the periodic report on recent activities in the framework of the DG Consultative Mechanism on the development aspects of Cotton. The C-4 also wished to thank the Members of the donor community, both developed and developing, as well the international and regional bodies which helped them with the activities within the framework of the development aspects of Cotton. The C-4 recommended that the ways and means identified during meetings held recently by the WTO and its Members in the follow up to identified activities be implemented in a coherent way in order to achieve the expected results in terms of the development aspects of cotton, thus contributing to improve the cotton situation in the interested countries and regions.

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

## **4 NINTH SESSION OF THE MINISTERIAL CONFERENCE**

4.1. The Chairman pointed out that, as indicated in the agenda, there were two sub-items under this item: (a) a statement he would be making as Chairman; and (b) Attendance of Observers from International Intergovernmental Organizations, including a request from the League of Arab States to attend MC9. He suggested taking up these two sub-items separately.

### **4.1 Statement by the Chairman**

#### **4.1.1 TRIPS non-violation and situation complaints (IP/C/67)**

#### **4.1.2 E-Commerce (WT/GC/W/676)**

4.2. The Chairman said that he would first take up the two sub-sub-items on the agenda, namely TRIPS non-violation and situation complaints and e-commerce. He would then turn to the other three recommendations for action by Ministers stemming from the reports of subsidiary bodies under Item 2 and Item 12. Finally, he would turn to some organizational and administrative matters for the Conference.

4.3. He recalled that the Conference would undertake an Overview of WTO activities under item 1 of its Agenda, on the basis of Annual Reports from the General Council and its subsidiary bodies. The annual reports, which Members would take up under item 12 of the agenda of the present meeting, constituted the main vehicle through which WTO bodies reported to Ministers on progress of work in their respective areas, and might include points or recommendations for action by Ministers. In his statement at the Opening Session of the Ministerial Conference, he would report

to Ministers that the General Council and its subsidiary bodies had fulfilled their mandates, in particular with respect to the mandates that Ministers had given at MC8.

4.4. As he had noted before, work under the relevant MC8 mandates had already been concluded in the areas of LDC Accession Guidelines, which had been adopted by the General Council in July 2012, and of the extension of the transition period for LDCs under the TRIPS Agreement, which had been agreed by the TRIPS Council in June. On small economies, Members had heard from Ms Williams that the Dedicated Session had agreed to a text concerning future work in its report to the General Council. The annual reports of the Committee on Trade and Development – with respect to Aid for Trade – and the annual report of the Working Group on Trade and Transfer of Technology also contained recommendations for Ministerial action.

4.5. He turned to the Decisions to be forwarded to the Ministerial Conference, starting with the two sub-sub-items on TRIPS non-violation and situation complaints and E-Commerce. The texts of the draft decisions could be found in the respective reports in IP/C/67 and WT/GC/W/676.

4.6. Unless any delegation wished to take the floor, he proposed that, in accordance with practice, the General Council take note of his statement and agree to forward those reports and the draft texts for decision by Ministers which they contained to the Ministerial Conference.

4.7. The representative of Barbados brought to the attention of Members a development which she thought was important. On 24 October 2013, a group of developing countries had sought in document WT/L/202 to have the CTD report to the General Council on development work in WTO in accordance with its mandate as a focal point of development work as set out in WT/L/46 and in compliance with the request of Ministers at MC8 that the CTD operationalize that mandate as set out in WT/MIN/11/11. Unfortunately, the proposal had not achieved consensus even though it was only seeking to implement the decision of Ministers. Insofar as Members were seeking to take other matters to the upcoming Ministerial in Bali, she thought that it would be important to bring the fate of the decision of Ministers to the attention of the full membership as it could have implications for the future approaches of the Organization to Ministerial Decisions.

4.8. The representative of the United States said that MC8 had called for focused work in the CTD and on Members to fully operationalize the mandate of the CTD as a focal point for development work in the WTO. Since then, Members had actively engaged to fulfil the mandate. For example, Members had intensified efforts on a nearly reached agreement on the creation of a Monitoring Mechanism. Such a Mechanism could have very positive impact on CTD's work and would provide value to Members to a regular review of the utilization and implementation of existing WTO S&D provisions and related to paragraph 3 of the CTD's mandate. Further, several proposals had been received and actively discussed in the CTD, each aimed at implementing the MC8 guidance. One such proposal had directed the Secretariat to update the report on S&D provisions which obtained full support in the CTD. As such, the Secretariat had issued an updated report that provided a useful review on the implementation of S&D provisions in WTO provisions and decisions. But failure to adopt one specific proposal, that was the CTD Report on the Activities of other WTO Bodies, did not imply that Members had failed to fulfil the MC8 mandate or that they had ignored Ministers' instructions. He said that it was simply fallacious to argue that the MC8 mandate could be fulfilled only by directing the CTD to report on all development work taking place in the WTO, including in other bodies. The United States had been very clear in its views that such a proposal was not only inappropriate, but also unnecessary. The US failed to understand what such reporting would add considering that the CTD had already reported annually to the General Council on its activities as did the other WTO Bodies whose work had often been development related. The United States had remained supportive of focused discussions in the CTD on specific issues of concern to developing countries and on the link between trade and development. One such proposal which had sought to promote such discussions had not received consensus in the CTD but that did not mean that Members had failed. The United States remained committed to continuing work pursuant to the mandate especially that which had supported the positive link between trade and development to focus work in the CTD.

4.9. The representative of the European Union said that, on TRIPS non-violation and situation complaints, his delegation was not convinced that the GATT non-violation complaints concept applied to TRIPS. The TRIPS Agreement required Members to put in place clearly the described legislation and to enforce it. Any failure to comply with that obligation could be directly addressed



as a violation of the TRIPS Agreement. He said that the EU had supported further extension of the moratorium.

4.10. On E-Commerce, the EU was very pleased with the reinvigoration of the Work Programme. Members had been able to focus on specific issues through the two workshops and other workshops. The outcome of the last two years was a valuable input in improving the understanding of the trade-related aspects of E-Commerce. The EU was ready to continue engaging on those topics in the next two years and would welcome further technical discussion on the topics identified on the Ministerial Declaration. He had also invited Members to consider discussion on the permanent character of the moratorium.

4.11. The General Council took note of the statements and agreed to the Chairman's suggested course of action.

4.12. The Chairman then turned to the Work Programme on Small Economies. As the Council had heard under Item 2, the report of the Committee on Trade and Development in Dedicated Session and the recommendation to Ministers that it contained could be found in document WT/COMTD/SE/8, in para. 3.2.

4.13. On Aid for Trade, the recommendation for Ministers' action could be found in the annual report adopted by the CTD, which was document WT/COMTD/83, in para. 5.9.

4.14. Similarly, on Trade and Transfer of Technology, the recommendation for Ministers' action was contained in the Annual Report adopted by the Working Group, which was document WT/WGTTT/15, in para. 4.1.

4.15. Unless any delegation wished to take the floor, he proposed that, in accordance with the practice, the General Council agree to forward the recommendations which he had mentioned to the Ministerial Conference for decision by Ministers.

4.16. The General Council so agreed.

4.17. The Chairman noted that the Trade Policy Review Mechanism Fifth Appraisal had been completed and the relevant report contained in document WT/MIN(13)/5 had been submitted directly to the Ministerial Conference in accordance with the mandate of the TPRB.

4.18. Turning to organizational matters, he noted that the programme of the Conference had been circulated to delegations in document WT/MIN(13)/INF/13. As indicated in that document, the Conference would be opened on 3 December at 3 p.m. by the President of the Republic of Indonesia. The first Plenary Session would be held on Wednesday 4 December starting at 9.30 am and would continue over the following days. As in the past, the Plenary Session would provide Ministers with the opportunity to make prepared statements in accordance with the List of Speakers. He reminded delegations that statements in the Plenary Session would be limited to three minutes.

4.19. As a matter of course, and in line with its Rules of Procedure, MC9 would take up two issues related to the organization of the Tenth Ministerial Conference. Those issues were the date and venue of MC10 and the election of officers for that Conference, and they appeared as items 3 and 4 on the MC9 Provisional Agenda in document WT/MIN(13)/W/1. He proposed that, as in the past, Ministers refer those issues to the General Council for it to hold consultations on them when appropriate. He trusted that this was acceptable to delegations.

4.20. Further, he said that Members had to also consider the question of the appointments of the Chairs of Negotiating Bodies. In line with the agreement reached at the first meeting of the TNC, those appointments were to be reviewed at each Session of the Ministerial Conference. As for past Ministerial Conferences, he proposed that Ministers request the General Council to take the matter up in the February 2014 slate of names exercise for appointment of officers to regular bodies. He trusted that this was also acceptable to delegations.

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

## 4.2 Attendance of Observers from International Intergovernmental Organizations

### 4.2.1 Request by the League of Arab States

4.22. The Chairman recalled that, in line with the discussions at the October meeting, the General Council had agreed to revert to the matter of attendance of IGOs at MC9 at that meeting. In October, he had urged all delegations to work together with a truly constructive spirit to find a solution to this issue. Since that meeting, he had continued to conduct consultations in several different configurations. Despite those efforts, it appeared from his consultations that there was no consensus on that matter and that therefore no IGOs would be able to attend MC9. In his view, this was a regrettable situation, and one that had systemic implications on the work of the WTO as a whole.

4.23. With respect to the sub-item concerning the request from the League of Arab States to attend MC9, which was related to the broader issue of IGO's attendance at MC9, his consultations had continued to show that there were Members who were not in a position to agree to the request.

4.24. The representative of Egypt, on behalf of the Arab Group, referred to his delegation's statement at the last General Council Meeting on behalf of the Arab Group. For more than a decade, some Members had continued to undermine the Guidelines to ensure the participation of IGOs and their contribution to the work of WTO, to ensure the coherence needed in the Multilateral Trading System. Divergence over the interpretation of the Guidelines granting IGOs Observer Status had continued to grow with no clear indication as how some IGOs had been granted permanent observer status while others had continued to be barred from receiving the same status. The Group invited Members to refrain from politicizing the work of the WTO and warranted that requests for Observer Status were granted to all IGOs.

4.25. The General Council took note of the statements.

## 5 REVIEW OF THE EXEMPTION PROVIDED UNDER PARAGRAPH 3 OF GATT 1994 (WT/L/880)

5.1. 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.

5.2. In 1994, the United States had invoked that provision with respect to specific legislation that met the requirements of that paragraph. Paragraph 3(b) of GATT 1994 called for a review of that 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 – to examine whether the conditions for the exemption still prevailed.

5.3. The General Council had last considered that matter at its meeting in February that year, and his predecessor had invited interested delegations to speak with regard to the review under the current cycle. She had also invited interested delegations to submit comments and questions to the United States regarding the operation of the legislation under the exemption, to which the US was to be invited to respond. Those statements, questions and responses, together with the annual report provided by the US under Paragraph 3(c) of GATT 1994 – circulated in WT/L/880 – would form the basis for that year's review.

5.4. The General Council had also agreed that it would consider that matter again at its last meeting of the year, at which it would take note of the discussions held in the course of the review, take any other action it might agree on, and would also take note that the subsequent review would be held in 2015. The exemption was without prejudice to solutions concerning specific aspects of the legislation covered by the exemption negotiated in sectoral agreements or in other fora.

5.5. The representative of the European Union said that his delegation supported the review process. However, he wished to underline once again the EU's strong concerns with the unjustified exemption. The EU continued to view the Jones Act as a piece of legislation that restricted competition in the ship building and shipping markets and no longer served a legitimate purpose in today's global economy. The prevailing situation had negative economic consequences for the EU's and other countries' ship-building industries and also for the US Maritime Industry, faced with higher costs due to the closure of the US market for foreign-built ships. The EU sincerely hoped that the 2013 review would deliver results and not be again a simple recurring point in the agenda. The EU encouraged the US to engage in a more objective approach in that area with the view to seriously reviewing the exemption in the near future.

5.6. The representative of Japan said that since this exemption was a deviation from the fundamental principles of the WTO, Japan attached great importance to the review. The explanation given by the US so far had merely mentioned the continued existence of the Jones Act. Japan believed that fell short of demonstrating the necessary explanation of the substantial need of such an exemption. Japan was concerned that the continuation of this exemption without proper reasoning could undermine the credibility of the WTO rules as a whole. Japan hoped that pursuant to Paragraph 3 of the GATT 1994, more substantial and effective examination would be conducted for the future with the cooperation of the United States.

5.7. The representative of Hong Kong, China pointed out that it was the eighth review of the Jones Act exemption. Hong Kong, China had been disappointed by the outcome of the previous seven reviews. Its objective and systemic interests remained unchanged. The Jones Act represented a major derogation from a fundamental principle of the WTO – national treatment. Further, as a strong proponent of the liberalization of the maritime transport, which was a crucial part of the logistics supply chain, his delegation was concerned that the exemption represented one of the major impediments to the Member concerned in making any market access commitments in maritime transport services. He therefore urged the US to seriously review whether the legislation covered was still serving the objectives originally intended and whether the conditions for retention of the measures indeed still prevailed. As in the past, Hong Kong, China stood ready to discuss with the US as with other Members with an open mind and in a constructive manner.

5.8. The representative of Norway thanked the US for organizing consultations on the continued application of the GATT Paragraph 3 Exemption for the purposes of the Jones Act. He noted that a number of questions had been posed by Members to the United States throughout the years, both concerning previous notifications and the effects of legislation. He believed that it was fair to say that the answers had not been satisfactory, in particular, as regards the continued need for the exemption in the WTO context - a somewhat peculiar exemption. He 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 the exemption still prevailed. There was a need to move beyond the point of discussing only statistical information submitted under Paragraph 3(c) and address also the conditions for the exemption and the continued need for it.

5.9. The representative of China joined the other Members in expressing its commercial and systemic concern at the unjustified exemption.

5.10. The representative of Australia appreciated the information provided by the United States as part of the review and the opportunity to discuss the issue informally with US experts. Australia had a particular interest in the issue because of Australia's capacity to provide certain transport and related services and Australian expertise in building a range of maritime vessels including light-weight fast ferries. Australia recognized the particular sensitivities of the US in relation to cabotage and coastal shipping. Australia and many other Members shared those sensitivities. However, Australia believed 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 coastal and cabotage shipping. Even after informal consultations with US officials as part of this review, Australia had not understood which aspects of the Jones Act had prevented the US from making commitments on maritime transport and related services that were not related to cabotage or to coastal shipping. Australia would welcome further information from the US on the issue.

5.11. The representative of Korea also joined other Members in airing their systemic and commercial concerns on the matter. Korea would also like to engage in any future process.

5.12. The representative of the United States said that, as the United States had explained before, the provisions of Paragraph 3 of the GATT 1994 were an integral part of the GATT 1994. Paragraph 3 of the GATT 1994 was drafted and included in the Uruguay Round Package to deal with non-conforming provisions of domestic legislation of a non-discretionary character in the specific area addressed by the exemption. Under Paragraph 3(a), as long as the legislation that the United States had notified remained in force and had not been modified to reduce its conformity with Part II of the GATT 1994, the US legislation remained exempt and Part II of the GATT did not apply to it. And that was the situation with respect to the US legislation at present. It remained in force and its conformity with Part II of the GATT 1994 had not decreased. This provision had been agreed to by all Members as a central part of the Uruguay Round results. It was critical for US ship-builders to build commercial ships for this trade if a viable industrial base to be maintained to meet future navy requirements. Moreover, the navy had relied upon shipyards to perform commercial work for the Jones Act trades for day to day maintenance of naval and surge fleet vessels such as the ready reserve fleet. It was the strongly held position of United States that the only purpose of the review provided for in Paragraph 3(b) was to "examine whether the conditions which created the need for the exemption still prevail." The conditions that had created the need for the use of the exemption by the United States still existed. Since United States had invoked the exemption in 1994, there had been no amendments or measures adopted by the United States that would alter the US position in conforming to coverage by the exemption. And US had very much the same need as it did in 1994 to maintain its shipyards' readiness to build and maintain naval vessels.

5.13. The General Council took note of the statements made in the course of the review that year, and also took note that the subsequent review under the two-yearly cycle provided in paragraph 3(b) of GATT 1994 would normally be held in 2015.

## **6 IMPROVING THE GUIDELINES FOR GRANTING INTERGOVERNMENTAL ORGANIZATIONS PERMANENT OBSERVER STATUS IN THE WTO – STATEMENT BY THE CHAIR**

6.1. The Chairman recalled that the matter was on the agenda following a communication by the Arab Group entitled "Improving the Guidelines for Granting Observer Status to Intergovernmental Organizations in the WTO" (WT/GC/W/643), which had then been supplemented by a further communication in document WT/GC/W/654.

6.2. At the October Meeting, he had stressed again the importance of the issue, and its implications for the efficient functioning of the WTO. Since then, he had continued his consultations in parallel with the consultations he had conducted on the attendance of IGOs at MC9, given the relationship between the two matters. From his consultations, it had appeared that there was no convergence on how to take the process forward at that stage.

6.3. The representative of Egypt, on behalf of the Arab Group, pointed out that, in the previous General Council meeting, Egypt had presented a proposal on behalf of the Arab Group regarding the participation of the IGOs at MC9. That had been a proposal that had included a constructive basis for improving the Guidelines for Granting IGOs Observer Status in WTO. Unfortunately, no consensus had been reached on the proposal which had resulted in not inviting IGOs to participate in MC9, which was very regrettable. He requested that the item should remain on the agenda of the General Council for the future meetings and called upon Members to put the issue as a priority for consultations in the coming period in the aim of reaching a conclusive set of guidelines for granting IGOs observer status in WTO.

6.4. The representative of Oman fully associated herself with the statement made by Egypt. As already stated, the matter had already been on the agenda for quite some time. She thought it was time for the Chairman to conduct more consultations and to have more technical discussions on the Arab Group proposal.

6.5. The representative of the Dominican Republic, on behalf of the IGDC, thanked the Chairman for his effort in trying to reach a solution to improve rules in ensuring participation of inter-

governmental organizations as permanent observers in the WTO. He urged him to continue his efforts to find a positive outcome to the consultations.

6.6. The representative of United States said that the issue of Observer Status for IGOs had been a difficult one for the Organization and that it was unfortunate and unnecessary that so many requests remained outstanding. The situation at the present and during the previous Ministerial Conference was an aberration from past practice when the vast majority of IGOs had been able to participate. Members had tried in the past to resolve those issues by building on the rules Members adopted in 1996. Those efforts had failed over a number of difficult issues. As much as he might wish it were otherwise, the situation had not changed since then. He appreciated the Arab Group's efforts in putting some more concrete ideas in front of Members. He had studied them carefully and could not see a basis on which agreement might be achieved. Regretfully, history had not indicated that it was a constructive area for future discussion.

6.7. The representative of Jordan thanked the Chairman for his efforts. He associated himself with the statement by Egypt and hoped a solution could be reached in the near future to improve the guidelines for granting IGOs permanent observer status in the WTO.

6.8. The General Council took note of the statements.

## **7 TRIPS COUNCIL MATTERS**

### **7.1 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/66)**

### **7.2 Proposal for a Decision on an Extension of the Period for the Acceptance by Members of the Protocol amending the TRIPS Agreement (IP/C/65)**

7.1. The Chairman proposed to take up the two sub-items together.

7.2. 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.

7.3. 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.

7.4. In view of the status of acceptances, however, the TRIPS Council at its meeting in October that year had agreed to submit to the General Council a proposal for a decision on a fourth extension of the period for the acceptance by Members of the Protocol.

7.5. Mr Suescum (Panama), Chairman of the TRIPS Council, recalled that at its meeting on 10-11 October 2013, 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 the review to the General Council had been circulated in document IP/C/66.

7.6. The cover note to that document had set out factual information regarding the implementation and use of the Decision, as well as the status of acceptances of the Protocol Amending the TRIPS Agreement. The TRIPS Council's report also contained, in Annex 1, the record of the discussion that had taken place during the Council's review of the waiver decision; the statements made by delegations were reproduced in Appendix 1. In addition, Annex 2 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, which he would like to address.

7.7. As Members were aware, the Protocol Amending the TRIPS Agreement that had been done in Geneva 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 the initial period, the General Council, at its meeting in December 2007, had decided for the first time to extend the period for the acceptance of the Protocol until 31 December 2009. Since then, further extensions of the period had been agreed upon by the General Council through decisions taken at its meetings in December 2009 and in November 2011. Currently, the period for the acceptance of the Protocol was due to expire on 31 December 2013.

7.8. He said that at present, 48 instruments of acceptance, including by the European Union, 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 (IP/C/66), which he had mentioned at the beginning of his intervention. The list could also be consulted on a dedicated webpage which was regularly updated by the WTO Secretariat. In accordance with paragraph 3 of Article X of the WTO Agreement, the Protocol should enter into force upon acceptance of the Protocol by two thirds of the Members, which currently amounted to 106 Members.

7.9. Given the present status of acceptances, the Council for TRIPS, at its meeting in October 2013, had agreed to forward to the General Council a proposal for a decision to extend once more the period for the acceptance by Members of the Protocol by a further two years, until 31 December 2015. The proposal was before Members in document IP/C/65, for consideration and adoption by the General Council.

7.10. Before concluding his report, he once more called upon those Members who had not yet accepted the Protocol to carry out promptly the necessary internal procedures that would permit them to deposit their instruments of acceptance. In this regard, he emphasized that accepting the Protocol Amending the TRIPS Agreement was distinct from implementing the system in the domestic legal framework. Those were two separate acts, but many WTO Members, including his country in the past, had believed mistakenly that acceptance could not occur without implementation. In other words, the Protocol could be accepted independently from the adoption of domestic measures to implement the system. By accepting the Protocol, a Member agreed simply that WTO Members, including itself, were entitled to use the additional flexibility that the System provided. Should a WTO Member wish to take advantage itself of those additional flexibilities it might need to domestically implement appropriate legislative measures. But since those two processes were entirely separate, a Member might choose to deposit an instrument of acceptance of the Protocol without the need to wait for any domestic implementation. At its meeting on 10-11 October 2013, 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 the review to the General Council had been circulated in document IP/C/66.

7.11. The representative of the European Union said that, regarding the first point, there had been some positive aspects in the work of the TRIPS Council that year. Access to essential medicines for developing countries was of outmost importance for the EU. The EU encouraged Members to accept the amendment to the TRIPS Agreement so that it could come into force. The EU supported further extension of the deadline for acceptance of the Paragraph 6 System by Members. It was EU's conviction that the TRIPS Agreement, including this amendment but also the broader system of obligations and flexibilities, achieved the necessary balance to ensure that Intellectual Property might not unduly constitute an obstacle for access to medicines by low-income and least developed countries. The EU welcomed the continuation of a focused debate in the TRIPS Council of the Paragraph 6 system even if in the last two years no evidence or argumentation had been brought to the table about the deficiencies in the system. The EU was pleased that the discussion under the topics of IP and innovation and the interventions from Members of the TRIPS Council had given ample evidence of the very positive effect of IPR towards useful innovation and economic and public welfare, which was true in countries in all stages of development. The EU looked forward to further discussions of this kind. On the second point, the EU supported the extension.

7.12. The representative of the United States recalled that the US had strongly supported the Doha Declaration on the TRIPS Agreement and Public Health and the General Council's Decision of

August 2003 to implement the Doha Declaration, including Paragraph 6 to allow drugs to be exported under compulsory licence on the terms set out in that Decision and the accompanying Chairman's statement. The US had also provided strong support for the General Council's Decision of 6 December 2005 to amend the TRIPS Agreement and make permanent the system and appropriately preserve reference to the Chair's Statement. In October, the TRIPS Council had held a productive review of the Implementation of Paragraph 6 and any further review of the Implementation of Paragraph 6 should be within the TRIPS Council. On Item B, the United States had strongly supported the 2005 Decision to amend the TRIPS Agreement and had been the first Member to notify its acceptance to the amendment. The US respected the trading partners' right to protect Public Health and in particular, to promote access to medicines for all. The US supported the vital role of the patent system in promoting the development and creation of new and innovative life-saving medicines. The US welcomed the nearly 50 Members that had accepted the amendment so far. The United States hoped to see at least 2/3 of the WTO Membership accept this amendment by 31 December 2015, at which point the amendment would go into effect for those Members that had accepted it.

7.13. The representative of Canada took note of the fact that if Members looked at the 2005 waiver and the subsequent decision to transform it into a permanent amendment, that really was an important signal that trade and intellectual property rights actually could support access to medicines. He strongly supported the initiative. He welcomed the extension of the deadline to allow the Protocol Amending the TRIPS Agreement to come into force because there were not enough Members to bring it into force yet. He encouraged Members to brief their Ministers to at least move this matter up the priority list, whether or not Members were in the position to more expeditiously consider favourable acceptance of the Protocol. He appreciated the work of the Chair, and it was up to the Members themselves to take advantage.

7.14. The Chairman proposed that the General Council took note of the report of the TRIPS Council in document IP/C/66, and adopted the draft decision in document IP/C/65 extending the time period for acceptance by Members of the Protocol amending the TRIPS Agreement to 31 December 2015.

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

## **8 WTO ACCESSIONS: 2013 ANNUAL REPORT BY THE DIRECTOR-GENERAL (WT/ACC/21 – WT/GC/155 – WT/MIN(13)/6) – STATEMENT BY THE DIRECTOR-GENERAL**

8.1. The Chairman drew attention to the Director General's annual report on accessions, which was circulated in a triple symbol document, WT/ACC/21- WT/GC/155 - WT/MIN(13)/6. He invited Deputy Director-General David Shark to introduce the report on behalf of the Director-General.

8.2. Deputy Director-General Shark, on behalf of the Director-General, said he was pleased to present the Fifth Annual Report on Accessions. He said that, as in previous years, the Report provided detailed information on: (a) the operational work on accessions; (b) the benefits of membership; (c) policy issues and challenges; and (d) transparency obligations and notifications. Work on accessions played an important role in strengthening the WTO. He recalled that, in 2013, two new Members had been welcomed to the WTO, as Lao PDR and Tajikistan had deposited their instruments of accession, therefore increasing the membership to 159. Each new accession expanded the rule of law in trade and in 2013 Members had also concluded the accession of Yemen. He thanked the membership for its direct engagement to achieve this LDC accession, under the guidance of Mr. Hartmut Röben, Chairperson of the Working Party on the Accession of Yemen and with the support of his co-facilitators, Mr Steffen Smidt, the Chairperson of the LDC Sub-Committee, and DDG Yi, in his former role as the Ambassador of China. He congratulated the Government of Yemen for its hard work in undertaking the reforms necessary to complete its accession negotiations. Elsewhere, there had been substantial technical progress, including on LDC accessions and this would set the stage for further progress in 2014. In closing, he thanked Members for their engagement and pragmatism in assisting those acceding governments that were ready to cross the finishing line and those Members who had provided technical assistance in 2013, including Australia, Brazil, China, India, the US, and the EU and its Member States, particularly Sweden. He commended acceding governments for their sustained commitment to undertaking the relevant domestic reforms and the team in the Secretariat for its work in managing the complexities and sensitivities of accessions to the WTO. He said comments from Members on how to improve this work in future were welcome.

8.3. The Chairman noted that the Director-General's Annual Report had been circulated as an official MC9 document.

8.4. The representative of the Dominican Republic, on behalf of the IGDC, appreciated the efforts of the Director-General and his team. He was pleased to see the many initiatives and decisions taken on the issue of accessions and to soon see some new countries join the WTO. In particular, he was pleased with the efforts to implement the Decision to strengthen the guidelines on accession of LDCs. He was also pleased with the initiative taken by the Secretariat such as the Accession Toolbox and seminar on WTO Accessions. Accessions were important in broadening and strengthening the WTO as an institution and for the Multilateral Trading System. Accessions allowed the WTO to fulfil this goal of universality of membership and inclusion of the majority of global commerce under its multilateral rules-based system. WTO membership provided acceding governments with good instruments to cement their domestic policy, as well as legal and institutional reforms. However, the process of accession entailed great efforts on the part of the acceding developing countries and the necessary reforms were not always easy to implement. Problems emerged too when future Members were faced with very ambitious request and expectation by existing Members. This was why he also reiterated that all accession processes should follow the principles of special and differential treatment for developing countries, non-reciprocity, and should be based only on technical, trade, and economic considerations. There were several accession processes that were very close to completion and Members should accelerate in the bilateral market access negotiations that were holding up some accessions.

8.5. The representative of the European Union welcomed Yemen's accession as evidence that the system worked and that the strengthened LDC guidelines delivered results. He wished to thank the Director-General for the report, which was always useful. However, he noted that this year, the report was neither complete nor accurate. As regards accessions where significant technical work was advanced, Serbia's accession deserved to be mentioned. Also, there was a difference between those advanced accessions mentioned in the introduction and overview and those mentioned in the conclusions outlook 2014, which listed Azerbaijan. Taking into account that no Working Party meeting had been held on this accession in 2013, he did not understand why this accession was added in the conclusions and why Algeria's accession which was examined in a Working Party meeting in 2013 was not. He also failed to see any reason for singling out Kazakhstan's accession in a specific paragraph when other accession processes were more advanced. The pragmatism to solve outstanding issues applied to all accessions. He therefore encouraged Members and acceding governments to be pragmatic as regards the completion as soon as possible of the accession process identified as priorities for 2013 and which were well advanced: Bosnia-Herzegovina, Afghanistan, Serbia, and Kazakhstan. In this regard, while more efforts may be needed from acceding governments, Members also had to show the necessary flexibilities in the market access negotiations to ensure that the Multilateral Trading System could welcome soon these developing countries and LDCs as new Members.

8.6. The representative of Mexico said that the results of work carried out over the year were well reflected in the Director-General's report. 2013 had been an intensive year in the areas of negotiations and technical assistance related to accessions. He paid tribute to the progress made on several accession procedures under way, particularly the successful finalization of the work of the Working Party on the Accession of Yemen. He welcomed Yemen and hoped that the conditions of its membership in the WTO would be made official in the Ninth Ministerial Conference.

8.7. The representative of the United States said that, after 18 years of experience, all Members knew that the WTO Accession process was a proven method of structuring and implementing domestic reform as well as trade policy implementation. The report described and demonstrated how accessions strengthen the WTO in addition to a wealth of technical information on the results of 32 accession negotiations completed to date in the WTO. The report contained strong evidence for the support of the system provided by the newly-acceded Members. His delegation looked forward to future accessions.

8.8. The representative of Barbados recalled that the process of accession entailed very onerous commitments and could require substantial adjustment by acceding countries. Members should show increased flexibilities with respect to developing countries when they sought accession to the WTO. She was pleased with the decisions taken in recent years to improve the process of accessions for LDCs and was also of the view that all accession processes should be based on special and differential treatment for all developing countries, including SVEs. More lenient



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approaches to accessions for developing countries, particularly SVEs, would assist them as they proceeded to join the WTO family.

8.9. The representative of Algeria, speaking as an Observer, thanked the Director-General for his report on Accessions and the Secretariat for a toolbox to help acceding countries to better manage their accession process and to better understand the commitments. 2013 had been a particularly active year for Algeria. After 5 years of break, the accession process of Algeria to the WTO had been re-launched at the 11<sup>th</sup> meeting of the Working Party. Algeria had held four series of bilateral meetings with some 15 Members of the WTO. Algeria had also held a plurilateral meeting on Agriculture upon the request of Members and had also answered the questions put by Members. Algeria had submitted new offers on Goods and Services in August 2013. All these efforts had been made with the prospect of holding the 12<sup>th</sup> meeting of the Working Party during the last three months of 2013. It was regrettable to note that the report on accessions did not reflect this race against the clock that her country had undertaken so as to speed up its accession process. For years, her country had called for greater transparency in the accession process. She considered that this need for transparency had to relate also to the selection criteria as far as treatment was concerned, to the translation of accession documents, as well as to the conditions preceding the convening of the different Working Parties.

8.10. The representative of the Bahamas, speaking as an Observer, said that her country remained committed to the accession process and it intended with finest efforts to undertake the necessary steps particularly to advance this process. The Bahamas looked forward to being present in the WTO as a Member one day. The Bahamas looked to all Members of the Organization for their continued support during this process and wished to place on record its gratitude to the Accessions Division for their support and guidance throughout this period.

8.11. The representative of Yemen, speaking as an Observer, appreciated the comprehensive report which not only presented the state of play of the 24 accessions to WTO, including Yemen's, but highlighted several other key issues, including transparency, as a crucial ingredient of the accession process. Technical assistance and outreach exercises had been quite successful in 2013 as well as building on earlier year's work. Accession tools were equally useful to all, particularly to acceding LDCs. The latter countries had been always one of the key areas of focus of the Director-General and Members of WTO for very obvious reasons. LDCs represented the biggest group of countries outside WTO. He was pleased that one LDC, Yemen, would become soon a full-fledged Member of the WTO. On this note, he reiterated his delegation's sincere gratitude to Members for the future adoption of the Yemen Accession Package at MC9, in Bali. This was one deliverable on which Members had reached consensus. Yemen appealed to the wisdom of Members to reach similar consensus on other MC9 issues. Yemen was very keen to become a Member. He recalled that Yemen had not been part of Room W process nor other negotiating meetings. He stressed that one important privilege of being a WTO Member was to be able to participate in shaping WTO rules. His delegation wished MC9 all the success it deserved but clearly that was dependent on Members' will and consensus. Yemen sincerely hoped that it would be the case before MC9 began.

8.12. The representative of Iran, speaking as an Observer, associated his delegation with the statement made by the Dominican Republic, on behalf of the IGDC. Iran also wished to express its appreciation to the Director-General and Secretariat for providing a transparent, comprehensive and well elaborated Accession Report for 2013. Iran was delighted with the thought and viewpoint regarding accession which had been highlighted as "a strategic priority for the Organization". Iran was confident that the Director-General would try his best to bring this into practice.

8.13. Statistically, there were now 24 countries, with approximately 8% of world population that were in the process of negotiating their terms of accession to the WTO. They were at different levels of progress on the way towards the WTO membership. However, they all had one common concern, i.e. further endeavours as well as more cooperation were needed to facilitate and speed up their accession to the WTO. This desire came from the gradual pace for the accession process since the establishment of the Organization in 1995. During this period and out of the 55 requests for accession submitted, 31 countries and custom territories had joined the Organization, with few more soon on the verge of it. From a public opinion standpoint, the reputation of the Organization would be improved if the remaining countries were not left outside the door of accession. This would also help convince those who might have another opinion according to which the general trend for accession seemed to contradict with the pledge made in the Ministerial Declaration at Singapore to "work to bring [the] applicants [of countries wishing to accede to the Organization]

expeditiously into the WTO System." This commitment of Members to proceed in the accession process "as rapidly as possible" was renewed in the 1998 Geneva Ministerial Declaration and other similar events as well.

8.14. Iran welcomed the positive progress made in the accession process of some countries, including developing and least-developed countries. Such advancement had a significant role in the universalization and inclusiveness of the WTO and in strengthening the Multilateral Trading System. Iran hoped that the WTO could genuinely match up to its well-deserved name, i.e. "World Trade Organization". As had been elaborated again in the 2013 Accession Report, the Islamic Republic of Iran had taken all necessary technical steps in its accession process. It had submitted its Trade Regime Memorandum in 2009 and had responded to almost 700 questions put forward by interested Members and submitted them to the Secretariat in November 2011, all of which had been formally distributed in December 2011. At the same time, consultations on setting up Iran's Working Party and appointing its Chairperson, based on the accession procedure, had been initiated prior to the aforesaid submission of Trade Regime.

8.15. After the completion of all tasks, showing the Iranian Government's seriousness and readiness in the accession process, it was Iran's high and reasonable expectation to see that the WTO and its Members reinforce the consultations leading to a tangible result in the near future. As a case in point, Iran hoped that the designation of the Working Party Chair and convening its first Working Party session at the earliest convenient time would be realized. In this context, Iran counted on the cooperation and support of all Members and the personal capacity of the new DG as a bridge-builder in the lengthy and complicated process, in a way that non-economic factors would not adversely affect the accession of countries.

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

## 9 WAIVERS UNDER ARTICLE IX OF THE WTO AGREEMENT

9.1. The Chairman said that there were a number of sub-items under this agenda item, and he suggested that these be taken up separately. He noted that the draft waiver decisions for the matters listed in sub-items 9(a) to (d) had been taken up for consideration by the Council for Trade in Goods at its meeting on 18 October. For these items, the Chairman of the Goods Council was required to report to the General Council. He therefore invited Mr Castillo (Honduras) to report on the Council's consideration of these matters in a single intervention.

9.2. Mr Castillo (Honduras), Chairman of the Goods Council, reported that the Council for Trade in Goods, at its meeting of 18 October 2013, had approved the collective request for waiver extension contained in G/C/W/682, which had been made in connection with the introduction of HS2002 changes into WTO Schedules of Tariff Concessions. The Goods Council had also recommended that the draft waiver decision contained therein be forwarded to the General Council for adoption. Also at its meeting of 18 October 2013, the Goods Council had approved the collective request for waiver extension contained in document G/C/W/683, which had been made in connection with the introduction of HS2007 changes into WTO Schedules of Tariff Concessions. The CTG had therefore agreed that the draft waiver decision contained therein be forwarded to the General Council for adoption.

9.3. With regard to the Introduction of Harmonized System 2012 changes into WTO Schedules of Tariff Concessions, he reported that the Goods Council at its October meeting, had approved the collective request for waiver extension contained in document G/C/W/684/Rev.1. The CTG had therefore agreed that the draft waiver decision contained therein be forwarded to the General Council for adoption.

9.4. Concerning the request by the European Union for an extension of its current waiver for the application of autonomous preferential treatment to Moldova, he reported that the Goods Council, at its October meeting, had considered document G/C/W/688 containing the EU's request to extend the currently existing waiver until 31 December 2015. At that meeting the Goods Council had approved the waiver request and recommended that the draft decision annexed to G/C/W/688 be forwarded to the General Council for adoption.

9.5. The Chairman noted that there were four waivers on the agenda for adoption. Given the similar nature of the first three waivers listed in sub-items (a) to (c), he suggested to take them up together.

**9.1 Introduction of harmonized system 2002 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/682)**

**9.2 Introduction of harmonized system 2007 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/683)**

**9.3 Introduction of harmonized system 2012 changes into WTO schedules of tariff concessions – Draft decision (G/C/W/684/Rev.1)**

9.6. He therefore drew attention to the draft decisions in documents G/C/W/682, G/C/W/683 and G/C/W/684/REV.1, which concerned the Introduction of Harmonized System 2002, 2007 and 2012 changes into WTO Schedules of Tariff Concessions, respectively.

9.7. Unless delegations wished to comment on the draft decisions, he 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 the three draft Decisions.

9.8. The General Council so agreed.

**9.4 European Union – Application of autonomous preferential treatment to Moldova – Extension of the waiver – Draft decision (G/C/W/688)**

9.9. The Chairman then turned to the Draft Decision in document G/C/W/688. Unless delegations wished to comment on the draft decision, he proposed that, in accordance with the Decision-Making Procedures mentioned before, the General Council adopt this draft Decision.

9.10. The General Council so agreed.

**9.5 Review of waivers pursuant to Article IX:4 of the WTO Agreement**

**9.5.1 Preferential treatment to services and service suppliers of least-developed countries, granted on 17 December 2011 until 17 December 2026 (WT/L/847)**

**9.5.2 Kimberley process certification scheme for rough diamonds, granted on 12 December 2012 until 31 December 2018 (WT/L/876)**

**9.5.3 Canada – CARIBCAN, granted on 30 November 2011 until 31 December 2018 (WT/L/835, WT/L/898)**

**9.5.4 European Union – Application of autonomous preferential treatment to the West Balkans, granted on 30 November 2011 until 31 December 2016 (WT/L/836, WT/L/896)**

**9.5.5 Cuba – Article XV:6 of GATT 1994, extension of waiver, granted on 14 February 2012 until 31 December 2016 (WT/L/850, WT/L/895)**

9.11. 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." Three of the waivers under review provided that an annual report should be submitted by the Members concerned regarding the 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/895 (Cuba), WT/L/896 (European Union), and WT/L/898 (Canada).

9.12. The representative of Trinidad and Tobago, on behalf of CARICOM, recalled that CARICOM and Canada shared a long and eventful trading history spanning several hundred years. That relationship had endured to this day as Canada continued to be one of the largest and most important trading partners. CARIBCAN had therefore been of great importance in growing and deepening that relationship since the mid-1980s. From the onset, his country had recognized the tremendous opportunities on offer by CARIBCAN and had worked closely with the Government of Canada to ensure that every effort was made to take full advantage of its benefits. Today's report indicated that the efforts had resulted in an increase in CARICOM exports from \$698,535 in 2002 to \$966,652 in 2012. While more could have been done and the results had been mixed for some within CARICOM, he was encouraged by the overall positive trend over the last three decades.

9.13. In the not too distant future, CARICOM and Canada would be opening a new chapter in their its trading history with a conclusion of a CARICOM-Canada Free Trade Agreement. Negotiations were aiming for an early 2014 end of negotiations. He was hopeful and optimistic for a good deal, one that was favourable to both sides and faithful and true to the trading history. CARICOM wished to express appreciation to the Government and people of Canada for their continued support and friendship. He thanked all Members for their favourable disposition towards the CARIBCAN waiver in recent years.

9.14. The representative of Jamaica fully endorsed the statement made by Trinidad and Tobago on behalf of the countries of CARICOM. He expressed his deep appreciation to the Government of Canada for the sustained partnership they formed in maintaining the CARIBCAN agreement. Jamaica certainly had benefitted tremendously from this agreement and even as they now embarked on a new dimension in their trade relations, there was a solid foundation that had been laid by CARIBCAN. Jamaica looked forward to its continued existence.

9.15. The representative of Barbados endorsed the statements by Trinidad and Tobago on behalf of CARICOM and by Jamaica.

9.16. The representative of St. Lucia, on behalf of the OECS, subscribed to the statement made by Trinidad and Tobago on behalf of CARICOM.

9.17. The representative of Canada expressed gratitude for the kind words of the CARICOM countries, which he would convey to his authorities in Ottawa.

9.18. The General Council took note of the reports contained in documents WT/L/895, 896, and 898, and of the statements.

## **10 COMMITTEE ON BUDGET, FINANCE AND ADMINISTRATION – REPORT ON MEETINGS OF OCTOBER AND NOVEMBER 2013 (WT/BFA/139)<sup>5</sup>**

10.1. The Chairman drew attention to the reports of the Budget Committee in document WT/BFA/139 and invited Mr Stone (Hong Kong, China), Chairman of the Committee, to introduce them.

10.2. Mr Stone (Hong Kong, China), Chairman of the Committee on Budget, Finance, and Administration, said that, at its meetings in October and November 2013, the Committee on Budget Finance and Administration had dealt with a number of items and was making four recommendations to the General Council. First, the Committee had reviewed the budget proposal for the ITC for the biennium 2014-15. As advocated by the UN Secretariat, the ITC budget was reduced by 2.3% compared to 2013. The Committee was recommending the General Council to approve the ITC budget as proposed in paragraphs 2.6 and 2.7 of the report.

10.3. Second, the Committee had examined the WTO budget proposals for the next biennium. Listening to the Committee's budgetary concerns, the Director-General had presented a zero nominal growth budget for 2014 and 2015. The Committee had warmly welcomed the Director-General's overall approach to the serious issues that needed to be addressed regarding the budget and human resources. The Committee was recommending the General Council to approve the WTO

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<sup>5</sup> This item of the agenda was taken up after item 3.

budget and to endorse its strategic priorities as proposed from paragraphs 3.14 to 3.26 of the report.

10.4. Third, the Committee had examined the Biennial Technical Assistance and Training Plan for 2014-15. The Committee was recommending to the General Council that secure and predictable financing be provided for the implementation of the Plan as proposed in paragraph 4.4 of the report. He acknowledged the Members who had contributed extra-budgetary resources to support the WTO's technical assistance and training activities since the 3<sup>rd</sup> quarter report on trust funds was reviewed by the Committee. These recent contributors were Australia, France, Germany, Japan, Korea, Lichtenstein, Norway and Sweden.

10.5. Finally, the Committee had established a Working Group to review the offers received regarding the selection of the WTO External Auditor. Following the Working Group's report, the Committee was recommending the General Council to appoint the German Bundesrechnungshof as the WTO External Auditor as from the audit of the accounts for 2014 and for a period of 6 years as presented in paragraph 5.3 of the report.

10.6. The General Council took note of the statement; approved the Budget Committee's specific recommendations contained in paragraphs 2.6, 2.7, 3.14, 3.18, 3.24, 4.4 and 5.3 of its report – including the draft Resolutions referred to in paragraphs 3.14 and 3.18; adopted the draft Resolutions on the Expenditure of the WTO in 2014 and 2015 and the Ways and Means to Meet Such Expenditure, in paragraphs 3.14 and 3.18 of its report; and adopted the Committee's report in document WT/BFA/139 as a whole.

## **11 WTO PENSION PLAN MANAGEMENT BOARD – ELECTION OF AN ALTERNATE – PROPOSAL BY THE CHAIRMAN OF THE GENERAL COUNCIL (WT/GC/W/674)**

11.1. The Chairman recalled that Article 4(a) of the Regulations of the WTO Pension Plan provides, *inter alia*, for the election by the General Council of a Chairman, four members and four alternates to the Management Board of the Pension Plan.

11.2. In a communication circulated to delegations in document WT/GC/W/674, he had indicated that an alternate, Ms Klimes (Germany), was no longer available to serve on the Board, and he proposed Mr Rühl (Switzerland) who had kindly agreed to have his name put forward for election as alternate. He had also invited delegations to submit any comments they might have by close-of-business on 15 November 2013.

11.3. Since he had not received any comments regarding the proposed nomination, he proposed that the General Council elect Mr Rühl (Switzerland) to serve as alternate on the Management Board of the Pension Plan for the remainder of the Board's term, i.e. until May 2014.

11.4. The General Council so agreed.

## **12 REVIEW OF WTO ACTIVITIES**

### **12.1 General Council (WT/GC/W/675), Dispute Settlement Body (WT/DSB/61 and WT/DSB/61/Add.1), and Trade Policy Review Body (WT/TPR/321)**

### **12.2 Sectoral Councils (G/L/1057, S/C/42, and IP/C/67) and Committee on Technical Barriers to Trade (G/L/1056), Committee on Antidumping Practices (G/L/1053), Committee on Safeguards (G/L/1054), Committee on Subsidies and Countervailing Measures (G/L/1052) and (G/L/1052/Corr.1)**

### **12.3 Committees on Trade and Development (WT/COMTD/83), Trade and Environment (WT/CTE/20), Balance-of-Payments Restrictions (WT/BOP/R/107), Budget, Finance and Administration (WT/BFA/140) and Regional Trade Agreements (WT/REG/23)**

### **12.4 Working Groups on Trade, Debt and Finance (WT/WGTDF/12) and Trade and Transfer of Technology (WT/WGTTT/15)**

### **12.5 Committees under the Plurilateral Trade Agreements (GPA/121, WT/L/897)**

12.1. The Chairman recalled that the reports had been drawn up in line with the Decision concerning procedures for an annual overview of WTO activities and for reporting under the WTO in document WT/L/105. He noted that the Committees on Technical Barriers to Trade, on Anti-Dumping Practices, on Safeguards, and on Subsidies and Countervailing Measures had met after the Council for Trade in Goods. For this reason, the Annual Reports of these Committees had been forwarded directly to the General Council. Delegations had already had a substantive discussion on these reports in the respective bodies where they had been adopted and he suggested that Members would not repeat those discussions in the General Council.

12.2. All reports from the respective bodies would be forwarded to the Ministerial Conference for the consideration of Ministers. He proposed that the Chairs of the various bodies not introduce their respective reports, unless they wished to draw particular attention to some aspect of the work carried out in their bodies. He also proposed that, in accordance with the practice, the General Council take action on these reports.

12.3. First, he invited the General Council to adopt the report of the Committee on Trade and Development in document WT/COMTD/83, and take note of the reports of the other WTO bodies, including the reports of the Committees under the Plurilateral Trade Agreements, listed in the Proposed Agenda.

12.4. The General Council so agreed.

12.5. He then proposed that the General Council adopt the draft Report of the General Council contained in document WT/GC/W/675 and Corr.1, on the understanding that the Secretariat would make the necessary adjustments to that Report to include matters that had been considered at this meeting. The Council's Report would then be circulated and also forwarded to the Ministerial Conference.

12.6. The General Council so agreed.

12.7. He noted again that two of the reports that had just been forwarded to the Ministerial Conference, namely the report of the Committee on Trade and Development and the report of the Working Group for Trade and Transfer of Technology contained recommendations for Ministers' action, which had been taken up under Item 4(a) of the Agenda of the present meeting.

### **13 APPOINTMENT OF OFFICERS TO WTO BODIES – ANNOUNCEMENT BY THE CHAIRMAN PURSUANT TO PARAGRAPH 7.1 (A) OF THE GUIDELINES (WT/L/510)**

13.1. The Chairman drew attention to document WT/L/510, which contained the Guidelines for the Appointment of Officers to WTO bodies. These Guidelines provided that the outgoing Chair 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 that in order to promote transparency, the selection process should start with an announcement by the Chair at the General Council meeting held in December each year. Accordingly, he informed the General Council that he was now starting the selection process.

13.2. In accordance with Paragraph 7.1(b) of the Guidelines, he would be assisted in the selection process by the serving Chairman of the Dispute Settlement Body, Mr Fried (Canada), and by Mr Matus (Chile), former Chairman of the General Council.

13.3. The consultations for the appointment of officers would start in mid-January. Messrs Fried, Matus and he would communicate, as early as possible, a specified time-period in which they would be available to hear the views and suggestions of Members, individually and/or in groups.

13.4. Furthermore, as provided for in 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 Members' subsequent deliberations on the possible distribution of chairs based on past practice and the need for balance. He noted that, in accordance with the Guidelines, representatives of Members in financial arrears for over one full year could not be considered for appointment.

13.5. He also recalled that, in July 2012, the General Council had taken note of a number of practical steps to improve the implementation of the Guidelines, contained in document JOB/GC/22. The practical steps provided that more comprehensive information about the process should be provided to delegations at an early stage, and in particular to group coordinators. The practical steps specified that these groups were developed countries, Latin America and the Caribbean, Asia and Africa.

13.6. The General Council took note of this statement and so agreed.

#### **14 RESPONSIBILITIES OF CHAIRPERSONS OF WTO BODIES – STATEMENT BY DOMINICAN REPUBLIC**

14.1. The representative of the Dominican Republic, speaking under "Other Business", said he wished to raise certain questions concerning the responsibilities of the Chairpersons of the various WTO bodies. Despite the importance of this matter, to date there was no body of rules that governed issues of the proper conduct expected from the Chairpersons of the WTO bodies in the discharge of their responsibilities in the respective Committees, Councils and other bodies within the Organization. He believed that a thorough evaluation should be requested on this topic and that it should remain on the agenda of the General Council. He said that the General Council should ask the Secretariat for research on the specific situations that might affect the rights and responsibilities of the Chairperson in the conduct of the meeting of their respective Councils and Committees.

14.2. This research should take into account the current disciplines established in paragraph 2.2 of the "Guidelines for the Appointment of Officers to WTO Bodies" (WT/L/510), according to which "[c]hairpersons should continue the tradition of being impartial and objective; ensuring transparency and inclusiveness in decision-making and consultative processes; and aiming to facilitate consensus"; the basic principles concerning the procedures governing the settlement of disputes, as contained in the "Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes" (WT/DSB/RC/1); and in specific provisions of various covered Agreements regarding the rights and responsibilities of the committees established in those agreements.

14.3. This work should eventually lead to a set of rules or guidelines that would provide clarity to the Chairpersons of the various bodies on the scope of their responsibilities. He wished to ask the Secretariat to take note of this concern and to initiate a technical evaluation of this matter.

14.4. The representative of Honduras said it would be interesting to look at the request from the Dominican Republic in this respect. He thought, if Members were comfortable, that it would be good to see what research work could be done by the Secretariat.

14.5. The representative of Panama said he had listened to the statement from the Dominican Republic with great interest. As Honduras had said, it could be not just important but also interesting for the Organization to carry out research into the possibility of this type of action.

14.6. The representative of Oman thanked the Dominican Republic for bringing this issue to Members' attention. She supported the request to evaluate and to clarify the role of the Chairpersons, their rights and responsibilities, as part of institutional reform of this Organization. Members needed to review, clarify, and also to update the work of this Organization in a number of areas, including this one.

14.7. The representative of the United States said that this was certainly an interesting proposal. This was the first time he had heard that this was actually an issue. He thought that before Members could task the Secretariat to do research on this topic, his delegation preferred to review what the Dominican Republic was actually proposing and outlining what the specific issues were, so that Members could take a more considerate view of this and revert back to it.

14.8. The representative of Canada thought Members had a common ground of not wishing to pursue substantive items on which delegations might not be best prepared in advance by taking them under "Other Business" without notice. Members had a Committee on Budget, Finance and Administration, whose mandate also included the management of the Organization. Issues of role,

responsibility, potential conflicts of interest, codes of conduct, were subjects that went beyond Chairs. There was a Staff Code which had not been looked at for quite some time, and that applied up to the Director-General. Representatives in other International Organizations at all levels, whether Chairs or not, were certainly expected to act in accordance with certain standards of probity. So, ultimately, the question he had heard was not just about Chairs. It was about various dimensions of the Organization: Secretariat, Representatives, and so on. That was a mighty task to take on, especially if Members had an intensive post-Bali Work Programme. He believed that it would be probably useful to see a proposal in writing, within the appropriate mandate for the Committee on Budget, Finance and Administration, since its mandate was management modernization. He said it was a little surprising to have this raised without warning and without a chance for other delegations to digest the idea under "Other Business".

14.9. The representative of Japan agreed with what had been said by the US and Canada. Japan also wished to know this issue a little bit better before taking any course of action. Japan also agreed that it was not appropriate to take a decision or any action under "Other Business".

14.10. The representative of Cuba stressed that any Member was entitled to raise issues under "Other Business". She did not understand why there was a problem with what had been described by the Dominican Republic. Members were allowed to do this. The Dominican Republic was not asking for a decision, but was simply sharing a concern that had arisen in other delegations as well.

14.11. The representative of the Dominican Republic wished to clarify that he had referred only to the role of Chairpersons, not to the entire staff of the Organization, nor to those in any other International Organizations. This was a concern on the part of other delegations as well, and if others had different problems it was within their rights as well to raise those issues. He was not asking for a decision right now. Instead, he was wondering if there could be a set of rules clarifying the role of a Chairperson. He was not adding new rules to the Organization. The Secretariat could simply look at what procedures existed, and at the standards and rules, so that when a Chairperson was appointed, he could be given those rules. He did not think that this situation was complicated nor did it create a revolution within the Organization. On the contrary, this was an element that facilitated transparency and that would inform Chairpersons about their rights and duties.

14.12. The General Council took note of the statements.

## **15 CHAIRMANSHIP OF THE TRIPS COUNCIL IN SPECIAL SESSION - STATEMENT BY THE CHAIRMAN**

15.1. The Chairman, speaking under "Other Business", recalled that at the previous General Council meeting, he had announced that he would be conducting consultations on the replacement of Mr Agah to the Chair of the TRIPS Council in Special Session – assisted by Mr Fried (Canada), Chairman of the DSB, and Mr Matus (Chile), former Chairman of the General Council.

15.2. He drew attention to the faxes he had sent on the 6 and 7 of November, which he had sent further to his consultations and in which he had proposed the appointment on an *ad interim* basis of Mr Suescum (Panama), Chairman of the TRIPS Council. He also drew attention to subsequent fax he had sent on 18 November. In this fax, he had confirmed that, following additional consultations he had been conducting, it was his understanding that Members had agreed to the appointment of Mr Suescum as Chairman on an *ad interim* basis, in particular to ensure that this position was not vacant during MC9. It had been understood that consultations and a separate decision on a permanent appointment to this position were to take place early in the New Year. The TRIPS Council in Special Session had met the previous week and had proceeded with the formal appointment of Mr Suescum as Chairman on an *ad interim* basis.

15.3. The General Council took note of the statement.



## **16 ADMINISTRATIVE MEASURES FOR MEMBERS IN ARREARS – STATEMENT BY THE CHAIR**

16.1. The Chairman, speaking under "Other Business", recalled that at its meeting in October 2012, the General Council had approved a recommendation from the Committee on Budget, Finance and Administration regarding revised Administrative Measures for Members in arrears, as contained in WT/BFA/132, Annex I. These new revised measures had entered into force on 1 January this year.

16.2. Among these Administrative Measures was a requirement that, at the end of each meeting of the General Council, the Chairman of the Committee on Budget, Finance and Administration would provide information with regard to which Members and Observers were under Administrative Measures.

16.3. He invited the Chairman of the Budget Committee, Mr Michael Stone (Hong Kong, China), to provide the Council with this information.

16.4. Mr Stone (Hong Kong, China), 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 and Observers under Categories I through III of the Administrative Measures as of 25 November 2013. He said that there were 5 Members in Category I: Benin, Saint Vincent and the Grenadines, Senegal, The Former Yugoslav Republic of Macedonia, and Vanuatu. There were 3 Members in Category II: Antigua & Barbuda, Dominica, and Grenada. There were 2 Members in Category III: Guinea-Bissau and Mauritania. There was 1 Observer in Category I: Syrian Arab Republic. There was 1 Observer in Category III: Sao Tome and Principe.

16.5. The General Council took note of the statement.

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