

Committee on Specific Commitments

REPORT OF THE MEETING HELD ON 11 MARCH 2002

Note by the Secretariat

1. The Committee on Specific Commitments held a meeting on 11 March 2002. The agenda for the meeting is contained in WTO/AIR/1733. No points were raised under other business.

A. CLASSIFICATION ISSUES

2. The Chairperson recalled that at the informal meeting on 28 February 2002 delegations had reiterated the importance attached to the technical deliberations under this agenda item. That discussion had reaffirmed the role the Committee had played, and might continue to play, in enhancing delegations' understanding of classification issues. It had also been recognized that deliberations on a particular issue in the CSC should be based on delegations' interests and initiatives, as the work in the Committee was a Member-driven exercise. She drew the Committee's attention to a new submission on the classification of legal services from the delegation of Australia, document S/CSC/W/32 of 11 March 2002.

3. In introducing the submission, the representative of Australia said that there was a strong interest in refining the W/120 classification of legal services to more clearly reflect the commercial realities of transnational trade in legal services. The W/120 had a single, undifferentiated entry for "legal services" listed under professional services, a subsector of business services. Adding subcategories based on the area of law and the type of service better reflected commercial reality. Four main areas of law had been recognized, i.e. home-country, third-country, international, and host-country law. Additionally, two types of services could be provided, namely, advisory services (consultancy) or representational services (representation before courts) in each of the identified areas of law. Her delegation proposed that each of those areas of law be classified to accommodate the two types of services mentioned, providing flexibility to commit on advisory and/or representational services for each area of law. Additionally, foreign legal practitioners provided other services, i.e. international commercial arbitration services, other alternative dispute resolution services, preparation and certification of legal documents and other legal advisory or consultancy services. Those categories should also be included. The enhanced flexibility that the proposed refinements would bring to W/120 should give Members the capacity to increase the number and quality of commitments in legal services without compromising the protection of domestic consumers or the quality of legal services and safeguarding the rule of law.

4. The representative of Argentina, speaking on behalf of MERCOSUR and Bolivia, recalled a proposal concerning Postal Services (document S/CSS/W/108), presented to the Council for Trade in Services in Special Session (CTS/SS), which contained classification issues. Bearing in mind that the guidelines for the negotiations, as contained in document S/L/93, stated in paragraph 16 that "Existing subsidiary bodies shall be utilised to their maximum capacity", the delegations of MERCOSUR and Bolivia presented the classification elements of the said proposal for consideration by the Committee. This was without prejudice to the possibility of presenting a written communication in the CSC. The current classification of Postal (CPC 7511) and Courier (CPC 7512) Services in W/120 as separate

categories was inadequate, given the lack of any difference in the way in which both postal service operators and "courier" firms provided postal services. Thus, MERCOSUR and Bolivia proposed the integration of "courier" services (CPC 7512) into "postal" services (CPC 7511), as set out in subsectors 2.A and 2.B of Communication Services in the Services Sectoral Classification List (MTN.GNS/W/120), under the single heading of Postal Services.

5. The representative of the European Communities welcomed the proposals made. She observed that a lot of work had been done on classification issues and progress had been made in trying to understand the various sectors concerned. It was clear that Members generally were not seeking to do an overhaul of W/120. However, there were certain sectors where some work seemed necessary, for instance, environmental and energy services, where very little had been done in the Uruguay Round. The EC looked forward to continue to work on all classification proposals; those that had not yet been raised in the CSC, but in the Council, could usefully be dealt with in the Committee to cover technical aspects. A first phase could focus on pure classification work of identifying elements where Members could usefully record commitments. There could be an additional phase that would involve a link to incorporation of new commitments because clearly the commitments that Members might have taken in individual sectors would need an examination to see how the new classification would fit and to ensure that everything was still included. The EC was looking forward to moving ahead and see whether it was feasible to have an agreement or general understanding that the proposals did cover the nature of the different services.

6. Regarding classification, the representative of Mexico believed that W/120 was still the reference framework for such work. Any agreement on further categories would need to be compatible with the idea of integrating them in a single classification in W/120.

7. The representative of Brazil said that his delegation remained open to discussing classification issues in the Committee. The outcome of such discussions remained to be clarified, not least as to their ultimate objective. He reiterated that in the absence of a common understanding or a minimum common denominator in the sectors that had been put up for discussion, delegations could submit their requests and offers according to any classification they wanted, i.e. define sectors as they deemed appropriate. He had reservations on ideas that had been expressed in informal consultations that at the end of the process of bilateral negotiations some sort of harmonization could be conducted. The whole process should work the other way around.

8. The Chairperson welcomed the new proposals on classification. It was important to address classification issues to attempt to reach a common understanding of problems and solutions as delegations approached the request and offer phase. A number of proposals before the CTS/SS contained important elements of classification that could be usefully tackled in the CSC from a technical point of view. Further the link between classification and incorporation of new commitments needs to be borne in mind. She proposed, and it was agreed, that the Committee would take note of the statements made and revert to this item at the following meeting.

B. MATTERS RELATING TO THE SCHEDULING OF COMMITMENTS

9. The Chairperson said that this agenda item had been introduced as the result of the deliberations in the previous two meetings. It was intended to provide flexibility to address any issue related to scheduling of commitments. A number of interesting suggestions had been made on topics that the CSC could take up at that stage. Of these, the Committee had decided to consider the question of how to incorporate new commitments into Members' schedules and look at the approaches to scheduling additional commitments under Article XVIII of the GATS. As suggested in the agenda for the meeting, the two topics would be taken up separately.

1. Incorporation of new commitments into Members' schedules

10. The Chairperson recalled that this issue was initially raised at the Council for Trade in Services in Special Session of 14-15 July 2000. In that context, a note explaining how successive schedules of concessions had been incorporated in the GATT was requested from the Secretariat and circulated as Job. 7436 of 21 November 2000. The note had been briefly discussed and the issue set aside by the Council in March 2001. From that brief discussion two possible alternatives seemed to have emerged: a) to have further addenda or supplements to existing schedules or b) to submit new schedules consolidating existing commitments, their improvements, and new commitments resulting from the current negotiations.

11. The representative of Canada considered this issue to be a very important one, in relation to both maintaining legal certainty of commitments and increasing the participation of all Members in the current negotiations. Being aware of the increasing workload as well as the complexity of negotiations, Canada supported consideration and resolution of this issue in the next year in order for all Members to better understand the commitments to be exchanged. The current schedules of commitments would always remain legal documents that delegations and panels could refer back to, ensuring that no commitment would be undermined as a result of the present negotiations. Her delegation wondered whether all Members would agree with that principle. A consolidated approach to the schedules should be seriously considered by all delegations. That would mean that Uruguay Round commitments, those contained in supplements resulting from the extended negotiations after the Uruguay Round, and the commitments resulting from the present process would be in a single document at the end of the current round of negotiations. If a consolidated approach was not favoured, Canada would need to work with up to eight schedules. A consolidated approach would be helpful in ensuring increased participation by all Members in the negotiations, since it would help make clear what offers were being made on top of the current commitments. At the end of the negotiation there was a labour-intensive certification process where the membership looked at all the draft commitments that had been negotiated bilaterally to be multilateralized. This was bound to be a very complex process given the number of WTO members. Starting this exercise at the present stage, towards the beginning of the negotiations, would help reduce the workload during the process of verification of commitments at the end of the negotiation. It might be helpful if the membership could agree on an approach by March 2003, when the offers were to be tabled, so that an informal clarification process of the consolidated schedules and proposed commitments could start in advance of the completion of the negotiations.

12. The representative of Turkey also supported submitting new schedules consolidating all existing commitments, their improvements, and new commitments resulting from the current negotiations. She wondered how the existing procedures for certification of rectifications or improvements to schedules (S/L/84) related to the procedure for the incorporation of new commitments in Members' schedules, and requested clarification from the Secretariat.

13. The representative of Switzerland, in a preliminary manner, also favoured a single schedule consolidating results of the Uruguay Round and the current negotiations. This was far more convenient for delegations and any other interested parties.

14. The representative of Mexico said that his delegation was flexible as to the approach to be adopted, keeping in mind the need to be pragmatic. There were timetables that should be considered and inform the debate. Once the bilateral and multilateral negotiations were concluded, it would be necessary to consolidate the results in a single document. That work should be initiated once the negotiations would be concluded. A precedent could be found in the GATT process, where a consolidation of concessions and conversion to a single classification was done over a long period of time. It could not be expected that the same be done more rapidly in the services context. A discussion regarding the legal status should be conducted to maintain the unity of results in the

negotiations. The consolidation mentioned by Canada was absolutely necessary and Mexico favoured, like Canada, a pragmatic approach.

15. The representative of Uruguay felt that rather than waiting until March 2003, given the need to present initial offers by that date, it would seem more appropriate to solve this issue this year. At the present stage of the process, there would be more time to discuss. As a matter of fact, delegations would need at least three months to prepare offers for which they need to know first the format they should follow, that was, either a schedule with new commitments only or a schedule including existing commitments and the new ones offered. In the hypothetical case that Members decided to consolidate schedules, he wondered about the legal status of the previous schedules, those from the Uruguay Round and extended negotiations. Assuming that there was a consolidated schedule for each Member, which would be valid from its entry into force, what would happen if a difficulty arose concerning a commitment that might go back to 1996 or 1997? What would be the legal status of the previous schedule, which was in force at that time? Would its content be taken into account in resolving the difficulty or would the new schedule prevail? Even though the consolidated schedules would be verified to ensure the preservation of existing commitments, some changes might be overlooked. Would the old schedule have validity for the period in which it was actually in force? He requested clarification from the Secretariat on that point.

16. The representative of the European Communities noted that this issue was of great importance as Members would be preparing requests in less than twelve months. The legal implications needed to be considered. Whatever a Member had already committed would remain committed, that was clear to all. Inadvertent lapses or difficulties in the process should not affect the legal validity of pre-existing commitments. However, having multiple valid documents was not the best solution either. Her delegation tended to prefer a single schedule, as it was easier to read for governments and the private sector alike. The sooner a solution was found the better.

17. The representative of Brazil said that the issues of incorporating new commitments and defining the relationship between old and new schedules could, in principle, be taken up regardless of the question of classification. They would not need to depend on progress being made on classification issues *per se*. He concurred with others as to the need to try to work on the basis of a single consolidated schedule from the very beginning of the process. The delegation of Canada had indicated a number of good reasons. In addition, a single schedule for each Member would not only facilitate market access negotiations *per se*, but make it easier for delegations to compare the level of progress that was being achieved overall in the services negotiations. Consolidating all commitments from the start was easier and preferable as it would allow to initiate and advance the verification exercise that had to take place anyway. Considering the number of sectors to deal with, it would seem unlikely that a proper verification could take place at the end of the process. By working on the basis of single schedules, delegations would from the start be dealing with that problem. Moreover, at the end of the process each Member would have a single instrument to ratify instead of a number of schedules. This could greatly facilitate the domestic process. As stated by Canada, it was also important for businesses to have a more understandable instrument.

18. The representative of Poland said that this issue was crucial in the negotiating process. Members should submit a single schedule consolidating existing commitments and the new ones resulting from the current negotiations.

19. The representative of Australia felt that the previous speakers had presented very convincing arguments for the consolidated approach. She concurred with those that would like to decide on the approach long before Members started preparing their initial offers so that they could use the format agreed upon. There seemed to be an emerging consensus on the consolidated approach. Perhaps the Committee could aim at a decision at the next formal meeting to allow enough time for working out the procedural details.

20. The representative of Hungary favoured a single schedule, even if that meant more work, as it would make it easier for Members and industry to understand the commitments under the GATS. The legal questions should be discussed. He also felt that the issue should be sorted out well before the tabling of initial offers.

21. The representative of Indonesia supported the idea of having a single consolidated schedule and felt that the question raised by Uruguay on the legal status of previous schedules should be clarified. Another point to bear in mind was the historical perspective of previous negotiations, as the drafting history was important in interpreting the meaning of a commitment. The need to avoid confusion in the domestic ratification process in Parliaments was also a concern. Delegations should distinguish between information and publication needs and legal considerations. It was up to Members to set up a mechanism to make schedules more understandable.

22. The representative of Hong Kong, China agreed that a consolidated schedule was easier to read and more transparent to traders and governments. To facilitate the formulation of offers, an early decision would be desirable. As to the actual discussion of how to prepare the consolidation of commitments, the overall objective should be to incorporate new commitments without undermining the legal certainty of existing ones, while ensuring the clarity of the schedules. To that end, delegations should consider a mechanism to help Members to compare consolidated with existing schedules. One idea would be that from the start of the process a draft consolidated schedule, comprising old and new commitments, be presented by each Member together with a supplementary list indicating the differences with the existing schedule. That list would indicate the new commitments on top of existing ones and any technical modifications intended. Such a step should not add too much of a burden, as such a list of new commitments would have to be prepared in the course of the negotiations to summarize offers. The supplementary list would assist Members in verifying in a more systematic manner the accuracy of the draft consolidated schedule and ensuring that existing commitments would not be undermined in the process of consolidation.

23. The representative of India said that his delegation did not have a position at that stage. He felt that some technical and legal points had to be clarified. One related to the fact that the Uruguay Round commitments had been made on the basis of previous scheduling guidelines (MTN.GNS/W/164 and Add.1) while new commitments would be based on the new scheduling guidelines (S/L/92 of March 2001). The comparability of the old and new schedules needed to be properly understood when examining the options. As to the idea of replacing the old schedules with new ones, as had been done for the extended services negotiations, he noted that the Uruguay Round schedules and those from the extended negotiations had been based on the same set of guidelines. Delegations needed to understand how to compare the old schedules and the new one. An explanations of available options would help to decide on the best solution.

24. The representative of Barbados also supported the consolidation of all commitments in a single schedule, which was more useful for governments and the business community. Like others, she favoured a prompt decision on this matter. The representatives of Colombia and Argentina concurred. As suggested by Australia, a decision to consolidate could be taken at the next meeting so that the technical aspects could be addressed. The representative of Argentina noted that some relevant technical aspects had already been mentioned. They included the relationship between old and new schedules; how to prepare the consolidated schedules, including whether the Secretariat could assist in that process; the comparability of old and new commitments; whether technical changes to existing commitments consistent with the new guidelines could be introduced and how these could be distinguished from new commitments; and how to deal with any changes in the classification, that might be agreed.

25. The representative of Korea felt that the matter could be better discussed once classification issues were more advanced. However, his delegation was flexible on the timing of the discussion and

would support a decision before March 2003. In deciding the options, delegations should focus on comparability and user-friendliness of schedules.

26. The representative of Japan said that his delegation was still examining the issue and remained open. The matter should be discussed immediately to assess the benefit and drawbacks of both approaches. The use of addenda might provide negotiators with a clearer sense of progress or lack of it; on the other hand, a consolidated approach after the current negotiation was more user-friendly.

27. The representative of the United States acknowledged the merits of a single consolidated schedule, but his delegation needed more time to develop its position on that matter. A decision by May might be too ambitious. In his view, not very convincing arguments had been put forward in favour of an early decision. Confusion might arise if delegations were to submit initial offers on the basis of a single consolidated schedule without identifying where particular changes and improvements had been made in that offer over the existing schedule. In any case, his delegation preferred an approach that would allow Members to identify where changes were being made. A simple consolidated schedule as an initial offer would not be informative unless delegations identified changes over the Uruguay Round schedules. He invited more views on why it would be desirable to decide on this point as quickly as possible.

28. The representative of Brazil stressed the need to be pragmatic and realistic. The GATS and the schedules were already confusing enough and delegations should aim to avoid any unnecessary complications. It had been suggested to work on the basis of supplements or addenda, indicating changes, which at the end of the process should be merged to a single schedule. His delegation envisioned a simple approach from day-one. Work should proceed on the basis of existing commitments compiled in a single schedule, where the initial offer of each Member would be added on in a transparent manner. For instance, where a Member had received requests to abolish an "economic needs test" and was prepared to accede, that Member would most probably put a strike-out on the test and add in bold letters "none". That would clearly show the improvement introduced to existing commitments, which would be part of its offer. Most Members had a number of schedules, namely, the original one and subsequent supplements that replaced or added to previous schedules. In light of that, there might be merits in merging or consolidating existing documents before making the initial offer, to facilitate comparison. The idea was to make the negotiating process more manageable. It was unrealistic to expect that all delegations, particularly the smaller ones, would have large teams handling different sectors. Brazil did not, for example, have the necessary human resources to handle fragmented schedules being negotiated simultaneously.

29. The representative of Australia supported the suggestions by Argentina and Brazil on how to indicate changes in a consolidated schedule, which seemed the most transparent way to proceed in the submission of initial offers. Multiple schedules or addenda would be a much more difficult to handle, than a simple consolidated schedule with strike-outs and bolds indicating changes. She had not heard any compelling argument to the contrary and failed to see why it should be difficult to come to a decision by June.

30. The representative of the European Communities shared the views expressed by Argentina, Brazil and Australia. In addition to "strike-out" and "bold", it was possible to use "italics" to explain technical changes within the body of the text and avoid recourse to other documents. Elements that were new in the scheduling guidelines could be taken into account. For instance, a delegation could indicate in Article XX:2 cases, whether a restriction applied to both market access and national treatment, and state that such indication was in line with the new recommendations in the scheduling guidelines. If, for instance, a change in classification was agreed that involved moving an existing commitment from one area to another area of the schedule, that could also be indicated in both locations. If terminology was being harmonized, again an explanation could be given. The more

information could be provided in one single document, the better. Brazil had suggested the possibility of merging existing elements of schedules before the offer process. In one sense that seemed useful, but could take time to prepare. It might be just as simple to move on to the new offers.

31. The representative of the United States said that very good arguments for creating a consolidated single schedule at the very end of the negotiations had been put forward. However, that had not been the case for reaching a decision prior to the submission of initial offers. In looking at this question, it was important to keep in mind the desired final outcome and the techniques used to aid the negotiating process. He said the US might not have developed a definitive position on the issue by June. Regarding the application of the new scheduling guidelines, he would not anticipate that they would seriously complicate the comparison of new with old commitments, but perhaps this was a question that needed to be examined as well.

32. The representative of Uruguay noted that it was premature to focus on details of a possible approach. In order to organize the debate, he suggested to keep this item on the agenda of the Committee and work towards a solution as soon as possible. A note could be requested from the Secretariat, exploring the options already mentioned, identifying the issues to be considered in the services context, and attempting to respond to some of the questions raised in today's discussion.

33. The Chairperson observed that there seemed to be two elements in the discussion, which should be considered separately: first, the envisaged final outcome and, second, the appropriate process.

34. The representative of Canada recalled that Members and the Secretariat had worked very hard to create the electronic versions of the schedules, which were already consolidated. He wondered to what extent that work could be used as a tool to help Members to move forward in the current process.

35. In addressing the question posed concerning the relationship between S/L/84 and the incorporation of new commitments into Members schedules, a representative of the Secretariat said that normally there would be no such relationship. He explained that normally at the end of the negotiations a protocol to the GATS would be established to which all new schedules would be annexed.¹ That would obviate the need for any certification procedure (S/L/84), which would normally take place in individual cases only. As to the relationship between old schedules and new ones, it was necessary that Members decided how to integrate the new commitments into their schedules; such a decision could be made at the end of the negotiations but preferably prior to that. The relationship between old and new schedules was entirely up to Members to define, as there was no legal requirement that mandated a particular relationship. In previous cases, for instance, in financial services and basic telecommunications, different approaches were followed. In the case of financial services, Members had decided and stated in the first paragraph of the relevant protocols that the new schedules of commitments and MFN exemptions lists annexed to the protocol on financial services would "replace" the sections on financial services of pre-existing schedules and MFN exemption lists. That meant that the old sections on financial services of those schedules would cease to exist, as they were replaced by the new financial services sections. Those Members that had not annexed any commitments to the financial services protocols would continue to be bound by their old schedules. In the case of basic telecommunications, however, Members had taken a slightly different approach. The first paragraph of the Fourth Protocol stated that the new schedules and MFN exemptions lists annexed to that protocol would "either supplement or modify" pre-existing commitments on telecommunications. Whether the new ones supplemented or modified the old ones depended on the terms specified in each of the schedules and lists annexed to the protocol.

¹ With the entry into force of the Protocol annexed schedules would become integral parts of the GATS.

36. In the case of the present round of negotiations, Members would need to agree on how to proceed. If Members wished to have new consolidated schedules that would replace the old ones, with the implication that the latter would cease to exist legally, or any other arrangement, that would have to be stated clearly in the final Protocol. One might caution with respect to future problems of interpretation in the case of a process of accretion of schedules, where old commitments were subject to modification. Such difficulty had been foreseen in the area of goods at the end of the Uruguay Round. For example, in the Marrakesh Protocol, under the GATT 1994, paragraph 7 provided for specific situations where a schedule annexed to it had tariff concessions that provided less favourable treatment than what had existed before. For the specific countries indicated therein, it provided that those countries would be deemed to have taken action under Article XXVIII of GATT, which is equivalent to GATS Article XXI. In other words, the future protocol could provide for any scenarios that Members would wish to address as long as they agree on it.

37. At that stage, he added, the focus should be first on defining how Members wanted to proceed. An advantage of having an early decision would be on the technical side of verifying the changes that would be made as the negotiations proceed. Starting early on with the submission of offers would allow the process of bilateral negotiations to provide continuing occasions for technical clarification. Normally, at the end of the negotiations, there would be a technical verification exercise, involving a meeting of the Council in formal mode for a few days. At that meeting, each schedule would be taken up to provide an opportunity for any Member who wished to comment on the technical aspects of the schedule. That would be done after the conclusion of the substantive negotiations. The representative of Canada had mentioned the consolidated electronic version of schedules, which were created for the establishment of a database of services commitments and concluded at the end of 2000. In that process, the original schedule and supplements of each Member had been consolidated by the Secretariat and verified by individual delegations. Thus, Members' consolidated schedules, which had no legal value, existed in a format suitable for the database. For more information on the latter point see S/CSC/W/22. Those consolidated schedules, although not yet in WORD format, could be used as a starting-point. Those were only technical tools that could be used but would not obviate the need for a decision by Members on the relationship between old and new schedules to avoid problems of interpretation in the future.

38. The representative of Venezuela said that it was clear that such a decision had to be taken by Members. She supported the proposal made by Uruguay. It was extremely important to ensure that the process would not be burdensome but pragmatic and user-friendly. Should the process be too complicated, delegations might tend to go for the first option, i.e. further addenda to existing schedules, which did not seem to be the preferred choice. Depending on the approach adopted, delegations might need technical assistance from the Secretariat throughout the whole process of preparing the schedules.

39. The Chairperson observed that Members had emphasized the need to adopt a pragmatic approach and to ensure that the current commitments would not be undermined. Two themes seemed to have emerged in the discussions: first, what Members wanted as a final outcome, i.e. a consolidated schedules or further addenda to existing ones, and second, the procedure to follow. As to the outcome, the majority seemed to favour a single consolidated schedule, but some delegations needed more time for reflection on the pros and cons of each option, bearing in mind that the issue should be resolved as soon as possible. On procedures, two approaches had been suggested. The first was to initiate the process with a consolidated schedule which would show clearly, using bold, strike-out and italics, the offer being made on top of existing commitments. Thus, the changes to existing commitments and relevant explanations would be reflected in a single document that delegations could discuss from the very beginning. It would also be possible, as a variant, to present a consolidated schedule containing the new offer and separately submit a list summarizing the new commitments and any technical change deriving from the consolidation. The second approach consisted of presenting the initial offer of commitments, which would be some sort of addendum to

existing schedules and, thus, not consolidate existing commitments, negotiate on the basis of that offer and proceed to consolidate once the negotiations would be concluded. Depending on the approach decided, technical assistance from the Secretariat would be required throughout the process.

40. She also noted that a suggestion had been made, without objection, to request a note from the Secretariat identifying options, issues to consider, and addressing the questions raised during discussions. She proposed that the Committee would take note of the statements made and revert to this issue at the following meeting.

2. Approaches to the scheduling of additional commitments under Article XVIII of the GATS

41. The Chairperson recalled that the topic had been suggested by the representative of Hong Kong, China. As explained in the last informal meeting, the purpose of the discussion of this topic would be to enhance delegations' understanding of how additional commitments had been and could be described in schedules. She invited the proponent delegation to introduce the issue.

42. The representative of Hong Kong, China said that the item had been proposed with the idea of exploring the different approaches by which additional commitments could be sought and inscribed. Such approaches would need to be compared with other instruments potentially available under the GATS, e.g. disciplines and mandates under Articles VI:4, VII, X, XIII, and XV. For instance, the reference paper on telecommunications covered a wide range of issues other than market access and national treatment, including certain areas which were also covered by Article VI:4. Many negotiating proposals on the table included aspects other than market access and national treatment, which might eventually lead, through the request and offer process, to additional commitments. Better awareness of those issues, and possible options, would help Members in understanding requests and formulating offers. It was not his delegations' intention to discuss the substance of the existing negotiating proposals for additional commitments. The discussion proposed was intended to be an "educational process" not leading to any conclusion. It remained entirely up to Members to decide on how to formulate their requests and offers or to develop disciplines and rules. The item had been proposed with the understanding that it would be discussed with due regard to the workload and capacity of the Committee. Hong Kong's proposal consisted of three possible elements: first, a stock-take of the formulations by which additional commitments were currently inscribed in the schedules; second, a summary of the history of the reference paper, including how it had been formulated, the aspects it covered and how it was different from available instruments under GATS (e.g. in terms of legal status, uniformity of application, universality, and depth of commitments); and third, a recap of proposals for scheduling additional commitments that might have been suggested in previous rounds of negotiations, if any. In that regard, the Secretariat could prepare a brief background note. Members could add to the discussion possible approaches in their negotiating proposals and could share their views on when and where they envisaged additional commitments or how these related to the on-going work in other areas.

43. The representative of Venezuela noted it would be helpful if Hong Kong, China submitted its proposal in writing at some later stage.

44. The representative of the United States felt that in general the proposal by Hong Kong, China could be useful. His only hesitation was in relation to the third point, because the thinking behind existing negotiating proposals regarding additional commitments might have evolved since they had been made.

45. The representative of the European Communities said that a discussion of approaches to additional commitments could stimulate discussion about existing proposals and about new possibilities not thought of yet. In turn, this could enhance the understanding of the full scope of what

additional commitments could comprise. It was true that Article XVIII was very broad, thus the more ideas delegations had on the table, the more they could benefit.

46. The representative of Hong Kong, China said that he would make his statement available as soon as possible. The note he had proposed would only cover existing additional commitments and any approaches that had been suggested in previous negotiations, thus it was not to cover current negotiating proposals. He had mentioned a recap of current proposals as something that delegations could bring up themselves in discussions. Delegations could usefully share their ideas on additional commitments, how these had evolved and might affect the eventual formulation of offers.

47. The representative of the United States appreciated the clarification and felt that a note looking at the past would be very useful and educational, in terms of how delegations could approach issues associated with additional commitments in the current negotiations, and how the thinking might evolve during the course of these negotiations. The representative of Mexico suggested that the note concerning additional commitments could include background information on drafting of Article XVIII of GATS, if possible.

48. The Chairperson noted that delegations felt that discussion of this issue could be very educational. The Secretariat would prepare a brief note giving information on approaches suggested and followed in the past regarding additional commitments. She said that the Committee would take note of the comments made and would revert to this item at the following meeting.

C. DATE OF NEXT MEETING

49. The Chairperson proposed that, in accordance with the practice of grouping meetings of subsidiary bodies close to meetings of the Council, the next meeting be held during the week just before the next formal meetings of the Council for Trade in Services and its Special Session.

50. The Committee so agreed.

D. OTHER BUSINESS

51. No points were raised under other business.

E. APPOINTMENT OF THE CHAIRPERSON

52. The Chairperson observed that according to the Rules of Procedures, the Committee should elect its Chairperson at the first meeting of the year, effective at the end of that meeting. However, given that the consultations on that matter had not yet been concluded, she proposed that the formal election of the Committee's Chair for the year 2002 and the hand-over take place at the beginning of the following meeting.

53. The Committee so agreed.
