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NOTE ON THE MEETING OF 5 JUNE 2007

Chairman: Ambassador Burhan Gafoor (Singapore)

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A. ADOPTION OF THE AGENDA

1. The draft agenda for the meeting as contained in airgram WTO/AIR/3021 of 24 May 2007 was adopted.

B. AGREEMENT-SPECIFIC PROPOSALS

2. The Chairman began by making some general comments on the work of the Special Session of the Committee on Trade and Development and the larger process taking place in and out of Geneva. He said that Members were in the final phase of the negotiations and within a few weeks, the Chairs of the Negotiating Groups on Agriculture and Non-Agricultural Market Access would be expected to table their draft texts. Naturally, the Chairs of the other negotiating groups would be expected to follow, including the Chair of the Special Session. When that time came, it was important that the Special Session should not be found wanting. More importantly, Members needed to remember that the time for general discussions was over and that they needed to continue to engage in text-based discussions. He recalled that Members had been discussing the Agreement-specific proposals for many years and said that it was important to preserve and build on the progress already made and avoid re-opening the issues. It was time for Members to narrow the divergences which he hoped would be possible at that meeting.

3. He went on to say that since the last formal meeting held on 26 April 2007, he had held some small group consultations on the Agreement-specific proposals. The informal consultations had focused on two proposals, namely proposal no. 13 on Article XVIII of the GATT and proposal no. 79 on Article 10.2 of the Agreement on Sanitary and Phytosanitary Measures (SPS). He had focused on those two proposals because they required a lot of work and were the proposals on which Members had made the least progress. Unfortunately, no progress had been made on those proposals at the consultations. He said that his intention at that meeting, was to begin with the consideration of proposal no. 13 on Article XVIII of the GATT and then move on to address proposal no. 79 on Article 10.2 of the SPS Agreement. Subsequently, he would go on to address the other five remaining proposals on which Members had managed to come up with revised texts, namely proposal nos. 24 and 25 on Article 10.3 of the SPS Agreement and proposal nos. 28 to 30 on Article 3.5 of the

Agreement on Import Licensing Procedures. Discussions on the proposals, with the exception of proposal no. 79, would be based on the language contained in Annex II of his report to the General Council (TN/CTD/19). Under that agenda item, he would also brief Members on the consultations he had held on the duty-free quota-free (DFQF) market access issue. He said that on proposal no. 13 on Article XVIII of the GATT, discussions had not been easy, and there remained wide divergences of views. He asked if there had been any change in Members' positions on that proposal since the last informal consultation. He suggested that Members address the proposal paragraph by paragraph beginning with paragraph two, since it was his sense that there were no real problems with paragraph one.

4. Discussions on the proposals continued in an informal mode.

5. During discussions on Article XVIII, a number of developed country Members reiterated that the proposal sought to reinterpret Article XVIII by introducing new elements and this was something they were not willing to accept. One Member proposed that the paragraph relating to developing and least-developed country Members not being expected to undertake measures that would undermine the attainment of the goals of Article XVIII, be restricted to developing and least-developed country Members dependant on primary products. Another Member stated that that went too far from the existing language of Article XVIII. The proponents requested that paragraph four relating to the need to take due account of other Members' rights be deleted. However, some other Members stated that if they were to agree to grant the type of flexibility that was being sought in the proposal, it would be important to ensure that the rights of other Members be taken into account. If that paragraph was deleted, they would not be able to agree to the preceding paragraphs. With respect to the last paragraph relating to future consideration of the procedures of Article XVIII, it was suggested that Members consider whether they wished to simplify the existing procedures of Article XVIII or develop new ones. The need to involve due process in the proposal was also highlighted. On proposal nos. 24 and 25 on Article 10.3 of the Agreement on the Application of the SPS Agreement, one Member reiterated that it had a problem with prescribing a fixed-time period for the Committee to take decisions on granting time-limited exceptions for developing countries. New Zealand tabled revised language on the proposals. While some Members supported the language, the proponents felt that it did not strengthen or operationalize Article 10.3. In their view, it merely reiterated what was already included in Article 10.3. On proposal nos. 28 to 30 of Article 3.5 of the Agreement on Import Licensing Procedures, the proponents stated that they wished to remove the reference to "beyond their capacity" in the sentence "...developing country Members shall not be expected to do so in cases where this will cause them additional administrative or financial burden beyond their capacity". However, some Members stated their preference to retain the phrase, arguing that if developing countries had the capacity to provide import statistics with respect to products subject to import licensing, it was important for them to do so for transparency reasons. On proposal no. 79 on Article 10.2 of the SPS Agreement, a number of developed country Members stated that the decision contained in paragraph 3.1 of the Decision on Implementation-Related Issues and Concerns that provides an interpretation of the phrase "longer time-frame for compliance" referred to in Article 10.2 of the SPS Agreement, reflected the maximum flexibility that they were willing to concede. In their view, making the provision mandatory would undermine Members' rights to introduce measures to protect human, plant and animal life. Discussions on this proposal remained general as the proponents were yet to table decision-type language.

6. Thereafter the meeting reverted to a formal mode.

7. The Chairman concluded the discussions by stating that out of the 16 remaining Agreement-specific proposals being considered in the Special Session, Members had been able to come up with some revised text on six of the proposals. This language was contained in Annex II of the General Council Report (TN/CTD/19) and included texts on proposal no. 13 on Article XVIII of GATT, proposal nos. 24 and 25 on Article 10.3 of the SPS Agreement and proposal nos. 28 to 30 on

Article 3.5 of the Agreement on Import Licensing Procedures. Additionally, Members had considered proposal no. 79 on Article 10.2 of the SPS Agreement on which it was his sense that the divergences were conceptual rather than textual and, therefore, reaching convergence was proving to be difficult. His inclination was to set it aside, but as had been suggested by one Member, he would discuss that with the delegation of India which had tabled the proposal. As stated in his report to the General Council and at previous meetings of the Special Session, it was his sense that on the nine remaining proposals, Members would be unable to build convergence based on the language currently on the table. Absent new ideas or new language there would be no value in continuing discussions on those proposals as that would only lead to a repetition of known positions. It was, therefore, his intention to set aside those nine proposals and take no further action on them for the time being. He would carry out further informal consultations on proposal no. 13 on Article XVIII of GATT and proposal nos. 24 and 25 on Article 10.3 of the SPS Agreement.

8. The Chairman said that under this agenda item, Members would also consider the implementation of the DFQF access decision adopted at Hong Kong. He briefed Members on the informal small group consultations that he had held as a follow up to the earlier series of confessionals held in April with the different stakeholders. The aim of the consultations was to facilitate a dialogue between the stakeholders, and provide them with an opportunity to have a candid and open discussion amongst themselves. During the consultations, the stakeholders updated one another on the domestic processes they were undertaking to implement the decision. With regard to the LDCs' submission on rules of origin, more than one Member had expressed the view that it would be impractical and unrealistic to negotiate preferential rules of origin, especially given the differences that already existed in harmonizing non-preferential rules of origin. A suggestion was made to hold a workshop on rules of origin which would provide the LDCs with a better understanding of the preferential rules of origin regimes of the different stakeholders. He said that anything that contributed to facilitating dialogue and enhancing the understanding between the stakeholders was welcome. However, those that had proposed the idea of holding a workshop would need to bring it to fruition. On market access, he said that while it was clear that different Members were undertaking their own domestic processes to implement the decision, it was important for the LDCs to be kept informed of the various processes being undertaken to implement the decision. What tariff lines were ultimately covered by the 97 per cent and what was left out was important. This was something that could be discussed bilaterally between the LDCs and other stakeholders. He added that during the informal consultations, the LDCs had signalled their intention to meet bilaterally with other stakeholders on the issue. That was something that he had continued to encourage because, ultimately, the implementation of the decision was up to the Members. As Chairman, he would continue to facilitate a dialogue between stakeholders.

9. The representative of Zambia said that its rules of origin experts were expected in Geneva and would be available until the end of June to meet with stakeholders on the rules of origin issue. While her delegation appreciated the suggestion to hold a workshop on rules of origin, it was important that any such event lead towards the key objective of adopting preferential rules of origin that would enable the DFQF market access decision to be effectively implemented.

10. The representative of Mali stated that DFQF market access would allow LDCs to participate meaningfully in the multilateral trading system. He emphasized the need to simplify the rules of origin so that real benefits would accrue from the decision.

11. Concluding the discussion on this agenda item, the Chairman reiterated the need for stakeholders to consult among themselves. He noted that the rules of origin issues were often technical and with such issues it was often useful to include the participation of the relevant experts. He encouraged other interested stakeholders to consult with the LDCs so as to move the process forward.

C. AGENDA ITEM C: THE MONITORING MECHANISM

12. The Chairman stated that discussions on the possible elements of the Monitoring Mechanism would continue on the basis of the non-paper circulated at the last formal meeting held on 26 April 2007. He said that he had prepared the non-paper on the basis of responses to the questions he had put to Members on the possible structure and scope of the Monitoring Mechanism as well as its relationship with other entities. He had also considered earlier submissions made by Members on the Monitoring Mechanism contained in JOB(06)/229. The non-paper therefore attempted to summarize and synthesize the different ideas that had come up in the informal consultations. It contained two sections, one on structure and the other on scope. From the discussions it was clear that Members wished to establish a Monitoring Mechanism that was simple and efficient and that allowed for a regular high-level review. They also highlighted the need for a review based on a bottom-up, horizontal and transparent process that would allow information sharing and compliance monitoring. He said that in his view, the Monitoring Mechanism could function at two broad levels. However, the monitoring could be carried out at four different levels. The first level could be, in a technical committee; the second level, in the Committee on Trade and Development (CTD); the third, at the General Council level; and the fourth at the Ministerial Conference level. The proposed structure also provided for a future review of the mechanism. He said that both the structure and the scope were closely interlinked. The first two bullets of the scope related to the monitoring of existing special and differential treatment (S&D) provisions and those S&D provisions that would result from the Doha Round. The third bullet provided an opportunity for Members to make recommendations to improve the implementation and effectiveness of S&D. Members had highlighted the need for the Monitoring Mechanism to be forward looking and allow Members to raise any issues as long as they were related to the implementation and effectiveness of S&D provisions.

13. To facilitate the discussions he began by posing three questions to Members. First, he asked whether the non-paper was a fair approximation of what Members expected of the Monitoring Mechanism and what they considered as a possible landing zone on the Monitoring Mechanism. Second, he asked whether Members could identify any elements that were problematic and third, he asked Members to specify, what in their view, were the missing elements not included in the non-paper.

14. The representative of Switzerland said that that the non-paper formed a good basis for future work on the Monitoring Mechanism. With respect to missing elements, she felt that bringing in the experience of other international organizations, such as the International Trade Centre (ITC) would be valuable in considering how to improve the implementation and effectiveness of S&D provisions. She was not certain whether that would come under the structure or scope of the Monitoring Mechanism.

15. The representative of Egypt said that the non-paper provided a good basis for continued work on the Monitoring Mechanism. Regarding the two broad levels of monitoring suggested in the structure, he said that it was important to have some clarity on the link between the CTD and the other WTO bodies. Considering the WTO structure, his delegation saw no link between, for example, the Committee on Technical Barriers to Trade and the CTD. A clear mandate from the General Council would be needed to require those Committees to report to the CTD. It was important that as a result of the Special Session's work, the General Council adopt the functions, structure and terms of reference of the Monitoring Mechanism in a way that it would allow communication between the different WTO bodies and the CTD. He highlighted his delegation's preference to create a Sub-Committee on S&D as a subsidiary body of the CTD. He said that his delegation had reservations on the words "as appropriate" contained in the second sub-bullet of bullet five which stated that the General Council would review and take decisions as appropriate. In addition, his delegation believed that it would be important for the CTD to report regularly to the General Council.

16. The representative of Nigeria drew Members' attention to the last two bullets on the scope and asked how they could be brought together with the bullets relating to the two levels of monitoring in the structure.

17. Responding to Nigeria's comments, the Chairman stated that the dedicated sessions of the CTD could essentially be the focal point for gathering information, receiving reports and considering and reviewing S&D provisions. If after consideration and review, the dedicated sessions found it appropriate to take a decision or make a recommendation, then that would be forwarded to the General Council or the Ministerial Conference. The CTD dedicated sessions could also request information or feed information downwards, to the different technical bodies dealing with the different S&D issues.

18. The representative of Canada said that the non-paper was a true reflection of the consultations that had taken place. He agreed that the Monitoring Mechanism needed to be simple and forward-looking in order to help the integration of Members into the multilateral trading system. That objective could be achieved by allowing for a bottom-up and horizontal process that fully respected the balance of rights and obligations of Members. He also agreed that it was important to ensure that a review of S&D provisions was given sufficient visibility. The proposal to provide for two levels of monitoring, i.e. reports received from other WTO bodies, consideration by the CTD and subsequent action by the General Council, was consistent with his delegation's view. The process would ensure coherence, transparency, implementation and appropriate follow up. His delegation fully endorsed the two-tier approach suggested by the Chairman. However, the proposal required more discussion and fine-tuning. He expressed reservations on the idea of Members making direct submissions to the General Council, as his delegation preferred that a detailed review take place at the first level as opposed to such a review taking place at the General Council level.

19. The Chairman proceeded to invite Members to provide specific views on, first, the structure and then the scope, bullet by bullet.

20. The representative of Pakistan found the non-paper comprehensive and appreciated the inclusion of the possibility of reviewing the structure, as necessary. Her delegation looked forward to further discussions on the time-frame for the dedicated sessions to report to the General Council if for instance, it was not meeting and asked whether urgent issues could be placed on the agenda of the CTD Regular Session.

21. The representative of New Zealand said that the non-paper was useful and provided a good basis for future work. Her delegation was not in favour of creating unnecessary bureaucratic structures on reporting requirements and therefore supported a minimalist approach that would provide Members with an opportunity to review S&D issues. Her delegation favoured a structure that drew on existing processes.

22. The representative of Hong Kong, China said that her delegation was not particularly convinced of the need to make reference to paragraph 44 of the Doha Declaration in the first bullet of the scope. She asked what the implications of including that reference would be. She agreed that the Monitoring Mechanism should be simple, practical and efficient and complement existing monitoring mechanisms. She said that it was perhaps useful to get information on existing monitoring mechanisms before agreeing to the elements of the Monitoring Mechanism. Referring to the Chairman's last report to the General Council, she said that her delegation was concerned with the implications of annexing the non-paper to the report.

23. The representative of Mexico said that the non-paper was a good basis for moving towards convergence although work needed to be done on the Monitoring Mechanism. She echoed the concern raised by the representative of Hong Kong, China with respect to annexing the non-paper to the General Council report.

24. The Chairman agreed with the representative of Nigeria that there was a link between the scope and structure of the Monitoring Mechanism. In response to the representative of Hong Kong, China, he said that the Annex to his last report to the General Council had been included simply for transparency. Additionally, in his report he had clearly stated that the non-paper was neither agreed nor exhaustive. He said that from informal consultations he had held on the Monitoring Mechanism, his sense was that the first two bullets of the scope relating to the monitoring and implementation of S&D provisions in the existing agreements and those that would result from the future agreements, were fundamental to the scope. With respect to the point raised by Hong Kong, China regarding the reference to paragraph 44 of the Doha Ministerial Declaration, he said that the argument could go both ways, i.e. that the paragraph 44 mandate was to consider the S&D provisions on the existing agreements making them more precise, effective and operational, or that the mechanism would consider prospective S&D provisions. The idea was that the Monitoring Mechanism would encompass both.

25. The representative of New Zealand stated that monitoring the implementation and effectiveness of the existing S&D provisions was quite a complicated issue. S&D provisions could not always be subjected to quantitative and qualitative monitoring methods. There were for example, some provisions arising from the Uruguay Round that could be monitored on the supply and demand side. In some situations, the benefits generated were passive and therefore quite difficult to measure. From a practical perspective, her delegation was interested in initially focussing on monitoring the new commitments resulting from the Doha Round because those could be easily monitored. At a later stage, monitoring functions and coordination in relationship to other agreements could be built in as necessary as Members gained more confidence with the structure of the mechanism.

26. The Chairman said that it was his understanding that the delegation of New Zealand had a preference to do away with the first bullet as it preferred monitoring to initially focus on provisions resulting from the Doha Round.

27. Responding to the proposal by New Zealand, the representative of Nigeria suggested that the new mechanism monitor both the Uruguay S&D provisions as well as those resulting from the Doha Round. He suggested combining the first two bullet points of the scope and stated that the mechanism could begin with monitoring the implementation and effectiveness of S&D provisions in the existing agreements.

28. The representative of the European Communities stated that while the non-paper was a good basis for further work, Members were still a long way from coming up with what could be an operational text to put to the General Council. Members needed to now put flesh on the bones and establish a monitoring mechanism. There were a lot of areas on which Members agreed. His delegation did not favour creating something too bureaucratic that would take up the time of the CTD and other WTO bodies. What was important in the process was to ensure transparency. In his delegation's view, transparency and monitoring covered both existing and new S&D provisions resulting from the current negotiations. The value added of the monitoring mechanism would depend on the extent to which it would be able to identify and respond to problems that might arise or issues that would be raised in the future. In that sense, the Monitoring Mechanism would be largely demand-driven. It would be Members themselves that would identify the problems they wished to see addressed. The overall purpose of the exercise should be to support a general objective of improving the operation, implementation and the effectiveness of S&D provisions. Members should avoid creating something whose purpose was anything but to improve and make S&D provisions more

effective. Similarly, Members should avoid creating unnecessary duplication or overlap with other monitoring processes. The value-added that the CTD could provide was to have a broader approach and to consider the provisions from a systemic angle and consider how far those provisions served to the development objectives of Members. Bearing in mind that a new monitoring process was being created for Aid for Trade, it was important to consider what form the Monitoring Mechanism would take because it would be strange to have one dedicated session of the CTD for Aid for Trade and then another on the S&D Monitoring Mechanism.

29. Referring to the first two bullets of the scope, the Chairman stated that Members had three options; to keep the two bullets as they were; to combine them in a way that removed reference to paragraph 44 of the Doha Declaration; or, to simplify them by stating something to the effect that the mechanism would monitor the implementation and effectiveness of S&D provisions without making any reference to existing agreements or future commitments.

30. The representative of Bangladesh said that his delegation was ready to work on the basis of the Chair's non-paper. His delegation believed that the Monitoring Mechanism should cover existing as well as future obligations and all the other decisions taken by the General Council on existing agreements. In monitoring the implementation of the S&D provisions, it would be important to keep in view the spirit and objective of those provisions.

31. The representative of Egypt stated that his delegation wished to retain reference to paragraph 44 of the Doha Ministerial Declaration.

32. The representative of Kenya stated that paragraph 44 of the Doha Ministerial Declaration contained the mandate of the Special Session's work. Therefore, there was no harm in retaining that reference. However, he did believe that overloading the bullets should be avoided.

33. The Chairman said that it seemed that most Members wished to maintain the two bullet points as they were. On the third and fourth bullets, the Chairman asked whether it was necessary to include the reference to recommendations. The notion of improving the implementation and effectiveness of S&D provisions was something that he believed would be acceptable to all Members as it was included in the first two bullets of the scope. The notion of enabling developing countries to fully integrate into the multilateral trading system was also something he did not think would be a cause for concern.

34. The representative of Argentina said that the monitoring of S&D provisions should be part of the ordinary work of the existing bodies and that parallel discussions should be avoided. The monitoring of S&D provisions needed to also perhaps consider those aspects related to Aid for Trade that could contribute to the discussions.

35. The representative of Hong Kong, China said that the proposed Monitoring Mechanism should be able to address the concerns raised by Members and come up with recommendations, if necessary, with the objective of improving the implementation and effectiveness of S&D provisions. The reference to provide recommendations seemed to prescribe that recommendations would have to be made regardless of whether it was necessary or not. Even when considering the mandates of the different committees it was difficult to be prescriptive. Her delegation was not attempting to suggest a deletion of the notion of recommendations being made. Rather, Members needed to come up with specific language to reflect what they were aiming to do in order to make the language operational.

36. The representative of Mexico said that like the representative of Hong Kong, China her delegation thought that there needed to be greater clarity on the third bullet of the scope relating to making recommendations. As long as there was no clarity or more details on the objective of the mechanism it would be a problem for her delegation to accept that reference to recommendations.

Her delegation was flexible but needed Members to provide explanations as to why they wished to maintain the reference.

37. The representative of Pakistan stated that her delegation did not have a problem with the reference "provide recommendations" because the latter part of the sentence made it clear that the recommendations would improve the implementation and effectiveness of S&D provisions in case the Monitoring Mechanism found this to be necessary. The body could make recommendations on a case-by-case basis. Her delegation was therefore comfortable with "recommendations as necessary" as the word "necessary" covered all kinds of situations.

38. The Chairman said that he understood that reference to "provide recommendations" had raised some concerns. In his view, it would become a mandatory requirement to provide recommendation. This was the concern that had been raised by some Members. One way to address that would be to include something along the lines of "provide recommendations as necessary" so as to build in flexibility. Some concerns raised on S&D would perhaps require recommendations, others would not.

39. The representative of Egypt stated that his delegation's understanding of the issue was that the CTD would provide recommendations for a decision by the General Council. The General Council would then take the appropriate decision in order to improve the implementation and effectiveness of S&D. The Monitoring Mechanism as such would not provide recommendations because it was not a body. Similarly, assuming there was a Sub-Committee on S&D, it would provide recommendations to the CTD. The CTD would then forward those recommendations to the General Council for a decision to improve the implementation and effectiveness of the S&D.

40. The Chairman agreed with the representative of Egypt. The recommendations would be made by the CTD dedicated sessions and then those recommendations would be transmitted to the General Council.

41. The representative of Kenya said that recommendations did not only need to be one-tracked and made to the General Council. The African Group envisaged the CTD deliberating on S&D issues and providing recommendations to developing countries on how they could implement and benefit from the S&D provisions. The elements of the Monitoring Mechanism as currently contained in the non-paper were something that his delegation could work with. In his view, the issue of "as necessary" was taken care of at the level of the General Council as that was where decisions would take place. If a country was being recommended to take certain steps to benefit from the S&D provisions without making a recommendation to the General Council, there would be no need to include "as necessary".

42. The representative of El Salvador sought clarification on the relationship between the proposed Monitoring Mechanism and other already existing monitoring mechanisms.

43. The representative of Mexico said that from the discussions it seemed Members had different interpretations of what the scope and the structure of the Monitoring Mechanism would be. Her delegation was looking to come up with elements of a Monitoring Mechanism that were clear and left no room for misinterpretation. Most Members had the notion that it was just developing and least-developing country Members that could raise issues under the Monitoring Mechanism. However, the paragraph relating to that implied that any Member could raise any issue to the Mechanism. At the same time, it was not clear what issues were being referred to. It was important to have more clarity on that.

44. The representative of Bangladesh said that the scope should include reference to the fact that recommendations should be provided for a decision by the General Council.

45. The Chairman said that on that paragraph there was a certain relationship between the structure because in the structure at the second level the General Council would take decisions as appropriate. In that sense, decisions would be made based on the recommendations made to it by the dedicated sessions of the CTD. It was, however, clear that there was a need to streamline the point relating to taking decisions in the structure to the point relating to making recommendations on scope. On the possible scope of the Monitoring Mechanism, the first two bullets and the last bullet seemed acceptable. It was the third bullet relating to making recommendations that needed further clarity. It raised the question of who would provide the recommendations, to whom those recommendations would be provided and for what they would be provided. That was something that Members would need to address.

46. On the last bullet relating to the Monitoring Mechanism providing a forum in which Members could raise any other issues related to the implementation and effectiveness of S&D provisions, the representative of Nigeria asked whether the idea was to make a distinction between the concerns raised on S&D and any other issues. He asked whether there were any other issues that had been identified by Members that were different to those concerns. Knowing what they were would enable Members to consider whether it would be useful to retain that bullet.

47. The representative of Mexico agreed with the representative of Nigeria. That was one of the bullets that needed further clarity and that could be subsumed in the previous third bullet..

48. The representative of Switzerland requested keeping the last bullet because the Monitoring Mechanism needed to be large enough to address any other issues that were related to the operation of S&D. In her delegation's view, "address concerns" in the previous bullet related more specifically to the operation of particular S&D provisions. The last bullet would allow Members to address issues that went beyond specific S&D provisions which could relate to different provisions or the inter-linkage of different provisions.

49. The representative of Kenya said that the last bullet could be retained, provided it was confined to the implementation and the effectiveness of S&D provisions. There were issues that could arise in the future that were not covered by the first three bullets and therefore retaining it would enable the Monitoring Mechanism to accommodate future developments. That could include addressing some of the issues which had been raised in the Agreement-specific proposals and that required further in-depth analysis.

50. Following the clarification by the representative of Kenya, the representative of Nigeria said that his delegation had no problem with retaining the last bullet.

51. The representative of Mexico said that her delegation wished to keep the first and the second bullets in the scope separate because that would enable Members to address issues related to the Agreement-specific proposals. With respect to the last bullet, her delegation would not object to retaining it for the time being but wished to receive more concrete examples of issues that would not be covered by the first three bullets.

52. The Chairman said that during informal consultations that had taken place, Members had mentioned the need for the Monitoring Mechanism to be forward looking so that if there were issues that Members wished to raise in the future, they would have the opportunity to do so. Subsequently, the question of what those issues would include was raised. The general feeling was that Members should not just raise any issue they wished to. That was why it had become clear that it was important to narrow that down to issues relating to the implementation and effectiveness of S&D. While "any other issues" could be a cause of concern for those that had not followed the discussions, it had been made clear that "any other issues" were to be confined to anything that related to the implementation and effectiveness of S&D provisions. It was, therefore, difficult to provide concrete examples of what

might occur in the future. He suggested that Members move on to addressing the structure of the Monitoring Mechanism. He said that the first four bullets of the structure were declaratory and probably would not be a cause for concern. On the fifth bullet relating to the levels at which the Monitoring Mechanism would function, he recalled that the representative of Egypt had suggested that at the second level the General Council should review and take appropriate decisions, rather than take decisions as appropriate.

53. The representative of Bangladesh said that the CTD should carry out a review and then make recommendations on the basis of submissions made by Members. The General Council would then take a decision on the basis of the recommendations provided by the CTD, not take decisions on the basis of submissions made directly to it by the Members as was currently stated in the second sub-bullet of the fifth bullet.

54. The representative of the European Communities agreed with the representative of Bangladesh that the monitoring should take place in the CTD and recommendations then made to the General Council. When that was to be discussed at the General Council level, any Member could then make its inputs. In addition, any Member could raise any issue including on S&D to the General Council. He said that the fifth bullet was perhaps not ordered correctly, it should be the CTD's inputs that were complemented by inputs from individual Members. What would be forwarded from the CTD to the General Council commanded a consensus in the CTD, which in some sense had a higher status, and on the basis of which the General Council would then take a decision. The General Council would take a decision in its own wisdom ranging from taking a purely procedural decision that took note of points made and reports submitted, through to an operational decision that put into place recommendations concerning the operation of the WTO Agreements or processes. Members could not prejudge what decision the General Council would take. Whichever wording Members decided on would need to respect the autonomy and decision-making authority of the General Council.

55. The representative of Kenya said that his delegation could go along with the proposal made by the delegation of Egypt that, at the second level, the General Council should carry out a review and take appropriate decisions. He said that Members should not foreclose the possibility of submissions being made directly to the General Council for discussion. If it were just left for the CTD to make recommendations to the General Council, Members would be restricting the process which was not helpful. The sixth bullet provided for a review of the structure, and therefore, for the time being, it was important to maintain it. At that stage, Members had not yet come up with a structure and it was best to be as flexible as possible and if necessary, it could be removed in the future.

56. The Chairman said that any Member had the right to make a submission to the General Council and deleting reference to that could be problematic. The question was whether the fifth bullet required any further clarifications.

57. The representative of Switzerland recalled that she had requested that the CTD to receive reports and information from other international organizations and expert sources. That could be added in the first sub-bullet of the fifth bullet.

58. The representative of Kenya sought clarification as to whether the representative of Switzerland was proposing that international organizations provide inputs at the first level of the monitoring process or at the second level.

59. The representative of Switzerland clarified that she was proposing that international organizations provide inputs at the first level of monitoring.

60. The representative of Mexico said that the proposal to include reports from international organizations was too open-ended. She, therefore, proposed that if Members were interested in including such a reference, it be narrowed down to include those organizations that were observers or that were closely linked to the work of the CTD. Her delegation did not wish to keep the notion of providing inputs to any international organization.

61. The representative of Egypt agreed with the representative of Mexico that the reference to other international organizations needed to be narrowed down. In that context, he suggested including "other relevant organisations".

62. The representative of El Salvador sought clarification as to whether the mechanism would function informally or formally. He asked how the reporting from other WTO bodies would be carried out. He inquired whether a Member would have to request that a report be made to the CTD or whether the reporting would begin in the relevant Committee and then be referred to the CTD. His delegation had noted the suggestion made by the representative of Egypt and would revert to that at a later stage.

63. The Chairman said that the Mechanism would have to function in a formal manner. The point had been made that other committees be required to submit reports to the CTD in a sense making it clearer and formal.

64. The representative of Canada said that on the fifth bullet, his delegation felt that it would not be efficient for Members to make submissions directly to the General Council. It was best to have discussions take place in the dedicated sessions of the CTD and the CTD then make reports to the General Council. At that point, individual Members, if they so wished, could then raise issues at the General Council level. Members making submissions directly to the General Council would complicate rather than facilitate the process. Members were currently engaged in a theoretical discussion on the Monitoring Mechanism, but in order to really understand the possible elements of the Monitoring Mechanism, the details would need to be made clearer. For example, how discussions would translate into recommendations was something that his delegation wished to get a better understanding on, as well as on how that would relate to other processes in the WTO. His delegation looked forward to engaging in more detailed discussions on some of the more operational modalities.

65. The representative of Switzerland did not see the need to include reference to the General Council making appropriate decisions because the General Council always made decisions by consensus. It was best to keep the current wording as that would allow the General Council to take or not to take a decision depending on the outcome. With respect to Members making submissions directly to the General Council, she said that if that was already a practice carried out, it was best to remove it from the fifth bullet and concentrate on building on those elements that actually related to the monitoring.

66. The representative of Nigeria proposed that since the General Council already took appropriate decisions, the words "as appropriate" be deleted from the text.

67. The Chairman said that the discussions had been useful, in that new ideas had been put forward to improve the text. With respect to the structure, the first four bullets which were mainly declaratory and underlined general points of importance, did not seem to be a cause of concern for any Member. On the last bullet, relating to the review of the structure, it was also his sense that no Member had a problem. The focus had been on the fifth bullet relating to the two levels of monitoring which were in fact linked to the third bullet of the scope. It was clear that Members would need to carry out more work on those two bullets. He said that his intention was to provide a revised version of the non-paper for subsequent discussions. With respect to how the elements of the monitoring would be made operational, he said that Members had two options in terms of

transforming it to a decision. One option was to draft each of the bullets in a way that represented a resolution or decision by the General Council. The other option was to keep the elements as contained in the non-paper as defining the parameters of the Monitoring Mechanism and then have a sentence that alluded to the fact that Members agreed to establish a Monitoring Mechanism guided by the parameters contained in the non-paper. It was his view that the modality of transforming it into a decision was something Members could consider at a later stage, the substance was what Members needed to concentrate their efforts on. He said that the scheduling of the next meeting would depend on the wider process.

68. The representative of Kenya indicated that the element of when the Monitoring Mechanism would begin to function had not been included in the non-paper and was something that Members would need to address at some point.

69. The representative of Hong Kong, China said that when revising the non-paper it was important to keep in mind the original mandate given by the General Council to establish a Monitoring Mechanism. While she agreed that what was important was the substance, it was important to keep in mind how the parameters of the Monitoring Mechanism would be presented.

D. OTHER BUSINESS

70. No issue was raised under Other Business, and the meeting was accordingly adjourned.
