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Negotiating Group on Market Access

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Chairman: Ambassador P-L. Girard (Switzerland)

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The proposed agenda was adopted by the Negotiating Group as contained in document WTO/AIR/1880.

1. (i)-(ii) Tariffs and Non-Tariff Barriers on Non-Agricultural Products

1.1 The Chairman stated that the documents circulated under agenda "Item A" were listed in WTO/AIR/1880, which had convened this meeting. They covered a communication from New Zealand entitled "The Scope of the Negotiation on Non-Tariff Barriers", circulated as TN/MA/W/4. Contributions from Japan and Korea entitled "Market Access for Non-Agricultural Products" were circulated as documents TN/MA/W/5 and 6, respectively. There were recent communications from Norway and Singapore also entitled "Market Access for Non-Agricultural Products" which were circulated in TN/MA/W/7 and 8, respectively. Additionally, studies and the minutes of the last meeting prepared by the Secretariat, as well as the previous communications from the European Communities and the United States were available in the room.

1.2 The representative of Japan introducing Japan's paper (TN/MA/W/5) stated that through the past several rounds of negotiations, tariffs on non-agricultural products had been substantially reduced, and accordingly the average tariff rate in Japan on non-agricultural products stood at 1.7%, which was among the lowest. As a result, Japanese imports of manufactured goods from developing countries had almost doubled during the period of 1995 to 2000. Japan was of the view that there was

still room for further improvement in market access among Members, in order to expand international trade including South-South trade and to promote economic growth. Japan was prepared to engage actively in these negotiations with other Members in accordance with the Doha Ministerial Declaration. He highlighted the following main issues for further discussion: 1) the binding of tariffs was a basic commitment in the GATT/WTO which had proved to be useful in providing predictability and credibility in world trade. The binding commitment should be strengthened by improving binding ratios and the quality of concessions; 2) taking into account the limited time-frame and the large number of participants in these negotiations, a combination of some form of formula-cut with a zero-for-zero approach was a reasonable method for achieving substantial reductions in tariffs. He suggested a formula-cut, namely a "Target Average Tariff Rate" approach, which would reduce the trade weighted tariff average to a certain targeted level, corresponding to the level or degree of development and the current average tariff rates of the participant. The targeted level was to be defined by the average tariff rate figure, and flexibility would be allowed for tariff rate adjustments. Special and differential treatment should be given according to the level of development. In combination with the Target Tariff Rate approach, he believed that the "zero-for-zero" or "harmonisation" approach, which had achieved certain positive results during the Uruguay Round (UR) was worth pursuing in these negotiations. In this regard, Japan was proposing a group of products not only of interest to developed countries but also to developing countries including toys, rubber and textiles. Japan was in the process of finalising the details of this modality and intended to submit it in time for the November 2002 meeting. In this context, he urged Members to submit their tariff data to the IDB and requested the Secretariat to accelerate this process. Furthermore, tariffs peaks and tariff escalation needed to be properly addressed taking into account their trade-distorting effects among Members. In this connection, the methodology to measure tariffs peaks and tariff escalation had to be fully discussed; 4) the base rate should, in principle, be the bound rates based on the Harmonisation System (HS) 2002 version. Japan also intended to give carefully consideration to the issue of credits for voluntary liberalization; 5) On implementation periods and staging, such elements were a core part of special and differential treatment and, in principle, a five-year period as the maximum was suggested taking into account the precedent set by the UR; 5) On non-tariff barriers, his delegation appreciated New Zealand's paper. He added that considering the various and diverse nature of NTBs and the experience in the UR, his delegation preferred a measure-specific approach rather than a comprehensive or rule-making approach. In that context, Japan thought that it was necessary to consider not only border measures on the importing side, but also trade distorting measures on the exporting side, such as export duties and export restrictions; 6) special and differential treatment was a key issue for a successful conclusion of the negotiations and that special attention had to be paid in formulating the modality for special and differential treatment. Implementation periods and staging were a core part of special and differential treatment. He recalled that the capacity-building seminar hosted by the Secretariat in May 2002 was useful, and it might be a good idea to hold a new seminar with a view to explaining the positive effect of improved market access; 7) it was necessary to pay due attention to the protection of the environment and the promotion of sustainable development, as provided in paragraph 6 of the Doha Declaration. From this viewpoint, Japan, in collaboration with other Members, was prepared to elaborate a list of environmental goods in accordance with paragraph 31 of the Doha Declaration, taking into account the OECD study.

1.3 The representative of Korea stated that at the previous meeting of this Negotiating Group, Korea had introduced its paper and shared its preliminary views on some of the key issues involving the market access negotiations on non-agricultural products. He wished to further elaborate Korea's views on the negotiations. On the objectives of the negotiations, he shared the view of many other delegations that given the open and comprehensive nature of the Doha Mandate, the level of ambition should be higher than the achievements of the UR. In order to conduct negotiations effectively, the terms "tariff peaks", "high tariffs", and "tariff escalation" had to be clearly defined early in the process. For example, he wondered whether the Negotiating Group was going to establish different criteria for determining tariff peaks for different Members depending on their level of development.

Or what rate would be considered a high tariff and what reduction should Members aim for in these negotiations? How should tariff escalation be defined and what methodology would be employed to address this issue in the negotiations? These questions had to be answered at the initial stage in order to achieve negotiating objectives within the limited time-frame. In connection with the negotiating objectives, his delegation was concerned about tariff peaks and high tariffs which were levied by way of *non ad valorem* tariffs. Unlike *ad valorem* tariffs, *non ad valorem* tariffs lacked transparency, complicated the tariff structure and had the potential of working as disguised tariff peaks or high tariffs, thereby acting as serious barriers to market access. According to a recent WTO study entitled "Market Access: Unfinished Business", the share of *non ad valorem* tariff lines was considerably high, amounting to 3-4% for some major developed countries and 20-30% for some developing countries. Korea was not concerned about their proportion *per se*, but about the actual effects that such tariffs might have on trade. Mindful of these concerns, his delegation was now working on a paper on how to address this issue during the negotiations. He noted that Singapore in its paper had also raised transparency issues in relation to *non ad valorem* tariffs. As a way of reducing tariff peaks and tariff escalation, he noted that Norway in its paper had introduced the idea of establishing a "ceiling" for all tariffs. His delegation found it a very useful suggestion as well as the introduction of a "floor" concept in order to eliminate nuisance tariffs. He noted that both suggestions deserved due consideration. However, the negative impact of those proposals on government revenue must be taken into account, particularly for developing country Members. He noted that Japan had also made several suggestions to deal with these issues. In general terms, he shared Japan's concerns. However, in regard to Japan's proposal on zero-for-zero and harmonisation approaches, he pointed out that specific products for which these approaches were applicable should be carefully chosen with a view to ensuring that the fruits of reduction commitments would benefit the entire WTO Membership. On modalities, Korea was in favor of a formula approach, supplemented by a limited use of the request and offer approach. This did not mean that Korea would rule out the possibility of employing other options through the so-called "cocktail" approach. However, in view of the complexity of negotiations involving a large number of participants and the time constraints, the modalities should be limited in scope. Otherwise, it would be almost impossible to complete the negotiations within the timeframe and achieve the negotiating objectives. As to the basis for tariff negotiations, Korea was of the view that the base rate should be the bound rates agreed during the UR negotiations and, for unbound tariff lines, the applied rates at the time of launching the Doha Development Agenda (DDA). Negotiations based on the applied rates should contribute more to enhancing "effective market access", but given the tariff structure of developing countries, such an approach did not appear to be realistic. However, Korea believed that the difference between bound and applied rates should be narrowed with a view to making meaningful improvements in market access. In the same vein, the reference year should be a year which was closer to the start of negotiations. On autonomous liberalization, this issue boiled down to whether or not credit should be given for tariff reductions and unilateral bindings undertaken by Members since the UR negotiations. If this was agreed to then it would have a de facto effect of using the year 1995 as the base year for certain products or products groups on a selective basis. While understanding the need to acknowledge Members' contributions to international trade liberalisation, Korea believed that more careful studies were required to address these and other implications. On environmental goods, Korea supported the reduction of trade barriers on such goods. From a short term perspective, it might appear that developed countries would benefit more from this exercise than developing countries. However, in the long run, developing countries would also reap great benefits because it would reduce the cost of environmental degradation and foster the development of their own environmental industries. However, more careful studies on how to define "environmental goods" were required, including the question of whether to extend the scope to "environment-friendly goods". In this connection, he noted that many delegations, including some developed countries, had expressed their concerns about definitional elements introduced in the EC paper. On NTBs, his delegation had found the paper submitted by New Zealand a very useful guide for future discussions. Korea fully agreed with New Zealand that the work of this Negotiating Group should be done in consideration of its relationship with other areas of the Doha Mandate or with the regular WTO work programme. Korea believed that future discussions on this subject should be

focussed on classification issues identified by New Zealand. In this regard, particular attention had to be paid to the need of avoiding the risk of conflict or duplication of work in other negotiating bodies. At this time, Korea only wished to reiterate the urgency of defining and listing the different categories of non-tariff barriers. Market access negotiations on non-agricultural products should proceed on a two track basis with tariffs on one side and NTBs on the other. A stalemate or lack of progress in the negotiations on NTBs should not derail or delay the entire negotiating process. In an effort to contribute to moving the process forward, Korea intended to do some thinking on how to proceed with the identification of NTBs in this Negotiating Group. Finally, on special and differential treatment, he made reference to the Doha mandate which stated that the reduction or elimination of tariffs and NTBs "shall be aimed in particular, on products of export interest to developing countries." Special needs as well as interests of developing and the LDCs had to be taken into account in the negotiations through less than full reciprocity in reduction commitments. These were the basic principles guiding the negotiations. But given the growing share of South-South trade and its impact on world trade, it was equally important for developing countries to contribute as much as possible within their respective capacity. A formula had to be designed by which developing countries could participate more actively in the reduction commitments, while maintaining the overarching principles and goals of development dimension.

1.4 The representative of Norway, in introducing Norway's paper (TN/MA/W/7), stated that to ensure comprehensive product coverage, the modalities would need to include tariff reductions across-the-board for all non-agricultural products without excluding any sector or group of products from the initial offer. This would be ensured through a formula approach which worked across all tariff lines. The Secretariat paper (TN/MA/S/3) was a useful study of different formulas that had been proposed or applied in previous rounds. While the paper had clearly illustrated the flexibility that a formula approach allowed through the number of coefficients and other mathematical permutations, the basic value of a formula was the very fact that it automatically ensured a comprehensive product coverage. To fulfil the ambitious mandate, such a formula had to include a high minimum rate of reduction so as to ensure that all tariffs were substantially reduced. On tariff peaks and tariff escalation, the Doha Mandate specifically gave priority to reducing or eliminating tariff peaks, high tariffs, and tariff escalation. To achieve these goals, the modalities should set a maximum tariff rate and generally reduce high tariffs by more than lower ones. This meant that the formula needed to include an element of tariff harmonisation, and be supplemented by a "ceiling" for all tariffs. On tariff elimination, the modalities should include an element that secured tariff elimination on an across-the-board basis as a supplement to the formula. This was a new element that had not been included in the modalities developed in previous rounds and therefore it needed a thorough discussion. Supplementary sectoral agreements based on a zero-for-zero approach might be envisaged where a critical mass could be established. To eliminate "nuisance" tariffs, the formula should be supplemented with a "floor" where the calculations that resulted in all rates below the "floor" should be set at zero. The modalities should include a commitment to bind all tariff lines for non-agricultural products at the rate resulting from the negotiations. Where, in exceptional cases no tariff reduction had taken place, the binding should be at a minimum the present applied rate. On special and differential treatment, the modalities had to include specific provisions to ensure the achievement of the ambitious special and differential goals incorporated in the Doha Mandate. Such provisions could include: (a) substantial reductions or possible elimination of tariffs on products of interest to developing countries and a minimum tariff elimination for products of importance to LDCs; (b) non reciprocal tariff concessions from LDCs; (c) tariff reductions in line with the level of development of other developing countries, particularly through the use of differentiated coefficients in the different elements of the formula and the supplementary provisions, such as minimum reductions, "ceiling" and "floor" for tariff rates and rate of harmonisation; (d) counting of binding of present applied rates as concessions from poorer developing countries. On environmental goods, the modalities needed to include an agreed definition of environmental goods based on a set of objectives and recognisable product criteria. Korea had requested some studies in order for the Group to carry out this work, but work done by APEC and the OECD should be used in this respect. While this Negotiating Group was

the appropriate forum for negotiations, the development of such criteria would most efficiently be done by the Committee of Trade and Environment (CTE) in Special Session. Modalities for environmental goods should be based on the zero-for-zero approach. In short, negotiations should be carried out on the basis of a composite set of modalities, but with a traditional formula approach cutting across the whole range of non-agricultural products as its basic element. The formula should include a high minimum level of tariff reduction, an element of harmonisation so as to reduce high tariffs more than low ones and be supplemented by a "ceiling" for all tariff rates as well as a floor in order to eliminate "nuisance" tariffs. In addition, the elimination of tariffs on environmental goods as well as supplementary sector agreements where a critical mass could be established based on a zero-for-zero approach should be envisaged. Finally, the modalities should also include a commitment to bind all tariff lines as well as a specific commitment to facilitate special and differential treatment.

1.5 The representative of Singapore stated that paragraph 16 of the Doha Declaration had stipulated an ambitious mandate for the negotiations in this Group. Singapore's paper sought to consider the various aspects and issues concerning these negotiations. Her delegation viewed the objective of this Negotiating Group as aiming to achieve a comprehensive but fair and balanced package, comprising of products of interest to all Members, but in particular, products of export interest to developing countries. On tariffs her delegation suggested the following: (a) expanding the scope of bindings and having meaningful binding rates that would result in real greater market access; (b) eliminating nuisance tariffs, and reducing, if not eliminating tariff peaks. The negotiations would need to define what constituted nuisance tariffs and tariff peaks; (c) the definition of tariff escalation and the methodology to address this issue would need to be addressed in the Negotiating Group; (c) enhancing transparency and comparability of tariff profiles at the outset of negotiations through for example converting *non ad valorem* tariffs to *ad valorem* tariffs, ceasing the use complex or mixed tariffs, simplifying tariff structures by harmonising similar products within similar HS headings/classifications; (d) on modalities, her delegation proposed the use of a "cocktail" approach since it was particularly effective in the UR in terms of achieving broad-based tariff reductions. It would provide greater harmonisation in tariff rates and significant tariff cuts/elimination in areas of common interests as well as flexibility for countries; (e) Singapore believed that the base rates for the negotiations should be the applied rates and a year of reference could be the one closer to the start of the negotiations; (f) various staging periods to take into account developing country needs. The Singapore delegation hoped to develop their ideas on modalities as the negotiations progressed. NTBs was a potentially limitless area and Singapore agreed with New Zealand that a pragmatic way forward would be to avoid duplication of work. As a start, Singapore was proposing that potential NTBs which Members were concerned with should be identified. Such measures should be categorised into issue-specific (e.g. rules, TBT, SPS) or sector-specific (ITA, chemicals, pharmaceuticals). In the case of the latter group, Singapore was of the view that it could be discussed in this Negotiating Group. On environmental goods her delegation was proposing to draw on the work done by APEC and OECD. However, it did not see the need, as proposed by one Member, to pay "particular attention to goods whose sustainable materials or production characteristics meant that increased trade in such products would also be environmentally supportive". In conclusion, Singapore reiterated the importance attached to an ambitious and comprehensive outcome in the market access negotiations. It was an area of negotiations where both developed and developing countries could reap real dividends.

1.6 The representative of Canada stated that at the last meeting there seemed to be an underlying level of debate as to whether all Members should participate in and contribute to this part of the Doha Development Agenda (DDA). This question was addressed, unequivocally, by Ministers in November 2001 when they agreed to undertake a broad and balanced work programme founded on three major areas: Enhanced market access, balanced rules, and well-targeted sustainable-financed technical assistance and capacity-building. He understood the point made by some Members that they needed approaches which took into account their level of development and allowed for phase-in periods. However, this was amply addressed both in the Declaration as a whole and more specifically

in paragraph 16. In this regard, Canada would be ready to accommodate specific needs. However, all Members should participate in liberalisation in the Non-Agricultural Market Access Negotiations for reasons of the collective and individual best interest, in order to benefit from the increased opportunities and welfare gains that were generated through participation in a liberalised multilateral trading system. Members at all levels of development should consider the potential for an expansion of economic gains which could result from widespread improvements in access to markets, particularly in recognition of the increasing trade taking place among developing countries. He added that meaningful participation by developing countries would be an indispensable ingredient in any successful tariff negotiation. Development for all Members depended on investment, which of course could be both domestic and internationally-based. The extent to which international investment could be attracted to any country depended significantly on its trade regime, including the degree to which it provided transparency, predictability, efficiency and effective access for imports. There were a number of conspicuous examples of success in this room where Members whose trade policies had followed those principles had seen their economies prosper. On the other hand, protective approaches aimed at creating relatively closed economies by using aggressive forms of import substitution had been relatively less successful. The efforts of this Negotiating Group should be directed to secure a share in the growth of world trade by both maintaining and advancing further the process of reform and liberalisation of trade policies that contributed to this needed growth. Canada had a number of major objectives for the tariff negotiations including reducing and binding applied tariff levels which were not bound, reducing high bound rates and re-binding them at lower rates and expanding the scope of duty free trade. In addition, Canada also favoured the elimination of nuisance tariffs and maximising the use of *ad valorem* rates. These goals were built on the challenge that Ministers had set in paragraph 16 of the Declaration "to reduce, or as appropriate, eliminate tariffs". The Negotiating Group would need to address the gaps, some quite substantial, that existed between many bound and applied rates in the case of some Members. In these cases, even large percentage cuts in bound rates would, for many items, result in little or no cuts in applied rates. In that context, Canada would not agree to bind valuable real cuts in Canada's applied rates in return for purely pro forma liberalisation, i.e. tariffs cuts on high bound rates which would not result in improved market access. On modalities, in order to best meet the interests of all Members, a combination of approaches would be needed, including sectoral zero-for-zero agreements; formula-based approaches and the request/offer process. With respect to the existing sectoral agreements, expanded membership would have positive spin-off benefits for all, such as in the case of the Chemical Tariff Harmonization Agreement. As for possible new zero-for-zero sectoral agreements, Canada would support covering sectors such as fish products, forest products, fertilizers, energy-related equipment and non-ferrous metals. Other additional sectors might also be of interest and Canada would be considering with an open mind the proposals made by others. On environmental goods, some delegations had questioned whether liberalization in this area should go beyond the average which might be ultimately achieved in these negotiations. Other delegations had appeared to question the priority to be given to this sector. Canada found these views difficult to understand given that Ministers at Doha had specifically singled out this sector for special attention. Canada would support a zero-for-zero agreement in this sector. As for product coverage, Canada could recommend the work done by APEC, which in turn had taken into account work done by other organizations including the OECD. The product coverage, a list of HS tariff items, was based mainly on the principle of "predominant end-use", as opposed to using concepts such as "sustainable materials" or "production characteristics" which were difficult to operationalize and administer. However, this was not to say that Canada considered the APEC list closed, since his delegation was open to adding products. On formula-based approaches to the negotiations, Canada was not ready to be specific about the most appropriate equation or equations that might be used. This was a subject for further analysis, reflection and discussion. Canada was, however, in favour of having a formula-based approach which was sensitive to the varying levels of development and to the existing tariff structures of various Members. Some had suggested that it would be wrong to differentiate amongst participants according to such elements. On the other hand, it would be unfair to use a "one-size-fits-all" approach to a tariff cutting formula. He added that it would be far more defensible to use a formula-based approach which would take account of the individual core

differences among Members. In addition to credits to be gained for liberalisation during these negotiations, Canada supported the concept of giving credit for prior autonomous liberalisation, and specified that credit was for liberalization measures which were bound or would be bound. On the Integrated Data Base (IDB), he joined those delegations that had already spoken on the importance of completing this data base. He encouraged Members to facilitate the Secretariat's efforts to finish this work, as it would be to the benefit to all. He added that the question of a base year for the tariff negotiations would depend to a large degree on the state of submissions to the IDB. In principle he suggested using the most recent year for which data were available for the vast majority of Members. On the phase-in period for the results of the tariff negotiations, he considered that in general a five-year time-frame might be the most reasonable. This should be combined with the use of linear cuts, so as to provide greater simplicity and predictability. Members would be free to make a case for longer transition periods. He added that in cases where zero-for-zero or tariff harmonization agreements were reached, implementation periods could be set on a case-by-case basis, according to the situation in each sector and could also include some country-specific flexibility.

1.7 The representative of Brazil stated that on the question of less than full reciprocity, he recalled that paragraph 16 of the Doha Ministerial Declaration clearly stated that "the negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments ...". The current round of negotiations were dubbed "The Doha Development Agenda", and to give concrete expression to such a concept, to which his delegation attached importance, the aspect of less than full reciprocity had to be a central element of the work, in particular in the drafting of appropriate negotiating modalities. Several opinions had been expressed to the effect that the current tariff structures of Members had led to a situation where the greatest obstacle to the expansion of market access for developing countries lay in the tariffs of other developing countries, and therefore the Negotiating Group should adopt some type of South-South emphasis to its work. He did not want to go into that discussion; the Mandate stressed a development focus through less than full reciprocity and the provisions of Article XXVIII *bis*. Attempts to reinterpret the elements of the Mandate would not help move the negotiations forward. The attainment of "less than full reciprocity" would face an obstacle in the fact that tariffs in developed Members were, on average, quite low, reducing the possibilities for the granting of significant concessions. This would be aggravated by the fact that the reduction in very low tariffs or "nuisance tariffs" would not constitute a concession and such a reduction would not provide any real enhanced market access opportunities. It was important that the modalities to be agreed upon factored in this aspect, to avoid the semblance of concessions strictly through the reduction or elimination of nuisance tariffs. Non-tariff barriers were in many ways the principal obstacle to the expansion of world trade today. However, tackling such barriers was extremely difficult due to the diffuse and multi-faceted nature of such measures and to the fact that many of them were already disciplined by specific WTO Agreements. His initial conclusions were that it would be extremely difficult to proceed without initially embarking on an exercise of identifying the measures to be dealt with. A system of notification and counter-notification could be the most appropriate way to start work in this area. On environmental goods, the main problem derived from the absence of a universally accepted definition of an environmental good. In the submissions made to this Group, his delegation could clearly perceive conflicting views of what might be comprised within this definition. This was an issue on which the Group would have to reflect on further and perhaps seek some expertise. On base rates, Brazil considered that there could be no alternative to using bound tariffs as the base rate for the negotiations. The bound tariffs represented the legal commitments of Members within the WTO. To propose otherwise was to undermine the development dimension of the current round by imposing a unilateral reduction of tariffs, at the outset of the implementation period, essentially upon developing countries. The use of bound tariffs would contribute to the transparency and predictability of the negotiations, as these rates were reflected in each Member's Schedule. While information on applied rates was not always immediately available. However, Brazil was also ready to examine, in a spirit of flexibility, possible means of addressing situations of unbound rates. In order to assist the negotiations, Brazil encouraged every effort to

update contributions to the IDB. It would be also important if *ad valorem* equivalents of specific and mixed duties were provided, along with the methodology used in order to further enhance the transparency of the negotiating exercise. On modalities, the elaboration of negotiating modalities was the Group's first target. He considered it a complex task, particularly in light of the many factors that had to be taken into account. In this connection, he thanked the Secretariat for the interesting paper on this subject, as it would contribute to Brazil's analysis of the issue, both domestically and in the Group. Brazil had not reached any firm conclusions in this regard, but would continue to evaluate all possibilities with equal interest. On the one hand, it seemed that a request and offer approach might provide the most flexible means of achieving the multiple desired objectives, by permitting a focus on tariff peaks and tariff escalation while preserving the concept of less than full reciprocity. On the other hand, a formula approach might provide an overall degree of "user-friendliness" that would seem attractive. The latter might have to be complemented by other modalities, such as request and offer and possibly harmonization and zero-for-zero approaches, in order to effectively tackle tariff peaks and tariff escalation. Finally, Mercosur countries were considering the issue of modalities in detail with a view to possibly circulating a specific proposal in the future.

1.8 The representative of Chile stated that the written contributions by Norway, Korea and Japan had set a high level of ambition for these negotiations. It would have been good to have had such levels of ambition also expressed by those delegations on issues of market access in another very important sector. Norway had said that there should be no exclusion in the application of the modality to be chosen in the course of the negotiations. Japan and Korea had not referred to that concept and he asked whether those countries also envisaged such an approach. He asked the question because it would help the Group to better define what type of modality it was looking for and the different approaches adopted by each delegation. The section of Norway's paper on tariff elimination was interesting because it referred to the reality of many Members, including Chile, that were involved in a far-reaching exercise of tariff elimination in the framework of free-trade agreements. There was a sort of hidden force that was slowly emerging which was bringing Members closer to a fairly large scale elimination of tariffs. This was a factor which had been flagged by Norway and which had to be kept in mind when modalities were defined and the level of ambition set. If the logic as outlined by Norway were to be applied to this negotiation, the question could be asked whether all Members should not aim, in given time-frames to be established, to achieve duty free regimes. This was a very important point because what would be done in the WTO context would be similar to what some other Members had already done. Therefore, those Members that had not participated in free trade agreements would have the problem of being discriminated against or would suffer the consequences of trade deviation. Therefore, he welcomed the contribution made by Norway which would help put things in the right perspective for this negotiation. On staging of tariff cuts, he noted that developed-country Members seemed to suggest a relatively short period of time. He wondered whether there was a ratio between a high level of ambition and the period of implementation of tariff cuts? In other words, if there was a longer implementation period could the level of ambition of reductions or elimination of tariffs be raised? In principle, his delegation preferred to have high levels of ambition even if they were accompanied by longer implementation periods which, in fact, would facilitate the elimination or reduction of tariffs in the more sensitive sectors. He agreed that a single formula would seem to be the most efficient way to ensure substantial liberalisation and that consideration should be given to the implementation of a coefficient which would permit deeper cuts. If a formula with a coefficient was applied it could have an impact on both tariff peaks and tariff escalation, and therefore, a well-constructed formula might help avoid discussions on a definition of a tariff peak or tariff escalation since such a formula would solve such problems in a relatively short period of time and in an effective manner. He stated that some Members had proposed that negotiations could be complemented by sectoral exercises using the zero-for-zero approach. He added that this approach could be a useful complement to the negotiations but it contained certain risks. All countries had sensitive sectors and, the general trend was to reduce tariffs as less as possible in the more sensitive sectors. Reductions were more likely to take place in less sensitive sectors. So, if Members adopting the zero-for-zero approach only liberalised the non-sensitive sectors then the result

would be that every Member would keep the more sensitive sectors protected, such as footwear, or textiles depending on the country. Negotiations implied a certain internal balance. Therefore, if the zero-for-zero approach was applied and reductions were only made in the less sensitive sectors, the more sensitive sectors would become increasingly difficult to liberalise, since countries would not be able to make the internal trade-offs necessary to get the support of the private sector to liberalise and to make the necessary adjustments in the less competitive sectors. A formula like zero-for-zero should permit the reduction of tariffs, tariff peaks and tariff escalation. Another important concept that had stemmed from the submissions, particularly Norway's, was that of having 100 per cent product coverage. This was an important approach since it would give security to economic transactions and also would generate a good climate for attracting investment. On environmental goods, there were diverging views as to what these products were and how they should be addressed. His delegation believed that a pragmatic approach would be desirable, and instead of embarking on a definitional discussion, it would be preferable to go into the negotiations with a formula or several good formulas which would allow for substantial reductions or elimination of tariffs on all the products, within a period of time to be agreed. In this way, all environmental goods would come within the purview of this substantial liberalizing approach, and thus the Group could avoid a discussion on the definition of an environmental good. At the end of the negotiation, each Member could evaluate the situation of the goods it considers to be in the category of "environmental goods" and obtain through other mechanisms, like request and offer or zero-for-zero, deeper cuts. In short, discussions on definitions could be avoided if a formula was applied without any exclusions. His delegation was working on its own proposal, and was hoping to submit one at the appropriate stage. A good special and differential treatment approach was extremely important in order to ensure that developing countries could, in a flexible manner, undertake commitments which were compatible with their fiscal needs, industrial policies and development goals. In this regard, the use of one formula would not be suitable for the particular needs of all countries since there were different situations. Therefore, the Group had to be creative to see how special and differential treatment could be applied as was said by Brazil, in order to carry out the negotiations on the basis of "less than full reciprocity". How special and differential treatment would be defined in the modalities was possibly one of the elements that could contribute to the interest of developing countries, for example, by the use of a formula with a coefficient which made it possible to eliminate tariff peaks and tariff escalation. Experience had shown in past negotiations that if the main emphasis was laid on mechanisms like request and offer, then the negotiations were limited to Members that had diversified economies and very large markets. Such a process excluded smaller developing countries with small and less diversified economies.

1.9 The representative of Hong Kong, China stated that this was one area of the negotiations to which Hong Kong, China accorded a high priority. The Doha Declaration gave an ambitious mandate for the negotiations on non-agricultural market access. It set out a clear aim to reduce or as appropriate eliminate tariffs and NTBs. This Group had a daunting task to work out the modalities of the negotiations and with diligence and determination it should finish the work by the target date. On modalities, the Doha mandate did not set a numerical target for overall tariff reductions. He did not wish to repeat his comments at the last meeting about comparative advantage or an increasingly globalised economy to support his delegation's call for substantial tariff reductions. Without a magic number, the Group should be guided by the need for a credible and commercially meaningful target. The Group should aim for ambitious results at a level not less than those achieved during the UR. On the other hand, the Doha Declaration outlined several key parameters for the forthcoming tariff negotiations which included tariff peaks, high tariffs and tariff escalation, comprehensive product coverage without *a priori* exclusions and special and differential treatment. Hong Kong, China preferred a formula approach because it was simple to apply and helped Members address many issues at the same time. A carefully designed formula could bring down or eliminate tariff peaks and high tariffs and through flattening the tariff structure address tariff escalation as well. He drew participants' attention to the fact that the scenarios set out in the Secretariat Note on formula approaches were just examples to illustrate the effect of different modalities or formulas. There were unlimited variations which were possible and it should be possible to find a formula that would

achieve the Group's targets. A formula approach could also take into account special and differential treatment. One possible method was to choose a different set of coefficients in the formula for developing Members. To achieve an effective outcome, the formula should ensure a substantial minimum rate of tariff reduction and should introduce deeper cuts for higher tariffs. In addition to the formula, other approaches might be adopted to help address the interests or sensitivities of individual Members. His delegation had an open mind on, for example, zero-for-zero initiatives, harmonisation proposals, an expanded Information Technology Agreement or an initiative on environmental goods. Hong Kong, China supported the elimination of low tariffs. Low tariffs were a costly administrative burden to the business sector as well as to customs and offset the revenue generated. His delegation also shared Norway's view that it was time for tariff elimination on an m.f.n. basis, especially by developed economies. His delegation was thinking about an idea for developed economies to eliminate all remaining tariffs by a certain date and for developing economies to adhere to an ongoing programme of tariff reductions. On other elements of modalities, his delegation supported the increase of the scope of bindings and the reduction of the gap between bound and applied rates. His delegation also proposed the use of bound rates and had no problem with either 2000 or 2001 as the reference year. His delegation also noted with interest the ideas expressed on credit for autonomous liberalisation and the "targeted tariff rate approach" proposed by Japan. All these ideas required careful study and discussion in the Group.

1.10 The representative of Colombia wished to refer to some common points which were starting to emerge from the discussions. These points related to the base year, the tariff nomenclature, implementation periods, staging, general formula or sectoral zero-for-zero and/or harmonisation approach, commitments on unbound tariffs, treatment of environmental goods, tariff peaks, tariff escalation and special and differential treatment. For his delegation it was clear that these negotiations were to be carried out on the basis of bound tariffs. Therefore, there was a need for the Group to commit to reaching a 100 per cent product coverage and to making the greatest possible effort to having a list of concessions in a common nomenclature, which should at least be the 1996 HS nomenclature, and to updating all the trade figures and other variables of the IDB up to 2001. On modalities, it was opportune to work on a general formula in order to go forward with tariff reductions. Colombia agreed with the comments made by the representative from Chile who had said that the request and offer approach would not be advisable because it would exclude developing countries that did not have a diversified industrial base. He considered appropriate the idea expressed by Norway and repeated by Singapore on complementing the formula with a "floor", to eliminate nuisance tariffs since they were an obstacle to trade rather than a source of revenue to countries. This would be a trade facilitation measure that would have efficient economic consequences for revenue and business purposes. He asked Japan to further illustrate its proposal of the targeted tariff rate approach, particularly the method of calculation and the analysis of the level of development and competitiveness of each developing country Member. It was very important to know the scope and implications of the application of a formula whose objective was to reduce tariffs to an indicative level, which corresponded to different levels of development. Likewise, his delegation was concerned about Japan's statement in its paper that "negotiations should proceed, giving due consideration to the situation surrounding individual products". He wondered how this phrase should be interpreted in view of the suggestion to employ a general formula and in view of the mandate from Ministers not to exclude *a priori* any product from the negotiations. For Colombia it was clear that no product should be excluded from these negotiations. The suggestions for a zero-for-zero and harmonization approach were also valuable, in particular in the perspective of advancing towards the facilitation of trade. However, as a developing country with serious fiscal deficiencies, Colombia would have great difficulty in committing to a zero-for-zero approach. However, Colombia was interested in the idea of harmonizing tariffs since that would contribute to diminishing tariff dispersion which characterised the tariff structures of both developed and developing countries. His delegation was ready to discuss the aspect related to the difference between applied and bound rates, but could not accept beforehand a commitment to eliminate this gap. However, it was worth noting that as Members undertook to reduce bound tariffs and to eliminate tariff peaks and tariff escalation the most likely result would be

to also substantially reduce the gap between bound and applied duties. The arguments made on the periods of implementation and staging were interesting as well as the need to operationalize this treatment in order to guarantee its effectiveness. However, none of the written contributions had addressed one aspect contained in the mandate which related to non reciprocity in the reduction or the elimination of tariffs and NTBs by developing countries. On environmental goods, his delegation believed that it was necessary to agree on a definition before a discussion was held on the treatment of these goods. In this connection, it was imperative that the CTE in Special Session agreed to a list of non-agricultural environmental goods. He thanked New Zealand for its document on non-tariff barriers and pointed out that these measures had to be tackled if real improvements in market access were to be seen. Colombia shared the views presented by New Zealand regarding the overlapping of functions of various Committees and other Negotiating Groups and supported the classification that New Zealand had proposed. Finally, his delegation attached importance to Chile's statement on the trade-off between the level of ambition and the implementation period for tariff reductions and the elimination of NTBs. The Group had to look for the highest level of ambition regardless of whether more time was required for implementation.

1.11 The representative of Venezuela stated that these negotiations on non-agricultural products were very important to Venezuela. There was still room for improvement in this area to allow for a fair expansion of international trade, as had been said by Singapore. This question of fairness and equity of the system depended on the achievement of a liberalisation which resulted in economic development. In other words, one had to recognize the asymmetries and existing inequalities in the capacity of developing countries and LDCs to assume new commitments though special and differential treatment that went beyond longer periods for implementation, and through the creation of capacity in order for such Members to participate in these negotiations. For Venezuela, the bound rate should be taken as a basis for the negotiations since these levels reflected the obligation of Members and were contained in the schedule of concessions. Any proposal which suggested the use of another level as the basis for the negotiations would be unacceptable. He sought clarification from Japan concerning its proposal on "Targeted Tariff Rate Approach". Venezuela would have reservations if that proposal implied a categorisation of developing countries. This reservation was based on the fact that such a proposal might result in the fragmentation of special and differential treatment and complicate the effective participation of developing countries in the negotiations. Special and differential treatment had to be extended to all aspects of modalities, for example the formula, and could not be limited to implementation and staging. In this connection, he drew attention to the Doha mandate which stated that these negotiations "shall fully take into account the special needs and interests of developing and least-developed country participants including through less than full reciprocity in reduction commitments." Venezuela agreed with the need to have a complete and updated IDB, and the proposal for the Secretariat to use information in other data bases if authorized by governments was acceptable to Venezuela. He thanked the US delegation for its offer of technical assistance in this regard. Venezuela attached importance to the discussion on modalities for the reduction of NTBs as it was a very important component to improving market access. However, he noted that there were difficulties in assessing the scope of these negotiations and reaching a definition or classification of NTBs. As concerned the drawing up of an inventory of NTBs which would be used as a basis for the negotiations, Venezuela thought that this inventory might be elaborated on the basis of existing notifications and through the work of the regular Committees such as the TBT Committee. On environmental goods, the proposal to define such goods on the basis of the production process might have systemic implications since the process would have to be evaluated in function of its implications on different agreements.

1.12 The representative of United States stated that at the August 2002 meeting her delegation had noted several key concepts in the discussion that were fundamental to the overall conduct of these negotiations. First, that the Group demonstrate ambition; second, that it demonstrate flexibility as it remained faithful to the important concept of reciprocity and, finally, that it provide meaningful new market access that would help spur all economies to new growth and vibrancy. As noted at the last

meeting, the United States Congress had recently passed the Trade Promotion Authority (TPA) that gave the President broad negotiating parameters. With this mandate, her delegation expected to develop an ambitious modalities proposal in non-agricultural market access, as it had already had done in agriculture. It was considering a wide range and mix of options at this time and hoped to be in a position to table a proposal in November 2002. The US Congress' action demonstrated the U.S. willingness to be an active and aggressive player in the Non-Agricultural Market Access negotiations and to work actively with others to produce further trade liberalization by all WTO Members. But her delegation also intended to recognize the need for flexibility among other WTO Members. Looking at the negotiating history, the expansion of the WTO and the current situation in the global trading system, it would appear that now was the time for all Members to act boldly. Non-agricultural tariffs had been subject to seven rounds of negotiations since the creation of the GATT in 1947, yet Members still faced a significant amount of unfinished business. For example, as the Secretariat's tariff paper revealed, there were still wide dispersions between many Members' bound and applied rates, and the scope of bindings needed to be expanded to cover all products. The WTO Secretariat had estimated that 55 percent of global trade was conducted on a duty free basis but only 6 percent of trade was bound duty free within the WTO. Her delegation did not believe that modest proposals and negotiating approaches would serve anyone's interest. In a recent study at the University of Michigan, which attempted to measure the dollar value of trade liberalization in a new multilateral round, it was estimated that a 33 percent cut in tariffs on industrial products would result in a \$210 billion annual increase in world economic welfare. Combined with a 33 percent cut in agricultural tariffs and elimination of barriers to trade in services, the study estimated an annual welfare gain of \$610 billion. The study also suggested that complete elimination of tariffs on agricultural and industrial products and barriers to trade in services would increase world economic welfare annually by \$1.9 trillion dollars. Through regional agreements, many WTO Members had committed to eliminate their tariffs. APEC Members would have done so by 2010 and 2020. Members of the Free Trade Area for the Americas expected to eliminate most duties by 2015. Such agreements laid the foundation for a multilateral effort to significantly improve market access for non-agricultural products and the Group should commit to build on them. Even if the Group ultimately was not able to fully replicate those achievements in this multilateral negotiation, those initiatives should serve as an inspiration which would give participants confidence that significant liberalization was both desirable and possible. In this regard, she was encouraged to hear other delegations expressing a high level of ambition in this negotiation. Her delegation was also pleased to hear the point made by several developing country Members that they intended to fully participate in these negotiations, with the objective of improving market access in both developed and developing country markets. Her delegation was not suggesting, as some Members had indicated, that this negotiation was solely about South-South trade. However, her delegation believed that Members would have failed the trading system, and failed to support the Doha development goals if significant South-South trade liberalization was not one key outcome of this negotiation. The path to development was not solely dependent on access to developed country markets. Through GSP and other preference programs, most developed country markets had made significant efforts to expand duty free access for developing country products. In this connection, in addition to "TPA", the United States had also approved legislation that renewed and expanded the preferential benefits to countries eligible for the Andean Trade Preferences Act and had also substantially expanded preferential treatment for sub-Saharan African countries and Caribbean and Central American countries under the "AGOA" and "CBI" programs. This included expansion of textile benefits. Despite the contribution that these tariff preferences provided to supporting development, it was important that Members recognized the evidence that the real economic gains for developing countries existed among themselves. Recent World Bank and other academic studies, many of which were listed in the Secretariat's bibliography, had made the important point that over seventy percent of tariff payments were made from developing countries to each other. Members had to recognize that future developing country economic gains were highly dependent upon internal economic reforms beyond tariff liberalization. Studies had suggested that the largest gains from trade liberalization for developing countries would come from the removal of their own barriers to trade. Furthermore, tariff liberalization had to be complemented by broader domestic reforms including

implementation of transparent rules and capacity building, which were major initiatives for the United States and the WTO. NTBs also had to be examined since a tariff reduction or elimination was only one part of improved market access. Many Members had indicated their strong desire to participate in these negotiations and some had stressed the need for technical assistance and further studies. The United States understood this position and stood ready to work with Members to educate and to explore the effects of tariff liberalization. However, her delegation was surprised to hear some developing country Members state that they saw no need for further liberalization. This was not a flexible position, nor was it one that the United States could accept. The outcome of any Round had to be judged on the basis of the liberalization achieved and that was how it would be judged by the US Congress and constituents. The Group had to find a way forward that was bold, that established a level of participation among all WTO Members, but which took into account Members' individual development and economic situation. A cooperative approach had to include consideration of revenue concerns but also the broader implication of domestic reform measures that would attract investment and improve export competitiveness. Based on the concepts of ambition, flexibility, reciprocity and meaningful market access for both tariff and NTBs, her delegation would present a more detailed proposal on modalities later in the autumn.

1.13 On the various submissions by Members, her delegation considered the New Zealand paper particularly important as the Group began to consider NTBs. While tariff liberalization was a key to opening the door to exports, the NTBs component had the potential of closing it. There might be horizontal issues they could be resolved in ways that the Group had to determine. However, her delegation's preliminary view was that there would need to be a way to address NTBs bilaterally. However, her delegation agreed that the NTBs negotiation had to take into account other negotiations and disciplines within the GATT and WTO. The non-agricultural market access negotiation should not interfere with other negotiations. However, this Group might be in a position to make recommendations or provide information to other bodies, as appropriate. The NTBs discussion should not be used as a mechanism to re-open existing agreements, since those political decisions already had been made. So the focus of the Group's efforts on NTBs should be legitimate issues that fell outside of the classification areas noted by New Zealand. Her delegation welcomed Japan's paper and ideas on the conduct of the tariff negotiations. She noted Japan's ideas regarding sectoral initiatives, which the US strongly supported. Her delegation believed that these negotiations should capture and expand on many of the sectors suggested in Japan's paper. The US saw such an approach as an important, but not necessarily exclusive component of possible modalities approaches. With respect to Korea's paper, her delegation appreciated Korea's efforts to identify key issues in this negotiation and took particular note of Korea's comments regarding the feasibility of a request/offer negotiation and the issue of *non ad valorem* tariffs. Both would be important issues for early discussion. Norway's contribution helped to begin to focus more on the details ahead. Her delegation thanked Norway for providing a clear outline of the range of substantive and technical issues upon which the Group had to focus. Her delegation believed that the Norwegian paper could perhaps serve as an initial outline for discussion of these and other issues at the next meeting. Singapore's paper was also most welcome, and her delegation shared Singapore's view that negotiations on the basis of applied rates, in contrast to bound rates, offered the greatest promise of producing real market access in these negotiations in situations where ceiling bindings prevailed. Her delegation was also interested in Singapore's thinking on how to address the issues of environmental goods. The Group needed to think carefully about a pragmatic way to proceed in this area so that it was not caught in an endless discussion on definitions.

1.14 The representative of Poland stated that the negotiations should be broad and cover all industrial products without exceptions. The negotiations should lead to a harmonization and substantial reduction of duty rates relating to all products including environmental goods. However, in the case of environmental goods, the Group had to start elaborating a definition of such products and preparing a list of such products. The basic aim of the negotiations should be improved transparency and stability of bound rates including elimination of tariff peaks, high tariffs and tariff escalation as well as NTBs, in particular relating to products exported by developing countries. In looking at

modalities, the Group had to take into account the target to be achieved, experiences gained during the earlier negotiating rounds and the interests of developing countries and LDCs, in particular. The most effective negotiating modality would be to base negotiations on a mathematical formula or formulas which took into account the level of development of particular groups of Members. The use of complete and accurate databases like the IDB or CTS was a precondition for a smooth negotiating process. It was also necessary to work out a suitable software program to analyze the data. The reference year for concessions should be 2001 and the basis for the negotiations should be the bound rates based on the HS2002 version. The market access negotiations for industrial products should also aim at a significant reduction of NTBs which restricted and distorted international trade in face of generally low levels of tariffs. It was an important and urgent task at the present stage to create a complete list of existing NTBs and to evaluate their impact. In this regard, Poland welcomed the New Zealand submission which should lead to further constructive discussion on this subject. The most important task faced by the Members now was to meet negotiating deadlines agreed upon during the Doha Ministerial Conference. The Group should accelerate and intensify the phase of presenting proposals concerning principles and modalities of negotiations and to work out the modalities by the forthcoming Fifth Ministerial Conference at the latest. It was very important to submit realistic and balanced proposals which could be accepted by Members representing different levels of development.

1.15 The representative of Argentina stated that MERCOSUR Members were working on a common paper to be submitted to this Group. For Argentina, market access for non-agricultural products was one of the pillars that would give an overall balance to the negotiations. He wished to highlight a few points, first, product coverage should be broad-based without any *a priori* exclusion. Second, it was essential to respect the calendar of work and the timetable established in Doha as well as the time-frame contained in the document adopted on 19 July 2002 by the Group. Third, tariff negotiations should be carried out on the basis of bound tariffs. These negotiations should aim to achieve an overall balance which reflected the interests of all countries and in particular he would highlight the aspect of special and differential treatment. This was the Development Round and developing countries were going to require that all the principles set out in both GATT 1994 and the Doha Declaration were complied with, particularly through "no full reciprocity in reduction commitments". Argentina did not believe that special and differential treatment could be implemented by establishing new categories of countries. This applied not only to this area of the negotiations, but also to other areas. There had been proposals and suggestions made which had implied a categorisation of countries. Some more wealthy developing countries had made suggestions which might imply this idea. Argentina had been at one stage a more wealthy developing country but not so now. From this it should be clearly understood that the vulnerability of developing countries could not be reflected in the form of indicators such as GDP per capita at any given time. There were certain situations in which a developing country might have a relatively good position or a relatively greater capacity to act for a limited period of time. Some countries had greater potential than others as regarded their economies or in producing certain goods and this was all part of the reason which made international trade a useful tool for development. The ability of certain countries to pay lower salaries or to have certain natural resources that they could draw upon gave those countries certain advantages in particular circumstances. Because of this whole galaxy of different factors, it was very possible that some countries had certain advantages in certain circumstances and situations, but that was not a reason to not define them as "developing countries" and deprive them of special and differential treatment. As a result, characteristics which defined a developing country should not be used to create categories of developing countries. On NTBs, the mandate called for the reduction or elimination of NTBs. Difficulties existed in defining the scope of the mandate due to the fact most of the NTBs were covered by other WTO Agreements or by the negotiating mandate assigned to another Negotiating Group. As suggested by Brazil, a possible way forward could be to envisage a mechanism which would identify these restrictions through a system of notification and counter-notification. This would impart greater transparency to the process. Whatever the results of this process, Argentina's position was that in no case should existing WTO Agreements on NTBs be re-opened. On

environmental goods, there was no universally accepted definition of such goods and the discussion for the moment was not clear. Since there were no limitations within the mandate as regarded negotiations on non-agricultural products, it might be reasonable to continue with the negotiations, make progress and subsequently take a decision on this matter.

1.16 The representative of Australia stated that his delegation found the New Zealand contribution to be useful. His delegation shared the concerns raised in the paper and the approach outlined to better define the universe that the Negotiating Group would be dealing with. Australia agreed that the open nature of the mandate on NTBs carried the risk of overlap with the mandate of other negotiating groups. To minimize the risks that uncertainty over the mandate in this area might create, an early start should be made on defining the scope of the mandate of the negotiations on NTBs. The New Zealand experience as outlined in its paper which led to the identification of the top 7 categories of NTBs was interesting. Members could usefully follow this example. However, in such a case each Member would come up with its own list and the challenge would be to agree on a core set of NTBs that Members would wish to address. New Zealand had also identified a procedural challenge in following this approach and as its paper correctly pointed out the question that arose in this context was where individual NTBs should be addressed and specifically which of them should be the subject of negotiations in this Group. The classification approach outlined by New Zealand in paragraph 10 was the best way forward to address that procedural challenge. Australia strongly supported the need for caution about any suggestion that this Group had a broad mandate to re-open existing agreements dealing with NTBs. Japan's paper contained a useful listing of points for negotiating modalities. However, his delegation wished to clarify a few points. Firstly, the paper correctly identified the need for an overall balance in the outcome of the negotiations; negotiations which should aim for a comprehensive package without *a priori* exclusion of products. Then the paper stated that the negotiations should proceed "giving due consideration to the situation surrounding individual products". His delegation sought clarification as to the meaning of this sentence, and whether in particular it signalled some reservation on the concept of no *a priori* exclusions. His delegation hoped not. His delegation looked forward to the forthcoming submission by Japan on its Target Tariff Rate proposal, including how this could be applied to different levels of development in developing countries. On tariff peaks, the paper stated that "tariff peaks that would have serious trade distorting effects should be rectified efficiently". On this issue, Australia wondered whether Japan was seeking to introduce the idea that some tariff peaks might be less distorting than others and could be treated differently. Again, his delegation hoped that this was not the case and would welcome explanations from Japan. On sectoral and zero-for-zero approaches, his delegation was interested in hearing more about the harmonisation approach mentioned for textiles and clothing. In particular, his delegation would be interested to hear how this would relate to the integration process under the Agreement on Textiles and Clothing that would conclude by 1 January 2005. Japan had proposed bound rates based on HS2002 be used as a basis for the negotiations. As a practical matter, he could not see how HS2002 could be the basis for negotiations being that only a few Members had implemented the HS2002 nomenclature. His delegation proposed, therefore, that HS96 should be the basis for the negotiations, as almost all Members had completed those changes and only relatively few reservations remained. Australia agreed that negotiations should be on the basis of bound rates. On environmental goods, his delegation had a query about the Japanese proposal relating to the protection of the environment. The paper talked of special consideration being given to goods which had to be "appropriately addressed in terms of global environment issues and the sustainable use of exhaustible natural resources". His delegation looked forward to the forthcoming proposal on this topic. Australia wished to flag at this stage its concern about defining environmental goods in terms of Production and Processing Methods; this would raise difficult and controversial issues. On Korea's paper, his delegation shared Korea's concern about the need to deal with tariff peaks, high tariffs and tariff escalation. However, his delegation was a little more cautious about the proposal to define these terms at the outset of the negotiations. Australia's concern was that should this prove to be a controversial issue, his delegation would not want to lose time negotiating on definitions if that meant introducing a further step in the process of working towards an agreement on the modalities. As

pointed out by Chile, a formula itself could automatically deal with tariff peaks without the need to spend a lot of time defining tariff peaks. Australia also had a query about the environment section in Korea's paper. His delegation wondered what Korea had meant by "foster the development of environment industry world-wide". The concept of the "environment industry" could be seen as rather different from the concept of negotiations on market access for environmental goods as mandated at Doha. Australia's preference was to define environmental goods in terms of their end-use.

1.17 The representative of Indonesia stated that while, it was recognized that product coverage should be comprehensive without *a priori* exclusions, this should not preclude Members, mainly Members with different levels of economic development, from excluding sensitive products, which were sensitive to their domestic industries. Japan appeared to have a similar view since in its paper it had stated that "negotiation should proceed by giving due consideration to the situation surrounding individual products". As to the "target tariff rate" approach, Japan's proposal contained interesting ideas on how to use a formula-cut approach that corresponded to the degree of development and competitiveness. This was apparently one way to respond to the Doha mandate to give special consideration to developing countries. However, his delegation was not sure about the relevancy of introducing the concept of competitiveness which could complicate the proposal. The zero-for-zero approach was best used by Members having the same level of economic development and should be complementary to the main modalities to be agreed upon. It was necessary to develop a set of parameters as a basis for specific sectors to be negotiated under this approach. The suggestion by Norway on a critical mass was one possible parameter. Regarding tariff peaks, high tariffs and tariff escalation, his delegation believed that these terms should be defined before the Group moved forward on these issues. In the same vein, it was clear that Ministers had recognized the difficulty of eliminating all tariffs as the Doha Declaration only stated "to eliminate tariffs as appropriate". Therefore, the negotiating exercise should focus on reducing tariffs instead of eliminating tariffs. His delegation was of the view that the bound tariffs resulting from the Uruguay Round should be the basis of the negotiations. Where there were no bound tariffs, a starting point could be the year of completion of the Uruguay Round. One way of addressing development provisions was to provide different implementation periods and staging, however, this was not sufficient. Such measures had to be strengthened by other measures such as non-reciprocity and credit for autonomous liberalization. On staging, the Group might also consider other objective criteria such as GNP per capita, instead of a certain period of time, since the latter might not suffice as an adjustment period for developing countries, as was proved by the experience in Uruguay Round. On environmental goods, although his delegation saw the benefit of liberalising this sector in order to promote environmental protection, given the fact that this type of good had a high technological content, there was a possibility that developing countries and LDCs would only be net importers of this type of product. Therefore, the Group had to address this issue, while at the same time conducting negotiations to liberalize this sector. It was also not appropriate to address the issue of "production characteristics" as part of the current negotiations. On non-tariff measures, some Members had alluded to export restrictions including export duties as being a non-tariff measure, however, his delegation did not consider this a proper categorization. The mandate of this negotiation was about access to Members' markets and export restrictions were not about market access. Therefore, neither export restrictions nor export duties fell under the purview of this negotiation. His delegation found New Zealand's proposal on how to define NTBs interesting.

1.18 The representative of Nicaragua stated that the basis for the negotiations should be the bound rates and not applied rates because his country's WTO commitments were based on the former rates. Taking the negotiations as a whole, it was necessary to compensate tariff reductions with the elimination of other obstacles which affected exports. The particular export needs of LDCs and developing countries should be taken into account, particularly in respect of barriers such exports encountered in the form of internal subsidies, tariff peaks, high tariffs, tariff escalation etc. On non-tariff barriers, his delegation hoped to achieve the complete elimination of NTBs which would be

based on a system of prior identification of these barriers through a process of notification and counter-notifications. In this regard, his delegation believed that it could work on the basis of the proposal by New Zealand. The principle of special and differential treatment had to exist across-the-board. Instead of creating categories of countries, the Group should review the realities of each Member, since not one Member was equal to another. The reduction of bound rates should be compensated for by taking into account the realities of Members and the differences in their economies, such as Nicaragua which had a small-size economy. This particular attention to Nicaragua's situation could take different forms, e.g. less than full reciprocity in reduction commitments, competitiveness to be fostered through technical cooperation and assistance, a gradual application of the rules and longer implementation periods and staging. Fiscal problems were an important issue, since fiscal deficits were chronic in countries with small economies, and this should be taken into account at the time of tariff reductions. Tariff reductions should be uniform and not by product, i.e. if tariffs were bound at a uniform level, then that level should be reduced uniformly.

1.19 The representative of Switzerland stated that on the coverage of bound tariffs, Switzerland considered that a comprehensive coverage was of outmost importance for the predictability of the tariff regime and for the functioning of the whole system. Coverage had to be improved and all tariff lines had to be covered. As to the level of the binding, there had been proposals that the minimum level should be the applied rate. However, this subject would need to be discussed in the Group. On modalities, Switzerland favoured a formula-cut approach. Such an approach ensured comprehensive product coverage and, as explained by Chile, if it was well chosen it could also address issues like tariff peaks, high tariffs and tariff escalation. A formula-cut approach was also flexible, since the formula could be tailored to take into account the level of development and competitiveness of developing countries. Although there had been delegations proposing that the formula should be used across-the-board, there was a lot of merit in having some flexibility for zero-for-zero sectorial initiatives or even request and offer mechanisms. Experience had shown that zero-for-zero could be very useful in enhancing market access in specific sectors. Regarding the basis for the negotiations, Switzerland wished to use the final bound rates resulting from the Uruguay Round. Her delegation was also of the view that the HS2002 nomenclature should be used, but her delegation understood that not everybody was ready to apply it and the Group would have to see how to deal with this issue. If there was no bound rate, then the rates in force at the launch of the Doha Development Agenda should be used. On staging, there had been proposals made of 5 years or a flexible approach. Switzerland was sympathetic to the approach proposed by Chile that there should be a ratio between the level of the concession and the length of the period. This approach had been used in some of the accession negotiations and was found to be a useful way to move forward. On nuisance duties, she was surprised to hear some Members proposing the elimination of such duties, because it concerned Members which had already liberalized to a very large extent, and such a measure would amount to penalizing such Members for having done the job. Any elimination of nuisance duties would need to be matched by concessions, and it would not be made for free. Furthermore, she was puzzled by the argument of costs associated with the levying of such duties, since in Switzerland the levying of low duties was not more costly than the levying of high tariffs. Furthermore, Switzerland was in favor of talking about promoting cost effectiveness and efficiency in customs procedures which was why her delegation was in favor of talking about trade facilitation and of holding negotiations on this subject. Switzerland attached importance to addressing the issue of non-tariff barriers. In this regard, New Zealand's contribution was valuable in that it offered an interesting approach regarding classification. The Negotiating Group had not as yet identified the concrete problems faced by Members, and in this regard, she proposed that the first step was to have Members notify the concrete problems they faced. Then the Group could see how it wished to address them. There were several possibilities. Some of these problems could be problems of application and could be solved between Members. Other problems might go further and might need negotiations and might overlap with negotiations in other fora. In those cases the Group would have to discuss how it wished to go forward on those issues. In any case, the starting point was to identify the concrete problems and in fact Switzerland was in the process of drawing up such a list with its concerns.

1.20 The representative of Costa Rica stated that the basis of the negotiations should be the final bound tariffs as contained in Members' schedules as they were the only legal reference in the WTO. The use of applied tariffs would have the negative effect of penalizing those Members that had made an effort to liberalise on a unilateral basis in the last years. On modalities, Costa Rica preferred to apply a formula or formulas - yet to be defined- because such an instrument was better suited to address the current situation of a large WTO Membership. This formula or formulas should be carefully selected and designed to address the problems, and take into account aspects enumerated in paragraph 16 of the Doha Declaration. Costa Rica fully supported improving the statistical and tariff data available for these negotiations. Like Brazil, it considered that it was essential that Members, using *non ad valorem* tariffs in their schedules or in their applied tariffs, notify the *ad valorem* equivalent to the database. The Secretariat document TN/MA/S/4 reflected the methodological complications that the Group might encounter when analysing the various modalities if the calculations on *ad valorem* equivalents were not available. The use of some of the formulas described by the Secretariat in document TN/MA/S/3 necessitated the use of *ad valorem* tariffs or their equivalents because they could not be applied on specific tariffs, either compound or mixed. Costa Rica was of the view that all tariffs contained in new schedules of commitments should be *ad valorem* and, to this end, it might be necessary to agree on a common methodology to calculate the official *ad valorem* equivalent. On the question of the definition of environmental goods, his delegation was of the view that it should not take into account the methods and production processes. Moreover such a debate on definitions could be premature as pointed out by Chile, and it might be better to leave this discussion and consider the subject at an appropriate moment in the future and then determine whether such a debate was necessary or not. This would undoubtedly be a solution that would facilitate the work of this Negotiating Group, and which would allow it to concentrate on the question of modalities. On non-tariff barriers, his delegation believed that the New Zealand document provided a good framework in which to start discussions on this issue. It was important that the Group did not duplicate the work in other negotiating groups. It was also desirable to not open agreements not explicitly envisaged in the mandate. Moreover, it was necessary to adhere strictly to the timetable established in the mandate and in the Group's work programme.

1.21 The representative of India stated that the mandate for the negotiations on market access for non-agricultural products, was quite clear. The Group had to aim "to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries". These negotiations "shall take fully into account the special needs and interests of developing and least-developing country participants, including through less than full reciprocity in reduction commitments, in accordance" *inter alia* with the provisions of Article XXVIII bis of GATT 1994. He had quoted paragraph 16 of the Declaration so as to focus on the fact that the modalities to be agreed upon took fully into account the needs and concerns of developing countries. In this context, he drew attention to the fact that developing countries for the first time had participated fully in the tariff reduction commitments in the Uruguay Round, and had made substantial contributions. In real terms, the concessions granted by developing countries were much larger and contributed more significantly to growth and world trade than the concessions made by developed countries. This fact had been analysed and documented in several studies like a recent one by Michael Finger and Julio J. Nogues wherein it had been pointed out that the tariff cuts of developing countries when measured by how they would affect importers' expenditure were deeper than those of the developed countries. In return, however, tariff reductions on items of particular interest to developing countries got less attention in the developed markets. He added that Mr. A. Hoda, in his book, had also concluded that "the tariff cuts in the developed countries on industrial products, except petroleum (in the Uruguay Round), imported from the developing and least-developed countries were again lower as compared to the cut on imports from all sources." It would be important that this time around the Group adhered to the mandate to ensure that substantial gains accrued to the developing countries. There had been several proposals as well as approaches, which had been suggested on the modalities issue. However, for any particular approach or a combination of approaches to be effective in

fulfilling the mandate outlined by Ministers, it was necessary that the fiscal, developmental strategic and other needs of developing countries were fully factored in. This had also been provided for in Article XXVIII *bis*: 3(c) of GATT. India took note that Japan's proposal on a targeted tariff rate referred to giving consideration to the level of development and to countries' current trade weighted average tariff rate. The reference, however, to a "targeted level" was unclear. Norway had also referred to differentiated coefficients for developing countries, which would need to be further clarified. His delegation had reservations regarding differentiation among developing countries. His delegation would also have liked to see in these proposals some indication of how the Doha mandate for elimination of tariff peaks and tariff escalation on products of export interest to developing countries was intended to be carried out. This was important to ensure that substantive tariff reduction contributions were made by developed countries in sectors of particular interest to developing and LDCs so that these were in consonance with their average tariff levels. His delegation noted with interest the frequent references to South-South trade by some important trading partners. He agreed that there should be more South-South trade. In fact, the countries of the South were in constant contact with each other to promote trade and commerce amongst themselves. Such trade took place whenever possible and wherever possible within the context of the fiscal and developmental needs of developing countries. However, no one could deny the fact that the big markets were in the North and that sizable segments of this market were closed through the devices of peak tariffs and tariff escalation, and NTBs of various kinds. Furthermore, no one could also deny the fact that the intention of the Ministers at Doha was to promote overall development of the poorer countries and that this could be achieved only through greater access to developed country markets for the products of developing countries, including textiles. He fully endorsed the views of Brazil that the Doha mandate should not be diluted or re-interpreted. His delegation had also perused the Secretariat papers prepared for this meeting, and wished to flag a few points with respect to TN/MA/S/3. The various approaches outlined in the paper might provide factual information, but did not indicate how the concerns of developing countries and LDCs could be incorporated. For instance, the result of the Swiss formula was shown to be dependent upon the co-efficient which was finally agreed upon. India's concern in this reference stemmed from the fact that apparently it did not take into account the circumstances of developing countries and LDCs, with specific reference to their developmental and fiscal needs. India considered that an analysis needed to be undertaken whereby the developmental, fiscal and strategic needs of developing countries and LDCs would also be factored in. The special needs of labour-intensive small-scale enterprises in developing countries might also have to be kept in view. Without such considerations any modalities for tariff negotiations would not be appropriate. His delegation would have also liked the Secretariat document to examine the request and offer approach, particularly to know when this had been normally accepted as a modality, namely whether in predominant cases the requesting country in question had a Principal Supplying Interest (PSI) or an Initial Negotiating Right (INR) status or this was done even otherwise. His delegation had proposed at the last meeting that the Secretariat prepare a paper on all the elements relevant to modalities with particular reference to guiding principles and the manner in which the question of factoring in the special needs of developing countries had been addressed in the past and also the impact of trade liberalisation, especially on economies of developing and LDCs. His delegation thought that it would still be useful to have this detailed information in addition to what the Secretariat had prepared on the formula approaches. There had also been suggestions for following a sectoral approach in the negotiations. In this context, it needed to be kept in mind that developing countries in general had higher levels of tariff both due to their revenue needs as well as to afford some measure of protection to their industry, which while being employment providing was handicapped not only due to a lack of resources, older technology and high interest rates but also due to infrastructural and other constraints, which added to their costs. Therefore, the zero-for-zero or harmonization of tariffs in select sectors, which would sharply bring down tariffs in a short period could create distortion in their economies and domestic production structures, not to mention the sharp drop in revenue that might ensue. Products of such sectors could be raw materials, intermediates or inputs even in other manufacturing sectors not so covered by the sectoral approaches. The net effect in such a case could be seriously unsettling to the prevailing effective rate of protection and the balance between efficiency and fair

competition that might currently be in play in a developing economy. While this might not be the case for countries at more advanced stages of development, this might seriously harm developing countries where an emerging industry was trying to develop a foothold and consolidate. Furthermore, he considered that such a zero-for-zero approach might not involve any substantial concession on the part of developed countries whose average tariff in the indicated select sectors were already quite low, in most cases being less than 3-5%. The same would not be case for developing countries who might be required to make very substantial concessions which would be negating the Doha mandate where the developing countries were not expected to fully reciprocate in reduction commitments to the extent that concessions are made by developing countries. Norway's paper appeared to recognise this in some way when it noted that such approaches should not lead to an unbalanced result favouring major trade partners. Such approaches might also divert attention from a principal element of the Doha mandate, which was to address tariff peaks, tariff escalation, and NTBs particularly on products of export interest to developing countries. For bound tariff lines, India welcomed Japan's suggestion that the bound rates should be the base. Such an approach was practical in that the bound rates signified the last negotiated level of commitments of a Member. Any future commitments must be in continuation of the same exercise so as to offer each Member a balance in its commitments vis-à-vis the advantages it derived from those of others. With respect to unbound tariff lines, it needed to be kept in mind that Members had not bound these earlier precisely because of their sensitivities. Generally, they were also more sensitive as compared to the items, which had been bound. In this context, he referred to Norway's proposal wherein Norway had suggested that the unbound tariff line had to be bound at the generally applied rate at the start of the Doha Negotiations. While certain items might have become less sensitive since the Uruguay Round, it would be illogical to consider any base rate for them which was less than the higher of the bound rates prevailing for other products. While there might be no *a priori* exclusion of product groups, a provision had to be made for keeping certain specific tariff lines unbound in view of their sensitivities to individual developing countries. India attached great significance to the removal of specific NTBs on tariff lines of particular export interest to developing countries. By their nature, NTBs did not lend themselves to securing commitments which could be easily defined or monitored. To the extent that the Group could come up with creative ideas in this regard it would be useful. A compilation of comprehensive data with regard to NTBs was an essential requirement for furthering discussion in this area. However, he cautioned against the inclusion of legitimate instruments that developing countries might use under the various WTO agreements for development of their industries in the negotiations. For instance, export tariffs or levies were generally used to generate resources to develop an industry by diversification in the product profile and development of value added products for exports. Therefore, the suggestion that export duties be negotiated would be outside the Doha mandate. The product coverage on environmental goods would need to be discussed in the light of the products of export interest to developing countries, including LDCs and might also include environment friendly products. India was, however, opposed to including products in this category on grounds of production and process-method considerations.

1.22 The representative of China stated that in order to improve market access opportunities through these negotiations as well as to increase transparency and predictability of trade regimes, China was of the view that negotiations or work on modalities should focus on enlarging the scope of bindings and limiting tariff peaks and escalation as well as reducing the use of *non ad valorem* tariffs. The negotiations on NTBs should be based on a clear definition of what NTBs should be taken into account and the scope of those NTBs. Special and differential treatment should be granted to developing Members of WTO and to LDCs in order to have successful negotiations. He hoped that there would be a full participation by all Members in this exercise. It was necessary, in this regard, that technical assistance and capacity building be carried out fully and practically so that the results of negotiations could reflect the increase of all Members in a fair, balanced and sufficient manner. As stated in the Doha Declaration, the newly acceded Members had made extensive market-access commitments upon accession including on non-agricultural products. Further, tariff reductions would predictably have a serious impact on their domestic industries and fiscal revenues. As a result, in these

current negotiations on modalities, the situation of those newly acceded Members should be fully taken into account by allowing them more flexibility and granting them credit.

1.23 The representative of Guatemala agreed with the need to consider possible guidelines for the treatment of different areas of non-tariff barriers, since this would be necessary for the negotiations to progress smoothly. It was also important to identify the relationship between the mandate of this Negotiating Group and that of other WTO bodies. Otherwise, there would be a risk of duplication of work given the open nature of this Group's negotiating mandate. New Zealand's experience, as contained in document TN/MA/W/4, would be useful for the work of this Negotiating Group with respect to categorising or classifying non-tariff barriers. The Doha mandate had to be respected, particularly with respect to the situation of developing countries and LDCs and this through special and differential treatment, capacity-building and technical assistance. Japan's paper raised issues that had not been dealt with in detail so far. The purpose of the paper was to define available modalities, paying particular attention to the specific situation of each product specifically. He wondered how Japan could define those products with special circumstances and how this definition would be valid for each country. Guatemala was of the view that bound tariffs had to be the basis for the negotiations, and that the HS96 nomenclature should be used for the negotiations because most Members were using the HS96 nomenclature. Guatemala also felt that it would be useful to have a formula which respected and paid particular attention to the special needs of developing and least-developed countries. His delegation was also of the view that NTBs must be identified by Members but, at the same time, the Secretariat would have to pay particular attention to the situation of developing countries that were not in a position to identify those measures and to evaluate the harm that such measures were causing them. The Japanese proposal for the Secretariat to hold a second seminar was a useful one particularly if officials from capital were present. He hoped that funds would be available so that a maximum number of delegates from developing countries and LDCs would be able to attend. He supported the Korean statement to the effect that there was need to clarify concepts, like tariff peaks, high tariff and tariff escalation. His delegation felt that it was important to complete the data in the IDB. A complete data set would be useful especially for developing countries and LDCs. The Secretariat document TN/MA/S/3 entitled "Formula Approaches to Tariff Negotiations" would assist capitals in acquiring a better understanding of negotiations, modalities and formulas.

1.24 The representative of Chinese Taipei stated that Chinese Taipei had decided to participate actively in these negotiations and to make contributions on non-agricultural market access negotiations. However, his delegation's position on several specific issues were still under discussion. He expected to submit a paper on Chinese Taipei's position in a shortly. On the negotiating scope and product coverage, Chinese Taipei welcomed the comprehensive nature of these negotiations as endorsed by the Doha Ministerial Declaration, that specified that the non-agricultural negotiations should incorporate all tariff items and avoid *a priori* exclusions. In addition, his delegation believed that the negotiations should take into account the different levels of development and the particular needs of developing and least developed country Members. Tariff peaks and tariff escalation remained significant market barriers for export from developing countries due to the fact that numerous tariff peaks and escalating tariffs were applied precisely on industrial products in which developing and LDCs had the greatest comparative export advantage. Since tariff peaks and escalating tariffs were believed to have greater trade distorting effects, Members had to focus on rationalization of tariff peaks and tariff escalation as high priorities. On implementation periods and staging, he hoped that ambitious goals would be achieved and his delegation would be open-minded. The contribution paper from Japan (TN/MA/W/5) on implementation periods and staging provided a good basis for further discussion. Considering that the special needs and conditions affecting the trade of developing and LDCs was one of the cornerstones of the DDA, Chinese Taipei supported a balanced package which reflected the needs and interests of developing and least-developed countries. To achieve this outcome, there had to be a systematic, transparent and comprehensive application of special and differential treatment. Therefore, Chinese Taipei proposed that emphasis continue to be

given to coordinate appropriate studies and capacity-building measures for these countries, and that the aim of the relevant measures should be to help these countries participate actively in the multilateral trading system. Accordingly, he recommended that an individually custom-tailored capacity building program of activities with milestones and assessment criteria be designed to show the steps that each country was taking internally. This would help to ensure that the assistance provided was not wasted and there was maximum effect. He drew attention to the fact that the DDA was scheduled to conclude in 2005. Considering the situation of some newly-acceded WTO Members that were obliged to implement enormous market access commitments for non-agricultural products until 2008 and 2010, further concessions in the Doha round would cause significant effects on the new Members' domestic industries. The negotiations had to take this element into consideration.

1.25 The representative of the European Communities recalled that the EC general position had been indicated in writing in June 2002 and he was pleased to hear that many other contributions seemed to go in the same direction. In his delegation's view, the following keywords would serve as a guide in the negotiations. Ambition was the very first one and it meant that the Group had to come up with a comprehensive approach without any *a priori* exclusion, as was laid down in paragraph 16 of the Doha declaration. For that reason, he was concerned by some of the statements, for example by Indonesia, which had referred to the exclusion of certain products. This would be a dangerous path for the overall outcome of the negotiations. He had taken note of the very interesting remarks made by the representative of Chile, when he had referred to the possibility of a trade-off between ambition on the one hand and implementation on the other hand. This was a constructive way of thinking which might also be used as an element when discussing the issue of special and differential treatment. NTBs had become more apparent today since in many countries the level of tariff protection had been lowered. For the EC, this was a key element in the negotiations and in this regard he thanked New Zealand for their constructive proposal. On the ideas by Switzerland, there might be a scope to combine the two proposals. The question of environmental goods was complicated. However, in determining such products some basic considerations had to be kept in mind. Such goods should contribute to sustainable development and should enhance mutual supportiveness of trade and environment. This was not what his delegation was saying this but it stemmed from the DDA. His delegation was confident that a solution around these principles would be found but he wished to caution against any conditional approaches which might be based on end-use. He recalled that his delegation was also examining ways and means to improve trade facilitation measures and the introduction of specific administrative burdens would be counterproductive. This round was certainly not a round which was exclusively based on South-South trade, but it was also not a round which only had a North-South dimension. The statistical data showed the growing importance of South-South trade and around 70% of South-South trade was made in manufactured products. Therefore, he shared the view which had already been expressed by the United States that a significant South-South trade liberalisation was one key issue for success. On the basis for the negotiations, there was a very good GATT tradition in the past rounds of negotiations which was based on bound rates. With regard to the nomenclature to be used, the Communities and some other Members had already switched to the HS 2002. However, the use of HS96 would be the appropriate basis for negotiations since statistics would be available and that was the basis on which most of the countries were working. With regard to the data, his delegation preferred the most recent average of 3 years which would be available but it would depend on what was feasible for most of the participants. His delegation was in the process of drafting its proposal on modalities and it was hoped that the draft would be ready to be presented in the November 2002 meeting. The EC's approach would endeavour to address in a comprehensive way the key elements already referred to and the issues of tariff peaks, high tariff and tariff escalation.

1.26 The representative of Hungary stated that Hungary attached high importance to the further improvement of market access for non agricultural products. The relevant part of the Doha mandate was very ambitious and therefore required an ambitious and comprehensive approach to the negotiations. Hungary favoured a formula approach that ensured that comprehensive tariff reductions

would take place across the whole range of non agricultural products. The formula might include a minimum rate of reduction ensuring that all tariffs were reduced through the implementation of the formula. The mandate gave priority to reducing or eliminating tariff peaks, high tariffs and tariff escalation. Therefore, the formula would need to include a tariff harmonization element. In general Hungary did not like the zero-for-zero approach but did not preclude the possibility of elaborating such an approach as a supplement to the formula. Her delegation was not against granting credit for autonomous tariff reduction if the Members concerned were ready to bind these tariff rates as part of their commitment in the Doha round. It was Hungary's strong belief that the modalities should include a firm commitment to bind all non-agricultural tariff lines at the rate resulting from the negotiations. As to the basis of the negotiation, Hungary proposed the bound tariff rates at the start of Doha round. On non-tariff measures, Hungary stated that the starting point should be to identify these measures and compile an inventory of the NTBs on the basis of notifications. On environmental goods, her delegation believed that the establishment of a list of environmental goods would be a more efficient way for fulfilling this part of the mandate than to start a long discussion on certain criteria. Hungary preferred to negotiate on products instead of criteria. Developing countries' participation in these negotiations was reflected in the mandate and her delegation was ready to discuss the specific commitment to facilitate special and differential treatment.

1.27 The representative of Paraguay stated that the question of market access was of vital importance and occupied a central place in the Doha negotiations. The Doha mandate on this issue called for the elimination of tariffs and the reduction or elimination of tariff peaks and tariff escalation, as well as NTBs. These issues covered some of the concerns of his country which was a developing landlocked country. As a developing landlocked country, Paraguay's integration into the international trade system as well as its ability to benefit from the advantages of the system had been slowed down. The statement by Brazil was timely in that the representative from Brazil had indicated that Mercosur might table a negotiating proposal. Paraguay would work on this so that the sub-region could continue to contribute to the liberalization of trade in all sectors. Paraguay would have liked to see the questions which were to be negotiated clearly defined. He referred in particular to environmental goods. The special and differential treatment for developing countries also had to be taken into account in these negotiations to facilitate the implementation of the results of these negotiations. For that reason his delegation agreed with the statement made by Nicaragua. His delegation would table a proposal which would take into account the situation of some countries such as his, i.e. landlocked countries and which would enable them to develop more quickly and to integrate into the international trading system. This question was linked to the issue of capacity-building. A parallel programme on technical assistance should accompany this negotiating process. As to the timetable for these negotiations, what had been decided in Doha should be respected. Paraguay was also of the view that the negotiations should be based on bound tariffs, and that the negotiations should cover all products without any *a priori* exclusions. Tariffs and NTBs should be eliminated or reduced, particularly for products which were of export interest to developing countries.

1.28 The representative of Kenya stated that the prime objective of the Doha Ministerial Declaration on market access for non-agricultural products was the promotion of the special needs and interests of developing and LDCs. This objective could only be achieved on the basis of a clear understanding of the fundamental challenges for industrialization for these countries, particularly in Africa. In this regard, the main objective of the negotiations on market access should be to facilitate and enable the development and industrialization process in developing countries. The liberalization of imports should only be seen as a possible means towards this goal. For many developing countries further liberalization, especially on products where their industries were weak, would be counter-productive to this overriding development goal. On the other hand, liberalization by developed countries of products that could be exported by developing countries could contribute to the development of developing countries, although supply constraints also prevented many developing countries from being able to take advantage of market access improvements. This should

be at the heart of the modalities and actual negotiations and should be central in all aspects of the Group's Work Program. If the DDA was to achieve its stated goals, developing and LDCs with weak industrial bases should be allowed to choose levels of liberalization and protection that would enable their weak industrial sectors to remain viable and to develop in future with greater efficiency with the assistance of complementary measures. These negotiations had to give the highest priority to products of export interest and export potential to developing countries with a weak and vulnerable industrial base. This would be in line with paragraph 16 of the Ministerial Declaration which stated that negotiations would focus on reducing or eliminating tariff peaks and tariff escalation in particular on products of export interest to developing countries. This focus had to be reflected in the modalities. Tariff peaks and tariff escalation prevailing in developed countries, especially on products of export interest to developing countries, should be the main target of this exercise. On the other hand, developing countries should be given flexibility to rebuild their domestic capacity, otherwise improvement in market access could end up being an unrealised potential for higher industrial output. If adequate safeguards were not put in place in form of special and differential treatment, some developing country Members, particularly those from Africa, were likely to experience adverse effects on their industrial development. The third line of paragraph 16 of the Doha Declaration stated that "the negotiations shall take fully into account the special needs and interests of developing countries and LDCs, including through less than full reciprocity in reduction commitments." The same paragraph also referred to various provisions, e.g. Article XXVIII *bis* of GATT 1994 and paragraph 50 of the Doha Declaration that dealt with special and differential treatment for developing countries. These sentiments had to be fully and effectively operationalized including through the suggestions Kenya had made at this meeting. The legal and practical effect of transferring the locus of paragraph 31 (iii), Negotiations in the Committee on Trade and Environment, in Special Session to that of the Market Access Negotiating Group under paragraph 16 implied that paragraph 31 (iii) negotiations must be considered a subset of paragraph 16 negotiations, that and therefore the provisions and mandate of paragraph 16 must also be made applicable to paragraph 31 (iii) negotiations. In this regard paragraph 16 emphasized that the negotiations, and by extension those on paragraph 31 (iii), must refer in particular to products of export interest to developing countries and take full account of the special needs and interests of developing and LDCs. He hoped that when environmental goods were being discussed this aspect would be taken into consideration. In these circumstances, therefore, Kenya considered that the proposed categorisation of environmental goods as drawn up by the OECD or the APEC could be relevant for paragraph 31 (iii) negotiations, but might not be appropriate or reflect the trading interest of developing countries within the context of the paragraph 16 negotiations. In many instances, because of the general lower levels of industrial capacity and technological developments in the domestic manufacturing and export industries of developing countries, many of the illustrative environmental goods listed by the OECD or APEC would generally not be manufactured, much less exported from developing countries. In this regard, Kenya proposed additional work on environmental goods, including capacity-building measures needs to be undertaken in order to identify those environmental goods which might be of export interest to developing countries in order to shift the focus of the negotiations solely from goods that were of export interest to developed countries. On a final point, the only deadline that Kenya saw in the Doha Declaration was 1 January 2005.

1.29 The representative of Malaysia stated that Malaysia wanted significant tariff cuts using a suitable formula that would address high tariffs, tariff peaks and tariff escalation in all markets, developed and developing countries with no *a priori* exclusions. The basis of the reductions should be the bound rates using the HS96 nomenclature, given that not all Members had implemented the HS2002 nomenclature. With regard to unbound tariffs, developing countries should be given the flexibility to bind them at higher than the applied levels. Therefore, Malaysia could not accept proposals that called for reductions to be made from applied tariffs, nor proposals that called for binding of current unbound tariffs at the applied levels. A formula approach would be the neatest approach. Other approaches that appeared to be formula-based and were complemented with other considerations such as the level of development and competitiveness, could give rise to several

complications and long debates and delay the process. Such approaches would also have serious implications on the treatment of Members and would create different sub-categories of Members, particularly among the developing countries. Similarly, Malaysia would have difficulties in proposals that explicitly provided that no developing country should have at the end of the reform process, tariffs above a certain percentage. The use of a suitable formula that allowed significant tariff cuts would have the intended effect of a ceiling. Some Members had stated that the formula approach should be complemented with sectoral initiatives and zero-for-zero and the request and offer approach. Malaysia could only agree that the request and offer approach should complement the formula approach. The zero-for-zero and sectoral initiatives could be limited to developed country Members. If developing countries were to participate in these initiatives, they should do so in a strictly voluntary basis and where there was a critical mass to do so. Some Members had urged the elimination of nuisance duties. Although the Negotiating Group had yet to define a nuisance duty, the broadly referred to definition of the Uruguay Round was a duty below 5%. In his view, developing countries had to be allowed to retain those duties as they afforded some protection particularly in instances of violent currency fluctuation. Malaysia had no objections to the elimination of such duties by developed countries or those developing countries which had proposed such measures; but such elimination should be done on voluntary basis exclusively. On conversion of specific duties to *ad valorem* duties, Malaysia supported this approach. Similarly, Malaysia wished to propose that the use of seasonal duties be examined further by this Negotiating Group. All goods had to be subjected to the same modalities and not, as was being proposed by some, that environmental goods be subjected to deeper cuts. In other words, environmental goods defined under the APEC approach which was based on end-use had to be subjected to the same modality as other goods. He did not agree with the representative from the EC that the use of the APEC approach would lead to customs problems. If the same modality was applied to all goods then there would be no problems in the implementation. Export taxes and export restrictions were not NTBs and not part of the mandate, thus Malaysia could not accept proposals that called for disciplines on these development policy tools. No one should attempt to interpret or expand the mandate provided in paragraph 16 of the Doha Ministerial Declaration. On the treatment of NTBs, Malaysia supported the approach proposed by New Zealand. There was also a proposal made at this meeting that existing Regional Trading Agreements (RTAs) extend the opportunity for duty free competition to those outside such RTAs on a mfn basis. Malaysia was not ready to subscribe to such a proposal. It was convenient to suggest such approaches when one was not a Member of any RTA. However, if this approach was to be accepted, it should be applicable only to those RTAs involving developed countries; developing countries should be left out of this initiative. All developing countries should be treated in the same manner. Proposals that linked the provision of special and differential treatment to the level of development of developing Members would result in the creation of sub-categories among the developing countries. However, Malaysia was agreeable to proposals that suggested longer implementation periods for developing countries as a whole, for specific products that were sensitive to them. The particular concerns of all LDCs had to be fully taken on board. He had heard statements to the effect that credit should be given only on bound duties. However, it was Malaysia's view that reductions made on applied duty levels should also be given credit. In this connection, he informed Members that Malaysia had liberalised its applied tariffs substantially.

1.30 The representative of the Czech Republic stated that according to the mandate, product coverage should be comprehensive and without any *a priori* exclusions. He agreed that the appropriate approach to achieve the objectives of further tariff reductions would be a formula approach. It was his delegation's expectation that modalities to be agreed would also acknowledge autonomous tariff reductions. His delegation supported modalities for strengthening commitments regarding increased binding coverage and elimination of tariff peaks. Even the most ambitious outcome regarding further tariff reductions would be diminished by NTBs. Therefore, his delegation was looking for a comprehensive solution which would eliminate grey areas regarding the improvement of market access for non agricultural products. His delegation welcomed New Zealand's submission on NTBs which was very useful. His delegation was in favour of three-year averages, and

concurred with the proposal that all Members make an effort to submit missing data. Access to the data was a precondition to undertake meaningful negotiations. He pointed out that the IDB and CTS were not linked which was inconvenient. He wondered whether this situation could be improved.

1.31 The representative of the Slovak Republic stated that her delegation attached great importance to the further liberalization of non agricultural products. In accordance with the mandate, the product coverage should be comprehensive, without *a priori* exemptions and should aim for a substantial reduction of tariffs, to achieve further improvement in market access. This goal could be achieved through tariff harmonization, elimination of tariff peaks and reduced tariff escalation. The Slovak Republic was ready to fulfill this ambitious mandate and to commit also to reaching an improved access of markets through the reduction of tariffs and non-tariff barriers. In this regard her delegation could agree with the EC proposal that no sector or products was to be excluded, and that complete tariff elimination for groups of products or sectors should be taken into account as well as the different levels of development of developing countries and LDCs. The formula approach could be the best way to achieve these objectives. In establishing the modalities, which had to correspond to the mandate's objectives, credit for autonomous liberalization should be duly taken into account. Furthermore, a significant increase in the number of tariff bindings was necessary. The modalities should include commitments to bind all tariff lines for non-agricultural products. On NTBs, her delegation fully supported the reduction and elimination of those trade distorting measures. In this process, it would be necessary to identify the concrete problems and then to negotiate the way forward. In this connection, the submission by New Zealand was appreciated which could be a good basis for further discussion on this issue.

1.32 The representative of Pakistan stated that his delegation was hesitant to make specific comments or give a final view on any particular aspect of this negotiation. His delegation believed that such comments might be premature at this preliminary stage of negotiations and when capitals were still examining the issues in hand. Pakistan's thinking on modalities was still in an evolutionary process. The issues were complex and difficult and would have far-reaching implications for not only national economies, but also the world economy on the whole. His delegation's cautious approach could well be understood, especially from a developing country's perspective. Therefore, he did not wish to make any specific comments on the papers submitted for the meeting except that the papers were positive and interesting and touched a range of subjects which this Group would be dealing with. His delegation would be looking at these submissions in a constructive and positive manner. He agreed that tariff negotiations were not new to this organisation. Such negotiations had been going on since the time of the GATT. But yet, it remained unfinished business and hence Members had the mandate to move further in this regard. His delegation understood the different levels of ambition in this regard but, at this stage of the negotiations he could only say that the mandate gave full recognition to the special needs and interests of developing countries and LDCs and thus made it an integral part of the negotiations. Pakistan attached immense importance to these negotiations and was willing to actively and positively participate in all the deliberations of this Group. As a word of caution, he noted that there were wide differences in the level of development among Members and to move forward in the negotiations and make progress, the Group would have to bear in mind the concerns of developing countries and the LDCs in all aspects of the negotiations be it the reduction of tariffs, elimination of tariff peaks, or tariff escalation and/or elimination or reduction of NTBs. He strongly cautioned against any attempt to create differentiations among developing countries. The Doha Declaration, by virtue of paragraph 16 or paragraph 50, did not give any latitude to any Member to interpret the provisions of special and differential treatment under GATT 1994 or the Ministerial Decisions cited in paragraph 50, in a manner which would have the potential of creating divisions or fragmentation within the group of developing countries and LDCs. This would be a very dangerous path to follow.

1.33 The representative of Thailand stated that on modalities his capital was still considering all possible options. While, his delegation had not decided which option was the most suitable, it was

clear that the agreed modality would have to take fully into account the needs and interests of all developing countries through less than full reciprocity, as was stated clearly in the mandate. His delegation still did not clearly understand what was meant by tariff peaks and high tariffs in the Doha mandate. Even Thailand's domestic industries had different views on this matter. Many theories had been floated about tariff peaks and high tariffs, however, this Group needed to clearly define these terms before further steps were taken. In principle, his delegation agreed that the negotiations should diminish the gap between bound and applied tariffs. However, Thailand strongly believed that the bound tariff should be the starting point of the negotiations due to reason that the bound tariff was the legal tariff. All NTBs faced by Members should be brought into discussion in the Negotiating Group through a system of notification. The result of NTB negotiations had to be well balanced with the results of tariff reductions. Thailand believed that the non-agricultural market access negotiations should avoid any discussion about the definition of environmental products, including defining the product coverage. The best approach would be to treat this particular product in the same manner as the other products. It was not necessary to repeat the importance of special and differential treatment in the negotiations, however, he wished to mention that this issue was one of the key elements which would drive the negotiations forwards. As to the base year, his delegation was of the view that 2001 was the most suitable one for use in the negotiations. He thanked Korea for reiterating the importance of looking at *non ad valorem* duties, in particular specific and seasonal duties. His delegation strongly believed that the results of the negotiations in non-agricultural market access must be well balanced with the results of other negotiations, such as agriculture and services.

1.34 The representative of the Philippines stated that his delegation had an open mind to the various ideas on modalities that had been suggested. For his delegation, it was important that the modality should be faithful to the Doha mandate which took full account of the special needs and interests of developing and LDCs and also the principle of "less than full reciprocity in reduction commitments". Any country's reduction commitment would invariably be influenced by the sectorial and overall outcome of this negotiations. Therefore, his delegation would continue to be cautious in drawing up its commitments. The basis for the negotiations should be the final bound rates. In terms of unbound rates, he would study further the Indonesia's proposal that the basis should be the applied rates at the conclusion of the Uruguay Round. He cautioned delegations who had suggested that HS2002 should be the basis of the tariff negotiations because, as a practical matter, only a handful of countries had implemented HS2002 unlike the HS96 which most Members were applying. On minimal tariffs, and he noted that he had not used the term "nuisance tariffs", because for the Philippines, a minimal residual tariff and uniform tariff common on all imported goods was maintained for revenue purposes. This formed the basis for Philippines' fiscal balance and financing of development objectives. This was not a protectionist measure, but a developmental one which was levied on all goods on a uniform basis. So, his delegation did not consider a 0 to 5 % tariff as a nuisance tariff. His delegation attached a very high priority to the issue of NTBs since any reduction in tariffs would become meaningless if it was not complemented by the elimination of NTBs, especially for developing countries. All Members were aware of the challenges and difficulties of addressing this aspect of the mandate. Discussions in this area should not lag behind discussions in tariffs. NTBs might have to be approached as product-specific issues or generic issues. His delegation thanked New Zealand for its contribution on this topic. Tariff peaks and tariff escalation had proven to limit investments and export opportunities for developing countries, to retard development and to contribute to widespread poverty as was shown in the Johannesburg submit. Therefore, he attached high importance to this issue that Members would have to deal with, especially on basic commodities that were produced and exported by developing and LDCs. He agreed with Malaysia that zero-for-zero approach was relevant to sectors or industries that were fully mature and competitive. If developed countries and other mature developing countries wished to engage in a zero-for-zero approach, his delegation would only encourage this, but no Member should be compelled to negotiate on this basis. On environmental goods, his delegation found the definition proposed by the EC disturbing. His delegation had reservations about the reference to "sustainable materials", "production characteristics" or "end-use" criteria, because of the multiple uses of such goods. All Members were

aware that any criteria would necessitate a new set of standards or classifications which might limit the benefits arising from this negotiation to only a selected number of goods and to the producers of those goods. If this became the outcome of the exercise on "environmental goods", then the developmental dimension of the negotiations would be lost. Credit for autonomous liberalization was an important issue. It should not be forgotten that a number of developing countries had engaged in autonomous liberalization and it was only fitting that due credit be given for this in the negotiations.

1.35 The representative of Japan stated that his response could not be comprehensive since his delegation was in the process of finalizing all the details of the modalities. Regarding coverage, Japan was considering coverage based on the relevant paragraphs of Doha Declaration. On the "target tariff rate approach", his delegation was finalising the details in time for the November 2002 meeting. Regarding the harmonisation approach on textiles mentioned in Japan's paper, such liberalization should be pursued taking into account the strong interest of most developing countries. With respect to the use of HS2002 nomenclature he had taken note of the practical problems raised. However, as was expressed by Switzerland, the HS2002 nomenclature should be used. As to the exclusion of border exporting measures, Japan had a different view on this matter.

1.36 The representative of Norway stated that her delegation's paper did not address the question of NTBs and she wished to address the subject now. The New Zealand classification was an important and helpful input in order to structure the work. She agreed with the EC and others that the Group could benefit by looking at notifications of NTBs in other WTO fora. As pointed out in Singapore's paper, the Group should look at inventories developed by regional fora as a starting point. This would be important in order to define the universe of NTBs as a basis for categorization. Norway was engaged in an exercise at the national level that started out with the problems and barriers that Norway's industries were facing when approaching export markets. The questions emerging in this process were, *inter alia*, whether the problems were already regulated by existing WTO agreements, in which case the problems at hand were actually questions of implementation by importing Members and if so how to deal with this. One possible way would be to request a Panel or another less confrontational approach would be to try to deal with it bilaterally. She hoped that the process started in this Group would shed light on the problems encountered and help the Group deal with them. A second question which emerged was whether the problem was adequately dealt with by a WTO agreement because the relevant provisions were not clear enough.. If the Agreement was included in the negotiating agenda, the problem could be dealt with as part of those relevant negotiations. However, if the problem was relevant to an Agreement that was not under negotiations, what should the Group do? Her delegation was of the view that the Group could not ignore this part of the mandate. The Doha mandate did not *a priori* exclude such NTBs. The third category of problems were those originating from a lack of WTO rules and regulations. The challenge would then be more clear-cut with the Group having to agree on appropriate rules. Based on the input of Norway's exporters a number of those issues had already been addressed in the context of trade facilitation. Even if this were the case, it should not prevent this Group from addressing these issues. At this stage, the scope of the negotiations should not be limited since the Group needed to get a better picture of the range of problems faced by exporters. Based on the outcome of such an initial exercise of transparency, the Group would be better equipped to identify the main features of the problems as well as to develop the categories that would help to structure the work. The area of environmental goods was one of the difficult issues. How should the Group deal with this part of the mandate? One issue at hand was whether to establish criteria in order to define environmental goods. Chile had made a proposal of first applying a general formula across-the-board and then evaluating whether further reductions were required for environmental goods. However, even this approach would require a definition of environmental goods. The question was not if the Group was going to define environmental goods, but when it was going to define them. To that effect, she proposed looking at the work ongoing in the CTE in Special Session. In the agenda of this Committee's next meeting, there was one item concerning the APEC and OECD lists on environmental goods. Such goods included devices or equipment or gadgets to clean water, hamper emissions of poison gases,

etc. Looking at these lists, she considered that one obvious criteria could be to define environmental goods as goods that in their use contributed positively to the environment. At this stage, a criteria definition should be broad and inclusive and that the lists of products developed from such criteria should be open-ended. For Norway, the mandate of paragraph 31 implied additional market access over and above what was achieved in the general negotiations of market access of non-agricultural products. In Norway's view, the mandate did not open up for providing less market access for goods that were not labelled environmental goods, *inter alia* through exclusions or less than equal tariff cuts. In response to Malaysia's point on RTA, she stated that Norway was party to nineteen RTAs.

1.37 The representative of Korea stated that the representative of Australia had made two comments on Korea's paper, one on tariff peaks, high tariffs and tariff escalation and the second one on environmental goods. On the first issue, the representative of Australia had mentioned that to define tariff peaks, high tariffs and tariff escalation would be a controversial exercise and, therefore, it was better to start working on modalities rather than losing time dealing with definitions. Korea admitted that given the limited timeframe for the negotiations, the Group's work programme should be focused on core elements of negotiations. However, he wondered how the Group could tackle the modalities issue without a clear definition of core concepts such as tariff peaks and high tariffs. Contrary to Australia's observations, discussions on subjects without a common understanding of their meaning would be a waste of time since negotiations would go nowhere. In response to Australia's request for clarification on Korea's intention to include language which would foster the development of the environment industry world-wide, he stated that there was no special meaning attached to it. The elimination or reduction of trade barriers of environmental goods would facilitate North-South as well as South-South trade in this area thereby fostering environment industry world-wide, including in developing countries in the long run.

1.38 The representative of Canada wished to address the issue of NTBs and to comment on the New Zealand paper as well as on other contributions. Canada agreed with those delegations who sought to avoid duplication of work on NTBs. So the Group should not focus on issues which were already addressed under other WTO agreements or other Groups such as trade facilitation. On the other hand, information was very useful but information gathering should be measured. If the Group engaged in an inventory exercise through notification or otherwise, the burden should be on those that notify to indicate that the measure was not covered elsewhere and why it needed to be addressed in this Group.

1.39 The representative of Malaysia stated that the approach used by APEC in defining environmental goods was based on end-use which was different from that proposed by the EC. At the last meeting, Malaysia had already stated the downside and the dangers of following the EC approach, and many delegations had shared Malaysia's views. At the same time he wished to clarify that Malaysia had not endorsed the APEC list. Malaysia had problems when reference was made to different modalities that would provide for special treatment or deeper cuts for environmental goods. This was because, in general, developing countries did not have the technological capacity to produce such products. Therefore, deeper tariff cuts on such products would be to the benefit of the developed countries which would have greater access to developing country markets to sell these products. Of course, those products were also needed by developing countries to improve their environment in the context of sustainable development, but at the same time, Malaysia viewed it as greater market access for developed countries. If the idea was that through the reduction of tariffs, developed country investors would be enticed into developing countries to invest, produce and export such goods, that was fine. However, by the time these goods were produced by developing countries– it took a long time to set up manufacturing capacity and to build factories – new NTBs would surface to impede the export of such products from those countries. Therefore, Malaysia was of the firm view that the same modality should apply to all goods without having special treatment for environmental goods.

1.40 The Negotiating Group took note of the statements.

1.41 The Chairman stated that with respect to both environmental goods and NTBs there was need for further reflection in the Group and that the Group should not rush to reach conclusions. This was reflected, for example, in the discussion on environmental goods. Not only were there different views on the definition of environmental goods but also on how this issue should be treated. Some participants wished to have environmental goods defined early enough and to treat them as such in the negotiations. Others wished to wait until the end of the negotiating exercise to see whether more needed to be done on environmental goods. It was precisely on this point that the Group needed time to clarify ideas and to find a way to move forward. However, he drew attention to the fact that Ministers had felt it necessary to have a special paragraph on environmental goods and to give an indication of the direction which negotiators should follow. The second point was that there had been broad support in the Committee on Trade and Environment in Special Session to give part of what was its initial mandate to this Negotiating Group, in a spirit of cooperation and taking into account the substance of this matter. This Group should take responsibility for the confidence that had been placed in it. It would also be unfair to the Chairperson of the CTE in Special Session to not respond in a responsible and substantive manner. He hoped that participants would keep this in mind when reflecting on this issue. In practical terms, he suggested that he would establish on a permanent basis contact with the Chairperson of the CTE in Special Session, in order also to share with her the sense of the discussions in this Negotiating Group and to exchange views with her. This proceeding would be done at the level of the Chairpersons and he would report to this Negotiating Group if there was anything of interest which needed to be brought to the attention of the Group. The second thing was to follow the same procedure as the one followed by the US regarding its submission on environmental goods i.e. make a double submission simultaneously to the CTE in Special Session and to this Negotiating Group when a delegation wanted to deal with the question of market access of environmental goods. This could only enrich the debate and it could only create a good basis for cooperation between CTE in Special Session and this Negotiating Group. There had been a number of participants in this Negotiating Group that had mentioned the APEC and OECD lists of environmental goods. The representative of Norway had made a reference to these lists in her statement. He was sure that not many participants had seen these two lists; he himself had not seen these lists. Therefore, he proposed that the Secretariat circulate these lists so that the Group could analyse them. In short, he was proposing the following three steps for agreement in the Group: 1) As Chairman of this Group, he would establish contact with the Chairperson of the CTE in Special Session on a regular basis, to exchange views on the discussion which had taken place and he would report anything of substance to this Group; 2) If delegations were going to make submissions on environmental goods, then they should also notify the submission to the CTE in Special Session for reasons of courtesy, efficiency and transparency; 3) the Secretariat would circulate the list of environmental goods as defined by APEC and by the OECD.

1.42 The Negotiating Group took note of the statement and agreed to the Chairman's proposals.

1.43 On non-tariff barriers, the Chairman felt that this was a point on which participants wished to reflect further. Some participants had indicated that they would make a submission in the future and others had already made interesting comments on this matter. In terms of approach, he pointed out that there was the New Zealand paper, and many comments had been made on that paper. He recalled that at the last meeting of this Group there was a request for the Secretariat to compile a list of NTBs applied by Members. He had indicated that the Secretariat would look into this matter and the following information could be provided to the Group: the UNCTAD TRAINS database provided information on NTBs by countries and at a 6-digit HS tariff line. Within the non-tariff measures category, the following categories existed: There was a broad category of *price control measures* which was intended to ensure that imported goods were not sold below a certain price level. The *finance measure category* comprised the measures that restrained access to or increased the cost of foreign exchange for imports, or which had an impact on the import cost through the advance payment requirements. The category of *quantity control* measures comprised non-automatic licensing, quotas, prohibitions, export restraint arrangements, and enterprise-specific restrictions. The

monopolistic measures required imports to pass through a limited number of channels or that obliged the importers to contract certain national services. Finally there was a broad category of *technical measures* which required imports to comply with technical characteristics and standards. This database was available free-of-charge to all participants. Once again, at the last formal meeting another suggestion was made that the Secretariat could use the TPRM studies as a basis to compile a list of NTBs. However, in examining the situation it was found that, apart from the fact that some of the TPRM studies were out of date, the process of extracting and simply listing the NTBs in these studies was not as easy as it might appear. Reproducing the relevant textual portions of the TPRM studies covering non-tariff measures would be a possibility but the utility of such a document was highly questionable. Nevertheless, he had requested the Secretariat to circulate the "Table of Contents of Inventory of Non-Tariff Measures". This document was circulated as document TN/MA/S/5. Following the discussions at this meeting, he felt that rather than going through a theoretical exercise in this matter, it would be more fruitful for participants to identify the problem that they had encountered. This was basically what should have been done through the "Decision on Reverse Notification of Non-Tariff Measures (G/L/60)". However, only one notification had been received pursuant to this Decision. Participants were right to think that NTBs were an important issue for the negotiations in terms of market access. However, an effort had to be made from Members to identify the measures which were making life difficult for their exporters to export to foreign markets. He hoped that there would be action from the part of the participants to make the necessary enquiries from their private economic operators on the basic problems faced by them in terms of exporting and accessing other markets. He was sure that a lot of elements would be brought to the attention of the Members. In the meantime, the Group would have that time to reflect on the matter, discuss further submissions and also come back to the New Zealand paper. In this connection, he proposed that he write to all Members underlining the importance of this information gathering exercise and asking for Members to take the initiative to obtain, at the domestic level, the material that would individually and collectively be used in the negotiations. This process would take some time, therefore, Members could reflect more on the general aspect of this question. Subsequently, the work would be more focused on the material that only delegations were in a position to provide.

1.44 The representative of Chile stated that there might be another category of NTBs. For example, if two countries signed a FTA and in the process they agreed to have very stringent rules of origin in a particular product sector, creating a huge disincentive to outsource from third parties. Therefore, the third parties, i.e. parties which were not part of the agreement would be facing a barrier that did not exist before. Legal as it might be, such a case might represent a non-tariff measure. Perhaps this could be brought up in the context of these negotiations.

1.45 The Negotiating Group took note of the statements and agreed to the Chairman's proposals.

2. Other Matters

2.1 The Chairman stated that under this agenda item the Secretariat would introduce its papers. However, on the subject of Secretariat papers he wished to state that the papers had been prepared because it was felt that it would be useful for participants to have factual information or because participants had asked for these papers. In response to the point raised by India in its statement, he stated that the Group was not yet at the stage of integrating into the so-called Swiss formula new elements which were of a political nature. At this stage, the Secretariat paper was important from a factual point of view, and would permit participants to further reflect on issues. He recalled that the Swiss formula had not originated from the Secretariat. It was devised by a number of mathematicians in the Swiss national administration. If there was to be an improved formula it would have to be proposed by Members or from the specialists of the Secretariat on the basis of clear indications given by Members. He requested Members not to consider the Secretariat papers as an attempt to bring the discussion in one direction or another. These papers were simply elements on which the Members could base their reflections if they so wished.

(i) *Data Availability and Software Tools for Tariff Negotiations (TN/MA/S/2)*

2.2 A representative of the Secretariat (Ms. Jackson), in introducing the paper, stated that the paper was in two parts: 1) Data availability, and 2) Software tools. On data availability, the paper concentrated on the Integrated Data Base (IDB). Potential sources of IDB compatible data that could possibly be used to fill the many gaps in the data base were identified. The 5 sources identified were the data bases maintained by the UNCTAD, UNSD, ITC, IADB and APEC. The results were presented in tabular form for each Member plus those acceding countries which had supplied information to the IDB. In these tables the latest IDB submission that had either been disseminated or processed by the Secretariat was compared to the latest information in the other data bases as obtained from the organizations concerned. The tables demonstrated quite clearly that the IDB was far from complete with respect to up to date information, defined as covering the years 1998 to 2002. Only 72 Members had provided up to date tariff data and only 76 Members had provided import data. If the table was used to make a comparison between the databases, it would be possible to identify some Members where the IDB had in fact the most updated information. However, at the other end of the scale there were Members who did not yet appear to be in the international statistical system at all. There were also a number of Members for whom the incidence in other data bases were more comprehensive than the IDB. There was an omission in Table 1 concerning Lithuania. On the import statistics, there was one year in the WTO IDB but the year was omitted in the table and it was 2001. On the software tools, the paper concentrated on the tools that could run off the IDB/CTS information or similar information. Those were the tools developed by the WTO, the World Bank, the ITC and the IADB. The paper briefly described the tools and detailed the access rights for Members. These tools should be seen as complementary since they had been developed for a variety of user requirements in the various organizations. The Secretariat was ready to provide further technical information on these tools, as required.

2.3 The representative of the United States stated that it was very useful to have all this information in one place. She hoped that the Group could find a way to fill in the gaps and perhaps the Chairman could help through some mechanism. Her delegation remained willing to help other Members in terms of technical assistance, if there were additional needs.

2.4 The representative of the Philippines stated that she was struck by the fact that there were 144 WTO Members, but only 72 submissions to the IDB.

2.5 The representative of the European Communities stated that the Group had now these valuable tools, the IDB and the CTS database. Of course, the IDB was not complete and his delegation regretted that, and everything should be done to fill these gaps. His delegation was ready and willing to provide whatever assistance it could in order to help those participants which had not yet been able to deliver the required data to do so as soon as possible.

2.6 The representative of Australia stated that from what he had understood, part of the problem was that some of these data existed in organisations other than the WTO. He recalled that the United States in an earlier proposal had suggested that one option was to try and get authorisation to approach those organisations with the view to having that data released so that the WTO could input it into the IDB. It would also be useful, as the US had suggested, to set a deadline for the end of this year by which time the Group should aim to have this information available.

2.7 The Chairman stated that it had appeared from the Secretariat paper and from the statements made by participants that there was a weakness in the data gathering process and the availability of data. When reading the Secretariat document he was struck by the fact that at the end of almost each paragraph which identified a certain database and explained its contents, that a sentence had been included to the effect that information in these databases could be used in the IDB if authorized by the relevant organization and the Member concerned. Sometimes, the problem was that not all Members

were in a position to provide the appropriate or updated data. In this context, he noted with interest the offer made by the EC, US and other participants to provide help to countries which needed to fulfil these tasks. In this respect, he proposed that this might be one of the issues that the Secretariat could discuss with delegations having indicated their readiness to provide assistance and with those which still had gaps in their data to see how such assistance could be dynamised. On the question of data located in other databases. A number of databases existed such as that of the APEC, IADB etc. A number of countries were Members of WTO, APEC and/or IADB and had access to all the data. On the other hand, some other countries were only WTO Members and did not have access to other sources of data. Therefore, they were less well-placed than the others; there were some elements of inherent discrimination in this fact. The WTO should be the place where there should be a consolidation of the information in the various databases. He understood that efforts had been made in the past in order to transfer data from the other databases to the WTO. However, he understood that bureaucratic obstacles had been encountered. He proposed to write a letter to all participants urging them to provide updated information to the IDB and if that were not possible, requesting them to authorize the Secretariat to source the required information from other intergovernmental agencies on that Member's behalf by a certain target date. An example of an authorization letter would also be attached to facilitate matters for participants.

2.8 The representative of Brazil asked if the expectation was that all Members signed such authorisation or only those Members for whom gaps existed in the data. He said this because Brazil had made it a point to keep scrupulously up to date on the IDB submissions and wondered if it would be useful at this point, for those Members whose data was up to date, to add more data from other organisations.

2.9 The Chairman stated he had looked at this exercise from a long term perspective. He had wished to use this occasion to ensure that even if there were developments in the future the flow of information would continue and that the Group would not need to meet again to decide on this exercise at least in the course of these negotiations. The point made by Brazil was a good one, and the matter would have to be clarified with the Secretariat. At this point, he asked for agreement that subject to adjustments and real needs he would write to all Members on the basis outlined above.

2.10 The Negotiating Group took note of the statements and agreed to the Chairman's proposal.

(ii) *WTO Members' Tariff Profiles (TN/MA/S/4)*

2.11 A representative from the Secretariat (Mr. Richter), in introducing the paper, stated that this document presented a set of aggregate figures describing the tariffs of Members, both for the MFN applied and final bound duties. The information for MFN final bound duties had been taken from the Consolidated Tariff Schedules (CTS) database which covered basically all WTO Members. Only 2 Members could not be included in the profiles for the time being. The information for MFN applied duties was taken from the IDB for which the Secretariat had not yet complete data coverage. 77 Members and acceding countries were covered in this document. The following three important methodological issues had to be kept in mind when interpreting the results: 1) For the calculation of averages and standard deviations only *ad valorem* duties, including *ad valorem* equivalents, if supplied by the Member, had been used. There were only three instances where *ad valorem* equivalents had been used in this document; 2) For the calculations of bound duty averages only bound tariff lines were taken into account. No assumptions were made as to the duty of unbound tariff lines which were excluded from the calculations; 3) To avoid a possible bias due to different levels of disaggregation in Members' tariffs and to improve cross-country comparability, tariff line data were, in a first step, aggregated up to the HS 6-digit level. All subsequent calculations were based on these pre-aggregated HS 6-digit duty averages. The results have been presented in ten tables: Tables 1 to 6 showed summary statistics for MFN final bound and applied duties across all Members. Tables 7 to 10 showed the detailed information for individual Members. In each set of tables information for all

products and non-agricultural products was presented separately. In order to introduce the various indicators used in the tables it was best to start with the presentation of the detailed tables with the Members-based information. On page 23, table 10, there was information on the MFN applied duties for non-agricultural products compiled from IDB data. Following the name of the Member, the table showed: The year of the tariff and the number of national tariff lines followed by the simple unweighted average or mean value, which gave an indication of the overall average level of tariff protection, excluding though, for lack of *ad valorem* equivalents in most cases, the effect of *non ad valorem* duties. The next column showed the standard deviation which was an indicator of the distribution of the *ad valorem* tariff duties around its mean value, which gave some idea of the degree of tariff harmonization. For example, a tariff structure which used only a limited range of low duties would show a very low standard deviation, whereas one with many peaks would show a higher value. A uniform tariff rate, found in some Members' bound schedules, yielded a standard deviation of zero. The maximum value which was derived from duties found at the tariff line level; so this one was not based on HS 6-digit duty averages. The next three columns gave the percentage of duty free and dutiable items and subdivided from the dutiable items, the percentage of *non ad valorem* duties. The latter indicated the percentage of dutiable HS 6-digit subheadings which contained at least one *non ad valorem* tariff line without an *ad valorem* equivalent. The last two columns showed the share of international and national peaks in the tariff structure, which was, to be more precise, the share of HS 6-digit subheadings with duty averages higher than 15 per cent for international peaks and duty averages higher than three times the national simple average for national peaks which was shown in the second column of this table. Table 9 showed the same indicators based on all products, including agricultural products. In tables 7 and 8 there were some additional indicators for bound duties. Table 8 on page 15 showed: the estimated binding overage calculated on the basis of HS 6-digit subheadings containing at least one bound tariff line; the last year of implementation found for any one tariff line, in this case non agricultural products; and at the end of the table, there were three more columns showing information for other duties and charges. Again simple average, standard deviation and the share of HS 6-digit subheadings containing *non ad valorem* other duties and charges were shown. To get a better overview of the distribution of indicators across Members, summary tables had been compiled corresponding to the detailed tables. The overall summary tables 1 and 4 gave some indications of the overall distribution across the WTO Membership for bound duties and for applied duties only for those Members with data. Tables 2, 3, 5 and 6 showed the distribution of tariff profile indicators from the detailed tables and they showed in each case the number of Members that fell in a certain percentage range. This was the first time that the Secretariat had produced such summary-tables from CTS and IDB data and it was very important that Members looked closely at the data.

2.12 The representative of Brazil pointed out that tables 7 and 8 showed that for Brazil there was a 99.9 % coverage of bound rates. However, the correct number was 100%.

2.13 The representative of Costa Rica stated that in its statement made the previous day, his delegation had indicated that it was necessary to complete the database with *ad valorem* equivalents for those Members using *non ad valorem* tariffs. His delegation had now heard that only 3 of those countries had provided *ad valorem* equivalents. He asked how his delegation would recognize the three countries in the tables.

2.14 The representative of Malaysia stated that this exercise showed how important it was to contribute to the IDB. He had three questions: 1) How accurate was this output given the fact that a large number of specific duties had not been included? 2) When would Poland and Moldova be included? and 3) Would it be possible to have this information in a CD version?

2.15 The representative of the Philippines stated that, in particular, table 4 had caught her attention. The table reflected the total number of tariff lines on a minimum, maximum, medium and average, and showed that some countries had many more tariff lines than others. She wondered how such discrepancies could be taken into account in the negotiations.

2.16 The representative of Uruguay noted that Uruguay had bound 100% of its products, but in tables 7 and 8, the figure stood at 99.7%.

2.17 A representative of the Secretariat (Mr. J. Richtering) stated that with respect to the question from Brazil and Uruguay regarding the calculation of percentages of binding coverage in tables 7 and 8, the calculation was done using the CTS files which were submitted and approved by Members and then those were matched against the standard list of HS96 subheadings. It was possible that in some instances due to incorrect coding for some tariff lines certain lines were left out in the calculations. Therefore, for countries that had 100% coverage, the Secretariat would need to check that all the duty lines had been taken into account. He encouraged other Members having similar comments to contact the Secretariat. On *ad valorem* equivalents, only very few countries supplied *ad valorem* equivalents, and in fact the countries concerned were the EC, the US, Australia and Poland. However, in his introductory statement, he had mentioned that only three countries had provided this information because in the case of the US, the *ad valorem* equivalents for 2001 had not been provided. To get a clear picture of the effect of the exclusion of *ad valorem* equivalents, in table 10 it was possible to see that the percentage under dutiable items of which *non ad valorem* indicated exactly the percentage of HS 6-digit sub-headings that was affected by *non ad valorem* duties. Some *ad valorem* equivalents were provided but not all the cases were covered. A striking example was Switzerland, where most of the tariff actually consisted of *non ad valorem* duties, therefore the figures that were shown for tariff averages were meaningless because they did not reflect the level of protection. Concerning Poland and Moldova, the problem with Poland was that the bound rates were sent in HS2002 and the calculations were based on HS96 so there was no time to integrate that data into the calculations. In the case of Moldova, the Secretariat had had some technical problems that prevented the data from being included into the tables in time. As to the comment from the Philippines concerning the tariff line disaggregation that showed very striking differences between countries. In fact this was why the Secretariat had decided to pre-aggregate data at the 6-digit level to have a comparable basis and then to base subsequent calculations for tariff averages and standard deviations on the basis of the standardized-6-digit data. This took partly but not fully account of the effect that the very different levels of disaggregation of tariff line data might have on the results. Regarding the proposal from Malaysia to distribute these data electronically, there were various options. The CD-Rom was one option, but publication on the intranet site might be an easier option to make the data available within a very short time to all Members.

2.18 The representative of India requested clarification on how averages at a more disaggregated level than a 6-digit level had been calculated.

2.19 A representative of the Secretariat (Mr. Richtering) responded that the Secretariat had first calculated a simple average for tariff lines going beyond a 6-digit level to a 6-digit level, and then the general average was built on the averages at the 6-digit level.

2.20 The Chairman invited those Members who were interested in further discussing these issues to attend a technical meeting with the Secretariat scheduled for the same day.

2.21 The Negotiating Group took note of the statements made.

(iii) *Formula Approaches to Tariff Negotiations (TN/MA/S/3)*

2.22 A representative of the Secretariat (Mr. Bora), in introducing the paper, stated that as to the basic framework for this document, he had looked at the various proposals that had been made in the past rounds in terms of formula approaches and also Mr. Hoda's excellent coverage of these kind of proposals. It struck him that essentially there was no basic way in which to compare the different proposals that had been put forward. Hence, what the paper did in the first instance was to convert various kinds of proposals into one common framework which was the reduction formula. The

different proposals could be looked at in terms of the percentage reduction of initial tariff rates. In order to be sufficiently neutral a hypothetical tariff profile was assumed which had the very simple case of 25 tariff lines and tariffs increasing from one onwards. The idea of doing that was that it made the exposition fairly simple because the impact of different kinds of formulas on that profile could be analysed. In terms of the structure of the paper based on reduction formulas, a distinction was made between reduction formulas that were dependent upon the initial tariff rate. Therefore, it would be possible to have a proposal on a specific percentage reduction regardless of the initial tariff rate. The second type was more complicated or sophisticated and it was the case where there was a reduction proposal based upon the original tariff rate. To give an idea of the different kinds of impacts, figure 1 on page 4 showed a situation where the proposal to reduce the tariff rate did not depend upon the initial tariff rate at all and the various post-reduction tariff profiles were basically all straight lines which matched the original profile. The net effect was produced in table 1 and the important thing was that this kind of approach was not going to affect any of the relative tariff rates, i.e. the tariff rate of one particular line relative to that of another line. In figure 3 (page 9), a formula which was a function of the original tariff rate and which was non-linear was used. Looking at the example and at the original tariff line and the bottom profile, it could be seen that the net effect of that formula was not only to reduce higher tariff rates by a larger amount but also to reduce the higher tariff rates to the point that they were actually lower than the lower tariff rates. Consequently, most of the tariff lines got suppressed to zero and in fact the lower tariff rates become the peaks in this profile. In terms of interpreting which formula might suit particular needs or different Members' objectives, that was left entirely up to Members. The point of the paper was simply to note that various kinds of formulas could be elaborated to meet different kinds of objectives. Regarding the Swiss formula, despite its uniqueness, the Swiss formula was simply one class of a formula within a general class of formulas. It was an innovative formula which was simple and easy to use. In page 13, the unique aspect of the Swiss formula was that it depended upon a coefficient "A". Consequently, Members had negotiated or decided upon the value of "A" and different values of "A" had different kinds of impact so it was a very simple and easy formula to use. In the Annex, what he had done was to take the original specification of the Swiss formula and convert it into a reduction formula to try to have a common framework. The use of the formula approach depended upon two things. The first one was *ad valorem* tariffs. While one could use the formula on *non ad valorem* tariffs, it would be quite complicated. The second one was comprehensive coverage. Therefore all 25 lines in the hypothetical profile were subjected to the formula. In reality, as Mr. Hoda had pointed out, none of those two things actually existed. Not all Members had *ad valorem* tariffs in their tariff profile and when it came to applying the profile many exceptions were used, be they sectoral, nuisance duties etc.

2.23 The representative of Chinese Taipei pointed out two mistakes in the table. On page 7, Table 2, the heading relating to columns 3 to 5 should read "Final Tariff" not "Reduction Formula", and the heading relating to columns 6 to 8 should read "Reduction Formula" not "Final Tariff". In the third column when $R=t_0$, the maximum rate should be 25 and not 3.75. The same error was repeated in Table 3 (page 10), where the headings "New Tariff" and "Reduction Rate (Per cent)" should be exchanged.

2.24 The representative of Korea stated that in Table 1, line 2, the original tariff was 3 but the final tariff was 2.25. He asked if the final tariff should not be 2.5.

2.25 The representative of India sought clarification about the request and offer approach that was not covered by the papers. He asked whether in the past the request and offer approach was used only when the requesting country concerned had an INR or PSI status on those products or whether that was more the exception than the rule. It would be useful to have an indication as to the scope of request and offer approaches as going by past experience.

2.26 A representative of Secretariat (Mr. Bora) stated that the corrections would be incorporated in the paper.

2.27 The Chairman stated that a revision of the paper would be distributed taking into account the comments made by the delegations. He noted India's request for information and hoped to satisfy it.

2.28 The Negotiating Group took note of the statements.

(iv) *Annotated Selective Bibliography of Research on Market Access (TN/MA/S/1/Add.1)*

2.29 A representative of the Secretariat (Mr. Bora), in introducing the paper, stated that this version of the bibliography included abstracts of all the studies for which abstracts had been written by their authors. Where abstracts or annotations were not available, a brief summary of the document was included. The reason why the document was issued as an addendum as opposed to a revision was that additional studies had been included. The reason for annotating the bibliography and providing the additional information was to allow the Members to guide their own research efforts to studies they thought were of interest to them.

2.30 The representative of Kenya stated that Kenya was among the delegations that had requested studies to assess the impact of previous liberalisation and to obtain an indication of the results that should be expected in these negotiations. He thanked the Secretariat for the bibliography since it contained very useful information that strengthened Kenya's position. He had read the book, listed at page 2 of the bibliography, written by a Cambridge University Professor, Pr. E. Buffie, that stated: "... related to this last point some industries that policy makers targeted as promising in Brazil, South Korea and Taiwan did develop rapidly with the aid of protection and became efficient exporters in a short period of time...". This was the kind of information that all Members should have when the Group was negotiating further liberalisation. If there were missing materials, he suggested that the Secretariat could cooperate with other organisations such as UNCTAD to fill in the gaps where the point of view of developing countries especially those from Africa could be taken seriously. His delegation had also come across some UNCTAD discussion papers and thought that those papers should be circulated to Members at least for information purposes. One paper entitled "The Impact of Trade Liberalisation on Export and GDP Growth in LDCs", contained some useful information; the second paper entitled "How did Developed Countries Industrialise?" gave a historical perspective of the case of Great Britain and the USA. These were useful examples which could help the Group better understand the position of his delegation. In the same vein, when some Members argued that an alternative approach to trade reform was required which would differentiate countries by their level of development and industrial base, his delegation could be understood and not seen as posing an obstacle to further liberalization.

2.31 The representative of the United States stated that this list would be very useful in helping the Group target on relevant studies. After listening to the comments by Kenya on new papers, she proposed that Members help the Secretariat to keep the list updated. This could be a useful way to have the list as an on-going tool without posing a burden on the Secretariat.

2.32 The representative of Thailand asked why the Secretariat was using a 15% figure as a tariff peak because there were several theories regarding tariff peaks. Furthermore, he wondered where this figure came from originally.

2.33 A representative of the Secretariat (Mr. Bora) stated that the bibliography was open for updating. However, he recalled that in the original bibliography it had been pointed out that it was impossible to cover all the studies that had ever been published on the issue of trade policy. Therefore, two simple rules had been used: 1) 1995 was used as a cut-off date, although some studies which were considered to be "classics" were included; and 2) studies that were more theoretical and required advanced mathematics were excluded. The use of the first criteria was the reason for having excluded from the list the two studies that Kenya had mentioned. One was a 1988 publication and the other one a 1990 publication. In addition, he wished to draw the attention of the delegation of Kenya to the

comprehensive study by Bruton (1998) which covered a lot of the literature for the past 30 years. Additionally, he wished to inform the Group that there was an initiative within the Secretariat to make all the bibliographies currently under preparation or being updated available on the Members' website. In response to Thailand's question, the figure of 15% was defined as an international peak as pointed out in the modalities paper. This was a fairly arbitrary but commonly used figure that had originated from a study of the OECD, done in early 1990. One of the key problems with using 15% was that for Members that actually had most of their tariffs below 15%, such a figure was not appropriate; therefore, a second criteria based on 3 times the national average was used. He added that the 15% was not a fixed rule, and for example in studies on LDCs market access because of the existence of preferences a peak of 5 % was used.

2.34 The Negotiating Group took note of the statements.

(v) *Agenda for the next meeting*

2.35 The Chairman drew the attention to the fact that when the programme of meetings for these negotiations was adopted on 19 July 2002, a two-stage approach up to December 2002 had been foreseen. During the first two meetings the agenda was structured in order to have discussions on issues such tariffs on non agricultural products, NTBs on non-agricultural products and other matters. Then for the 4-6 November and 2-3 December 2002 meetings, the idea was that the Group would discuss in a more focused way the possible modalities for negotiations on market access both in the tariff and non-tariff barriers areas, and also other matters. So far there had been very substantive discussions and he felt that the Group was on the right track in terms of discussion. He noted that the Group had entered into the substance of the discussion rapidly and had already begun to deal with modalities or elements of modalities. Therefore, what he initially saw as two different phases had been transformed into a progressive examination of the various key elements of this negotiation. He added that, perhaps, he would try to phrase the agenda somewhat differently for the next meeting. However, he would consult with Members before doing that. The type of discussion that the Group had engaged in during the first two meetings was the right type of discussion and the Group should pursue this track in a very flexible way in order to arrive at the end of the year at a stage where a synthesis of the discussions would be possible in order to see what the picture was and the basis on which the Group could continue for the next year. He urged Members which had announced forthcoming submissions to table them well in advance of the 4-6 November 2002 so that a substantive discussion could be held at that meeting.

2.36 The representative of the Philippines stated that he was a bit concerned with the Chairman's statement regarding a synthesis for the end of 2002. The Group still had voluminous materials to examine and discuss before reaching decisions on major issues. He thought that it would be difficult for his country, and perhaps for other developing countries, to come up with decisions which would allow the Chairman to do a synthesis. He would much rather continue with the open-ended discussions.

2.37 The Chairman stated that he did not want to enter into a discussion on procedures; that question had already been dealt with on 19 July 2002. His intention was to provide this Group with as much factual material as necessary to facilitate its work. So if a table identifying the various issues in a factual way would be useful for participants, then he would undertake to do it in his capacity as Chairman. He was not going to make a proposal on modalities by the end of the year; it would be for Members to do that. His only concern was to ensure that delegations were in the best possible position to take decisions. However, the time for decisions had not arrived yet. He underlined once more the importance of having extensive participation in the debate. The participation in the last two meetings had been good, but the Group could do better.

2.38 The representative of India sought clarification from the Chairman about his statement regarding rephrasing the agenda for the November 2002 meeting. He pointed out that the procedures containing the programme of meetings had been adopted, and any modification to these procedures might open up old issues. His delegation would wish to be consulted in case of a rephrasing of the agenda.

2.39 The representative of the Philippines emphasized that it would take his country some time to react in a studied way to the various issues that were being discussed. At this stage, his delegation's views were preliminary in nature. A synthesis paper would position participants and in the case of the Philippines such a positioning would be misleading. On the question of rephrasing the agenda, he noted that it was a sensitive issue for his delegation.

2.40 The Negotiating Group took note of the statements made.
