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Committee on Trade and Development
Twenty-Sixth Special Session

NOTE ON THE MEETING OF 7 JULY 2006

Chairman: Ambassador Burhan Gafoor (Singapore)

A. ADOPTION OF THE AGENDA

1. The draft agenda for the meeting as contained in airgram WTO/AIR/2854 of 26 June 2006 was adopted.

B. AGREEMENT-SPECIFIC PROPOSALS

2. The Chairman began by commenting on the overall process. He said that the work of the Special Session was part of the larger scope of the Doha negotiations and as the Director-General had mentioned in the previous week, the Doha Round of negotiations was in a crisis. The question that arose was whether the Special Session should continue, stop or intensify its work. In his view, Members could not afford to be complacent and despite the situation relating to the larger process, they had to continue working towards the December deadline given by Ministers in Hong Kong. There needed to be an outcome on special and differential treatment (S&D) once the Round came to a conclusion. In that sense, the work of the Special Session was important because it formed part of the single undertaking and would need to form a part of any final package. He said that there would undoubtedly be some impact in terms of Members' mood, but at the same time there was a need for Members to continue engaging on the Agreement-specific proposals and the other outstanding issues. They needed to keep in mind that the work of the Special Session was an important part of the overall process.

3. He recalled that at the last formal meeting held on 1 June, Members had resumed discussions on the Category III Agreement-specific proposals. At that point he had indicated that he would continue informal consultations on some of those proposals. He had convened a small, informal group meeting on 5 July to continue work on some of the Agreement-specific proposals, in particular on proposal Nos. 24 and 25 and also proposal No. 79, all of which related to the Agreement on Sanitary and Photosanitary Measures (SPS). The discussions on proposal Nos. 24 and 25 were based on earlier small group discussions that were held in May. On these proposals, Members continued to face some difficulty in finding a right balance between predictability on the one hand, and automaticity on the other. Members needed to continue their work and although they had made progress, it was not going to be easy to find a balance. On proposal No. 79, Members had made some

progress in terms of gaining a better understanding what the proponents were seeking and his intention was to continue consulting on that proposal. It was his understanding that the proponents were considering revising the proposal and coming up with alternate language in the form of a decision-making text. He said that the discussions at the informal, small group meeting had been productive, but that there was clearly more work to be done.

4. The Chairman went on to provide an overview of the status of the remaining 16 Agreement-specific proposals. On proposal Nos. 28, 29 and 30 on the Agreement on Import Licensing Procedures, he said that Members had come up with revised language which was discussed at the formal meeting held in March. Even though the work on those proposals was far from complete, it was encouraging that Members had been able to come up with revised language which they could build on as they moved forward. On proposal No. 13 relating to Article XVIII of the GATT 1994, Members had also been able to come up with revised language which was also discussed at the meeting held in March. Again, that provided a basis to continue their discussions. He urged the proponents of that proposal to meet with other stakeholders so that once consultations on that proposal resumed, Members could move forward. As he had mentioned earlier, he had held several rounds of informal discussions on proposal Nos. 24 and 25 relating to the SPS Agreement. The delegations of China and Egypt had put forward some suggested language on those proposals which had provided a basis for future discussions. On proposal No. 79, more work was needed and he would continue informal consultations on that proposal. Therefore, since work had began in February 2006, Members had made some progress on seven out of the remaining 16 Agreement-specific proposals. As for the remaining nine proposals, considerable work would be required if Members were to reach convergence. The nine proposals included proposal No. 14 on Article XVIII:A of the GATT 1994; proposal No. 22 on the Understanding in Respect of Waivers of Obligations under the GATT 1994; proposal No. 77 on the Understanding on the Interpretation of Article II.1 (B) of the GATT 1994; proposal No. 78 on the Understanding on the Interpretation of Article XXVIII of GATT 94; proposal Nos. 82 and 83 on the Agreement on Technical Barriers to Trade; proposal No. 85 on the Agreement on Trade Related Investment Measures; and proposal Nos. 86 and 87 on the Agreement on the Implementation of Article VII of the GATT 1994. On those nine proposals, it was not a simple question of drafting or semantics. The divergences were on substance and there had to be convergence on the basic ideas before Members could engage in textual discussions. For that to happen, Members, and more particularly the proponents, needed to reflect and engage in bilateral and informal consultations. It was important to come up with clear recommendations by the December deadline and he hoped that as Members reflected on the larger process, they would be able to continue engaging in consultations. He said that Members had undertaken textual work on seven proposals and were yet to engage in textual discussions on the remaining nine proposals. In order to get into a textual process, Members needed to reach convergence at the conceptual and substantive level.

5. Continuing under the agenda item on Agreement-specific proposals, he went on to address the duty-free quota-free (DFQF) market access decision agreed at Hong Kong. He recalled that at the last formal meeting, the LDCs had tabled a paper on Rules of Origin. At that time, Members had not had time to consider the paper and the LDCs had requested an opportunity to make a Powerpoint presentation at the next formal meeting. Since the last formal meeting the LDCs had also tabled another paper on market access.

6. On behalf of the LDCs, the representative of Zambia presented the paper on rules of origin (TN/CTD/W/30). He said that he would first address some of the issues that the LDCs felt Members needed to address regarding rules of origin. First, it was common knowledge that rules of origin could severely limit market access. If a country had DFQF market access into a market but faced restrictive rules of origin, there was little or no value in that DFQF market access. Simplified rules of origin were therefore important in that respect. From the LDCs perspective, if the DFQF market access decision was to be implemented as a multilateral decision rather than a series of General System of Preferences (GSPs), it required a single set of rules of origin. Different GSPs had different rules of origin, for example, the European Union had different rules of origin for different GSPs.

There were also different rules of origin between markets. For example, Canada and Australia had different rules of origin for LDCs. That was a real problem for producers in LDCs because the same product could face different rules of origin requirements from one market to another, making it difficult to conform to those rules of origin and benefit from the DFQF market access. What the LDCs were seeking was a single set of rules of origin which would cover the DFQF market access. The debate on rules of origin had been going on for quite some time. Discussions on preferential and non-preferential rules of origin had taken place and the LDCs hoped that the work on rules of origin in the Special Session would also contribute to the wider debate on rules of origin, especially preferential rules of origin. Rules of origin could be used for a number of purposes. The LDCs wished to have rules of origin address the issue of trade deflection. He said that rules of origin could be used as a protectionist tool, to promote industrialization and sometimes to promote investment. The LDCs were attempting to reduce trade deflection. He said that there were a number of origin conferring criteria. For agricultural products, origin was usually conferred using the wholly produced criteria as defined in the Kyoto Convention of the World Customs Organisation. Wholly produced criteria are not usually regarded as contentious and most rules of origin used those definitions. The other way to confer rules of origin was through substantive transformation. He said that there were three main ways of conferring origin through substantive transformation. The first was a change of tariff classification, or change of tariff heading, represented by a change from one tariff heading to another tariff heading and was perhaps the most simple way of confirming origin. The second was value addition and local content which were being considered together. Value addition was where origin was conferred when a certain percentage of value was added. Local content was where the origin was conferred if a certain value of local content was used. The third was specific manufacturing process where origin was conferred if the manufacturing process involved a specified manufacturing process, such as, in the case of textiles, knitting. The LDCs did not wish to negotiate rules of origin line by line because that would take a long time. The easiest way to confer rules of origin was through a change of tariff classification, but this entailed a number of problems. One involved a situation where insignificant processes changed tariff headings. For example, if you took fish and froze it, that could result in a change of tariff heading. There were other instances where significant processing might not change the tariff heading. For example, if a compressor was used to make a fridge and then the compressor was imported, the compressor could have the same tariff line as the fridge. Origin would not be conferred because there was no change in the tariff heading. The Commission for Africa Report had recommended using change of tariff headings and a 10 per cent value addition criteria which was a bottom line recommendation. He said that if one used process application, then by definition, that would need to be negotiated line by line. What the LDCs were recommending was the use of value added and or local content criteria. There were two approaches in defining rules of origin. There could be very broad qualifications on rules of origin or more detailed ones. For reasons of clarity and ease, the LDCs were proposing a more detailed qualification for rules of origin. On value addition, the LDCs were proposing that origin could be calculated by subtracting the value of non-originating materials from the ex-works price of the good, dividing this by the ex-works price and multiplying by one hundred. So if, for example, the ex-factory price was US$100 and the value of the non-originating materials was US$70, then the value added would be 30 per cent. The rules of origin would therefore conform to a 30 per cent criteria. Or the value addition could be calculated using the local content calculation where the value of originating materials would be divided by the ex-factory price and this then multiplied by one hundred. That was comparable to a situation where the value of originating material was US$30 and the ex-factory price was US$100, as the same 30 per cent local value content would be achieved. The LDCs were suggesting using a detailed calculation that would be easy to understand and conform to.

7. He said that the LDCs also wished to address the problem faced by landlocked LDCs in adding value. If materials were sourced within the region of the LDC, then the cost of moving the intermediate good to the place of manufacture should be included in the value of the material. So for example, if Rwandan coffee was processed in Uganda, the cost, insurance, freight (CIF) costs of moving the coffee to Uganda would be added to the value of the originating materials. The inverse was that when there were non-originating materials, the CIF would be deducted because otherwise the

landlocked countries would find it difficult to conform to an origin conferring criteria. He said that the cost of moving a container from Mombassa to Rwanda was about US$6,000. If that was added to the cost of the imported material, it would be difficult to conform to local content criteria and the landlocked countries would be penalized simply because of the costs of transport. The LDCs were suggesting the use of a system that deducted the costs of the CIF from non-originating material. There were also instances where one could not deduct the CIF. For example, if there was through transport from one country to another where the CIF was included, rather than attempt to deduct the CIF which was often difficult, one could have a lower percentage to confer origin and that would be adjusted to take into account the cost of the CIF. He said that there was also a need to guard against insufficient working processes. For example, simple packaging, re-packaging, freezing or drying, should not confer origin. That would protect LDCs from being subject to transhipments and would protect the country which was importing from transhipment. Territoriality was something that was included in a number of rules of origin. What the LDCs were suggesting was that if a product was produced in a LDC and was then shipped to another country that was not an LDC for a particular process, for example shipping a pair of trousers to another country to fit in a zipper, and the finished product returned to the LDC where it was manufactured, since most of the process was carried out in the LDC, it would still confer origin in the LDC concerned. With respect to cumulation, the LDCs were proposing three types of cumulation. The first type was cumulation with preference giving countries where the materials would be considered as originating in the LDC. The second type was diagonal regional cumulation, where one attempted to avoid having a situation where it was not possible to move to a regional customs union or territory where there were different market access provisions for LDCs compared to non-LDCs. That related to cumulation with members of regional grouping as long as most value addition was in the LDCs. For example in the case of the potential COMESA customs union, cumulation could take place in Kenya and the other LDCs so that there would be the same external tariff. The third type was cumulation with neighbouring countries which could be granted on specific request. There were a number of countries that neighboured LDCs and for specific items one might wish to request cumulation with neighbouring countries. The fourth type, full cumulation, had not been included because LDCs were being considered as a single customs territory, so by definition there would be full cumulation with all other LDCs.

8. He went on to present the paper on DFQF market access (TN/CTD/W/31). He said that the paper was based on paragraph 42 of the Doha Ministerial Declaration. The LDCs assumed that Members agreed that S&D was necessary to enable LDCs to use trade as a development tool and that at Hong Kong it was agreed that LDCs be provided with a minimum of 97 per cent DFQF market access product coverage with a view to eventually providing up to 100 per cent coverage on an incremental basis. It was also assumed that Members understood that the decision agreed to at Hong Kong was a framework agreement and what Members needed to work towards was how they would implement that decision. What the LDCs were seeking was that the DFQF market access to be provided to them in such a way which was commercially meaningful and coupled with simplified rules of origin. A paper that had been prepared by the Secretariat provided information on the total tariff lines by country and the total dutiable LDC exports. The United States (US) had a total number of 10,496 tariff lines. If they achieved 97 per cent DFQF market access, around 300 tariff lines would be excluded. The LDCs were requesting that the exports to the US under the 97 per cent be commercially meaningful to the LDCs. There were also other issues. For example, the EU provided DFQF market access to LDCs under Everything-but-Arms (apart from a few tariff lines which were still dutiable). However, that was not the full picture. The question was whether the LDCs could benefit from that DFQF market access. If the rules of origin were complicated as they were under the Cotonou Agreement, then it was difficult to access those lines. That was not an actual market access issue, but a theoretical market access issue. Members needed to address both issues at the same time, as they needed to ensure that there was DFQF market access in terms of numbers and, in addition to tariff lines that were duty-free, there needed to be simplified rules of origin. In terms of implementation, the LDCs were suggesting that the developed country Members provide DFQF market access on tariff lines where positive duties were still applied to LDC exports. That might seem obvious, but there were some zero rated lines which were not specifically DFQF market access.

That went back to the issue of ensuring that the DFQF market access was commercially meaningful. For those developing countries that considered themselves in a position to provide LDCs with DFQF market access, they needed to make their positions known by the end of 2006 or in the shortest time possible. They needed to provide as a first step, DFQF market access to products of export interest to LDCs and those which were commercially meaningful to LDCs with a commitment to gradually achieving 100 per cent DFQF market access. In that context, he said that the LDCs had had a number of positive bilateral discussions with a number of developing countries.

9. He went on to say that there were two ways to define the percentage of zero rated tariff lines for LDCs. One was by dividing the total number of lines by the number of lines that were DFQF. The other was by using a trade-weighted, average system. For ease of understanding, the LDCs were suggesting the use of the first method which divided the total number of lines by the total number of lines that were zero duty for LDCs. The LDCs also wished to see the rules of origin for DFQF market access conform to the suggestions contained in document TN/CTD/W/30. He said that the paper also highlighted that market access was not just about tariffs. Among other things, it was also about rules of origin, sanitary and phytosanitary measures, non-tariff barriers, aid for trade and removal of supply-side constraints. Although it was important for the LDCs to receive DFQF market access, Members needed to also concentrate on the other demand-driven issues, such as non-tariff barriers. For the LDCs, the implementation modalities of the Hong Kong decision on DFQF market access were part of the unfinished business of the Agreement-specific proposals and the LDCs therefore wished to engage on discussions on the implementation of the decision in the Special Session of the CTD, the body that was mandated to carry out the negotiations on S&D. The developed countries and the developing countries declaring themselves in a position to provide DFQF market access to LDCs should, by the time they submitted their comprehensive draft schedules of concessions, indicate how they intended to implement the commitments they had assumed under the Decision of Measures in Favour of Least-Developed Countries. That was a way for those countries to explain how they were going to provide DFQF market access in a manner that ensured stability, security and predictability. In earlier discussions on the proposal for DFQF market access, Members had stated that they could not include the commitment to DFQF in their schedule of commitments. The LDCs therefore wished to know in what manner the DFQF market access could be made stable, secure and predictable. The LDCs were also asking the developed countries and those developing countries declaring themselves in a position to do so, to provide a provisional list of products that they initially intended to exclude from the DFQF market access, the steps they intended to take to progressively achieve compliance with the obligation of DFQF market access and the time frame. In essence, the LDCs were asking those countries to provide a negative list that could be used as the basis of negotiations with the LDCs. That was the difference between the decision on DFQF market access and a GSP which was non negotiable. The LDCs felt that it was important for them to participate in the process. Once the developed countries and those developing countries declaring themselves in a position to provide DFQF market access provided the necessary information, they would enter into negotiations with the LDCs to allow the LDCs the opportunity to negotiate further improvements in market access. In regard to the monitoring and review, that entailed annual reporting by Members to the CTD Regular Session, some Members had already reported to the CTD and, while that was appreciated, that was only one part of the process. The implementation modalities also needed to be decided on in the Special Session of the CTD. The Integrated Data Base (IDB) had been used when preparing the paper, however, it did not contain a lot of information on preferential data because Members only provided such data on a voluntary basis. In that respect, he requested that Members provide preferential data to the IDB as part of their overall commitments.

10. The representative of Japan said that it was his understanding that the matter of the forum in which to discuss the issues related to the DFQF market access decision was yet to be resolved and discussing the LDC submissions in the Special Session did not mean that the matter had been settled.

11. The representative of the European Communities began by commenting on the paper on Rules of Origin. He said that while it was not completely clear what the LDCs' objective was in the

area of rules of origin, he was nonetheless relieved to hear that the intention was not to negotiate a single set of harmonized preferential rules of origin line by line, as that would take a lot of time. If that was not the case, he asked what the LDCs envisaged. Was it to come up with common guidelines that individual countries could follow when applying their rules of origin in the context of autonomous measures in favour of LDCs? That, in a sense was an elaboration of what Ministers had already agreed to at Hong Kong, in terms of Members ensuring that preferential rules of origin applicable to imports from LDCs were transparent and simple. He had also received some more technical questions from his capital which he would be interested to discuss more informally with the LDCs. He was particularly keen to understand why one way of calculating rules of origin had been proposed rather than any other. On the paper on market access, he said that while his delegation had not had the opportunity to consider it in detail, it supported the concern of the LDCs to build on what Ministers had agreed on at Hong Kong in terms of follow up and concrete implementation of the decision by Members. His delegation also understood the LDCs' concern for Members to achieve the medium term objective of providing DFQF market access to all products originating from all LDCs. His delegation was, therefore, supportive of the need for consultations to take place between the LDCs and those countries that were taking steps to implement the decision. His delegation also understood that the LDCs were keen to receive information on which products would be excluded under the potential 3 per cent exclusion. His delegation saw that as an important factor of the benefits accruing to the LDCs from the decision. That was a process that would need to be engaged in quickly in order to provide a more comprehensive picture of how they would benefit.

12. The representative of India said that both papers represented crucial aspects as a follow up to the Hong Kong decision to provide LDCs with DFQF market access. He shared some of the issues raised by the representative of the European Communities (EC), in terms of the specific technical concerns that the LDCs had on rules of origin. His delegation essentially agreed with what was contained in the market access paper and informed Members that India was in the final stages of its internal process of attempting to come up with a programme that would conform to the DFQF market access decision.

13. The representative of Pakistan said that her delegation fully supported the implementation of the decision on DFQF market access for LDCs. She drew the LDCs' attention to paragraph 1 of the market access paper where she highlighted that the qualifications to providing DFQF market access to LDCs had not been mentioned in its entirety. In that context, she requested that the reference relating to the need to take into account the impact on developing countries at similar levels of development as presented in paragraph 36a(ii) of Annex F of the Hong Kong Ministerial Declaration be included. With respect to the rules of origin paper, her delegation, like India and the EC, wished to understand the aim of the paper because the Agreement on Rules of Origin did not relate to preferential schemes. She said that her delegation felt that the proposal on Article 7.1 on "Cumulation with preference giving countries" gave S&D to developed countries and might not be in favour of LDCs since if an LDC's market access depended on the use of materials from preference giving countries, it might make those products less competitive and deprive other developing and least-developed countries from supplying those materials.

14. The representative of the United States noted that resolution of the LDC S&D proposals by Ministers at Hong Kong was an effort to ensure that the Doha Round of negotiations delivered for the LDCs. It was her delegation's hope that that early harvest would reaffirm Members' commitment to issues of concern to LDCs and build a momentum for the overall negotiations. Her delegation stood by the decision agreed to at Hong Kong and was committed to implement its terms. The text of the decision indicated that implementation issues were to be discussed in the Regular Session of the CTD and Chairman Tsang's closing statement at Hong Kong urged Members to set out by the end of 2006, the means by which they would implement the decision. Her delegation's 15 May submission to the Regular Session of the CTD set out an overview of the US process for implementation of DFQF market access for LDCs and was an elaboration of that process. In providing information on how it would implement the decision, her delegation had hoped to help Members understand its

implementation plans as well as enable other Members to contribute their views on key decision points in its domestic process. That was one of the issues that was important to LDCs in terms of knowing how the decision was going to be implemented. As her Government reviewed its options for programmatic and other changes, it welcomed other Members' substantive ideas on implementing the decision. Information on other Members' plans and concerns would also be useful in her delegation's deliberations. While her delegation was interested in hearing others views, the terms of the decision had been agreed by Ministers at Hong Kong and were no longer open for negotiation. It was clear that Members would provide DFQF market access for at least 97 per cent of products originating from LDCs defined at tariff line by 2008, or no later than the start of the implementation period. She said that her delegation was fully committed to implementing the decision in a manner that would result in meaningful market access opportunities for products of export interest to LDCs and urged all Members to work towards a successful completion of the overall negotiations so that none of the valuable work that had been carried out thus far was lost. With respect to rules of origin, the DFQF decision was to be implemented autonomously without prejudice to consideration of the LDCs submission on rules of origin. She noted that to the extent that the LDC submission complemented implementation on a different basis, it was not consistent with Annex F on rules of origin. She clarified that Members could not assume that issues relating to the implementation of the decision were now part of the agenda of the Special Session of the CTD and hoped that it remained where it was originally placed.

15. The representative of Brazil said that his capital was still examining both papers. Brazil was working with its Mercosur partners in order to grant further preferential market access to all LDCs. As was agreed in Annex F of the Hong Kong Ministerial Declaration, developing country Members were permitted to phase in their commitment and enjoy appropriate flexibility in coverage. That had not been reflected in the LDCs' submission. However, his delegation would work towards providing meaningful market access to the LDCs.

16. The representative of Norway said that his delegation had not had time to consider the LDC submissions and would therefore make some preliminary remarks. He asked how the LDCs envisaged the relationship between the rules of origin relating to the decision and the rules of origin that would arise from the work programme on the harmonization of rules of origin. One would have thought that they would approach that by applying whatever came out of the harmonization work programme to the rules of origin relating to the DFQF decision. With respect to cumulation, he said that there were extensive rules on cumulation not only with preference giving countries, but also diagonal regional cumulation, which included not only the LDCs but other countries that were not necessarily a part of a regional grouping as stated in the proposal contained in paragraph 6 of Article 7. His delegation wondered whether that would not extend the preferences to a number of countries that were not LDCs. As he had mentioned before, there were a number of things relating to rules of origin that he did not understand including the formula. In that context regardless of whether that issue was to be discussed in the Special Session or the Regular Session of the CTD, it merited the presence of rules or origin experts.

17. Responding to the issues that had been raised, the representative of Zambia said that for the LDCs, the forum in which to discuss the implementation of the DFQF decision was a non issue. The LDCs wanted an opportunity to address implementation issues of DFQF market access and rules of origin and there were a number of reasons as to why these discussions should be held in the Special Session of the CTD. In the closing session of the Hong Kong Ministerial Conference, the Chairman proposed that Ministers take note of the understanding that the text concerning the DFQF decision of paragraph 36a(ii) was a framework and that developed Members and developing Members declaring themselves in a position to do so, set out by the end of 2006, the means by which they would implement the decision. His delegation agreed with the representative of the US that the text of the decision was clear on providing DFQF market access for at least 97 per cent of products originating from LDCs, but the same could also be said for the NAMA negotiations. The text was clear that Members needed to reduce tariffs, the problem was how to do that and the LDCs were faced with the

same question on the DFQF market access decision. There needed to be some implementation modalities. In addition, paragraph 36 of the Hong Kong Ministerial Declaration stated that "We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development (CTD) in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006." Paragraph 24 of Annex B of the Hong Kong Ministerial Declaration on NAMA stated that "In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time." From all of that, the LDCs contended that, not only were there issues to be discussed in terms of implementation of the decision, those issues were meant to be discussed in the Special Session of the CTD. On the question as to what the LDCs' objective was on rules of origin, he said that there were two issues involved. First was why the LDCs were seeking rules of origin which applied across the board and second, was why the LDCs had opted for value addition or local content criteria. The reason why the LDCs were seeking one set of rules of origin was to ensure that if an LDC produced a good it could export that good to all developed countries without being faced by fragmented markets due to different rules of origin. For example, an LDC producing apparel would be provided DFQF market access where the rules of origin in textiles allowed for the use of material from a third country. Where the rules of origin did not allow for the use of material from a third party, it would not be entitled to DFQF market access. So an LDC could produce a shirt that would be accepted into one developed country market and not another. That was not promoting multilateral trade but seemed to be promoting trade deflection. Therefore, issues of harmonizing rules of origin across the board needed to be addressed. For practical reasons, the LDCs preferred to use value addition or local content criteria. As he had mentioned earlier, where substantial transformation was involved, one could use change of tariff heading or value addition local content or specific manufacturing process. If one used change of tariff heading, if the developed country agreed to have a negative list where everything was agreeable to change of tariff heading except for a couple of lines, then progress could be made. However, that was highly unlikely. Members would have to negotiate rules of origin on a change of tariff heading basis line by line. That was the main reason why the LDCs had decided not to go for a change of tariff heading or specific manufacturing process which left value addition and local content criteria. It was a purely practical issue. He confirmed that there had been bilateral discussions at the Ministerial level with the Government of India on the DFQF market access issue and the positive approach that was being taken by the Government of India on the issue was appreciated. With respect to the issue raised by the representative of Brazil, he acknowledged that developing country Members declaring themselves in a position to provide DFQF market access to LDCs were allowed flexibility in the provision of that market access and stated that that could be added to the paper. He said that the LDCs had not forgotten the qualifications that had been raised by the representative of Pakistan and would make the necessary changes to take those into account. On the issue of providing cumulation with preference giving countries, he said that that was a normal way of looking at rules of origin and accepted that, for example, the use of an intermediate product sourced from a preference granting country would be considered to be originating from the LDC in which it was processed. Origin could not be conferred any other way because if, for example, an LDC sourced cloth from a developing country to produce a shirt and then exported that shirt to that developing country, since the cloth came from that developing country to which the export was destined, the origin of the input would be as it had originated from the LDC manufacturing the shirt. On the issue raised on the autonomous implementation of the decision, he clarified that while the LDCs did not disagree that the DFQF market access decision could be implemented under the Enabling Clause, it did not mean to say that it was a GSP. In response to the question raised by the representative of

Norway, he said that what Members were dealing with in the Committee on Rules of Origin was non-preferential rules of origin and not preferential rules of origin. The work programme on harmonization of rules of origin related to non preferential rules of origin and the issues were different. However, the LDCs were willing to discuss rules of origin in any forum that the Special Session felt would be useful to discuss them in. However that did not mean to say that the LDCs agreed that those issues should not continue to be raised in the Special Session.

18. The Chairman said that even though some Members had not had enough time to consider the papers, in particular, the paper on market access, the discussion had been useful and had provided Members with an opportunity to seek clarifications. In his view, bilateral and informal consultations would have to continue between the key stakeholders, particularly between the LDCs and those that had made comments. He therefore urged the LDCs to continue to consult with the key stakeholders whose participation would be essential in implementing the decision. There was a clear sense that Members agreed on the importance of implementing the decision and that was encouraging. It would be useful for Members to have more time to consider the two papers and consult internally with capitals. At the next meeting, Members would have another opportunity to discuss the papers. He urged the proponents to also give some thought and reflect on the questions that had been raised, and consider whether they wanted to provide more detailed answers. It would be useful for the answers to be provided in written form since rules of origin was not an easy issue, even for the experts.

19. The representative of Zambia said that the LDCs were keen to hold further discussions on the papers, either informally or within the framework of the Special Session. The LDCs were also willing to provide written responses to any written questions put in writing and if necessary to amend the papers.

20. The representative of Japan said that like others, his delegation was committed to implementing the Hong Kong decision on DFQF market access for the LDCs. However, he reserved the right to further debate the forum in which the issues related to the decision should be discussed. That was something that was still open and his delegation hoped to take part in the consultations on how to deal with that issue. His delegation had some comments on the rules of origin paper but felt that the paper should be discussed among the relevant experts.

21. The Chairman said that there was clearly a divergence of views on where the issue of implementation of the DFQF decision should be discussed. However, Members had raised a number of questions on the papers. He noted the representative of Japan's reservation and said that the proponents would need to undertake informal consultations with the key stakeholders and consider whether or not they wished to table a revised paper. He said that he would provide another opportunity for Members to raise questions if they had any when they re-visited those papers at the next meeting in September. He suggested that Members with questions provide them in writing and make them available to the LDCs directly. He underlined that a fundamental condition to pursuing the issue and achieving the full implementation of the DFQF market access decision, was the holding of consultations between the key stakeholders. No amount of discussion in the Special Session could take Members forward, in the absence of informal consultations between the key stakeholders. As the Chairman, he was prepared to facilitate such a dialogue and to undertake any informal consultations if Members so wished.

C. ALL OTHER OUTSTANDING ISSUES

22. The Chairman said that Members had last had a discussion on all other outstanding issues at the meeting held in April, and at that meeting, the discussions had focussed mainly on the different elements that remained outstanding. At that meeting there seemed to be a focus on the Monitoring Mechanism and there seemed to be a general understanding that that could be a starting point for Members' work. It was also suggested by some Members that the Monitoring Mechanism should be a tool to undertake regular evaluation of the effective utilisation of S&D provisions. A number of

Members had also highlighted the need to develop a common understanding on the objective, scope, structure and coordinating role of the mechanism. He recalled that one member had stated that the Monitoring Mechanism meant different things to different people. So while there was a sense that Members should consider the notion of the Monitoring Mechanism, they were quite far from being clear on what exactly they had in mind. He recalled that at the last meeting, he had suggested that Members keep in mind the three C's approach which was, first, for each of them to "crystallize" their thoughts; second, to continue the informal "conversation" between themselves; and third, to find "convergence". It was his hope that Members had been able to give some thought to that and that they could build on the last discussion.

23. The representative of the European Communities said that his delegation had little to add to what it had said at the last meeting in April. He agreed that the discussion then had pointed to a broad convergence towards identifying the Monitoring Mechanism as the initial focus of work on the outstanding issues. There were differences in appreciation of what exactly a Monitoring Mechanism might entail and what its purpose would be. Those were issues that Members still needed to collectively address. His delegation wished to continue the discussions in order to deepen the different elements involved. The Chairman had already mentioned the types of headings against which Members could structure that discussion and he knew that other Members had ideas which were also worth exploring. At that stage it was perhaps best to anticipate carrying out those discussions informally rather than formally.

24. The representative of Kenya said that the Monitoring Mechanism had been proposed by the African Group to monitor the implementation of strengthened S&D provisions. As had been mentioned, Members did not have a common understanding on what the functions of the Monitoring Mechanism should be and how it would operate. Without that common understanding, progress was unlikely. If the common understanding was along the lines of what the African Group had proposed, then Members would need to ask themselves whether the time was right to put the mechanism in place, or whether it was best to wait until Members had made progress on the Agreement-specific proposals. However, that was not something that should prevent Members from continuing their discussions on the Monitoring Mechanism. He hoped that during informal consultations, Members could consult on other cross-cutting issues. His delegation had earlier mentioned that it was interested in pursuing a development framework which the African Group had proposed under Article XVIII of the GATT 1994.

25. The representative of Brazil agreed that Members needed to reach a common understanding on the functions of the Monitoring Mechanism and agreed with the representative of Kenya that Members should monitor the implementation of the strengthened S&D provisions. There were two issues that were being discussed in the WTO that Members needed to consider. First, in the negotiations on agriculture, his delegation, along with the Members of the G20, had put forward the idea of strengthening the monitoring of agricultural policies which, as Members were aware, had an impact on development aspects. The idea of strengthening the monitoring of agricultural notifications relating to subsidies and other forms of export competition policies had met with some difficulty. When Members referred to the Monitoring Mechanism to access how development was being addressed in the WTO negotiations, they needed to take a horizontal approach. In the Aid for Trade taskforce, there had been some discussion on possible recommendations on how to monitor and strengthen the evaluation of Aid for Trade projects and programmes. About half of the S&D proposals related to technical assistance and there was a link between those discussions and the debate on Aid for Trade. That was something that Members needed to bear in mind when discussing the Monitoring Mechanism.

26. The representative of Japan said that his delegation did not have any new ideas to add to those that it had put forward when the issue was last discussed. He said that it was true that there was a lot in the Round to monitor and evaluate. Aid for Trade as well as the development aspects of every negotiating body was something that was relevant to the work on S&D. However, it was best to begin

by focusing on the scope and what to monitor in the context of S&D. Members could then expand that to monitoring in other areas. At the last meeting, a number of Members had suggested that previous submissions on the Monitoring Mechanism be re-visited and in that context he proposed that the Secretariat put together a compilation on the Monitoring Mechanism to provide a basis for further discussions.

27. In response to the representative of Brazil's suggestion, the representative of Kenya said that the submissions that had been made on the Monitoring Mechanism in 2002 looked at how to enhance the usefulness or utilization of S&D provisions which Members were attempting to strengthen. The paper recently circulated by the Aid for Trade taskforce suggested the establishment of a monitoring body on Aid for Trade. At that stage it was perhaps best not to mix what others were doing. That could be considered after finalizing the role and functions of the Monitoring Mechanism in the Special Session. There had been some elements mentioned that could fit into the development framework, such as technical assistance under Aid for Trade.

28. The representative of Switzerland said that it would be useful to have a compilation of the previous submissions on the Monitoring Mechanism. There was also a compilation of some of the proposals on the Monitoring Mechanism in JOB(02)/138 which could be useful. Based on what was contained in that document, a good starting point could be to build on the Monitoring Mechanism proposed by the African Group in document TN/CTD/W3/Rev.1/Add.1 which was a comprehensive submission.

29. The Chairman said that it was clear that Members preferred discussions on the Monitoring Mechanism to continue informally. He was, therefore, willing to organize informal consultations on the Monitoring Mechanism before the next formal meeting which would be held in late September or early October, depending on what the situation was on the larger process. He believed that compiling previous proposals on the Monitoring Mechanism was a good idea and could be done. The Secretariat would prepare a simple compilation so as to preserve the proposals in their original state without pre-judging the process. He said that it would be useful for that compilation to be made available to Members before the summer break. That would give them enough time to consider it. The value of the informal consultations would depend on how prepared Members were at the time of the consultations. It was not a problem for him to organize the consultations, but what Members would get out of the consultations depended on them. He therefore urged Members to give some thought on the issue. That was something that Members needed to reflect on internally as well as with other stakeholders. With respect to the framework agreement raised by the representative of Kenya, he said that in order to add value to the consultations, it would be useful to have additional information on the proposal from the proponents. His sense was that if Members wished to take small steps forward, they would need to focus on the Monitoring Mechanism. However, they could also focus on other issues in the informal consultations. That was something Members would have to prepare for in order to avoid repeating the general discussions that might have already taken place in 2002. If Members wished to see results on the outstanding issues, then the process needed to be demand driven and there needed to be precision on any ideas put forward.

30. He went on to say that that was the last meeting before the summer break. As part of the 2006 timelines the Special Session had a reporting requirement to the General Council that was scheduled during the last week of July. The report to the General Council in July would be along the same lines as the last report made to the General Council in May. It would be factual and simply reflect the status of work on the various clusters of issues, including on the Agreement-specific proposals, the outstanding issues and the DFQF market access issue. As he had mentioned earlier, he hoped to hold the next formal meeting in the last week of September or the first week of October. Before that meeting, he intended to undertake some informal consultations on the Agreement-specific proposals. His intention was to continue discussions on proposal Nos. 24, 25 and 79 on the SPS Agreement, on which Members had already done quite a bit of work. On proposal No. 79, he hoped that the delegation of India would be able to contribute further in terms of providing more precise

language. He also hoped that Members could continue informal consultations on proposal Nos. 28, 29 and 30 on the Agreement on Import Licensing and proposal No. 13 on GATT Article XVIII. He would perhaps hold two separate sets of informal consultations, since the SPS proposals required the participation of SPS experts and the other proposals required another set of experts. He urged Members to undertake work on those Agreement-specific proposals before the next meeting. He was also willing to undertake informal consultations on the other outstanding issues. As a result, he preferred that the next formal meeting take place perhaps in October, so that there was enough time to undertake informal consultations on some of the issues that he had mentioned. As Members moved towards the December deadline, they would need to begin constructing the S&D package, at least for the Agreement-specific proposals. It was therefore worthwhile investing time in informal consultations where Members could attempt to reach convergence. He said he was available to any delegation to discuss any issue they wished to raise.

D. OTHER BUSINESS

31. No issue was raised under other business.