
Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 9-11 June 2004

Chairman: Ambassador S. H. Jóhannesson (Iceland)

<u>Subjects discussed</u>	<u>Page</u>
1. Examination of NTBs based on Secretariat document JOB(04)/62	1
2. Proposal on a Sectoral Agreement for Raw Materials – the Primary Aluminium Case – Communication from the United Arab Emirates (TN/MA/W/37/Add.1).....	1
3. Statement by Participants	4
4. Date of the next meeting	12

The Negotiating Group adopted the agenda for the meeting as contained in WTO/AIR/2324 with the inclusion of the "date of the next meeting" under "other business".

1. Examination of NTBs based on Secretariat document JOB(04)/62

1.1 The discussion under this agenda item was held in informal mode.

2. Proposal on a Sectoral Agreement for Raw Materials – the Primary Aluminium Case – Communication from the United Arab Emirates (TN/MA/W/37/Add.1)

2.1 The representative from the United Arab Emirates (UAE) stated that decades ago a number of the current WTO Members had ambitious plans for liberalising raw materials and for helping to build a fair level playing field. The Punta del Este Declaration called for the fullest liberalization of trade in natural resource-based products, including in their processed and semi-processed forms". Despite the drive of some key players such as the US, Canada and Australia, the Tokyo Round and the Uruguay Round (UR) failed to reach these important objectives, although trade in raw materials and primary products mattered a great deal to many countries. For a large number of developing countries, for instance, export of ores, minerals and non-ferrous metals provided – and still provided – more than half of their export earnings. Today more than ever raw materials were making headlines, more than ever investments upstream were directed into developing countries and emerging economies. Developed countries were focussing on high value-added products downstream and were increasingly concerned by their access to sufficient, stable and competitive supplies of raw materials and primary products. From the Punta del Este Declaration to the Doha and then the Cancún Declarations, there had been only missed opportunities for liberalising raw materials, which represented the fuel of industry and were key elements for competitiveness and development. Did Members not think that it was time to finish the job now? The UAE had presented on 19 May 2003 a communication to the NGMA in which it had underlined the priority that should be given in the current WTO negotiations to products of substantial export interest to developing countries. In line with the objectives and

commitments of the Doha Ministerial Declaration (in particular paragraph 16) and of the Cancún Ministerial statement of 14 September 2003, and as preliminarily indicated in its above mentioned communication, the UAE proposed a sectoral agreement for the complete liberalization of raw materials, including non-ferrous metals; with primary aluminium as the strategic priority of the UAE. This zero-for-zero sectoral proposal could include all the raw materials considered as global commodities, of interest to WTO Member States. Particular attention had to be given to non-ferrous metals due to the importance of metals in the world industry and trade and to the continuous growth of their consumption. In this respect the UAE wanted to stress that primary aluminium was its second most important industry after oil. The growth of the primary aluminium industry was essential to the country's economic and social development. Its producer DUBAL, had massively invested to reach the world's top level for its standards in terms of technology, quality, environment and labour policies. The UAE also emphasised the strategic importance of primary aluminium in the wider context of the Gulf Co-operation Council (Saudi Arabia, Kuwait, Bahrain, Qatar, UAE and Oman). As stated in its above mentioned communication of 19 May 2003, the complete elimination of tariffs and NTBs on primary aluminium was a UAE priority within the DDA.

2.2 Advantage of this proposal in the political context of this round: the liberalization of raw materials, and in particular of non-ferrous metals (long sought since the UR) would be equally beneficial for both developed and the developing countries. In developed countries, high value-added fabricating and semi-fabricating industries would see their competitiveness increase by access to duty-free supplies of their raw materials. In developing countries, raw materials and primary products generally constituted strategic exports for their emerging industries and were of paramount importance for the success of their economic development and diversification. Therefore liberalising raw materials would positively impact the dynamics of the NAMA negotiations and would represent a win-win achievement for the WTO.

2.3 "Lowest duties" and primary aluminium: besides zero-for-zero sectoral proposals, the elimination of the lowest duties would be instrumental in achieving the objectives of this round, especially in view of supporting developing countries, since tariffs at low levels were generally applied by developed countries. The level at which a tariff was considered "low" was not yet defined in the WTO, although some Members had proposed figures. The UAE wished to propose that "lowest duties" be defined as a rate under 6% so that duties on primary aluminium imports could be eliminated in the last major developed regional markets where they were still applied. Such an agreement had to be facilitated by the fact that all major developed regional markets for primary aluminium in the world were net importers and that their metal deficit would increase in the foreseeable future. Primary aluminium was here defined according to the heading 76.01 of the Brussels nomenclature: unwrought primary aluminium from the potlines of smelters. Aluminium demand (expected to exceed 27 million tonnes in 2005) was increasing in the world thanks to its physical, economical and environmental properties; mainly in its key applications (transportation, building, packaging, consumer goods). A growing consensus was taking shape among WTO Members of the importance of sectoral agreements in parallel with the "formula" or, eventually, the "formulae". The liberalization of primary aluminium, a historical objective in multilateral negotiations, would create a worldwide fair level playing field. It would encourage productive investments upstream and downstream for this environment friendly metal. It would globally stimulate an industry which was evolving as a model for sustainable development. The elimination of tariffs on raw materials would stimulate major sectors of the world industry and strongly contribute to achieving the priorities of the DDA.

2.4 The representative of Kuwait, speaking on behalf of the GCC countries expressed support for the UAE proposal which he hoped would have a satisfactory outcome. The GCC Members' support of this proposal was based on various considerations. The UAE proposal materialised the clear and explicit meaning of paragraph 16 of the Doha mandate which insisted on the priority of initiatives, like sectoral tariff elimination for products of substantive interest to developing countries. Such initiatives constituted effectively a prerequisite for reaching an overall balance of benefits from the

NAMA package. In this respect, the primary aluminium industry was one of the most important emerging industries in the GCC countries and one with considerable potential for growth. For that reason and others, which were detailed in the UAE proposal, this group of Members reiterated that the elimination of all tariffs on primary aluminium remained a major strategic objective in the NAMA negotiations, as well as the DDA. Besides this proposal could be considered as a real opportunity to reach a sectoral win-win agreement which should strengthen the co-operation and the convergence between the interests of both developed and developing countries. Indeed as stipulated in the UAE proposal, there was no doubt that the complete liberalization of primary aluminium would be mutually profitable for those countries. On the one hand, it would enhance the competitiveness of developed countries industries; on the other hand it would contribute to facilitating the access of a strategic product originating from the GCC countries and other developing countries. Furthermore, the abolition of tariffs applied to primary aluminium, which were generally the lowest, would not produce any considerable consequences for importing Members, especially since there was a quasi-consensus to remove lowest tariffs on all non-agricultural products. It was vital for the GCC countries that a positive result be obtained on primary aluminium on the basis of the UAE proposal. Recently positive progress in some sensitive areas of the Doha negotiations had been observed and he hoped that the NAMA negotiations including the sectoral component would follow the same tendency.

2.5 The representative of Canada welcomed the UAE submission as a constructive contribution to the NAMA discussions. In particular, the submission illustrated that the sectoral approach could be a useful complement to a formula approach in these negotiations. Canada also welcomed the UAE's inclusion of the critical mass concept whereby principal importers and exporters in a given sector would participate in such a sectoral agreement. In certain sectors, this would mean that the majority of Members could participate on a voluntary basis. Of course the fact that non-ferrous metal was one of Canada's sectoral priorities lent greater weight to Canada's welcome on this proposal. Canada also welcomed the UAE proposal to address low tariffs. Regarding the UAE's specific suggestion that all tariffs at 6% or lower be eliminated, Canada had suggested in a similar vein eliminating tariffs at less than 5%. Canada was ready to discuss levels proposed by others and would examine the UAE proposal closely. Canada hoped that this new proposal would be followed by submissions by other Members and as Kuwait had pointed out especially by developing Members so that their priority sectors and their ideas on the process could be factored into the Group's deliberations.

2.6 The representative of New Zealand supported the UAE proposal both as an exporter of non-ferrous metals and because of the systemic value that this initiative gave to the NAMA negotiations.

2.7 The representative of the United States stated that her delegation thought that the tabling of this proposal was a very helpful and constructive development. Her delegation was particularly pleased to see that there was recognition that sectoral negotiations were an essential component of the Group's work and could offer benefits to both developing and developed countries at the same time. Like Canada, her delegation believed that this proposal reflected in many ways some unfinished business from the UR in the area of non-ferrous metals.

2.8 The representative of Hong Kong, China commended the efforts made by the UAE and believed that this was a very good demonstration that all Members in particular developing Members could identify their own sectors of export interest in a possible sectoral component in the NAMA negotiations.

2.9 The representative of Singapore welcomed the UAE initiative. It was a good demonstration that developing countries could identify sectors of export interest and of potential growth interest to them. While Singapore did not have a particular interest in primary aluminium, it nonetheless welcome this initiative as a constructive one.

2.10 The representative of Kenya thanked the UAE for their proposal. He wished to note, however, that the Group had not yet decided on whether a sectoral approach was going to be used or not. For this reason, Kenya felt that this proposal would be better discussed after such a decision had been made.

2.11 The representative of Australia welcomed the proposal by the UAE. Australia saw raw materials including non-ferrous metals as very important inputs in industrial production processes and tariff elimination on these tariff lines would be of clear benefit to a wide range of developed and developing countries.

2.12 The representative of Malaysia welcomed the effort by the UAE on its sectoral proposal on primary aluminium. Malaysia's position on the sectoral component was that it should be voluntary rather than compulsory.

2.13 The representative of India stated that at this stage, his delegation was unable to express any specific comments on this proposal because it was not sure whether such a modality would be adopted by this Group. However, the information provided was very useful and would come in handy at the appropriate time.

2.14 The representative of Mauritius joined his voice to that of Kenya in underlining that the Group had not yet taken a decision on whether there would be a sectoral component to the NAMA negotiations. Taking such a decision at this point in time would be tantamount to prejudging the outcome of the negotiations. Nonetheless, his delegation felt that this issue could be addressed not necessarily under paragraph 6 of the NAMA Derbez text, but possibly paragraph 12 where it was stipulated that one could consider the possibility of eliminating low rates of duty.

2.15 The representative of Chile stated that, in his view, tariffs had to be neutral and sectoral initiatives discriminated against sectors and therefore could distort the flows of investment among other things. His delegation favoured approaches which liberalized trade across-the-board. However, Chile welcomed the proposal because it demonstrated a desire for liberalization.

2.16 The representative of Cuba stated that the Group had not yet decided whether the sectoral approach should be used in this negotiation. Cuba reiterated its position that sectoral approaches should be voluntary.

2.17 The Negotiating Group took note of the statements.

3. Statement by Participants

3.1 The representative of Hong Kong, China on behalf of the delegations of Canada, the US and Hong Kong, China, stated that he wished to report on a plurilateral session that the three delegations had organised. The objective of that session was to discuss some key elements for defining a sectoral tariff component under a critical mass approach. Twenty delegations were invited to this informal session. The co-hosts had thought of a number of elements to help focus the discussion, and these elements were: the choice of sectors, elements that could define participation, determination of appropriate threshold for critical mass, nature or specific sectoral initiative, product coverage and special and differential treatment. In overall terms the discussion was useful. A number of important questions were discussed such as how to decide the choice of sectors to be covered; How to determine the product coverage or what would be the nature of a specific sectoral initiative. Without prejudicing the outcome of further negotiations on the framework, there was general recognition that these were important issues to be further deliberated in the post-framework stage. The co-organizers found the

discussion useful and would continue their efforts to furthering the discussion with the view to building a more common understanding on a possible sectoral component in the NAMA negotiations.

3.2 The representative of Sri Lanka stated that as the Group moved towards the July package, he wished to take this opportunity to welcome the proposal contained in the letter sent by EC Commissioners Lamy and Fischler. He sought a few clarifications on this proposal and wished to make a few observations to facilitate further action in this regard. After studying the letter from the Commissioners, his authorities had raised certain queries on how the EC would envisage the extension of the concessions available for the LDCs to "other weak and vulnerable developing countries in a similar situation". To achieve these objectives, Sri Lanka believed that paragraph 9 of Annex B of the Derbez text, should be amended, before it became Annex B of the July package, to read as "... grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries and other weak or vulnerable developing countries in a similar situation". When this was implemented, it would finally remove the great inequality that Sri Lanka was experiencing in the European Union. Sri Lanka presently faced tariff peaks for most of its exports to this market, while competitors from the ACP and the G90 had duty-free access through Cotonou, EBA, or other preferential trading arrangements. Sri Lanka's two main markets were the US and the EU (which together accounted for nearly 70% of Sri Lanka's total exports). A single product, textiles and clothing, accounted for more than 50% of Sri Lanka's total exports. Unfortunately, unlike many of its competitors, Sri Lanka received no tangible preferential market access either to the EU or to the US for textiles and clothing. This made Sri Lanka extremely vulnerable. Such vulnerability would be exacerbated after the phasing out of quotas for textiles and clothing under the ATC, at the end of this year. This was highlighted in the IMF study which was presented to the Council last month and also by NGOs, for example the Oxfam study titled "Stitched up" which was also released last month. Another Oxfam study, which was released just before the Cancún Ministerial, had underlined, "However, the available evidence suggests that the EU's common external tariff (CET) is fundamentally anti-poor. Here too the principle of perverse graduation applies. In Britain, tax rates on imports of goods from India are around four times higher than for the US, rising to over eight times higher for countries such as Sri Lanka".

3.3 What made a developing country weak and vulnerable? When a country had to pay tariff peaks and its competitors, including countries which were at a higher level of development and with much higher income levels, received duty-free access for the same products, it was extremely difficult to be competitive. When this happened in one or more of that developing country's main markets, it become weak and vulnerable in those markets for those products, despite following best practices which were recommended by this organization.

3.4 Sri Lanka had noted that the EU had pointed out that their proposal could be achieved with only minimal changes to the Derbez text. Similarly, Sri Lanka believed that the problems countries such as Sri Lanka faced in the EU market could also be solved through very limited changes in the non-reciprocal preferential arrangements and the preferential rules of origin. The most vulnerable developing countries were those countries, which were at similar or lower levels of development to those who had enhanced preferential access to their main market, but who did not have that same privileged access to those developed country markets. Sri Lanka hoped that the intention of the EU proposal was to level the playing field for all the weak and vulnerable economies exporting to its market. Otherwise, it would be difficult to see much tangible benefits out of these proposals for countries which did not have special trading arrangements with the EU.

3.5 Sri Lanka also understood that the EU either had reciprocal preferential arrangements (leading to FTAs) or was in the process of negotiating such reciprocal preferential arrangements with almost all members of the G-90. When the EC proposed that the "G-90 should not have to open their markets beyond their existing commitments", would a consequence be the non-erosion of the preferences the EU presently enjoyed or was in the process of negotiating *vis-à-vis* the G-90 markets?

Sri Lanka also noted that some ACP member states had proposed grandfathering their preferential access in the EU markets, in the document WT/COMTD/SE/W/11, released simultaneously with the Commission's own proposal. Sri Lanka further observed that the ACP communication of 30 March 2004 (TN/MA/W/47) stated that: "changes will result from the erosion of tariff preferences under non-reciprocal schemes such as GSP, Cotonou, CBI, AGOA, EBA, CARIBCAN. There is a need to look at the particular situation of the ACP with regard to specific products and main markets". Sri Lanka believed that there was a strong need to look at the issues related to preferences from a broader perspective of all developing countries and not only the "particular situation of ACP (or G-90). The ACP and the G-90 had deep preferential tariff cuts including duty-free access to the EU. Sri Lanka which had a lower per capita income level than a large number of ACP member states did not have such access. Sri Lanka believed that a slight modification of paragraph 15 of Annex B was required, to reflect the concerns of all developing country Members with regard to non-reciprocal preferences.

3.6 Under the circumstances illustrated earlier, it would be extremely difficult for Sri Lanka to be competitive in the EU with its apparel exports when quotas were phased out. The phasing out of quotas along with the non-availability of preferential access would lead to the loss of market share, which would result in unemployment, disinvestment and de-industrialisation, leading to a deepening of poverty and affecting social progress at a time when Sri Lanka was trying to achieve the Millennium Development Goals. The position of Sri Lanka and of four other countries, which were vulnerable to quota phase out was highlighted by the Oxfam Study which was released last month. That study proposed 1) in the context of NAMA negotiations, developed countries should reduce their average tariffs on textiles and clothing to the average for manufactured goods (4%) by 2010. They should also urgently eliminate sharp tariff peaks in this sector; 2) Developing countries not classified as LDCs, but earning more than 50% of total export revenue from this sector, hence highly clothing dependant, should be granted preferences for their textile and clothing exports equivalent to those offered to LDCs at least until 2010; 3) The LDC exports and the exports from other weak and vulnerable developing countries in a similar situation should obtain duty-free access to the EU, provided the value addition in the exporting country was equal to at least 25% of the good's final value.

3.7 From the above, it was clear that the steps which were necessary to assist the countries which were weak and vulnerable could not be taken through the multilateral process alone. Some had to be taken "on autonomous basis" by the developed countries. This was particularly true when vulnerability was a result of the discriminatory practices adopted by the developed countries. Sri Lanka believed that the EC could translate into action its reference "to other weak or vulnerable countries in a similar situation", by both taking an autonomous initiative, as well as by supporting the necessary amendments for the Derbez text to reflect the concept.

3.8 The representative of Bangladesh wished to remind the membership of the LDCs' vulnerability as well as their negotiating position. The socio-economic condition of the LDCs deserved special attention. The precarious condition that existed in the LDCs were recognized during the UR and in subsequent negotiations. Recognising the special needs and to ensure effective participation of the LDCs in the world trading system and to improve their trading opportunities, a number of Ministerial Decisions were adopted. These Decisions were now part of the WTO Agreement and he wished to cite a few of them. In paragraph 2(i) of the Decision on Measures in Favour of LDCs, Ministers had agreed that the expeditious implementation of all special and differential measures taken in favour of LDCs including those taken within the context of the UR should be ensured through *inter alia* regular reviews. In paragraph 2(ii), Ministers agreed that m.f.n. concessions on tariffs and non-tariff measures agreed in the UR on products of export interest to LDCs might be implemented in advance and without staging. Ministers also agreed to improve GSP and other schemes for products of particular export interest to LDCs. In paragraph 3, Ministers agreed to keep under review the specific needs of LDCs and to continue to seek the adoption of positive measures which would facilitate the expansion of trading opportunities in favour of LDCs. In

Article XI.2 of the Marrakesh Agreement establishing the WTO, there was a provision that LDCs would only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities. Even in the Doha Ministerial Declaration, the special needs and priorities of the LDCs had been recognised. Therefore, the demand of the LDCs for no reduction commitments, flexibility in binding tariff lines, binding commitments for duty- and quota- free market access for all products within the year 2004, and the establishment of a mechanism to offset losses due to the erosion of preferences was fully consistent with the Ministerial Decisions, Declaration and needs of the LDCs. Hearing a Member disagree with providing duty- and quota- free market access to LDCs was unfortunate. The LDCs urged the Membership to provide bound duty-free and quota-free access to all products originating from the LDCs within the year 2004 as stipulated in the Dakar Ministerial Declaration. Such a commitment was necessary to ensure predictability and long term investment.

3.9 The representative of Kenya stated that recently there had been a meeting of a number of trade minister in Guyana, Georgetown and in their communication they had welcomed the initiative of the EC of asking other Members to exempt the weak and vulnerable Members of this organization, essentially G-90 from reduction commitments. However, there was no definition of what was "essentially G-90". The issues that Sri Lanka had raised went beyond this recent initiative because Sri Lanka had touched upon the ACP-EU Cotonou Agreement which was an agreement that existed for sometime already. A waiver was already in place. If Sri Lanka had a problem with that waiver, the matter could be raised during the annual review of that waiver. Regarding G-90, it was too early to raise the concerns that Sri Lanka had raised because one did not know whether Sri Lanka was going to be in that group.

3.10 The representative of Tanzania associated his delegation with the comments made by Bangladesh and Kenya. Sri Lanka had suggested that the bound duty-free and quota-free market access that was being proposed for exports originating from LDC, should be extended to Sri Lanka and other weak and vulnerable developing countries.

3.11 The need for duty-free quota-free market access for LDCs was nothing new. Its contextual genesis could be traced back to the UR negotiations, and had been incorporated in relevant Articles of the WTO Agreement, and subsequent decisions of the organization to which Bangladesh had referred. The WTO membership had all along acknowledged the vulnerability of LDCs as a basis for special treatment. Paragraphs 16 and 50 of the Doha Work Programme, for example, provided that the negotiations shall take fully into account the special needs and interests of the forty-nine LDCs, which were currently vulnerable and severely marginalized in the world economy. LDCs were in that category because of their low income, weak human resources and low level of economic diversification. LDCs particularly encountered higher tariffs on processed goods than on commodities, and this had been one factor forcing them into heavy reliance on a few primary commodities, mostly agriculture, which in most cases suffered from price fluctuations. Trade which was predominantly composed of primary commodities held back chances for these countries to develop their technological infrastructure. Consequently, these countries remained underdeveloped with further marginalization in the world economy, and millions of their people sinking into deeper poverty.

3.12 It was in this context that Ministers responsible for trade of LDCs, met in Dakar Senegal during the first week of May this year, and adopted a Declaration. In the area of NAMA, the Ministers stated that although the Derbez Text took on board the LDC concerns regarding exemption from reduction commitments, the text needed improvement. Specifically, the Ministers proposed that developed countries should provide bound duty-free and quota-free market access for all products originating from LDCs within the year 2004, with realistic, flexible and simplified rules of origin, which took into account the industrial capacity of LDCs. The Ministers also encouraged developing countries to extend such facilities to products from LDCs. Insofar as the proposal for duty-free and

quota-free market access was concerned, the message was that if Members opened their markets to LDCs, the increased export opportunities would generate added trade and development for these countries.

3.13 The representative of the European Communities stated that she wished to focus on the issues raised by Sri Lanka. First of all, the voice of Sri Lanka was extremely important in this Negotiating Group because it was the voice of a developing country that was seeking to improve its offensive interest. This was most welcome and it showed that this Round had all the possibilities to offer increased market access for all Members. LDCs had been considered beneficiaries of a particularly generous type of market access, that was to say quota- and duty-free access. It was not the role of the EC to establish who was going to be the next beneficiary in line. By this, she meant that there was a negotiating process. The Commission had launched an important message that the EU was willing to engage in a discussion on how to treat the weakest and most vulnerable Members of this institution. In that respect, it sufficed for all Members to read the submissions and to see for instance that the EU thought it worthwhile to undertake a sectoral initiative on textiles with the participation of all Members. In that initiative, much of the offensive interest that Sri Lanka has quoted could be satisfied. Of course the fundamental point was how the whole membership would envisage working with the concept of weakest and most vulnerable in order for this concept to be accommodated in the future modalities that the Group would discuss. As Kenya had said it was too early to discuss who was in and who was out. Her delegation was very satisfied to see that at least the political concept had a favourable echo in this institution. There were several ways of defining the G-90, and one could also think that the ones who had no negotiating capacity were certainly the weakest and most vulnerable within this institution and their interests should not be prejudiced because they did not have a voice. The initiative of the two Commissioners was dictated by that type of concern. The letter of the Commissioners was a letter written in political language. Essentially G-90 meant what it might mean to each individual delegation. As far as the EU was concerned, she could only assure Members of the EU's full commitment to discuss the concept and to see ways of accommodating the needs of every single individual that would consider itself weakest and most vulnerable. However, that would not be enough because this was a negotiating process and it was for the rest of the membership to establish who the weakest and most vulnerable Members were. Moreover, she did not interpret references to the ACP-EU Cotonou agreement by Sri Lanka as a request for a review of that agreement. What she had understood was that he was referring to the paper presented by some Caribbean Members (TN/MA/W/47) where a number of preferential agreements were cited. It was a wider issue, and she did not interpret this as a reference to only the EU's preferential schemes. As regarded the position of the EC on several aspects that had been raised by Sri Lanka, she recommended that Members read the EU submission.

3.14 The representative of Chile referred to a recent meeting of APEC Ministers Responsible for Trade which was held in Chile from 4-5 June. Their approved statement on the DDA negotiations concerning NAMA went as follows: "Consequently, bearing in mind that the development dimension permeates all areas of the negotiation, we commit and direct our officials to work with a sense of urgency to achieve by July 2004 results that include: a negotiating framework for non-agricultural market access, on the basis of the Derbez text, that is balanced and provides for real improvements in market access and addresses non-tariff barriers". On Sri Lanka's reference to the so-called proposal by the EC, from a formal point of view, he had not seen such a proposal. No such proposal had been officially submitted to this Negotiating Group. While the Group could discuss elements in the abstract, it should be discussing concrete proposals because otherwise the Group would be speculating about the content and the meaning of so-called proposal. What the Commissioners had done was to send a political message. In that context, the right question to be asked was whether what Members had envisaged by way of special and differential treatment in the NAMA negotiations was enough so as to not impose an undue burden on some economies, the so-called weak and vulnerable. That was the question that the Group should be asking. If the special and differential treatment was not enough, then the Group should be working on that issue, instead of creating more confusion with categories of

countries. As far as the concept of a country or economy being weak and vulnerable was concerned, it was a fallacy. In any given economy there were different sectors, some sectors might be weak and vulnerable, but other sectors might be highly competitive. So Members had to refine the analysis and say that in some sectors some economies were weak and vulnerable.

3.15 The representative of Trinidad and Tobago stated that the constituent regions of the ACP were currently engaging in WTO compatible economic partnership agreement negotiations with the EC. He stressed that the Cotonou Agreement currently benefited from a waiver as highlighted by Kenya. Members like Sri Lanka and others which had a fundamental problem in this area could seek to resolve this issue bilaterally with the EC. Trinidad and Tobago also wished to indicate in their capacity as coordinator for the ACP Geneva Group, that the ACP welcomed the political message, signalled in Commissioners Lamy and Fischler's letter which he expected would be discussed further, both before and beyond the July horizon.

3.16 The representative of Paraguay wished to second the statement by Sri Lanka. Sri Lanka had referred to a paragraph in Commissioners Lamy and Fischler's letter which stated that this organization had to take into account the different needs of developing countries, especially the weak and vulnerable in the system. When referring to weak and vulnerable economies, Paraguay was a landlocked country which did not allow it to reach main markets quickly and in a cost efficient manner. Paraguay considered itself one of the weakest and most vulnerable economies of the system which was why his delegation agreed with what Sri Lanka had said on the need to have access to markets. The vital importance of access to markets for the development of countries had been recognized. The diversification of exports of the weakest and most vulnerable Members could benefit their development and give the right political perspective to the Round which was called the Doha Development Round.

3.17 The representative of Barbados stated that Ministers in one paragraph of the communiqué from the G-90 meeting held on 3-4 June in Georgetown, Guyana had stated that they were: "Encouraged by the initiative of the EU to recognize G-90 countries and their proposals to exempt them from further commitments in some areas". Barbados as a member of G-90 had also participated in that meeting and endorsed this view. Barbados welcomed the letter and initiative taken by the Commissioners with regard to G-90 countries. In this regard, she had also taken note of the intervention by EU. With respect to the reference by Chile, she was pleased that Chile had no such thing as a weak or vulnerable economy, however, for Barbados it was a reality and Barbados lived this phenomenon on a day-to-day basis. The entire WTO membership had recognised the phenomenon of small and vulnerable economies, i.e. inherently weak economies, through the adoption of paragraph 35 of the Doha Ministerial Declaration which mandated the membership to not only consider and examine issues related to trade-related problems of small vulnerable economies but also to formulate responses to those constraints.

3.18 The representative of Bolivia stated that the EU proposal transmitted a political message about the need to address the concerns of weak and vulnerable countries. Her delegation also took this message to mean addressing the concerns contained in the Doha Ministerial Declaration.

3.19 The representative of Peru supported the statement by Chile. For Peru it was very important to not create different categories of developing Members. It was also important to establish in the framework provisions on special and differential treatment and also the principle of less than full reciprocity in reduction commitments. Her delegation believed that an agreement on a framework on modalities should be reached before the end of July. However, she warned that such an agreement would be put at risk if one tried to incorporate types of concepts that had no precedents and which were the result of special negotiations.

3.20 The representative of Venezuela agreed with Chile and Peru. The EU proposal was not clear. As to the task before the Negotiating Group which was to finalize the framework between now and July, her delegation saw problems in discussing this topic now. Venezuela believed that developing countries had different realities and faced different problems. The present text as it stood had the possibility of taking these concerns into account.

3.21 The representative of Costa Rica agreed with Chile, Peru and Venezuela. This concept of G-90 had not been translated into a formal proposal in this Group and therefore Costa Rica preferred not to refer to it. With reference to Sri Lanka's statement, in particular on the erosion of preferences, the DDA had a very clear mandate for the Negotiating Group; there could be no *a priori* exclusions when establishing the modalities. Exclusion or not of certain products would be the result of negotiations where the principle of the Enabling Clause according to which tariff preferences should not be a barrier for a greater multilateral liberalization should be kept in mind. This was why Costa Rica could not agree with Sri Lanka and with the ACP document circulated in TN/MA/W/47. Costa Rica believed that the Group should respect the spirit of the Enabling Clause and should focus on mfn tariffs. The question of preferences should be discussed with the countries granting the preferences and the Bretton Woods organizations. Tariff preferences was a problem for development which should not be perpetuated.

3.22 The representative of Ecuador supported the statement made by Chile, Peru and Venezuela on this subject. Ecuador thought that to establish this category of vulnerable and weak countries would not contribute to a better systemic operation as well as substantive operation of the ongoing NAMA negotiations. Ecuador had said earlier that the NAMA Derbez text represented a delicate balance and any modification would mean that these very closely inter-connected paragraphs would affect the adoption of the framework of modalities.

3.23 The representative of Uruguay supported the comments made by Chile, Peru, Venezuela, Costa Rica and Ecuador. The proposal from Sri Lanka would have to be analysed very carefully since this concept could create a new categorisation among developing countries and consequently generate discrimination among developing countries. Her delegation reserved the right to discuss any modification of paragraphs 11 and 15 of the NAMA Derbez framework text. This text had been the result of long negotiations and represented a certain balance.

3.24 The representative of Mauritius stated that the "weak and vulnerable" was not a concept, it was a reality. A reality that the LDC economies and those that were landlocked faced; their economies were in a terrible mess. Commissioners Lamy and Fischler has been trying to send a political message to try to see how the concerns of these countries could be addressed. On the EU-ACP relationship that had been mentioned by Sri Lanka, he pointed out that the trade regime governing this relationship was operating under a WTO waiver. Mauritius realized that this situation could not go on forever, and as a result it was currently negotiating a WTO compatible FTA with the EU.

3.25 The representative of Colombia supported Chile, Peru, Venezuela, Ecuador, Uruguay and Costa Rica. Colombia was particularly concerned by the systemic consequences which this issue might have on the whole system and on the results which the Group was supposed to achieve by the end of July. Those speakers had already elaborated on the consequences if the Group were to take up at this juncture such concepts and ideas. Colombia also supported what was said by Costa Rica regarding erosion of non-reciprocal preferences.

3.26 The representative of Sri Lanka stated that the concept of weak and vulnerable had come from the EU Commission and not Sri Lanka. Sri Lanka was only responding to it, and had tried to see how that concept could be taken further because it was valid and should be considered seriously. Sri Lanka was not weak and vulnerable as a country; Sri Lanka was weak and vulnerable in a sector because many of Sri Lanka's competitors had duty-free access into one of Sri Lanka's main markets

while Sri Lanka faced peak duties. When one had to pay 12% duty while competitors entered the market duty free then one became weak and vulnerable in that particular market and in that particular product. There were other products on which Sri Lanka had lost its market share continuously due to this reason. That was why Sri Lanka was concerned about the preferential system. Some delegations had said that this matter should be addressed elsewhere, however, this Group was all about market access. This was the Development Round. Most Members had been looking at market access from a defensive side only. What about Sri Lanka's own market access interest to developed country markets or to other developing country markets. This had not been addressed, and it had to be the main priority of this Group to address offensive market access interest. He had noted that the discussion in the Group had become largely restricted to NTBs, because most developing countries did not have problem with tariffs. They had duty-free access but what about those Members which paid mfn tariffs or sometimes tariff peaks. Such a situation had to be addressed which was why he had highlighted it in this forum. Secondly, with regard to LDCs, Sri Lanka understood their concerns but they should also recognise that a large number of developing countries with a very high level of development, high per capita income had better access to developed country markets than Sri Lanka which was a low income developing country. Sri Lanka was the only small low income developing country which did not get preferences to one large market due to the rules of origin in place and due to the discriminatory nature of extending preferences.

3.27 The representative of Mexico stated that this issue was difficult since there was no real definition of the expression "weak and vulnerable". Even on a political level, the concept was not clear. Mexico feared that this concept might lead to a differentiation of developing countries based on a criterion which was not clear at this time. Therefore, Mexico agreed with Chile, Paraguay, Costa Rica, Peru and Venezuela. For the time, Members were trying to seek a framework of work for July. Introduction of such a concept would put at risk the July package. His delegation was not trying to detract its importance, but this concept was not very clear.

3.28 The representative of Kenya stated that the discussion showed that the issue boiled down to a new categorisation of developing countries. There had been references to discrimination, however, he wished to point out that agreements which Members were currently implementing already discriminated in this fashion such as the Decision on Net-Food Importing Developing Countries or Article 6 of the Agreement on Agriculture. Members not covered by these provisions had never complained. So, Kenya was surprised by the negative reaction of Members to the idea of a new category of countries being created. This concept was not a creation of the EC, it was initially proposed by a number of African countries.

3.29 The representative of Korea stated that the initiative by the EC regarding special treatment for the weak and vulnerable was both interesting and contentious. Interesting because it spoke for Members who needed most to benefit from the global trading system, and contentious because it triggered an issue which had systemic implications. Korea was pleased to hear from the EC that the question of who would be considered weak and vulnerable would be negotiated in the future. At this stage, he was not sure whether his government could follow the EC initiative. Nevertheless, he wished to indicate that his government had undertaken a review to see how far Korea could respond to the invitation made in the current Derbez text for duty- and quota-free treatment to LDC Members.

3.30 The representative of Chile stated that the representative of Kenya had alluded to the existence of articles which established categories of countries. That was not correct. These articles provided a set of circumstances which if applicable to a country enabled that country to make use of certain rights contained therein. The category of countries remained the "developing countries".

3.31 The Chairman stated that in this session, he had held a number of consultations which he had found very productive. He appreciated the initiative that delegations had taken to meet with him and encouraged them to continue. In these consultations, many delegations had raised the question of the July process. In this regard, a TNC meeting was foreseen at the end of June where he was expected to

make a report. This report would be factual on the status of work in the Group with some personal assessment of where the Group was and where it needed to go. His assessment could change depending on a number of factors. He intended to hold informal consultations leading up to that TNC meeting. A second TNC meeting was foreseen on 22 July, and the idea was for the relevant Groups to produce a draft outline in agriculture and NAMA for inclusion in an annex. Regarding agriculture, many delegations continued to make a procedural linkage between NAMA and agriculture. This was the reality and there was no sense working against it. Having said that, it did not mean that the Group could wait until the last moment to produce a framework for the July package. The Group needed to start to think about this product it was supposed to produce. The Chair of the Committee on Agriculture in Special Session had mentioned the need for "conditional trust", and that was a wise way of characterising how the Group should work.

3.32 The Negotiating Group took note of the statements.

4. Date of the next meeting

4.1 The Negotiating Group took note that its next meeting was scheduled for 6-8 July 2004, subject to confirmation.
