

PREPARATIONS FOR THE 3rd SESSION OF THE MINISTERIAL CONFERENCE:

Letter from the Chairman of the General Council, Ambassador Ali Said Mchumo,
to all WTO Members and Observer Governments

17 November 1999

You will recall that at the informal Heads-of-Delegation meeting on Saturday, 13 November, I had suggested that I would circulate early this week a revision of the draft Ministerial text of 19 October (JOB(99)/5868/Rev.1). I regret that it has not been possible to do so yet. This is because intensive consultations among delegations are continuing on certain key aspects of the text, notably on implementation and agriculture without which no revision could be considered balanced.

It is my earnest hope that we will see movement towards convergence on such key areas in the very near future, so as to enable me to issue a comprehensive revised text which could be an appropriate basis for decision-making by Ministers. We need this progress very urgently, and I call on all delegations to help make it possible.

I am, however, very much aware of the need for maximum transparency in our preparatory process, and for delegations to brief their authorities on the state of progress. This is why, following my remarks of 13 November and in response to requests from a number of delegations, I have decided to issue on my own responsibility the attached working papers. These indicate possible evolutions of various aspects of our work based on the intensive consultations both I and the Director-General at my request have carried out so far.

I must emphasize that these working papers in no way purport to represent agreement in any area, or to prejudice any delegation's position on any aspect. The only status these working papers have is as possible aids to the further effort at consensus-building we so urgently need. It is quite clear to me, as I know it is to delegations, that no agreement can be concluded other than by consensus on the package as a whole, and that the package must be complete and balanced. Until we are closer to such a package the 19 October text remains the text on the table.

For ease of reference only, the paragraph numbers in the working papers correspond to the 19 October text. In the areas of the 19 October text not covered in these working papers intensive consultations are continuing and these need to show positive results very soon. The absence of working papers on implementation issues and agriculture, therefore, does not imply any diminution of their importance - on the contrary, these are both key aspects of a balanced package which are a priority for our remaining preparatory work.

These papers make it clear that valuable work has been done, but also that a great deal remains to be done in a very short time. I appeal to all delegations to join with me and the Director-General in a renewed effort to bring our process to a satisfactory conclusion.

(signed) Ali Said Mchumo

17 November 1999

NEW NEGOTIATING [ROUND]

25. [Recalling our commitment at Marrakesh to continue negotiations in agriculture and services and enter into negotiations on certain aspects of geographical indications in TRIPS, and wishing to further pursue the progressive liberalization of trade in goods and services [and to implement, strengthen and improve [rules and disciplines][WTO agreements]] through a balanced and broad-based negotiating agenda to respond to the range of interests and concerns of all Members, we decide to launch multilateral negotiations as set out below with effect from 1 January 2000. The negotiations shall be concluded within [three] years, and shall be based on the following principles:

PRINCIPLES GOVERNING THE NEGOTIATIONS

- **[Single undertaking:** the launch, conduct and conclusion of the negotiations shall be treated as parts of a single undertaking. The results of the negotiations shall be adopted as a package and apply to all WTO Members. [Agreements reached at an early stage may be implemented on a provisional basis by consensus prior to the formal conclusion of the negotiations. Such early agreements, if confirmed in the final process, shall be taken into account in assessing the overall balance of the negotiations.]
- **Transparency in negotiations:** the negotiations shall be conducted in an open, transparent and manageable manner among participants, in order to facilitate the effective participation of all.
- **Balance and equity:** negotiations shall be conducted with a view to ensuring benefits to all participants and achieving an overall balance and equity in the outcome of the negotiations.
- **Development objectives:** trade liberalization and rule making should be pursued in line with the objectives of promoting development and eradication of poverty and of enabling developing countries [, including the least-developed, structurally weak, vulnerable and small economies, as well as economies in transition] to reap the full benefits of the multilateral trading system.
- **[Sustainable development:** negotiations shall promote sustainable development and aim to [make trade liberalization, economic development and environmental protection mutually supportive][maximize synergies between trade liberalization, economic development and environmental protection].]
- **Special and differential treatment:** S&D treatment for developing countries, in particular least-developed countries, [contained in Part IV of GATT 1994 and other relevant WTO agreements] shall be an integral part of the negotiations and embodied in operational [and binding] provisions.
- **["Peace clause":** Until the conclusion of the negotiations in their entirety and the entry into force of their outcome, developing-country participants shall not be subject to dispute settlement procedures in regard to agreements, or obligations subject to a transition period, to be implemented after a transition period ending on 31 December 1999.]

STRUCTURE, ORGANIZATION AND PARTICIPATION

26. [Consistent with the overall principles set out above, the structure and organization of, and participation in, the negotiations shall be as follows:

- **Overall supervisory body:** [a Trade Negotiations Committee is hereby established to conduct the negotiations under the authority of the General Council.]
- **Negotiating bodies:** [existing WTO bodies shall undertake negotiations in specific areas under the direction and supervision of the Trade Negotiations Committee. These bodies shall discharge these duties acting as Negotiating Committees and keep the Trade Negotiations Committee fully informed of their progress. The Trade Negotiations Committee may establish, if necessary, additional negotiating committees to undertake negotiations in specific areas. Rules and procedures may be adapted to the negotiating mode, as necessary, by consensus.]

OR

[The Trade Negotiations Committee shall establish negotiating bodies as required to undertake negotiations in specific areas under its direction and supervision. These bodies shall keep the Trade Negotiations Committee fully informed of their progress.]

- **Schedule of work and individual negotiating plans:** [unless otherwise elaborated in this Declaration, each Negotiating Committee shall elaborate its own schedule of work and, where necessary, individual negotiating plans subject to any guidelines and direction from the Trade Negotiations Committee. Such schedules and negotiating plans shall be submitted to the Trade Negotiations Committee for approval no later than 31 May 2000, and shall include appropriate benchmarks to ensure timely progress in the negotiations. As a general requirement initial negotiating proposals shall be submitted before 31 July 2000.]
- **[Role of Committee on Trade and Development and Committee on Trade and Environment:** the Committees on Trade and Development and on Trade and Environment will, within their respective mandates, each provide a forum to identify and debate the developmental and environmental aspects of the negotiations [in order to help achieve the objective that sustainable development is appropriately reflected throughout the negotiations]. These two committees will report regularly to the Trade Negotiations Committee [, which may provide direction to the different negotiating groups in the light of the reports made].]
- **Provisions to facilitate participation by developing, least-developed, vulnerable and small developing economies and transition economies:** within available resources, both financial and human, appropriate technical assistance will be provided to these countries, including those without representation in Geneva, to improve their capacity to participate fully and effectively in the negotiations. In the conduct of the negotiations every effort will be made to minimize the burden on delegations, especially those with more limited resources.
- **Mid-term review:** the Fourth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take any decisions as necessary.
- **Implementation of results:** when the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

- **Participation in the negotiations:** Negotiations shall be open to:
 - (i) all Members of the WTO;
 - (ii) States and separate customs territories that have already informed Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party has been established.
- **Decision-making:** decisions on the outcomes of the negotiations shall be taken only by WTO Members by consensus.]

17 November 1999

Services

31. [Pursuant to the objectives of the GATS, as stipulated in the Preamble and Article IV, and as required by Article XIX, negotiations based on these guidelines shall aim to achieve progressively higher levels of liberalisation of trade in services through the reduction or elimination of the adverse effects on trade of measures as a means of providing effective market access. The negotiations shall take place with due respect for national policy objectives and the level of development of individual Members. In this process, the structure and principles of the GATS shall be preserved. To this end:

- (a) The negotiations shall be conducted in full accordance with Article IV (Increasing Participation of Developing Countries) and Article XIX (Negotiation of Specific Commitments) and the Annex on Article II (MFN) Exemptions.
- (b) Liberalization may be achieved through bilateral, plurilateral or multilateral approaches, based on the request-offer approach and supplemented as necessary by other appropriate negotiating modalities, applied on a horizontal or sectoral basis. Participants shall submit initial requests or proposals on specific commitments by [15 December 2000] [September 2001].
- (c) The negotiations, from which no service sector or mode of supply shall be excluded *a priori*, shall aim to promote the interests of all participants and to secure an overall balance of rights and obligations through the liberalisation of services across a broad range of sectors. Special attention shall be given to sectors and modes of supply of interest to developing countries.
- (d) In order to improve market access and make the operation of the Agreement more effective, work currently in progress under the GATS shall be expedited. The Working Party on Domestic Regulation shall aim to conclude its work on the development of new disciplines no later than [15 December 2000] [15 December 2002] [30 June 2001]. The Working Party on GATS Rules shall aim to conclude its work by the same date. However, negotiations under Article X (Emergency Safeguard Measures) shall be concluded by 15 December 2000, as agreed by the Services Council on 29 June 1999. Participants shall aim to conclude the work undertaken by the Committee on Specific Commitments on the nomenclature of services and the scheduling of commitments no later than [15 December 2000] [July 2001 or the date of the Fourth Session of the Ministerial Conference].
- (e) Existing provisions of the GATS may be subject to technical review, as agreed by Members, in order to improve the clarity and legal consistency of the text.
- (f) In the conduct of negotiations, account shall be taken of any autonomous liberalization undertaken by other Members since the conclusion of the Uruguay Round and credit shall be given for it according to modalities to be developed during the negotiations.
- (g) Negotiations shall take account of the results of the reviews to be conducted by the Council for Trade in Services of Article II Exemptions and the Annex on Air Transport Services.
- [(h) The negotiations and their results shall fully take into account the multifunctional character of services.]]

17 November 1999

Trade-Related Aspects of Intellectual Property Rights

(See also paragraphs 33, 51 and 52)

32. [Negotiations shall be completed [by the Fourth Session of the Ministerial Conference] on the establishment of a multilateral system of notification and registration of geographical indications for wines as provided for in Article 23.4 of the TRIPS Agreement. Issues relevant to a notification and registration system for spirits shall be part of this work. [The negotiations and their results shall fully take into account the multifunctional character of intellectual property.]]

[Trade-Related Aspects of Intellectual Property Rights]

(See also paragraphs 32, 51 and 52)

33. [In order to enable the TRIPS Agreement to meet more fully its objectives, work shall be undertaken:

- in regard to geographical indications, taking into account the work under the built-in agenda in the Council for TRIPS:
 - to complete [by the Fourth Session of the Ministerial Conference] negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines as provided for in Article 23.4 of the TRIPS Agreement. Issues relevant to a notification and registration system for spirits shall be part of this work;
 - to carry out negotiations to extend the protection required by Article 23 to additional product areas;
- to examine, in cooperation with other relevant intergovernmental organizations, the scope for protection covering intellectual property issues relating to traditional knowledge and folklore under the TRIPS Agreement and other currently available legal means and practices, both national and international, and make recommendations, where appropriate, [with a view to developing multilateral norms for incorporation in the TRIPS Agreement] [for future options to enhance this protection];
- to negotiate the further unification of patent procedures through the use of the first-to-file and early publication of applications systems;
- to consider ways of ensuring that the Agreement responds more fully to its objectives and principles as well as to new international legal and technological developments and practices.

[The negotiations and their results shall fully take into account the multifunctional character of intellectual property.]]

[Trade-Related Aspects of Intellectual Property Rights]

(See also paragraphs 32 and 33)

51. [The Council for TRIPS shall:

- in regard to geographical indications, taking into account the work done under the built-in agenda in the Council for TRIPS:

- pursue negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines as provided for in Article 23.4 of the TRIPS Agreement. Issues relevant to a notification and registration system for spirits shall be part of this work;
- consider the extension to additional product areas of the protection required by Article 23;
- pursue the review of Article 27.3(b) with a view to clarifying the effect of its provisions, taking into account information on the approach taken by a wide range of WTO Members, both developed and developing, and to promoting greater understanding, including of practical mechanisms, of how the TRIPS Agreement and the Convention on Biological Diversity can be implemented so as to enhance a mutually supportive relationship between the two instruments;
- examine, in the context of the review of the implementation of the Agreement under Article 71.1 and in cooperation with other relevant intergovernmental organizations, the scope for protection covering intellectual property issues relating to traditional knowledge and folklore under the TRIPS Agreement and other currently available legal means and practices, both national and international, and make recommendations, where appropriate, [with a view to developing multilateral norms for incorporation in the TRIPS Agreement] [for future options to enhance this protection];

or

- follow the work of WIPO on issues relating to traditional knowledge and folklore;
- in undertaking the review of the implementation of the Agreement provided for in its Article 71.1, examine, on the basis of proposals by Members, ways of enhancing the extent to which the Agreement responds fully to its objectives and principles contained in its Preamble and its Articles 7 and 8 as well as to new international legal and technological developments and practices.]

OR

[The Council for TRIPS shall:

- complete the existing schedule of mandated reviews and negotiations under the TRIPS built-in agenda, primarily with the aim of ensuring the effective and timely implementation of the Agreement, including the negotiations on the establishment of a multilateral system of notification and registration of geographical indications provided for in Article 23.4 as well as the review of the implementation of the Agreement provided for in Article 71;
- consider in due course, once sufficient experience is gained through implementation of existing obligations by all Members, whether modifications to the Agreement are warranted, including in the light of any relevant new developments pursuant to Article 71, it being understood that in any future negotiations no consideration will be given to lowering existing TRIPS standards.]

52. [The Council for TRIPS shall report on the above work and make recommendations as appropriate to the Fourth Session.]

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[Market Access Negotiations [on Non-Agricultural Products][for Goods]]

34. [Market access negotiations shall be comprehensive covering all [non-agricultural products][goods] with no a priori exclusions.]

35. [Negotiations shall aim at the broadest possible liberalization by [substantially] reducing [or eliminating] tariffs with the objective of [achieving a target amount for overall reduction of tariffs] [exceeding that achieved in the Uruguay Round, and] substantially improving access to markets.]

35*bis*. [Negotiations shall aim at increasing transparency and predictability through the expansion of tariff bindings [to cover all products] and shall address, as appropriate, other issues such as: [tariff peaks;] [tariff escalation;] [discriminatory tariffs;] [specific duties;] [low/nuisance duties;] [harmonization of tariff structures;] [simplification of tariff structures;] [initial negotiating rights].]

36. [Negotiations shall aim at the reduction or elimination of non-tariff measures that restrict or distort trade and undermine the effectiveness and benefits of negotiated market access liberalization. [In this connection, the negotiations shall take into account any rules-related issues that affect market access.] [Specific non-tariff measures may be taken up on a case-by-case basis.]]

37. [Modalities for the conduct of these negotiations shall be developed [by...]. These modalities [shall be a common negotiating approach supplemented by other approaches][shall encompass a combination of methods] [such as [request/offer], [formula] [and modalities which allow for the possibility of deeper reductions or tariff elimination for specific products or product groupings by interested participants][such as the Accelerated Tariff Liberalization Initiative]]. [Bound rates [and, where there are no bound rates, the applied rates in effect on ...] shall be used as a basis for the tariff negotiations.]]

38. [A methodology to grant credit for [bound] autonomous liberalization measures [undertaken by developing country Members] shall be developed.]

39. [The negotiations shall aim at securing mutually beneficial results. Special and differential treatment as provided for in Part IV of the GATT 1994 shall be taken fully into account in the negotiations [allowing for flexibility in the concessions requested from developing country Members] and in the implementation of the results. Concessions made by these Members shall be commensurate with their level of development, and special consideration shall be given to their requests concerning products of interest to them with a view to substantially improving market access for these products. In particular, special provision shall be made for the granting of improved market access through a variety of means for products of interest to least developed country Members.]

39*bis*. [The negotiations and their results shall fully take into account the multifunctional role of non-agricultural activities.]

39*ter*. [A Negotiating Group on Forestry and Fishery products shall be established independently from other non-agricultural products with a view to examining all relevant factors in a comprehensive manner taking into account the unique nature of these products' legitimate policy objectives such as environmental protection and sustainable utilization and proper management of renewable but exhaustible natural resources.]

[WTO Rules]

40. [The WTO Rules identified below shall also be the subject of negotiations:

- **[Anti-dumping:** the rules shall be reviewed, and where necessary amended, on the basis of proposals by participants, with a view to strengthening and clarifying the disciplines and facilitating their proper implementation, and to ensuring that they operate so as to support trade liberalization and economic development.]
- **[Subsidies and countervailing measures:** the rules shall be reviewed, and where necessary amended, on the basis of proposals by participants, taking into account, inter alia, the important role that subsidies may play in the economic development of developing countries, and the effects of subsidization on trade.
Ministers recognize the trade distorting and other adverse effects to the interests of Members arising from certain subsidies that promote overexploitation of living marine resources and that the SCM Agreement may not adequately address such subsidies. In this regard, Ministers agree to establish a programme of work including negotiations in the area of fisheries subsidies. This work shall be carried out [within the Committee on Subsidies and Countervailing Measures] in cooperation with the FAO [and drawing also on relevant work under way within other intergovernmental bodies]. The work programme shall consist of (1) the identification and examination of subsidies which contribute to over-capacity in fisheries and over-fishing, or have other trade distorting effects, and (2) the clarification and strengthening, as appropriate, of disciplines under the SCM Agreement with respect to such subsidies. The work shall take into account the importance of the fisheries sector to the interests of the developing and least developed countries. The work shall also take into account artisanal fisheries. The work programme shall be completed as part of a single undertaking and no later than at the end of the multilateral negotiations.]
- **[Technical barriers to trade: (See also paragraph 53)**
the existing rules shall be reviewed, with a view to clarifying, improving and strengthening, as appropriate, the provisions of the TBT Agreement including in areas such as international standards, conformity assessment procedures, technical assistance and special and differential treatment. Concerns, such as health, consumer safety and environmental issues, shall, in accordance with Article 2.2 of the Agreement, be addressed in a manner that maintains the balance between the right to take action fulfilling such legitimate objectives and the obligation to ensure that such action is not more trade restrictive than necessary to fulfil those objectives, taking account of the risks non-fulfilment would create. Consideration shall be given to establishing guidelines on labelling.]
- **[State trading:** participants shall examine whether Article XVII of GATT 1994 and the Understanding on its interpretation require further elaboration.]
- **[Regional trade agreements:** participants shall clarify, and reinforce where appropriate, WTO rules and procedures regarding regional trade agreements with the aim of ensuring the compatibility of such agreements with the multilateral trading system and providing greater certainty in the relevant legal framework. In so doing, participants shall also take into account the developmental objectives in regional trade agreements among developing countries, as well as between developed and developing countries.]
- **[Trade-Related Investment Measures: (See also paragraph 54)**
participants shall review the Agreement on Trade-Related Investment Measures on the basis of proposals by participants and, as appropriate, negotiate amendments to its

text [taking fully into account in both cases the multifunctional character of investment]. Particular attention shall be given to issues that have been raised by developing and least-developed country participants concerning their experience with the implementation of this Agreement.]

- [Any other WTO Rules which Members agree to include within the scope of the negotiations.]

[Agreement on Technical Barriers to Trade]

(See also paragraph 40)

53. [Recognizing the opportunity which the upcoming Triennial Review of the Agreement provides, the existing rules shall be reviewed, with a view to clarifying, strengthening and amending, as appropriate, the provisions of the TBT Agreement including in areas such as international standards, conformity assessment procedures, technical assistance and special and different treatment.]

[Trade-Related Investment Measures]

(See also paragraph 40)

54. [Having regard to Article 9 of the Agreement on Trade-Related Investment Measures, Members shall complete by ... the review of the Agreement and, as appropriate, propose to the Ministerial Conference amendments to its text [which would provide for additional disciplines] [taking fully into account the multifunctional character of investment]. Attention shall be given to issues that have been raised by developing and least-developed country Members concerning their experience with the implementation of this Agreement [as well as concerns relating to some Members' failure to abide by the requirements of Article 5 of the Agreement].]

17 November 1999

[Investment] [Relationship between Trade and Investment]

(See also paragraph 56)

41. [Taking into account the work already undertaken in the WTO Working Group on the Relationship between Trade and Investment, negotiations shall aim to establish a multilateral framework of rules on foreign direct investment, to further the aims of the WTO and to complement its rules, with the objectives of enhancing the contribution of international trade and investment as instruments of economic growth and development, and helping create a stable and predictable climate for the treatment of foreign direct investment world-wide. The framework should:

- (a) be based on WTO principles of non-discrimination, while accepting the right of host governments to regulate investors' activity in their respective territories;
- (b) ensure transparency, stability and predictability of domestic investment regimes and the dissemination of information in this respect;
- (c) address as an integral part of the framework the special needs of developing and least-developed country participants, recognizing the need to enhance the contribution of foreign direct investment to their development and economic growth;
- (d) provide for negotiated, positive commitments by participants regarding access to investment opportunities in their territories through a progressive approach;
- (e) address investment-distorting and trade-distorting policies and practices, both with respect to the conduct of investors and of host states, while respecting the ability of host governments to pursue their development objectives;
- (f) take account of, and ensure consistency with, relevant WTO provisions related to investment; and
- (g) provide for the applicability of the WTO dispute settlement mechanism to resolve disputes between governments. The framework shall not provide for international means for the settlement of disputes between investors and governments.

Consideration shall be given to the possible need for provisions on the protection of investment and investors' responsibilities *vis-à-vis* the host country. Negotiations shall clarify the relationship between the envisaged rules and other relevant international rules and agreements on investment.]

41*bis*. [Prior to the substantive negotiating phase, an intensive educative and analytical process of up to two years will be undertaken, in order to enable all participants to be adequately prepared for negotiations and to have assessed the possible outcomes and implications.]

[Investment]

(See also paragraphs 41 and 41 bis)

56. [The Working Group on the Relationship between Trade and Investment should continue its work to study the relevant issues. This can include studying the implications of the proposals that have been submitted on this subject. Further work should particularly focus on the issues of interest to developing countries, including the obligations of foreign investors to the host countries, and the obligations of home countries of the investors in respect of the disciplines on the investors. The Working Group should study in depth the effects of foreign direct investment, positive and negative, on the development objectives of host countries.]

OR

[The Working Group on the Relationship between Trade and Investment shall pursue its present mandate, building on the work undertaken to date. Further work should focus on (i) the

effects of foreign direct investment, positive and negative, on the development objectives of host countries; (ii) possible disciplines with respect to host countries' obligation to provide a stable, secure investment climate, transparent regulatory conditions, and non-discriminatory treatment of foreign investors, including the freedom from investment-distorting and trade-distorting performance requirements; and (iii) the relationship between disciplines on a host country's treatment of foreign investment and the need to regulate for public purposes, including health, safety and the environment.]

OR

[Taking note of the work already undertaken in the WTO Working Group on the Relationship between Trade and Investment and recognising its importance in enhancing Members' understanding of this relationship and its impact on development and economic growth and the possible need for multilateral rules in this area, the tenure of the Working Group is extended until the Fourth Session of the Ministerial Conference. It is agreed that the new mandate of the Working Group will focus on: (a) issues that would assist Members in coming to a decision on whether to launch negotiations on a multilateral framework on investment in the WTO; and (b) the likely nature of such a framework and its relationship with and impact on existing WTO provisions. Issues that could be the focus of this renewed mandate, *inter alia*, include: (a) the definition and scope of investment for the purposes of such a framework; (b) the relevance of the existing WTO principles of non-discrimination and transparency to such a framework; (c) the scope and applicability of WTO dispute settlement procedures; (d) the relationship and impact of such a framework on existing WTO provisions; (e) the rights and obligations of investors; and (f) concepts allowing for policy flexibility in the interest of promoting growth and development. The Working Group shall report on its work and make recommendations to the Fourth Session so as to enable Members to take a decision on whether to launch negotiations in this area at the Fourth Session.]

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[Competition Policy]

(See also paragraph 57)

42. [Negotiations in this area shall aim to enhance the contribution of competition law and policy to international trade and development, including by strengthening the capacity of all participants to address anti-competitive business practices distorting or impeding international trade and investment, and in order better to ensure that the benefits of trade and investment liberalization are realized and shared by all citizens. To this end, a multilateral framework shall be developed that would enable the following to be addressed:

- (a) core principles of competition law and policy, building in particular on the WTO principles of transparency and non-discrimination;
- (b) the development of common approaches to anti-competitive practices, while respecting the diversity of national laws and situations;
- (c) appropriate modalities and support mechanisms, including sufficient resources, for case-specific, technical and other forms of cooperation among WTO Members, including the exchange of information between relevant authorities;
- (d) the particular needs and situations of developing-country participants, including by providing for special and differential treatment.

The framework to be developed shall not provide for the WTO dispute settlement system to be used to review national decisions in individual competition cases. [Provision shall also be made for an examination and possible reform of existing WTO rules from a competition policy perspective.]

43. [[Prior to the substantive negotiating phase, an intensive educative and analytical process of up to two years will be undertaken, in order to enable all participants to be adequately prepared for negotiations and to have assessed the possible outcomes and implications.] In order to facilitate the full participation of developing and least-developed country participants in these negotiations, adequate resources shall be made available for technical cooperation and capacity-building, not only in regard to the establishment and reinforcement of competition policies, laws and institutions but also in regard to issues under negotiation, including through the organization of regional seminars. In this connection, the WTO Secretariat will seek the cooperation of UNCTAD, the World Bank and other relevant intergovernmental organizations.]

[Interaction between Trade and Competition Policy]

(See also paragraphs 42 and 43)

57. [The Working Group on the Interaction between Trade and Competition Policy shall pursue its present mandate building on the work undertaken to date [and shall present its findings and recommendations on a possible multilateral framework to the Fourth Session]. [The work should focus on the implications for developing countries of the proposals submitted on this subject, in particular in regard to actions to combat anti-competitive practices of firms and to the need for monitoring and reviewing mergers and take-overs which have an impact on international competition. Provision shall also be made for a review of existing WTO rules from a competition policy perspective. Adequate technical cooperation, in cooperation, where appropriate, with other intergovernmental organizations, will be made available to facilitate the above work.]]

17 November 1999

[[Transparency in] Government Procurement]

(See also paragraphs 44bis, 58 and 76)

44. [Building on the significant progress that has been made by the Working Group on Transparency in Government Procurement, negotiations shall take place to conclude an Agreement on Transparency in Government Procurement of goods and services [by 31 July 2000] [by 31 December 2000] [by the Fourth Session of the Ministerial Conference]. [The Agreement shall be based on the principle of non-discrimination and shall include the following elements:

- definition and scope of government procurement;
- procurement methods;
- publication of information on national legislation and procedures;
- information on procurement opportunities, tendering and qualification procedures;
- time-periods;
- transparency of decisions on qualification;
- transparency of decisions on contract awards;
- domestic review procedures;
- other matters related to transparency;
- information to be provided to other governments (notification);
- WTO dispute settlement procedures;
- technical cooperation and special and differential treatment for developing countries.]]

44bis. [[In parallel] [Following conclusion of an Agreement on Transparency in Government Procurement], [negotiations [shall] [may] take place to develop] [work shall be undertaken on information exchange and analysis to prepare for a mandate for the development of] further multilateral rules for government procurement of goods and services. Negotiations shall address the special situation of developing countries and due flexibility shall be accorded to them.]

[Transparency in Government Procurement]

(See also paragraphs 44, 44bis and 76)

58. [The Working Group on Transparency in Government Procurement shall continue its work under the mandate established at the First Session of the Ministerial Conference[, and make a final report, including elements for inclusion in an appropriate agreement, to the Fourth Session of the Ministerial Conference].]

[The Working Group on Transparency in Government Procurement should continue its work on identification of elements, particularly in respect of the implications for developing countries of the specific proposals placed by some Members. In the continued study process, particular emphasis should be on the problems relating to capacity of developing countries to implement such potential elements, as well as the implications for development.]

[Transparency in Government Procurement]

(See also paragraphs 44, 44bis and 58)

76. [We adopt the Agreement on Transparency in Government Procurement attached to this Declaration.]

17 November 1999

[Trade Facilitation]

(See also paragraph 59)

45. [Negotiations shall be directed to [establishing a framework of] [strengthening and further elaborating WTO] rules and disciplines on the procedures and formalities relating to importation, exportation and transit of goods, with the objective of alleviating administrative and procedural burdens on traders, so as to enable traders, particularly those that are small and medium-size and those from developing countries, to participate to a greater extent in international trade, while allowing governments to pursue legitimate policy objectives. Building upon WTO principles, the negotiations shall be aimed at maximizing transparency, expediting the release of goods and reducing, simplifying, and as appropriate, modernizing and harmonizing border-crossing requirements, procedures and formalities. In this context, the negotiations shall also consider specific measures to enhance the implementation of GATT 1994 Articles V, VIII and X, and, where appropriate, complement and expand the application of provisions in other relevant WTO agreements. The negotiations shall take into due account the relevant work of other international organizations with a view to avoiding unnecessary duplication and explore avenues for enhancing cooperation and coordination with those organizations.]

46 [In recognition of the capacity constraints that developing-country Members may face in implementing such WTO rules and disciplines, the negotiations shall also be directed to developing and implementing a programme of appropriate, concurrent and coordinated technical assistance and capacity-building activities. This programme shall be developed in parallel over the course of the negotiations, taking into account the administrative and institutional capacity constraints identified by developing countries, with the aim of ensuring all Members are able to implement the negotiated rules and disciplines.]

47. *Elements of the 19 October text in this paragraph have been incorporated in paragraph 45.*

48. *Elements of the 19 October text in this paragraph have been incorporated in paragraph 46.*

[Trade Facilitation]

(See also paragraphs 45-48)

59. [In continuation of the exploratory and analytical work on the simplification of trade procedures mandated in Singapore, the Council for Trade in Goods shall address all relevant issues connected with formalities for importation and exportation [and shall clarify and review relevant provisions in existing WTO agreements]. The work programme shall take into account the implementation capacities of developing countries and shall address the issue of technical assistance and capacity building. The work shall continue to draw upon the relevant work and expertise of other international organizations. [The CTG shall make a final report to Ministers at the next Session of the Ministerial Conference on its assessment on the scope for WTO rules and measures in this area.]]

17 November 1999

[Coherence]

61. [Recalling the Marrakesh Declaration on Improving the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy-Making, in particular the importance of respecting institutional mandates, confidentiality requirements, and necessary autonomy in decision-making procedures, and of avoiding the imposition on governments of cross-conditionality or additional conditions, we invite the Director-General to pursue further cooperation with the Bretton Woods institutions so that the different aspects of trade and finance, especially the difficulties facing developing countries, can be addressed [,in particular by:

- providing developing countries, and especially the least-developed among them, upon demand, with assistance in support of their trade policy formulation and their trade-related human and institutional capacity-building; and
- making trade, and participation in the trading system, more effective tools for poverty alleviation and economic development, through generating greater synergy between assistance provided to developing countries, upon demand, by the WTO for implementation of WTO Agreements on the one hand, and on the other assistance provided by the IMF and the World Bank to help developing countries, upon demand, build trade-related capacity].]

62. [Recalling the Marrakesh Declaration on Improving the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy-Making, we decide to establish a Working Group on Coherence in Global Economic Policy-making, under the authority of the General Council, to examine, on the basis of proposals by Members, matters of importance to the proper functioning of the trading system, and to developing countries, arising out of the relationship between trade, finance and development policies. We invite representatives of the IMF and the World Bank to participate in the Working Group.]

[Working Group on Trade and Finance]

Former paragraph 68

63. [We decide to establish a Working Group to examine the relationship between the multilateral trading system and current global financial and monetary systems. The Working Group shall, *inter alia*, examine whether any reforms are necessary to: (i) safeguard the multilateral trading system from external financial and monetary disruptions; (ii) provide certainty and predictability to the continuous expansion of trade; and (iii) ensure that Members genuinely benefit from further liberalization efforts.]

[Working Group on Trade and Debt]

Former paragraph 70

63bis. [We decide to establish a Working Group to examine the relationship between trade and the external debt of developing countries with a view to determining the appropriate contribution of the multilateral trading system to the resolution of debt problems.]

[Globalization Working Group]

Former paragraph 63

63ter. [We commit ourselves to promoting greater coherence in economic and related policies. Building on existing decisions and declarations, we agree to establish a Working Group to report to the Fourth Session of the Ministerial Conference on:

- (a) Options to enhance cooperation between the WTO and other international economic organizations with a view to promoting coherence in international trade, finance and development policies;
- (b) The relation between trade policies and other dimensions of good economic governance at the national level;
- (c) Options for enhancing the contribution of trade-related and other technical assistance to capacity-building in developing countries;
- (d) Ways to improve the efficacy of, and synergies between, the multilateral surveillance processes of various international economic institutions;
- (e) The relationships between appropriate trade, developmental, social and environmental policy choices in the context of the experiences of and challenges faced by all WTO Members in adjusting to globalization.]

17 November 1999

[Electronic Commerce]

(See also paragraphs 77-79)

64. [We reaffirm the growing importance of global electronic commerce and the need to avoid unnecessary trade barriers which would damage its potential to create new opportunities for trade and development for Members at all stages of development. We recognize the need to ensure that electronic commerce is conducted in conformity with WTO agreements, where applicable, and the need to promote developing countries' access to and use of the infrastructure needed for electronic commerce. We further affirm that the electronic supply of services falls within the scope of the GATS.

65. In the light of the above, we agree to extend the application of the declaration on global electronic commerce adopted on 20 May 1998. The work programme on electronic commerce and our current practice of not imposing customs duties on electronic transmissions will therefore be maintained until the Fourth Session, at which time we shall review this agreement.

66. We take note of the reports to the General Council on the work that has been carried out by the relevant WTO bodies under the work programme. [We invite the General Council and the other relevant bodies to resume their work on this matter under the work programme on electronic commerce and to report on further progress to our Fourth Session.] [We invite the General Council to resume its consideration of this matter by establishing a horizontal non-negotiating group to study trade-related issues arising from electronic commerce with a view to securing the full economic benefits of this technology. The group is requested to report on progress to our Fourth Session.] Work already done under the work programme and work undertaken in other intergovernmental organizations shall be taken into account.]

The following text has been proposed as an alternative for paragraphs 64-66:

[We recommend that the General Council complete the existing work programme on electronic commerce by producing a report synthesising the findings of the subsidiary bodies, with recommendations for further practical action being referred to relevant working and negotiating groups, for inclusion in their respective work programmes.]

[Electronic Commerce]

(See also paragraphs 64-66)

77. [We reaffirm the growing importance of global electronic commerce and its potential to create new opportunities for trade and development, and recognize the need to ensure that electronic commerce in all its forms is conducted in full conformity with all WTO principles and rules and commitments, including the GATT, GATS, and TRIPS. We affirm that the electronic supply of services falls within the scope of the GATS, including Members' specific commitments, unless otherwise specified therein; and highlight that service suppliers may use any protocol, including Internet protocols, in accessing and using public telecommunications transport networks and services to supply a service included in a Member's schedule of commitments. We further note the report of the General Council on the work that has been carried out by the relevant WTO bodies under the Work Programme on Electronic Commerce.

78. In the light of the above, we agree to extend the application of the declaration on global electronic commerce adopted on 20 May 1998, regarding the continuation of the current practice of not imposing customs duties on electronic transmissions, indefinitely, with a view to making this commitment permanent and binding at the earliest possible date and that Members should avoid imposing unnecessary measures that could inhibit the growth of electronic commerce.

79. We further declare that the General Council shall, by its next meeting in special session, re-establish a comprehensive Electronic Commerce work programme to continue the examination of other trade-related issues identified by Members – including an examination of digital products transmitted electronically and development issues – and shall take into account the work undertaken in other international fora. When reporting to our Fourth Session, the General Council will review the progress of the work programme, the extension of which will be decided by consensus.]

The following text has been proposed as an alternative for paragraphs 77-79:

[We declare that Members shall extend their current practice of not imposing customs duties on electronic transmissions for the duration of the multilateral negotiations.]

17 November 1999

Action in Favour of Least-Developed Countries

72. [In the context of proposals for a new and comprehensive plan of action for the full and effective integration of the least-developed countries into the multilateral trading system, we agree to:

- (a) the extension by [developed-country] Members of [bound], duty-free, quota-free market access for [all] products originating in least-developed countries. Developing-country Members shall, to the extent possible, also implement measures in line with this decision;
- (b) the full and effective implementation of the Integrated Framework for Trade-Related Technical Assistance (IF), including the provision of adequate financial resources. We instruct the WTO Secretariat to pursue all efforts to this end in cooperation with the other intergovernmental agencies, bilateral donors and beneficiary governments concerned. In this connection, we agree to:
 - examine the implementation of the IF for the least-developed countries and propose improvements to the programme;
 - improve coordination and cooperation amongst the core participating agencies in the IF;
 - assess the viability of a development partner programme for the least-developed countries to assist them in making full use of the IF;
 - improve cooperation among international intergovernmental organizations (IGOs) in the identification and delivery of technical assistance, with the objective of maximizing the number of participating IGOs, particularly those participating in the IF;
 - ensure that capacity-building assistance to address supply-side and/or regulatory and other infrastructure needs is appropriately addressed;

The General Council shall review progress and report to Ministers;

- (c) give positive consideration to the extension of transitional periods for least-developed countries to the extent that individual national requests identify steps to be taken for the implementation of specific WTO Agreements and for periods which take into account the availability of resources required to implement individual agreements;
- (d) convert the Sub-Committee on Least-Developed Countries into a new Committee on Least-Developed Countries. The new Committee shall have as its terms of reference the current terms of reference of the Sub-Committee on Least-Developed Countries, and make recommendations for the expansion of the terms of reference as appropriate to the General Council. The Committee shall report to the General Council;
- (e) [accelerate the accession process for the least-developed countries, bearing in mind that the pace of accession also depends on institutional capacity in the least-developed countries themselves. In the process of accession, LDCs should not [generally] be called upon to assume obligations or commitments that go beyond what is applicable to LDC Members. WTO Members would strive to complete current LDCs' accessions by the time of the next Session of the Ministerial Conference;]
- (f) establish a high-level coordinating mechanism within the WTO Secretariat to monitor regularly the implementation of the comprehensive new plan of action in cooperation with other agencies.]

17 November 1999

Technical Cooperation

73. [We instruct the WTO Secretariat, in close collaboration with other relevant international intergovernmental organizations, regional institutions and bilateral donors as appropriate, to reinforce technical cooperation to developing countries as well as transition-economy Members to enable them to fulfill their rights and obligations. This reinforced technical cooperation shall address the specific needs of recipient countries, particularly least-developed countries, [vulnerable and small developing economies,], highly indebted economies, and economies vulnerable to volatility of international financial flows. It shall aim at implementing existing WTO agreements and decisions as well as the integration of those economies into the multilateral trading system. We [endeavour] [undertake] to make available the necessary resources for these efforts, both directly and through programmes in cooperation with other international institutions.

74. Furthermore, we agree to undertake an evaluation of WTO technical cooperation not later than December 2000 taking into account the implementation of the Integrated Framework (IF). This would include, *inter alia*, proposals for General Council consideration with regard to:

- exploring ways to improve cooperation among bilateral donors, IGOs, and relevant regional IGOs;
- working to establish a comprehensive framework for the funding of technical assistance, based on an evaluation of priority requirements, current funding mechanisms (including expenditures) and other potential funding sources to ensure effective use of resources and ensure their sustainability over the long term including the Secretariat's ability to coordinate the IF with adequate human and other resources;
- improving the mechanism for review and evaluation of capacity building and technical assistance activities by the Committee on Trade and Development including regular follow-up by the General Council; and
- after an assessment of implementation of the IF and review by the Committee on Trade and Development, consider extending to other developing countries and economies in transition which so require, the concepts used in the IF.

75. [Taking into account the growing need for technical cooperation and the commitment we have made above, we decide that this activity shall be financed through the regular WTO budget. Voluntary extra-budgetary contributions shall be encouraged and may continue to be an important source of additional funding. We also welcome and strongly encourage further bilateral technical cooperation by Members as an important means to enhance capacity-building.]

75 *bis*. [We further agree that, to this end, the provision for the current annual estimated demand, i.e., CHF 10 million to be financed by [developed countries] [all Members with a review by the Committee on Trade and Development to ensure that technical cooperation is extended as widely as possible in a fair and equitable manner], shall be phased into the regular budget over a period of three years, starting from the 2000 WTO budget exercise. [The financing by all Members should have no impact on the level of voluntary extra-budgetary contributions by donor Members.]]