

# WORLD TRADE ORGANIZATION

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Negotiating Group on Market Access

## MINUTES OF THE MEETING

Held in the Centre William Rappard on 19-21 February 2003

*Chairman: Ambassador P.-L. Girard (Switzerland)*

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1. The Chairman noted that the agenda for the meeting was contained in document WTO/AIR/2023 dated 7 February 2003, and an annotated agenda for the meeting had been circulated in Job(03)/25. He drew participants' attention to the fact that Item 2B of the Airgram had been changed to "Current Data Availability in the Integrated Data Base".

## **I. CONSIDERATION OF POSSIBLE MODALITIES FOR NEGOTIATIONS ON MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS**

### **A. CONSIDERATION OF DOCUMENTS SUBMITTED BY PARTICIPANTS SINCE THE GROUP'S LAST MEETING**

1.1 The Chairman requested those participants having made recent submissions to introduce their papers. There were a number of submissions that had been made by participants since the last meeting of the Group. These included a communication from Korea (TN/MA/W/6/Add.1), India (TN/MA/W/10/Add.1), the European Communities (TN/MA/W/11/Add.1 and Corr.1), Japan

(TN/MA/W/15/Add.1), Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (TN/MA/W/19), China (TN/MA/W/20), Mauritius (TN/MA/W/21), Bangladesh (TN/MA/W/22), MERCOSUR (TN/MA/W/23) and Qatar (TN/MA/W/24). In addition, he understood that Thailand and a group of participants (namely, Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe) had recently made submissions which had been circulated in TN/MA/W/26 and 27 respectively.

1.2 The representative of Korea stated that, as a result of reductions in tariffs and non-tariff barriers since the Uruguay Round negotiations, market access for non-agricultural products had substantially improved. However, WTO Members still faced various barriers to trade in these products, including tariff peaks, high tariffs and tariff escalation. The Doha Development Agenda provided Members with the opportunity to deal with the remaining trade barriers for non-agricultural products and set out an ambitious goal for these negotiations as contained in paragraph 16 of the Ministerial Declaration. Korea was of the view that Members must make conscientious efforts to fulfil the ambitious mandate of the Doha Ministerial Declaration. Korea had already presented its preliminary views on some of the key issues of negotiations on non-agricultural products through its first submission (TN/MA/W/6). The second Korean paper, TN/MA/W/6/Add.1, elaborated on the first submission, mainly focusing on, *inter alia*, the modalities for negotiations. Korea believed that negotiations on modalities should be based on the following principles: (a) the outcome should ensure a balance of benefits between developed and developing country Members, (b) the modalities should ensure transparency so that Members could evaluate the effects of their application, (c) the modalities should also ensure substantial improvement in market access going beyond what was achieved during the Uruguay Round negotiations, (d) the modalities should aim at achieving convergence of different tariff structures of Members by effectively addressing tariff peaks, high tariffs and tariff escalation, and (e) the modalities should take into account the current tariff structures of Members which reflected their respective levels of development. Under these principles, Korea suggested specific modalities to tariff reduction, namely a trade-weighted average tariff reduction model.

1.3 Firstly, Korea proposed the trade-weighted average tariff rate as a basis for the tariff reduction target. Such an approach adequately reflected each Member's tariff structure and level of development. While the target was aimed at more than what was achieved during the Uruguay Round negotiations, it likewise provided each Member with some flexibility to take into account sensitive items. However, Korea tried to introduce the minimum tariff reduction rate to each product with no exceptions in order to prevent any arbitrary application of excessive sheltering for those sensitive items. Secondly, Korea attached great importance to ensuring the balance of benefits and burden-sharing between developed and developing country Members by effectively addressing tariff peaks and high tariffs. Thirdly, Korea incorporated some elements into this model which would ensure that the special needs and interests of developing and least-developed countries were met, including less than full reciprocity in reduction commitments. The trade-weighted average tariff rate, in itself, implied special and differential treatment for developing countries in the sense that it reflected the level of development of each Member.

1.4 Korea proposed that each Member reduce its trade-weighted average tariff rate by 40 per cent through the following tariff reduction formula: the bound tariff rate for each non-agricultural products should be reduced by at least 20 per cent with no exceptions; for those products whose current bound tariff rates were above either two times each Member's current simple national average tariff rate or 25 per cent, the tariff rate should be further reduced by 70 per cent of the difference between it and the above-mentioned threshold after the minimum reduction of 20 per cent. The formula of maximum tariff rate after reduction was illustrated in the Korean paper. If a tariff rate was above two times the simple national average and at the same time above 25 per cent, the final tariff rate should be whichever was lower after the reduction. If the result of tariff reduction in accordance with the formula as mentioned above was under the targeted 40 per cent reduction of the trade-

weighted average tariff rate, Members should make additional tariff reductions at their own discretion to achieve the target 40 per cent reduction. However if the result of tariff reduction in accordance with the formula went beyond the target Members should apply the result. As a result of the application of this formula to actual tariff structures, Members could roughly envisage a less than 30 per cent tariff rate even in the case of an original 100 per cent tariff rate. The tables and graphs in the Korean paper clearly showed this result. As special and differential treatment, Korea proposed that LDC Members should be exempted from the tariff reduction obligation but they were requested to substantially increase their tariff binding ratios. Korea also suggested a longer implementation period of seven years for developing countries instead of five years. Korea believed that negotiations on non-tariff barriers should not derail or delay the entire negotiating process on market access. Therefore Members should agree early in the process on the scope of negotiations, with a particular focus on how to deal with issues involving existing WTO rules and Agreements. In this connection, Korea had already alluded in the previous meeting to the key elements to be taken into consideration in defining the scope of negotiations on NTBs, namely (a) non-duplication of work with other negotiating bodies, (b) existence of a critical mass, (c) achievability of negotiating objectives within the agreed time-frame for the Doha Development Agenda negotiations, and (d) respect for each Member's authority in pursuing national policy objectives. In this respect Korea appreciated the compilation work of the Secretariat which would be a good basis for future negotiations on NTBs.

1.5 Finally, concerning environmental goods, Korea believed that limiting the scope of product coverage to a manageable level was desirable in view of the need to ensure broader participation of developing country Members in the reduction commitments in this sector. Korea proposed that Members establish a WTO list of environmental goods, taking advantage of the work already undertaken by APEC and the OECD. Korea reiterated its position that the environmental goods to be included in the list should be determined in terms of their end-use, and not in terms of their production and process methods.

1.6 The representative of India stated that its first submission (TN/MA/W/10) outlined India's preliminary thoughts and had drawn attention to the various elements of the Doha mandate, particularly as seen from a developing country perspective. He emphasized that the negotiations this time should bring forth substantial gains to developing countries. Following further consideration, and also after extensive domestic consultations with the various concerned stakeholders, India had made a second submission (TN/MA/W/10/Add.1) proposing certain specific modalities for the negotiations. The Doha mandate *inter alia* recognized the importance of ensuring that tariff peaks, tariff escalation, high tariffs and non-tariff barriers, in particular on products of export interest to developing countries, were dealt with effectively. Such tariff peaks prevalent in developed countries were often concentrated on products that were of export interest to developing countries such as in textiles and clothing; leather, rubber, footwear and travel goods; transport equipment; and fish and fish products. It was well documented that most developed countries' tariffs for such items increased with the level of processing of such products and that such products were often excluded from preferential tariff schemes such as GSP.

1.7 The Doha mandate also stipulated the concept of less than full reciprocity in reduction commitments for developing countries. Formulae effectively seeking to drastically reduce the tariffs generally prevailing in a developing country schedule while being comparatively less demanding on developed country counterparts would not be in keeping with the mandate, even if they were sought to be projected as harmonising tariff levels, which in any case was not a specific objective in the Doha Declaration. It should be recognised in this respect that for many developing countries customs tariffs contributed significantly to government revenue and were necessary for meeting critical developmental expenditure. Unlike developed countries which collected the bulk of their revenue from direct taxes, in developing countries direct taxes usually formed a small part of total revenue. This was because of low income levels on the one hand and a high proportion of non-corporate entities on the other. Moreover, administrative convenience demanded greater focus on customs

receipts since these could be collected at relatively fewer collection points unlike other indirect taxes which had to be collected from a large number of non-corporate entities. In a federal set up like India there were also political economy considerations since domestic indirect taxes were mainly collected by state Governments while customs duties were collected by the central Government. Any rapid reduction in customs duties would therefore entail serious consequences from many perspectives.

1.8 The Doha mandate also clearly stated that the fiscal, developmental, strategic and other needs of developing countries should be fully taken into account as required *inter alia* by paragraph 3(c) of Article XXVIII*bis* of GATT 1994. Domestic industries in developing countries suffered from infrastructural handicaps, paid significantly higher rates of interest on capital, had to contend with higher power tariffs, differential and significant local level levies etc. There was also a large small-scale sector involving massive employment, which needed to be kept in view. Gradual reduction allowing sufficient time to restructure was essential if tariff reductions were to be made domestically sustainable and acceptable economically and politically.

1.9 In framing the specific proposals for modalities proposed in India's paper, the above imperatives had been melded with practical considerations of simplicity in execution and ease in verification of the implementation of the modalities. The specific modalities suggested in India's paper included the following: For tariff lines already bound, reductions should be undertaken only from bound levels and the method of reduction should consist of a simple percentage cut on bound tariffs of each Member, with a higher percentage to be set for developed countries than the percentage set for developing countries. Such a reduction method would be in conformity with the mandate requiring less than full reciprocity in reduction commitments by developing countries. It might be decided for instance that developing countries would make percentage reductions which were two thirds that of percentage reductions prescribed for developed countries. It might be pointed out that even under this approach developing countries, which generally had higher tariffs, would be making significant reductions in absolute terms. He pointed out in this respect that the application of the Swiss formula or its different variants required developing countries which generally had higher tariff levels to make even larger percentage reductions than developed countries. Clearly, this was not his delegation's understanding of the mandate about less than full reciprocity in reductions commitments.

1.10 It might also be stipulated that Members should not impose tariffs on any product in excess of three times the overall bound average tariff. The average for this purpose should be calculated after effecting the linear tariff reductions, as already indicated. This would effectively address the issue of peak tariffs and tariff escalation, in particular on products of export interest to developing countries. As a special and differential measure, flexibility was to be made available to developing countries to decide on the actual bindings on some tariff lines while still maintaining the percentage reduction on an average basis on all bound lines. As far as unbound tariff lines were concerned, since they were generally more sensitive, greater flexibilities should be provided for these items including the following: for unbound tariff lines, developing countries should have the flexibility to bind them at levels generally above the highest of the bound rates prevailing for bound items in a country's tariff schedule on non-agricultural products; and while product coverage should be comprehensive and without *a priori* exclusions, i.e. no sector as such might be excluded from the negotiations, developing countries should have the flexibility not to bind certain unbound tariff lines still considered domestically highly sensitive or strategically important. Suggestions had also been made in certain other proposals for supplemental zero-for-zero or tariff-harmonisation add-ons. India had already indicated in their earlier paper the various reasons why they did not favour such initiatives as they imposed onerous obligations on developing countries. In any case, these should be kept to an absolute minimum and even in the limited sectors where such approaches might be agreed upon, including, if such an approach were agreed to, for environmental goods, flexibilities such as: higher harmonised tariff level for developing countries; greater credit for tariff reductions by developing countries; and longer implementation periods would need to be incorporated to take account of developing country interests. As for implementation period or staging, the precedent set in the

Uruguay Round might be followed and developing countries should be permitted to implement the tariff commitments undertaken over a longer period than that taken by developed countries. The actual duration would also depend on the extent of commitments undertaken. For developing countries it should be extended up to ten years.

1.11 On non-tariff barriers, India had submitted separately a brief compilation of the NTMs that had been brought to their attention by their trade operators. His delegation would give careful consideration to the Secretariat's compilation of the different NTB submissions provided to the Group at this meeting, and would make suggestions later. India's paper had dealt with several other aspects such as credit for autonomous liberalization, how to deal with specific duties etc. In conclusion, India expected that market access negotiations would significantly improve market access for developing countries through reduction in tariffs and NTBs, in particular on products of export interest to developing countries. This would be in keeping with the development theme of the Doha Declaration, which had sought to place the needs and interests of developing countries at the heart of the Doha Work Programme. In turn, India would be willing to make its full contribution to the tariff liberalization process, in conformity with the Doha mandate. His delegation would be happy to respond to any clarification on their proposal.

1.12 The representative of Japan stated that the additional proposal on sustainable development and the trade of forest and fishery products (TN/MA/W/15/Add.1), submitted as an addendum to its initial detailed proposal on modalities, referred to various issues comprehensively, including those regarding trade and environment and rules. The purpose of this paper was to encourage and deepen discussion on sustainable development issues, as referred to in paragraph 6 of the Doha Declaration, which reaffirmed Members' commitments to the objective of sustainable development and indicated the necessity and importance of having mutual support between an open multilateral trading system and the protection of the environment and the promotion of sustainable development. Not only the WTO but also society in general had strong concerns over these issues. Forest and fishery resources were renewable if they were managed properly. Members had a social and public function as regarded the protection of the environment and community maintenance. The sustainable development of fishery and forestry industries was important both economically and socially, and the WTO should therefore fully address paragraph 6 of the Doha Declaration. Forests were exhaustible natural resources that provided various public benefits such as the mitigation of global warming. Therefore, forests should be a key issue when tackling global environmental concerns, and should play an important role through sustainable forest management. However, forests in the world had been decreasing and around 94 million hectares of forest had been lost over the past ten years. Japan, as a major wood-importing country, had been contributing to the trade in forest products. Japan however supported the zero-for-zero or harmonisation approaches with regard to the 18 sectors proposed in its submission TN/MA/W/15. It would submit a detailed paper including the specific product coverage of the 18 sectors such as ITA products, consumer electrical products, motor vehicles, textiles and clothing, and chemicals. The total 18 sectors covered two-thirds of the world's non-agricultural products trade, including products of export interest to developing countries. A recent Japanese study indicated that if zero-for-zero and harmonisation for the 18 sectors were achieved, the world GDP would increase by US\$ 68 billion of which US\$ 60 billion would be enjoyed by developing countries. As zero-for-zero and harmonisation approaches in these sectors had good merits Japan hoped that all Members would give full consideration to this proposal.

1.13 The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, introducing their paper (TN/MA/W/19), stated that, having not long ago completed the process of domestic consultations, Chinese Taipei wished to bring a relevant perspective to the subject of negotiating modalities and related issues, and in particular the special interests of newly acceded Members. In this respect, his delegation shared the views already expressed that newly acceded Members had already made extensive market access commitments during their accession negotiations, far beyond those made as a result of the Uruguay Round. Moreover, some new

Members would still be in the process of implementing significant first-stage concessions on non-agricultural products. In these cases, the timetable agreed for the phasing in of their accession commitments acknowledged the fact that their industries needed time to adjust to the new demands of WTO Membership. It would be unfair to ask newly acceded Members to make equal concessions within the same staging periods as those accepted by other Members in these negotiations. Chinese Taipei therefore urged Members to take this situation into account, where it existed, by allowing such newly acceded Members a longer staging period. In this regard, they suggested that the staging periods should commence from certain periods after implementation periods already committed to by each Member in its tariff schedule. Chinese Taipei would present a further submission on this issue for Members' consideration.

1.14 On the issue of negotiating modalities, it was worth noting that substantial disparities remained within the tariff structures of WTO Members. This was particularly the case for many developed Members in relation to tariff peak and tariff escalation issues, while for most developing Members a wide divergence continued to exist between rates bound at ceiling levels and applied tariff rates. There was still a considerable amount of work to be done within the limited time-frame provided under the Doha Declaration. Taking this fact into account, his delegation was in favour of a sector-by-sector approach to the non-agricultural market access negotiations. In their view, it was not necessary or desirable to employ a single negotiating modality in conducting market access negotiations. A variety of modalities could be utilised and these could differ from sector to sector. This multiple-modality approach had the advantage of giving Members maximum flexibility in the negotiating process. For example, in one sector liberalization could be in the form of tariff elimination; in another it could be achieved through the harmonisation of tariffs while a critical mass of trade from participants was reached. Furthermore, Japan would like to see participation in existing zero-for-zero agreements broadened to include the critical mass of trading partners participating in world trade for each of the sectors involved, in order that the most meaningful level of liberalization might be achieved. Most importantly, it seemed to them that the use of a variety of approaches to tariff liberalization on a sector-by-sector basis would allow the different levels of development of Members, and in particular the special needs of developing and least-developed Members to be taken into account. His delegation emphasised that special consideration should be given to the treatment of exhaustible natural resource sectors, especially fishery and forestry products. These sectors should not be enumerated in the zero-for-zero approach as that would probably accelerate the process of exhaustion of these natural resources. Of all the items on the Doha Development Agenda it was to these negotiations that his delegation attached the greatest importance. He hoped that these proposals would serve as a useful basis for further discussion.

1.15 The representative of China stated that a majority of Members, especially most developing countries and LDCs, insisted on reducing rather than eliminating tariffs on non-agricultural products because tariffs at a certain level remained necessary to economic development and fiscal income for those countries. China also believed that the negotiations should fully accord with the Doha mandate to take into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments. Discrepancies among Members on specific tariff reduction approaches were attributed to different tariff mechanisms including binding percentage and tariff levels. In order to reach a consensus on modalities according to the timetable and complete the negotiations by 2005, Members should select a more practical target as the basis, focus on the main possible subjects to get through and allow more flexibility on general issues to promote substantial negotiations as early as possible. Within this framework, China had submitted its paper (TN/MA/W/20). The main points of China's proposal were: Developed country Members should take their applied rates in 2000 as their base rates for reduction. Developing country Members should take the simple average rate between their applied rates in 2000 and their final bound rates committed in the Uruguay Round as their base rates for reduction. Newly acceded Members should take the simple average rate of their applied rates in 2000 and their final bound rates committed in their accession negotiations as their base rates if they were going to reduce tariffs. Tariff reduction

should be made on the basis of HS96 and the final results should be scheduled in HS2002. China proposed adopting a uniform formula for tariff reduction. Taking into consideration the imbalance among development levels of Members, the actual reductions achieved through the formula approach should fully reflect the needs and interests of all Members, in particular developing country Members, and should abide by the mandate of the Doha Declaration that developing country Members could make their reduction commitments on the principle of less than full reciprocity.

1.16 The sector approach could promote tariff reduction negotiations on certain products but might increase the difficulty and complexity of the negotiations. Therefore China insisted it should only be regarded as supplementary to the formula approach and Members should be free to decide their participation in light of their own needs. China supported the reduction of tariff peaks in accordance with the requirements embodied in the Doha Declaration. Tariff peaks of a Member should be defined as a tariff rate three times the simple average tariff level of that Member and this definition should be the standard in the reduction of tariff peaks. Members should take concrete measures to greatly reduce tariff escalations in their respective tariff regimes. Members should convert their existing non-*ad valorem* tariffs into *ad valorem* form through a uniform method and take tariff rates resulting from the conversion as the basis for tariff reduction. Tariff reduction commitments of all Members concluded in the negotiations should be specified in the form of *ad valorem* tariffs in their Schedules. Developed country Members should eliminate all non-*ad valorem* tariffs on non-agricultural products, while developing country Members should limit their number of non-*ad valorem* tariffs to no more than three per cent of the total number of tariff lines in their national tariff nomenclature. China suggested using lowest tariffs instead of nuisance tariffs in the negotiation. Developed country Members should eliminate their lowest tariffs, while developing country Members should be free to maintain their lowest tariffs since those tariffs were still important for revenue purposes to a number of developing country Members. All Members should bind their tariff rates after reduction; however longer transitional periods could be given to developing country Members and more flexible arrangements to LDCs. Longer implementation periods should be given to developing country Members and LDCs should have more flexibility with regard to binding of tariffs, conversion of *ad valorem* tariffs and elimination of tariff peaks and tariff escalations. Those sectors and products of substantial export interest to developing country Members and LDCs should be subject to reduction as priorities in the negotiations. As regarded newly-acceded Members, their reduction commitments in the accession negotiations should be fully taken into consideration and no further reductions should be required. China would submit a proposal on NTMs and environmental goods in the future.

1.17 The representative of Mauritius stated that they shared the view of other Members that the current negotiations on market access for non-agricultural products and on the WTO system in general should aim at achieving a balanced and equitable outcome. For this to happen, it was vital for the current market access situations and conditions of each Member to be fully taken on board. Members did not trade under the same terms and conditions with each other. Hence failure to take into account the specific situations of some Members would inevitably pave the way for their marginalization and eventually for the deterioration of their situation. Thus, a "one-size-fits-all" approach would not serve the interests of vulnerable developing countries, including LDCs. Any reduction in tariffs would, de facto, impact on the access of countries trading under various preferential regimes. In essence, these preferences had been specifically designed to enable poor and vulnerable developing countries to secure a market share. Furthermore, these countries had to a large extent mapped their industrial strategy on these preferential arrangements and any loss in market share would have a devastating effect on the economy of these countries – loss in employment, disinvestment, social disruptions etc. It was for these reasons that Mauritius was proposing that any erosion in preferential market access resulting from the negotiations should be duly compensated. Accordingly, Mauritius would appreciate the views and suggestions of Members on a compensation mechanism that could be set up to that effect. Moreover, Mauritius suggested that a competitiveness fund be set up on the basis of contributions from the international financial institutions to provide

assistance to affected countries in order to enable them to undertake the necessary competitive adjustments.

1.18 Mauritius supported that the modalities for the negotiations should be flexible enough in order to accommodate the specific situations of countries. They also proposed the staggering of the liberalization process for highly sensitive products. An across-the-board formula would not take account of the different regimes under which countries traded, nor would it ensure the maintenance of at least the current preferential market access of some of the poorest and more vulnerable countries. Mauritius was exploring various options. A trade-weighted average tariff reduction could be a more appropriate way to proceed, with a longer staging period of tariff reductions for sensitive products. On a more specific note, Mauritius was of the view that tariff cuts should be effected from the bound rates as opposed to the applied rates. They were also of the view that developing countries which had not yet bound their tariffs should, in exchange for not undertaking any reduction commitment, be given flexibility to do so at reasonable rates which were commensurate with the level of their industrial development. It was a fact that reduction of tariffs would definitely impact on government revenue. A number of developing countries relied to a significant extent on tariff revenues to finance their economic development and any shortfall in this revenue would definitely affect them. It was not always easy to move to alternative sources of revenue. Therefore, the dependence of developing countries on tariff revenue had to be taken into account while elaborating the modalities. As had been proposed by some Members, Mauritius fully supported the idea that credit should be given for autonomous liberalization undertaken by Members since 1995. As a possible way forward, the Secretariat could prepare a paper on how autonomous liberalization could be taken on board in the negotiations. NTBs represented major impediments to market access and this negotiation was a good opportunity to address them as a priority consideration. The current exercise being carried out on NTBs was a useful one, but an independent and comprehensive exercise by the Secretariat to draw up a checklist of hidden and invisible NTBs could provide a good basis for current and future work in this area. His delegation was pleased to note that some of their proposals had been reflected and hoped that Members would give due consideration to them. He also noted that certain concerns that they had expressed were shared by the LDC group, as explained in its submission. Mauritius was fully committed to the Doha Development Agenda but felt strongly that the outcome of the negotiations should be a win-win situation where no single Member would end up being a loser at the end of the negotiations.

1.19 The representative of Bangladesh, speaking on behalf of the LDCs, stated that it was important to explain the rationale for proposing the approach they had suggested in the non-paper on modalities for the participation of LDCs in the current negotiations (TN/MA/W/22). The basic thrust of the non-paper was to emphasise that modalities for the participation of LDCs would need to be distinct and geared to enabling them to benefit from the multilateral trading regime. As Members were aware, their experience with trade had been mixed. Bangladesh recognized the crucial importance of trade for its development. For many countries, trade was supposed to provide the primary stimulus for growth, FDI, management expertise, technology transfer etc. The market share of LDCs in world trade was rapidly declining. In the 1960s, when LDCs comprised only 25 countries, their share of total trade was three per cent. This share had gradually declined, and in 2000 their share stood at 0.4 per cent. This was a rapid decline. There were many studies that referred to the immense potential gains from trade liberalization. While these studies referred to the total gains possible, they did not break down the data, i.e. to indicate how much each country was likely to gain, or how the gains would be distributed. It was clear that those who traded more would gain more. There had been major growth in world trade during the last few decades, yet the LDC share was declining. Countries had recognised the plight of Bangladesh, and many had given it preferential market access. The duty and quota-free entry of Bangladeshi products into the EU, referred to as the EBA, was one such initiative. Whatever Bangladesh had achieved in the growth of exports of manufactured goods had been due to such preferences given to them. They saw that preferential schemes were gradually losing importance as general tariff levels were coming down. This caused



them a great deal of concern. They did not expect that other Members would maintain existing tariff or quota walls simply to assist LDCs with preferences – that was neither possible nor desirable. What was critical was that an appropriate scheme be developed to provide an alternative to the preferential tariff schemes that had helped them. As Bangladesh began to develop its industrial sector and compete in the international market, the schemes might be gradually phased out. This was their objective in the non-agricultural market access negotiations. In their paper (TN/MA/W/22) they had proposed an approach to tariff reduction in sectors of specific interest to LDCs. This was only one of a number of approaches that might be considered. The legal cover for specific preferences for LDCs was provided under the general waiver of the GATT.

1.20 As regarded the contribution to be made by LDCs, the non-paper suggested that the modalities adopted would have to recognize that LDCs were unable to make any reductions in tariffs in the present round of negotiations. Most LDCs had extensive dealings with the BWIs. As part of the adjustment and restructural programmes undertaken with BWI assistance, Bangladesh had already reduced tariffs to levels that were much below those required under multilateral agreements. Most other countries had not had to undertake such liberalization measures with BWI involvement. At this stage, to ask his country to make further reductions was neither desirable nor morally defensible. On the other hand, he believed that they should be given credit for liberalization that they had undertaken on an autonomous basis, i.e. not required under the multilateral rules that emerged from the Uruguay Round. He stated that the non-paper submitted by Bangladesh contained preliminary ideas and that the LDC group hoped at a later stage to present a revised paper clarifying some of the points. The non-paper began by providing a brief explanation of the Doha mandate and the relevant special and differential treatment provisions. This was followed by brief discussions of the measures which had been taken by developed countries for improvements of preferential access to LDCs and of the measures taken by some developing countries in recent years to provide preferential access to imports from LDCs. In this context, he drew the attention of Members to the section dealing with findings of recent studies which revealed that it was preferential access, and not MFN reductions on tariffs, which had been responsible for the modest growth which had occurred in the trade of LDCs. The non-paper then went on to describe the dismal experience of the liberalization measures that had been taken by LDCs in the last two decades and stated that because of this they would not be able to undertake commitments of reductions in tariffs. The last section of the non-paper contained specific suggestions on the scope and content of modalities that could be adopted for negotiation by LDCs with developed and developing countries and for contributions by LDCs. He concluded by making the following three observations on the general approach adopted in preparing the LDC paper: (1) the paper did not present any opinion on modalities that might be considered by developed and developing countries for reductions in tariffs on an MFN basis; (2) the main objective of LDCs in the negotiations would be directed to securing further improvements in their market access; (3) as regarded NTMs, the paper laid emphasis on the need for removal of barriers such as rules of origin requirements, which affected the ability of LDCs to take advantage of the preferential access provided.

1.21 The representative of Paraguay, speaking on behalf of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), stated that the purpose of these negotiations was to achieve the reduction of tariffs, and to reduce and eliminate tariff peaks and tariff escalation, in particular with respect to products of export interest to developing countries, thereby improving market access among Members and promoting economic growth and development. MERCOSUR agreed with delegations that were seeking to ensure a balance with all negotiations being conducted in other sectors of the WTO, in particular with the ongoing negotiations to reform the agricultural trade. As was set out in their submission (TN/MA/W/23) with respect to base rates, the bound tariffs of all WTO Members, whenever available, should be the only viable starting-point for the negotiations. The base period for the negotiations should, in principle, be the most recent year for which there was up-to-date statistical information available for the majority of Members. It would be essential to have precise *ad valorem* equivalents of all specific duties in the databases kept by the WTO. Additionally, during the

negotiating process, Members should commit to converting their specific duties into *ad valorem* tariffs. As concerned tariff peaks and tariff escalation, MERCOSUR understood that the inclusion of these in the Doha Mandate responded to the development dimension of the multilateral trade negotiations launched at the Fourth Ministerial Conference as these were distortions that affected in particular the products of export interest to developing countries. Legalities to be agreed should therefore build in mechanisms to reduce or eliminate tariff peaks and tariff escalation.

1.22 The concept of less than full reciprocity was unambiguous; it required deeper reduction commitments from developed country partners than those undertaken by developing countries including, *inter alia*, differentiated staging periods. This clear instruction from Ministers must be fully incorporated into the modalities to be agreed before negotiations began. Special and differential treatment measures were also to be considered in the elaboration of modalities, and should include, *inter alia*, deeper reduction commitments for products of export interest to developing countries, and differentiated staging periods in order to "take fully into account the special needs and interests of developing and least-developed country participants". MERCOSUR considered that the elimination of "nuisance" tariffs had a negligible impact on effective additional market access and therefore should not be considered as a concession equivalent to reductions of higher tariffs.

1.23 As regarded the modalities, one option would be to adopt a formula approach. The potential of an unbalanced impact of this approach on different tariff structures could be overcome by the use of differentiated coefficients for developing and developed country participants, and could be complemented with additional approaches, especially for the reduction and elimination of national tariff peaks that could not be effectively reduced using the formula. An alternative modality could be a request/offer approach, which could allow in principle for a balanced treatment of tariff peaks, tariff escalation and high tariffs, taking into account the needs of developing countries in an effective manner. As concerned environmental goods, MERCOSUR suggested that the Negotiating Group on Market Access should seek input from the Committee on Trade and Environment on the definition of the concept of "environmental goods" so that the Group might evaluate the possible requirement of specific modalities for these goods. MERCOSUR attached priority to the Ministerial mandate to reduce or eliminate non-tariff barriers in the context of the current negotiations and fully supported initiating a process of notifications which would provide the Group with a basis on which to begin consideration of NTBs with a view to developing modalities for negotiations to achieve the effective reduction or elimination of these barriers. Tariff concessions aimed at improving effective and predictable market access opportunities for participants. In this respect, the results of WTO negotiations in appropriate fora must ensure that such opportunities were not undermined by excessive recourse to trade remedy measures.

1.24 The representative of Thailand stated that their paper (TN/MA/W/26) confirmed their commitment to trade liberalization. With regard to modalities, they were of the view that a formula approach would be an appropriate solution to negotiations. However, they wished to emphasise again that the final outcome of NTB negotiations should be well-balanced with the result of tariff reductions. As concerned the level of ambition in the negotiations, he said that many Members, especially developed countries, were asking for an ambitious goal in non-agricultural market access negotiations. Since the beginning Thailand had been among those who supported trade liberalization and who saw the merit of such openness. However, Thailand was of the view that any ambitious goal set in this Negotiating Group must be comparable with the goals set in other Negotiating Groups, namely on Agriculture and Services. They could not accept having high ambitions in this Group but low ambitions in the others.

1.25 The representative of Kenya stated that the outcome of the negotiations on market access for non-agricultural products would have tremendous implications for future development and industrialization prospects of the developing countries. This had special significance for African countries as many of them had a weak industrial base. They therefore needed the current negotiations

to begin the process of strengthening their industrial base instead of witnessing a further decline. The paper submitted by Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe (TN/MA/W/27) had proposed specific views on the modalities of the negotiations. Commenting on some of the proposals discussed in earlier meetings, he said that the objective of the negotiations on market access for non-agricultural products should be to facilitate and stimulate development and industrialisation processes in developing countries. The modalities and the actual negotiations should have this goal at the centre, and it should thus be central in all aspects of the Group's work. A number of proposals submitted so far appeared to make little or no distinction between developed and developing country Members. Some very ambitious proposals that called for a "big-bang" approach to trade liberalization did not recognise the adverse impact this would have on the industrial development, employment and fiscal situations in developing countries. Some proposals did not contain a single Special and differential treatment consideration. On the other hand, those proposals which did mention special and differential treatment did so only narrowly in terms of lesser depth of tariff cuts and longer transition periods. This was an inadequate way of defining special and differential treatment simply because in the past it had not worked effectively for developing and LDC Members. In this regard, "less than full reciprocity" must mean that all Members were allowed to undertake not only different levels but also types of commitments. For example, a formula approach to cut tariff rates might be suitable for developed countries, but not for developing countries, or at least not for those with a weak industrial base. If the modalities for negotiations were not designed correctly it could lead to developing countries with a weak industrial base being asked to further liberalise, which would reduce their small market share or close down more local firms and thus exacerbate unemployment. They would not be able to take advantage of any market access gains due to weaknesses in supply capacities. A possible consequence would be a widening of the deficits in the trade balance and balance-of-payments since the import surge would not be offset by a corresponding increase in exports. The external debt situation could worsen, and cause reduced growth or even recession. Therefore, modalities for the negotiations must take into account the need for developing countries to have appropriate levels of import tariffs, and recognise that they were different categories of Members with different levels of industrial capacity and developmental needs.

1.26 The following were some of the key features of their proposal. At the centre of the modalities should be the goal of enabling and facilitating the industrial development of developing countries. Liberalization should only be seen as a possible means towards this goal. For many developing country Members, particularly LDCs, further liberalization where their industrial base was weak would be counter-productive. On the other hand, liberalization by developed country Members of products that could be exported by developing and LDC country Members could contribute to development. Most African countries had undertaken economic reform under structural adjustment programmes which stressed trade liberalization, but development had remained elusive. Studies showed that industrial growth had fallen behind GDP growth in Sub-Saharan Africa since the 1980s, with de-industrialisation in a number of African countries being associated with trade liberalization. They believed that improving or at least maintaining current benefits associated with preferential schemes, such as EBA, the ACP-EU Cotonou agreement and AGOA, constituted one of the special needs and interests of developing and LDCs referred to in paragraph 16 of the Doha Declaration. Moreover, the effect of tariff reforms on government revenues needed to be approached with caution especially in the light of declining ODA.

1.27 Therefore, the modalities to be developed should be simple and user-friendly to negotiators, policy-makers and customs administrations. Complicated formulae would only burden the weaker customs administrations. Further, the modalities must address the impediments to the fuller integration of their economies into the multilateral trading system. In this regard, the modalities should be based on the following two considerations: 1) developed country Members should provide improved market access to developing and least developed country products by addressing the problems due to tariff peaks and escalations and non-tariff barriers; 2) taking into account the dismal experience of liberalization measures taken earlier by African countries, any further liberalization

including reduction commitment should be left to be determined by them. Reducing and eliminating tariff peaks and tariff escalation on products of export interest to developing countries needed to be given maximum attention in the development of modalities. Although MFN tariffs in developed country Members had fallen to below four per cent, tariffs for some commodities exported by African countries were still high. Such tariff peaks were concentrated on products such as clothing, footwear and food industry products. According to a World Bank paper over 30 per cent of LDC exports and 15 per cent of all developing country exports were potentially affected by a tariff above 15 per cent in the QUAD countries. In addition, developed countries maintained a tariff structure that reflected significant tariff escalation which restricted market access for developing country products. For instance, fully processed food products faced tariffs twice as large as products in the first stage of processing in the EU and Japan, with final goods attracting MFN tariffs of 24 and 65 per cent respectively.

1.28 In the past, special and differential treatment only focused on lesser depths of tariff cuts and longer transition periods. This had not worked to the advantage of developing countries as their economies had suffered greatly from overexposure. The World Bank paper argued that special and differential treatment should embody the intent and spirit of the Doha Development Agenda. It therefore placed development prospects at the heart of further liberalization in this sector. It emphasised the need for later developers to go through the "learning phase". Because of the complexity resulting from mergers and acquisitions, the learning phase had become more difficult and had made infant industry protection more justifiable today than was the case in the past. Until such infant industries became competitive in the global market it might be futile to overexpose them to transitional corporations. Trade liberalization should, therefore, view trade liberalization as supportive of and not a substitute for trade and industrial policy. Applied rates were markedly lower than bound rates in most developing and LDCs as a result of their autonomous liberalization initiatives. The gap between the two rates provided these countries with the space needed for their trade and industrial development policies. The bound rates should therefore be the starting point for the negotiations. In their view, bound rates were the only legitimate basis for making WTO commitments. The issue of increasing the scope of coverage of bound products should also be handled with care given that a number of developing and least developed country Members, particularly those from Africa, wished not to bind some products that they considered sensitive. The scope of coverage of bound products should be left to each developing country Member to decide.

1.29 The erosion of preference margins as a result of reductions in tariffs in their export markets would inevitably lead to trade diversion. This was the crux of their concerns and needed to be addressed in these negotiations as part of the special needs and interests of developing and least-developed country participants. The modalities should therefore, include a procedure for establishing measures and mechanisms to deal with erosion of preferences, with the aim of avoiding or offsetting this problem or compensating the affected Members. Ministers specifically included the concept of less than full reciprocity in the reduction commitments in accordance with the relevant provisions of Article XXVIII*bis* of GATT 1994 and this was a clear and unambiguous recognition that all Members were not required to undertake similar levels and types of commitments due to their different levels of development. GATT Article XXVIII*bis* stated that "negotiations shall be conducted on the basis which affords adequate opportunity to take into account ... the needs of less developed countries for a more flexible use of tariff protection to assist their economic development", "to maintain tariffs for revenue purposes" and "fiscal developmental, strategic and other needs". Adherence to the provisions of Article XXVIII*bis* of GATT 1994, especially as they related to the trade, fiscal, and development concerns of all Members, was critical if the special and differential treatment principle and the principle of "less than full reciprocity" were to be respected.

1.30 It was crucial that NTBs in developed countries were addressed in the negotiations as whatever gains were made through tariff concessions might be nullified by incidences of this form of market access barriers. As stated in their own paper, NTBs had in the past reduced the value of

market access opportunities created by either the MTS or preferential access initiatives. For instance, they were unable to fully utilise preferences because of the restrictive nature of the rules of origin. In addition, the use of other measures such as ADP, SPS and TBT had constrained their exports. Meeting international standards for quality, health and safety had become a major factor constraining the ability of many exporters in Africa from benefiting fully from liberalization or preferential access initiatives. Studies and capacity-building measures mandated in Doha as part of the modalities should apply not only to LDCs but should also assist low-income African Members to participate effectively in the negotiations. Such studies should include the effects of previous liberalization, the effects of tariff peaks and escalation maintained in developed country markets on the prospects of this group of countries, and the implication of these for future policies. It would be advisable that the Negotiating Group seek the expert input of the CTE Special Session before elaborating on modalities for this environmental goods. The provisions and mandate of paragraph 16 of the Doha Declaration must be made applicable to environmental goods and thus negotiations on environmental goods should pay particular attention to "products of export interest to developing countries"; take full account of the special needs and concerns of developing and least developed countries; require "less than full reciprocity in reduction commitment" from developing and least-developed countries and establish modalities for studies and capacity-building measures among others. It would also be futile to introduce issues like production and processing methods into the debate.

1.31 Developing countries that had suffered adverse effects from previous liberalization should be allowed to increase their tariffs beyond the bound levels without paying compensation. In many developing countries, previous reductions in tariffs had led to the widespread closure of firms and industries and the retrenchment of workers. The modalities should take into account these difficulties faced by developing country Members from previous tariff reductions, and allow these affected countries to increase their tariffs beyond the bound levels in respect of specific products/product areas for a specified period, in line with the provisions of Article XVIII(a) and XVIII(c) of GATT 1994. These affected developing countries should not be called upon to give any compensation for these measures. Some proposals submitted so far appeared to make little or no distinction between developed and developing country Members, which was against the spirit and intent of paragraph 16 of the Doha Declaration. Some of these proposals were very ambitious and did not take into account the possible negative effect that the measures prescribed would have on their economies, particularly on development prospects. If the modalities were not designed right and did not incorporate the elements they had proposed, the consequences could be detrimental and contrary to the stated objective of the Doha Declaration which had been meant to focus on development. The countries presenting this proposal reserved their right to amend or supplement it in the light of the course and progress of the negotiations. They also requested the Secretariat to revise its overview paper to incorporate the proposals they had put forward.

1.32 The representative of Hungary stated that paragraph 11 of document TN/MA/W/22 listed Hungary as a developing country that had adopted preferential schemes for a number of products from least-developed countries. Hungary was not a developing country and it had already introduced a total duty- and quota-free system for all imports from least-developed countries in 1978.

1.33 The representative of Costa Rica stated that paragraph 11 of the paper submitted by Chinese Taipei (TN/MA/W/19) reminded the Group that 77 Members still had not bound their tariff rates and proposed members should consolidate all their non-agricultural tariff lines. Costa Rica supported this proposal and agreed with Chinese Taipei, China, Thailand, Colombia and all other delegations who had said that this should be one of the main aims of these negotiations. Furthermore, paragraph 7 of the paper emphasized that special consideration should be given to the treatment of exhaustible natural resource sectors. Chinese Taipei specifically indicated such sectors. He wished to know whether Chinese Taipei limited such sectors to the forest and fisheries areas as they had said at the beginning of this meeting, or whether they were thinking about other sectors as well. What kind of differentiated treatment did they propose to give to these sectors and what justification would they give to do so? Regarding the paper submitted by China (TN/MA/W/20), he found the proposal on

tariffs interesting as far as Costa Rica was concerned, especially because it incorporated the great majority of the elements of paragraph 16 of the Doha Declaration into one single formula. Costa Rica supported and welcomed this proposal. He believed that the coefficients P and B in the proposed formula were useful, and believed that it was better to tackle the issue of tariff peaks through relative definition that took into account the great differences between the tariff profiles of Members. Referring to paragraph 9 of the paper which proposed that developing country Members limit their number of non-*ad valorem* tariffs to no more than three per cent of the total number of tariff lines, he said that Costa Rica felt that all Members should transform all of their non-*ad valorem* tariffs and express them in their schedules only as *ad valorem* tariffs without exception.

1.34 Mauritius, in its paper TN/MA/W/21, had proposed that any erosion in preferential market access resulting from the negotiations should be duly compensated but how would this compensation be granted? Would developing countries that did not benefit from the preferences also be compensated? Costa Rica recognized the importance that unilateral tariff differences could have for countries in certain circumstances. However Costa Rica, in its dual condition as a country that both benefitted and was injured by tariff preferences, believed that it was not right to continue granting them and believed that a Member should not be compensated for the erosion that multilateral liberalization would cause. Therefore Costa Rica would be opposed to any proposal which would go against the Enabling Clause (Decision L/4903 of 1979) and especially as according to what was provided for in paragraph 3(b) tariff preferences should not represent a barrier to a greater multilateral liberalization process. Costa Rica also drew attention to the fact that many beneficiaries of unilateral preferences, especially LDCs, regularly pointed out that they faced difficulties in conforming to the complicated rules of origin. This was precisely the complaint put forward by Bangladesh on behalf of the LDCs in paragraph 16 of document TN/MA/W/22. Kenya had done so on behalf of a group of Members in document TN/MA/W/27. In other words, in spite of the fact that on the surface these countries had duty- and quota-free access to markets, the fact was they found it difficult to take full advantage of this due because they had to fulfil more requirements than usual. It was clear that this was not a problem resulting from multilateral liberalization where tariffs were reduced for everyone according to the MFN principle. Preferential rules of origin were not a problem in a world in which everybody paid low tariffs or paid no tariffs at all. Costa Rica firmly believed that Members must respect the spirit of the enabling clause and focus on the liberalization process according to MFN treatment, giving priority to the tariff issues.

1.35 With regard to the proposal from Japan (TN/MA/W/15/Add.1) and its proposal for the treatment for fishery and forest sectors, his delegation was concerned that Japan wanted to move the controversial argument of multi-functionality from the agricultural negotiating forum to this Negotiating Group. Costa Rica firmly believed in sustainable management and had for decades committed itself to environmental protection and the appropriate management of natural resources. Costa Rica's reputation in this respect was well known. Costa Rica asked Japan how their proposal promoted the appropriate management of fisheries and forest resources. After a first reading, his delegation felt that a number of these proposals were contradictory. For example, on the one hand Japan argued that it was necessary to maintain tariff protection so that the governments could prevent an increase in imports of some products; on the other hand they proposed elimination of restrictions and export duty to facilitate the exports of raw materials. Could Japan clarify how these measures overall promoted the protection of these resources and promoted their rational exploitation? Similarly, his delegation requested Japan to clarify whether its forestry products labelling referred to changes to the TBT Agreement. If that was the case, what kind of changes were they proposing? Would it be necessary to establish compulsory labeling requirements based on the processing and productions methods for these products? As concerned the statement made by Kenya, which mentioned a series of detrimental effects that multilateral liberalization had had on the country, he noted that, according to the information prepared by the Secretariat, only 1.9 per cent of Kenya's tariff lines were bound with an average tariff of 54 per cent. Therefore, he requested Kenya to clarify specifically where the tariff reduction which had so badly affected their economy had taken place.

1.36 The representative of Brazil stated that paragraph 4(a) of Korea's paper (TN/MA/W/6/Add.1) indicated that one of the guiding principles of the negotiations on modalities should be a balance of benefits between developed and developing country Members. How did Korea see this as compatible with the concept of less than full reciprocity, and how did this relate to the broader picture of the single undertaking? His delegation noted with concern that there had been some references in other negotiating bodies to seeking a balance of benefits between developed and developing countries within each of those negotiating bodies. He questioned the consequences of applying the same concept in the Negotiating Group on Market Access as developed country Members had very few concessions left to make; without the concept of less than full reciprocity, what would happen in the negotiations? He also considered that subparagraphs (d) and (e) seemed somewhat contradictory; subparagraph (d) said that the modalities should aim at achieving convergence of different tariff structures of Members, whereas subparagraph (e) said that different tariff structures should be respected because they reflected different levels of development. How did these two concepts square with each other? Finally, on paragraph 14 of the proposal, he wished to reiterate that Brazil did not feel bound by the APEC and OECD lists of environmental goods as it had had no part in their elaboration. Brazil fully agreed with Korea that a list would have to be elaborated, but he requested further views from Korea on how and when this would happen. On the proposal from India (TN/MA/W/10/Add.1), of which paragraph 4(b)(ii) on the subject of tariff peaks proposed that "Members shall not impose a tariff on any product in excess of three times its average tariff", he requested clarification from India that it referred to bound tariffs, and not applied tariffs. On the paper from Japan (TN/MA/W/15/Add.1), he agreed with the comments made by the delegate from Costa Rica. On the proposal from the Peoples Republic of China (TN/MA/W/20), he requested more explanation as to why there were differentiated concepts on base rates, i.e. applied rates for developed countries and the average rate between applied rates and bound rates for developing countries. From the point of view of his delegation, this would lead to a situation of more than full reciprocity, and not less than full reciprocity.

1.37 The representative of Colombia stated that India highlighted the need for a modality approach that would seek reduction in tariff rates but would not prove onerous for developing countries compared with the effort required of developed countries. It was common knowledge that the tariffs currently applied in developed countries were, on average, substantially lower than in developing countries and that developing countries would therefore have greater difficulty from the very outset in achieving a balance in the negotiations. Colombia welcomed the adoption of the principle that, as a result of these negotiations, no country would impose tariffs exceeding a determined multiple of its average tariff. They agreed that it was necessary to assess the fiscal impact of the various reduction modalities on a country's tax system. Colombia wished to have further details on the idea of flexibility for developing countries to determine the actual bindings of some tariff lines. His delegation was concerned about the considerations expressed in reference to unbound tariff lines, and in particular the possibility of some such lines remaining unbound at the outcome of the negotiations. For Colombia, one of the key objectives was that both developed and developing countries should bind 100 per cent of their tariffs. Colombia welcomed Korea's input in proposing a formula approach for tariff reductions in their paper (TN/MA/W/6/Add.1). As a preliminary comment, they expressed their concern about the goal of reducing each country's trade-weighted average tariff rate by 40 per cent, because of the difference in levels of development – and hence the discrepancies in production and business structures – among Members.

1.38 Colombia believed that another objective that needed to be achieved in these negotiations was to have a high percentage of tariff lines with *ad valorem* tariffs and to avoid using non-*ad valorem* tariffs as far as possible. Korea was seeking to advance in this direction, but Colombia failed to understand the flexibility introduced in paragraph 8 of the Korean proposal which provided that countries would have discretion to convert non-*ad valorem* tariffs into *ad valorem* tariffs or to maintain non-*ad valorem* tariffs. Colombia agreed with China that these negotiations must be

conducted with a view to balancing the interests of Members at different levels of development. Colombia did not believe, however, that taking the applied tariffs as the basis for reduction was a means of achieving that goal. He repeated that, in Colombia's view, the mandate was clear in establishing that the negotiations should proceed on the basis of the bound tariffs. With regard to tariff escalation, China proposed that all countries should take practical measures to substantially reduce tariff escalation in their respective tariff structures, which in many cases stood in the way of balanced competition for their exports. As concerned the fulfilment of the mandate, however, Colombia felt that it might not be possible to achieve successful results if each country was given discretion to set staging periods without a series of firm, negotiated commitments. How did China see the implementation of such a process? On non-*ad valorem* tariffs, Colombia agreed with the recommendation of a uniform method for converting them into *ad valorem* tariffs, their elimination by the developed countries and the possibility for developing countries to maintain a maximum of three per cent of tariff lines under this regime. Colombia nevertheless believed that it would be advisable to specify that, in any case, the three per cent in question should not include products of substantial interest to other developing countries.

1.39 On the paper from MERCOSUR (TN/MA/W/23), Colombia concurred with them that the principle of less than full reciprocity in reduction commitments was unambiguous and would require deeper commitments from developed countries. He likewise agreed that deeper commitments would be necessary for key products of export interest to developing and the least-developed countries under the special and differential treatment disciplines. As for nuisance tariffs, Colombia considered that their elimination by developed countries would help facilitate trade but should not be regarded as having a significant impact on market access, nor should it be viewed as a concession equivalent to reductions of higher tariffs, which developing countries would unquestionably be facing. He fully agreed with MERCOSUR's comments regarding environmental goods. The problems involved in their definition and proper tariff identification must not be overlooked when the time came to evaluate the possible requirement of specific modalities for such goods. As concerned the proposal from Thailand (TN/MA/W/26) his delegation had had very little time to review it and was therefore unable to offer any substantive comments. He noted the inappropriateness of adopting a definition of tariff peaks that failed to reflect the realities of each country's development situation. He agreed with Thailand about the handling of non-tariff measures, in particular its view that they should be identified and negotiated within this Negotiating Group and the possibility of adopting the request/offer approach. As concerned the proposal from Mauritius (TN/MA/W/21) Colombia was giving careful consideration to the point argued by Mauritius that the more vulnerable of the developing countries and the least-developed countries could find themselves under pressure during the negotiations as a result of tariff reductions in relation to the preferences they currently enjoyed in export markets. Colombia was concerned about the introduction of additional negotiating elements such as the need to set up a mechanism to compensate for the erosion in preferential market access, which was granted under WTO-consistent schemes. As for developing countries that had not bound their tariffs for certain goods, Colombia might endorse the idea of giving them the flexibility to do so at reasonable rates commensurate with their levels of industrial development, but on no account could they agree to such flexibility being granted without a commitment to undertake tariff reduction in exchange. That was an option which, in Colombia's view, should be offered solely to least-developed countries.

1.40 The representative of Egypt stated that it shared many of the views contained in India's submission and agreed with the rationale behind it which was based on the mandate governing the negotiations. It was of the utmost importance to recall that the Doha Mandate required taking into account relevant provisions of GATT Article XXVIII and paragraph 50 of the Doha Declaration. He therefore hoped that India's submission would help delegations in reaching an agreement on modalities that corresponded with the negotiating mandate and within the time schedule agreed upon in this Group. As for the submission by MERCOSUR, he wished to highlight the three points Egypt made relating to the base rate, the concept of full reciprocity and the scope of special needs and



interests of developing countries mentioned in the Doha Declaration, which was a broad concept which included financial, economic and social impact on developing countries as well. Those principles were also touched upon in the communications from Mauritius and Kenya on behalf of seven African countries. As for the inclusion in the MERCOSUR paper of a reference to the negotiations on rules, especially anti-dumping and countervailing measures, Egypt sought clarification on how they saw this specific linkage between the two negotiating groups, if any. Finally, on environmental goods, before the Group embarked on renegotiations, it would be necessary to reach an agreement, or an understanding, of the definition of such goods as well as the rationale for differentiation and scope of any specific or special treatment to be accorded to certain tariff lines on an environmental basis.

1.41 The representative of Nigeria stated his delegation associated itself with the statement made by Kenya. One of the major aims of document TN/MA/W/27 of which Nigeria was a co-sponsor, was to make the co-sponsors views on the negotiations known to other Members. It was also aimed at highlighting some of the gaps which they had identified in the process so far. On the subject of modalities, he said that they had not offered any concrete formula. They had rather thought that they could help the process by sharing with other Members the broad view of what should be included in any formula that would eventually be adopted for the negotiations. One of these considerations was that the formula should be as simple and user-friendly as possible, in order for all Members to be able to implement it. A simple user-friendly approach would be easy to implement, especially by developing countries and LDCs for whom implementation processes were often very challenging. They also noted that some of the proposals so far on the table had been based on what they considered faulty projections and assumptions. These proposals tended to assume that all Members were on the same level of development, that all countries possessed the same capacity to export, that all industries were working at full capacity, even in developing countries and, therefore, with the elimination of tariffs, world-wide benefits would accrue to all Members. As much as these projections looked promising, they knew that the reality was different. Developing countries, particularly African countries dependent on commodities whose prices were known to be very vulnerable, uncertain and unpredictable, had suffered the most. The only predictability for commodities was that over the years their prices had continued to tumble. It could not be assumed that the elimination of tariffs, especially by developing countries, would automatically and rapidly expand the export capacity of these countries, let alone generate the kind of welfare gains which some of the proposals had already projected.

1.42 For this reason, they were also concerned about the scant details on the issues of special and differential treatment and less than full reciprocity so far in the process. Part of the reason for this was the point he had earlier alluded to, that certain proposals had been based on faulty assumptions. Because of this, the proposals failed to give much weight to the basic points of special and differential treatment and less than full reciprocity. In addition, Nigeria observed that these critical elements were being considered as if they were secondary issues that must only be addressed after other major elements of the modalities had been agreed upon. He reiterated that special and differential treatment and less than full reciprocity for developing countries should be addressed simultaneously with all the other elements. They should be given equal weight as all other elements, and should be factored into any calculations that were being considered for reduction commitments. Secondly, they would not accept special and differential treatment and less than full reciprocity as one and the same thing, the Ministers' mandate was clear on this. Therefore the two elements must be treated on their own respective terms. For his delegation, special and differential treatment was a major systemic issue. The idea of special and differential treatment was an acknowledgement in the WTO of the fact that all Members were not at the same level of strength and capacity. Weaker Members should therefore be given the flexibility they needed to be able to meet their obligations, as well as to derive commensurate benefits from the system. Apart from giving longer time-frames for implementation, special and differential treatment meant that developing countries should have the policy space to pursue their own developmental aspirations, in their own time, with the resources at their disposal. It

also meant that developed countries should give as much assistance in whatever way possible, to enable developing countries to take advantage of the benefits that were open to them in the system. However, what his delegation had observed was that some proposals aimed at completely undermining this noble life-line which special and differential treatment offered to developing countries.

1.43 Similarly they were dismayed by the fact that certain proposals seemed to have completely ignored the critical element of less than full reciprocity, the meaning of which was quite unambiguous to his delegation. In clear terms it meant that developing countries would not give an equal amount of concessions or take on reduction commitments comparable to those to be undertaken by developed countries. While the concept of special and differential treatment might be general in character, the concept of less than full reciprocity was specific. To add more clarity to this point, assuming that developed countries were to undertake reduction commitments of 30 per cent, the privilege and obligation extended by the principle of less than full reciprocity meant that the concessions to be offered by developing countries might be 15 per cent or less. The principle behind the element of less than full reciprocity must be factored into the modalities. They had also heard arguments for the use of applied rates as the starting-point for tariff reductions. As plausible as such arguments might sound, the only rate that could be acceptable for reduction commitments was the bound rate. This was the legal obligation they had committed themselves to and they would not detract from this position. Any suggestion of the use of applied rates or some other semantic for applied rate would be asking this delegation to undermine the legal commitments they had undertaken. It was their considered view that the negotiations should more effectively address the issue of tariff peaks and escalation, as well as NTBs affecting products of export interest to developing countries, if the objectives of the Doha Development Agenda were to be achieved.

1.44 The representative of the Philippines stated that there were several core issues in the negotiations. The first was the reduction or appropriate elimination of tariffs, the second was reduction/elimination of tariff peaks, high tariffs and tariff escalation. There were two different phenomena as far as tariff structure was concerned: tariff peaks in an individual country's tariff structure; and tariff escalation, a relationship between the tariff on basic raw materials and on processed products thereof. On the general tariff level, Members could either have a simple formula like that proposed by India, or the Swiss formula, provided that there was a difference in the coefficient – a higher coefficient for developing countries and therefore lower rates and longer staging, as against a lower coefficient for developing countries. Special and differential treatment was a third core issue that Members had to integrate into these negotiations. Another core issue that he wished to emphasise was that of NTBs which had been a core mandate in previous negotiations in the GATT/WTO. NTBs had proliferated in such a way that there must be a will in the Doha negotiating agenda process to address them. He recalled in this respect the Market Access Workshop that was held in May and June of 2002 dedicated to NTBs. There was enough documentation available to allow the Group to start to deal with the issue of NTBs without asking for further definitions. If the Group wanted to be pragmatic, it could continue the exercise that it had initiated, i.e. individual countries to notify what they thought were the NTBs on their exports.

1.45 He considered that there was something flawed about equating the importance of NTBs with environment in the Overview Paper (TN/MA/6). He could not agree with the statement that in light of the rather preliminary way they have been treated in the discussion up to now an overview could only be useful at a later stage. The Negotiating Group had to confront the issue of NTBs immediately and in parallel with the two other tariff issues that were the core of the negotiating mandate. He went on to say that the issue of special needs and interests of developing countries was very strong in the mandate. Having identified this mandate very clearly, the core and supplementary modalities should target only these issues. There were other issues which had been raised in the meeting which, in his view, did not fit properly into the discussion on core modalities, and which might cloud the issue, for example, question 16 in Job(03)/27 on export tariffs, question 5 on elimination of nuisance tariffs,

question 15 on simplification of tariff structures, question 17 on INRs. As regarded question 18 on erosion of preferential margins, this was as a result of lowering or eliminating tariffs. The lowering or eliminating of tariffs was the fundamental objective of WTO and RTAs were just deviations from this fundamental objective. The Group should focus on lowering or eliminating tariffs and not on RTAs. Therefore, there was no need to consider compensation rights for the erosion of preferential margins. These issues raised required clarification.

1.46 The Philippines had provisional reservations about a number of issues, including nuisance tariffs. In addition, the zero-for-zero approach for specific sectors was unacceptable to his delegation unless it was made voluntary. They hoped that Japan would agree to voluntary negotiations on the sectoral initiatives. In this regard, they supported Japan's flexibility on the fisheries sector. Regarding other issues, the Philippines expressed reservations about narrowing the prescribed bindings and prevailing tariffs. They also had reservations about the questionable category of environmental goods and proposals to accord this category with special consideration for tariff cutting. It was the view of his delegation that there was no such thing as purely environmental products; they were either dual or multiple use and should not be defined by their production processes. The Philippines believed that export taxes were outside the mandate of the Negotiating Group on Market Access. However, the Philippines supported using 2000 as the base year for negotiations. It also supported additional binding, the base rate of the last bound concession, the HS96 nomenclature, credit for autonomous liberalization which could only be done on a bilateral or plurilateral basis because as was shown in services negotiations, they could never come out with modalities which would cross-cut along a certain range – this depended on a Member's negotiating strength. The Philippines believed that NTBs were the outstanding issue and should now be put to the forefront as a core issue in these negotiations, again, without defining what NTBs were. His delegation also closely supported special and differential treatment for developing countries and LDCs. In this regard, his delegation believed that the Nigerian definition should be further explored as less than full reciprocity was a measure in the final outcome of the negotiation and special and differential treatment was a specific concession to developing countries in whatever measures and modalities were used in the negotiations. As a last point on special and differential treatment, the Philippines rejected the US proposal for a customised approach on this issue. He sought clarification and confirmation on the issues he had raised and how they would operate in the context of the modalities formulation.

1.47 The representative of Chinese Taipei stated that, with regard to Japan's proposal on sustainable development and trade in forest and fishery products, adopting trade measures was one of the most effective ways to manage natural resources. When deciding the level of tariff on fishery products, each Member should give priority to examining the level of fishery resources and the status of fishery management in the process of the negotiation. Fisheries should not be included in the zero for zero approach because that would cause a negative influence on sustainable use of the fishery resources. His delegation agreed with Japan that it was indispensable for the WTO to promote trade liberalisation while fully acknowledging concerns of civil society to ensure the sustainable use of exhaustible nature resources.

1.48 The representative of Norway stated that paragraph 16 of the Doha mandate provided clear guidance as to the treatment of all non-agricultural goods, including fish and forestry products to the effect that Members had agreed to reduce, or as appropriate, eliminate tariffs and that product coverage should be comprehensive and without *a priori* exclusions. In its paper, Japan raised the issue of whether tariff negotiations on forest and fishery products were detrimental to the objective of sustainable development. Norway fully shared Japan's view regarding the necessity to secure sustainable management of forest resources. Efforts by producer countries and importing countries to avoid trade in illegally logged timber as well as measures to promote trade in sustainably harvested timber should be encouraged. However, countries should focus on the implementation of commitments already agreed upon through other relevant intergovernmental fora (the

Intergovernmental Panel on Forests/ Intergovernmental Forum on Forests (IPF/IFF) proposals for action, commitments agreed in the convention of biological diversity as well as in the framework convention on climate change and the convention on combating desertification). The importance of proper and sustainable resource management in the fisheries sector was fully recognised. However, as for the forest sector, this challenge would be best taken care of in relevant international fora with a mandate and the necessary knowledge and competence in this field including, *inter alia* FAO and relevant/regional fisheries management organisations as well as on the national level. It was the primary responsibility of coastal states to manage fisheries based on the guidelines and principles set out in UNCLOS (United Nations Convention on the Law of the Sea). In addition, comprehensive principles for fisheries in international waters, including principles for the functions of regional fisheries management organisations, had been set out in the UN Fish Stock Agreement of 1995. From a Norwegian point of view the WTO could not, and should not take upon itself the role of a fisheries management body. Governmental transfers to the fisheries sector in many cases contributed to over-capacity, over-exploitation and thus the depletion of fish stocks. The issues of fisheries subsidies was, however, duly addressed under the negotiations on Rules in the Doha Round. In its paper, Japan attempted to establish a linkage between trade and negative impacts on the sustainability of fisheries. Like Costa Rica and several others, Norway failed to see this link. MFN tariffs were not targeted as to resource management objectives. Furthermore they did not differentiate between products coming from countries with good or bad management regimes, nor between fish products from aquaculture and natural stocks. Tariff protection could in itself contribute to increasing pressure on fish stocks, i.e. in the absence of sound management regimes. If Japan found it necessary to protect its fisheries resources against over-exploitation, it would be a useful contribution to open up to more imports from waters where resources were more plentiful, in order to meet the demands of the population for fish and fisheries products. In conclusion, there had not been any convincing arguments made in the Group to enter into a discussion to exclude certain sectors from the negotiating agenda.

1.49 The representative of Iceland stated that his delegation agreed with Japan's view that it was important to ensure sustainable use of exhaustible natural resources that could be depleted by over-exploitation. A proper fisheries management system played the main role to ensure sustainability of the fishing stocks and to avoid overfishing. However, he did not understand how maintaining tariffs could contribute to proper fishery management with the aim to ensure sustainability of the resource. WTO Members had realised that elimination of trade barriers could contribute to environmental protection. An open and non-discriminatory multilateral trading system had a key contribution to make to national and international efforts to better protect and conserve environmental resources and to promote sustainable development. That was the reason why the Committee on Trade and Environment had been analysing the relationship between trade liberalisation and the protection of the environment. Removal of trade restrictions and distortions could yield benefits both for the multilateral trading system and the environment. The fisheries sector had received specific attention in the Committee exactly from this point of view. The proposal from Japan was therefore in contradiction to all the work that had been done so far, and to the objectives of the WTO. According to the mandate of this negotiating group, product coverage should be comprehensive and without *a priori* exclusions. The mandate applied to tariffs on fisheries products as well as all other non-agricultural products. One should also keep in mind that fisheries products were of export interest to developing countries. Maintaining tariffs on fisheries products would not be faithful to the mandate.

1.50 The representative of Indonesia stated that the priority of further market opening negotiations should be given to products of interest to developing countries. His delegation agreed with India's paper, that apart from giving consideration to revenue and fiscal revenue, this negotiation should take into account the situation of domestic industry in developing countries in which many of them were still in the early stage of development. Although as a result of the negotiation the market would be more open, if developing countries had no capacity to produce such products or their domestic industry could not compete, then they would not be able to reap any benefit from the further market opening. Many developing countries were still facing the problem of supply-side constraints.

Indonesia also supported India's proposal that tariff reduction should be undertaken from bound levels and that a simple percentage cut on bound tariffs should be applied to each Member, with possibly a significantly higher percentage cut for developed countries than for developing countries. Regarding unbound tariff lines, while Indonesia agreed that an effort should be made to increase binding levels as much as possible, a certain flexibility should be retained for developing countries to allow them to manage their sensitive products. On Japan's proposal, as a major exporter of both forestry and fisheries products, Indonesia believed that improved market access for both products was an important element of the negotiations. They were still considering the Japanese proposal on modalities since it gave a flexibility in tariff reduction in many products. The NGMA was not the right forum to discuss the issue of sustainable development and its link to certain products as the Group had no expertise to discuss the complex issue of sustainable development. This discussion should be conducted in the proper fora which had expertise on the issue, such as the CTE in the context of the WTO or in other environmental organisations. Trade measures such as the one proposed by Japan were not the correct answer to improving sustainable development in both forestry and fishery products. The issue of sustainable development would be much more effectively addressed by enhanced cooperation among environment authorities in each country, and in the case of developing countries, by providing them with technical assistance, technology transfer and financial assistance. It was also not clear why Japan suggested different criteria for both forestry and fishery products and why the requirements to import forestry products were stricter. For imports of forestry products, Japan suggested the inclusion of factors such as domestic production and consumption and international supply and demand. They would appreciate some clarification in this regard. On export restriction and export tax, Indonesia considered this not part of the negotiating mandate since market access meant access to markets and not access to the supply.

1.51 His delegation understood the problems faced by LDCs in participating in the negotiations. However, this situation was not exclusive to LDCs, even developing countries like Indonesia were still struggling to survive and revive the economy after the financial crisis. Trade between LDCs and developing countries would depend on the basic modalities that would be decided at a later stage. However, as a general rule, the preferential treatment given by developing countries to LDCs should be voluntary according to the level of development of the country. The agreed with the co-sponsors of TN/MA/W/27 that some proposals did not make a distinction between developed and developing countries nor did they provide strong special and differential treatment provisions. On China's proposal they sought clarification as to why China had proposed that the base rate for developing countries should be the average rate between the applied rate in 2000 and final bound rate. What would be the benefit to developing countries of applying this proposal?

1.52 The representative of Poland stated that in reference to TN/MA/W/27, co-sponsored by a group of 10 African countries, it was difficult to agree that a formula approach was *a priori* preferred by developed countries. It was a priority to find a formula that could address the interests of all countries of different economic development levels, including Poland. A compromise formula with, for example, differentiated coefficients subject to the economic development of particular groups of Members, would address the interests of all Members. In the case of sensitive, strategic sectors, the request/offer option could be useful but it should have the status of a supplementary, complementary option. Poland would also have difficulty accepting the sector by sector approach preferred by some delegations and expressed in the Taiwanese paper because of its many disadvantages, some of which had been mentioned in the Chilean paper. Such an approach could be considered as a potential supplementary approach only. All non *ad valorem* tariffs should be converted to *ad valorem* tariffs by all Members without exclusions. Regarding the Indian proposal on excluding developing countries from the requirement of binding all tariff lines, such an exclusion could only be considered in the case of LDCs. Poland supported the proposal in the Korean paper concerning environmental goods that the Group should focus on limiting the scope of such products in order to facilitate negotiations on these products. The priority list developed by APEC and OECD would be useful and would avoid unfruitful discussions on the definitions of environmental products.

1.53 The representative of the European Communities, stated that while the Chinese formula was interesting in terms of its effects on market access the rationale behind the methodology remained somewhat obscure. How had the A+B factor been determined and how did China arrive at this formula?

1.54 The representative of Chile stated that some elements of the Japanese proposal did not have anything to do with the NGMA, for example, the illegal cutting of trees and labelling. The arguments put forward by Japan, or by Members who supported their proposal, were not sufficiently convincing to justify the resistance they had to liberalising sectors such as forestry and fisheries. It was not clear what the role of tariff protection was in protecting natural resources. There needed to be alternative tools available to support sustainable development that would not involve a cost to Members who wanted to take advantage of comparative advantage and demand in the international markets. Members had to enter into negotiations without any exclusions and with all sectors on a level playing field. These sectors were of crucial importance for Chile. If a country decided to maintain tariffs for forestry goods, the price for those goods would be higher and this would generate an incentive to exploit forestry resources with a resulting negative environmental impact. At the same time, by maintaining high tariffs a country was limiting, or making impossible, the imports of products from other countries leaving those producers poorer and where there was more poverty, the environmental impact was worse. With liberalisation, there was a more rational use of natural resources and markets were not distorted. As a result, increased exports of developing countries could be an additional source of income which would lead to additional wealth, which in turn would have a positive impact on the environment. The proposal from MERCOSUR did not refer to the level of liberalisation that they would like to have or that they would be ready to offer. MERCOSUR was negotiating free trade agreements with the Andean community, all the Americas and with the European Union. The question to MERCOSUR was what was its vision for liberalisation in the WTO negotiations? Regarding Korea's proposal, the approach to liberalization on the basis of tariff averages inevitably led to some products being liberalised more than others. This was not fair because it inevitably led to sensitive products being less liberalised. Chile preferred a formula which would be applied to all products without exclusions.

1.55 The representative of Malaysia stated that India's submission contained many interesting elements with which Malaysia could associate itself. With regard to the Chinese paper how would they reconcile their approach on the use of base rates? They were not suggesting the use of bound rates, but using some average between bound rates and applied rates. How could China advocate that approach when it was aware that the only legal commitment in the WTO was bound rates? Regarding unbound tariffs, developing countries must be given the flexibility to raise or to bind them at higher ceiling levels, as India had proposed. The LDC paper suggested that it should be mandatory for developing countries to provide preferences to them. Perhaps this could be done on a voluntary basis and developing countries could be encouraged to provide preferential schemes to LDCs. Many developing countries already provided preferential schemes under their form of the GSTP. He was not surprised that the Japanese were attempting to bring multi-functionality into these negotiations. An attempt to try and bring in other variables related to environment, sustainability, international trade, appropriate level of tariffs, domestic production/consumption were an attempt to complicate issues and not do anything on forestry and fisheries. Members should leave the relationship between sustainable development and trade to the CTE. There should be a robust formula that addressed all tariffs and there was no need to complicate issues by bringing in multi-functional issues into the forum. On export taxes and export restrictions, his delegation had repeatedly said that export taxes and export restrictions were clearly outside the Doha mandate and it did not want any reinterpretation or any expansion of the scope of the Doha mandate. There was incongruity in the Japanese proposal to protect the environment and the forest and fisheries sector with high tariffs and, on the other hand, propose the removal of export restrictions and export taxes. They said that export restrictions were allowed on raw materials and that no export restrictions were imposed on processed wood products

from unprocessed logs which were themselves subject to export restrictions. Therefore, the Japanese approach was that since there were exports restrictions on unprocessed logs there should be similar export restrictions on processed logs and furniture and other value added products. What would happen to international trade if export taxes and export restrictions were imposed on even processed products and not only on unprocessed products? One of the basic reasons why developing countries imposed taxes on unprocessed logs was to protect the environment. It should also be remembered that developing countries had export taxes and export restrictions in place to encourage value-added processing and value-added manufacturing in their own domestic contexts. Finally, on fisheries, it was interesting to see that the Japanese proposal advocated that the WTO should continue the discussions on this sector in the Negotiating Group on Rules, where the position of Japan was that Members should take a holistic approach and discuss it in the FAO, etc. As far as the zero for zero approach was concerned, Japan said it was not willing to include forestry and fishery products in this approach. Malaysia would always advocate that zero for zero should only be a supplementary approach taken on a voluntary basis.

1.56 The representative of New Zealand stated that with regard to the submission from Korea he agreed with comments that Members must make a conscientious effort to meet the ambitious mandate of the Ministerial Declaration. For that reason New Zealand sought, and obtained, domestic political approval to propose the elimination of remaining tariffs on all non-agricultural products. He hoped, therefore, that Korea would be prepared to go further than its proposal and support the objective of tariff elimination. That would be consistent with the objectives stated in Korea's submission of a substantial improvement in market access beyond what was achieved during the Uruguay Round. On the paper from India, he welcomed the confirmation that India would be willing to make its full contribution to tariff liberalisation process in conformity with the Doha Mandate. One theme however in India's submission was that developing countries should have discretion to make relatively limited market-access commitments in all aspects of the negotiation. He recognised that this reflected some real domestic concerns and that it would be important to work through details, but it was not clear how a negotiation based on that sort of far-reaching interpretation of special and differential treatment and less than full reciprocity could make it feasible to liberalise sensitive sectors, such as textiles. He was also worried by the reference which India, and one or two others had made to not binding certain items in the negotiation. That said, he supported a number of other aspects of India's submission, including the emphasis on the need to address tariff peaks and escalation, notably on fish and fish products, and he firmly supported India's view that negotiations must be based on bound rates where they existed.

1.57 He supported the observations of many other Members on the Japanese proposal. The core conclusions in Japan's submission was that Members should be allowed flexibility to set tariff levels for fish and forestry products. The paper sought to justify this with reference to environmental sustainability and non-commodity output arguments in order to try and permit special treatment for fish and forestry products compared to the rest of the negotiations. If this meant less liberalisation for some sectors, it would not be compatible with the mandate which required that product coverage should be comprehensive without *a priori* exclusions. Attempts to exempt certain sectors, let alone individual products, from a comprehensive approach risked unravelling the whole negotiation. He did not think that Japan's argument regarding sustainable use and commodity outputs justified the conclusion that tariff levels in these two specific sectors should be set at the discretion of the importing Member. He supported the goal of sustainable development but had considerable doubts about the linkage that Japan sought to make between market access, especially tariffs, and the achievement of sustainable development outcomes. Sustainable management policies were best implemented through targeted measures such as a sound regulatory framework and a political commitment to criteria and indicators and market instruments such as certification. Similarly, non-commodity outputs were best pursued through non-trade-distorting measures that were targeted and transparent. The competitiveness of Japan's domestic forestry industry provided an essential context for assessing Japan's proposal. For example, Japan's forestry sector was characterised by

relatively high cost structures and extremely small scale individual private forest holdings of around five hectares. In the wood processing sector, harvesting and delivery costs were now nearly three times larger than those in Scandinavia. There were numerous other occasions that the sector in Japan faced problems in competing with imports. Taking all these factors into account, the proposal to allow importing countries flexibility in setting the level of tariffs were instruments to protect an uncompetitive domestic industry from imports. On the Chinese submission, New Zealand wanted to see a high level of ambition in the results from this negotiation. He therefore welcomed China's contribution although he was not able to agree to the proposed use of applied rates as a basis for negotiation. The Secretariat analysis showed China's formula compared favourably in terms of the level of ambition with those proposed by several other Members. It would be necessary to work through further on how one should handle the situation of recently acceded Members.

1.58 The representative of the United States stated that her delegation associated itself with the views of other participants on the Japanese proposal, that they did not see the linkage between exemption from tariff liberalisation and sound sustainable management of forestry or fisheries resources. There was no evidence that would support this position and she considered that this was effectively pulling something off the table from the outset. The NGMA faced the mandate of no *a priori* exclusions. With regard to the Chinese proposal, it was unclear what China would propose to do in the instance of unbound rates. She welcomed many ideas put forward in the proposals from Kenya and its associated group, by Mauritius and others on special and differential treatment and less than full reciprocity. The US proposal contained a very important element of special and differential treatment up front, the elimination of tariffs of less than five per cent, but recognised that others believed that there should be more provided in the course of these negotiations. She did not judge the development dimension of this negotiation solely by approaches which called for opt outs. The best way for developing countries to gain in this negotiation was to opt in to the maximum degree possible, to encourage active participation and stimulate South-South trade to the maximum degree possible as well as North-South trade.

1.59 Regarding the issue of revenue losses resulting from liberalization, for the vast majority of the developing countries, except perhaps the least developed and just a few other countries, effective tax systems could be developed or improved within the time span that had been proposed in these negotiations for producing revenue neutral situations when tariffs were eliminated. This could be a double win both by reducing tariffs that stimulated growth in new trade and through more effective domestic tax systems that were less aggressive and helped the economy develop. Many developing countries should not have much difficulty in adjusting to the revenue implications of the US tariff proposal. Most developing countries in Latin America, the Middle East and Europe already relied primarily on other revenue sources. For these countries, import duties accounted for under 10 per cent of government revenue. In many instances these countries already had undertaken substantial reforms in domestic tax regimes and shifted to other sources of revenue. While tariffs played a more important role in some Asian economies, accounting for something between 10-20 per cent of government revenues, these countries had already demonstrated a capacity to expand revenues through non-trade taxes, such as income taxes, value added taxes, and other taxes on goods and services. In addition, for many of these countries, the real growth in non-trade tax revenues during the past decade significantly exceeded the current level of duty collections thus demonstrating a capacity to adjust revenue collections in the future. This was a complex issue which warranted further discussion.

1.60 The representative of Japan stated that according to the Chinese proposal, members with a lower tariff average would experience relatively higher reductions than members with a higher tariff average. Since the NGMA was trying to rectify the diversity of tariff levels among Members such a proposal seemed contradictory to this objective. Regarding the paper submitted by Chinese Taipei, paragraph 5 of the paper referred to providing maximum flexibility for Members and paragraph 7 of the paper also emphasised the importance of special consideration to be given to the treatment of



exhaustible or natural resources sectors. Japan supported these points and looked forward to sharing more details on them. Korea's submission was worth further consideration. Paragraph 5 explained how each member deduced its trade weighted average tariff rates. While Japan had different ideas on some features of the modality, for example, their zero for zero and harmonisation proposals, they supported the basic ideas contained in the Korean submission that flexibility was required in considering modalities. Finally, with regard to the proposal by Mauritius which stressed that the modality should be flexible enough to accommodate specific situation of the countries and their highly sensitive products Japan would like to know the policy thinking behind the proposal.

1.61 The representative of Argentina stated that his delegation agreed with Costa Rica, Norway, and Chile amongst others with regard to the Japanese proposal. He referred to paragraph 8.1 of the paper concerning natural social conditions that surrounded the production of certain goods and the role of tariffs in adjusting the differences in these conditions and asked if Japan thought this concept should also apply to other non-agricultural products. In paragraph 10.11, Japan referred to export taxes but as other participants had said, these issues did not come under the Doha Mandate. Further in paragraphs 12 and 17, environmental labelling and related issues should not be the focus of this Group, except to the extent that there was a relationship between this proposal and non-tariff barriers. In paragraph 13 of the Japanese proposal concerning the tariff levels for fishery products, Japan proposed that there should be flexibility in determining tariffs for fishery products according to the state of conservation of the resource. It would appear that the fishery regulations should be under the judgement of the importing country to fix tariffs for the product. Should market access be the instrument to regulate conservation? If so, the importing country would become a unilateral judge or referee in this matter through market access and this would not be acceptable to Argentina. Over-fishing was not due to low tariffs but to subsidies. Regarding the Chinese Taipei proposal, the use of a variety of modalities for different sectors could make negotiation of modalities more complex because balances between sectors would be more difficult to achieve in particular for developing countries.

1.62 The representative of Singapore stated that in Japan's paper sustainable development was a logical goal, but like others he was not entirely convinced of the linkage proposed between tariffs and sustainable development. He also stressed that the mandate was about comprehensive coverage of products without *a priori* exclusions. Korea's stated goal of 40 per cent reduction was in line with the general ambition of tariff liberalisation and increased market access, although it was not clear how consistent paragraph 5 of this proposal was with the goal when it indicated that if the formula did not achieve the actual 40 per cent reduction then Members were allowed some discretion in meeting the target. The formula should at least meet the stated goal of 40 per cent but it was one of the more ambitious modalities for an average tariff reduction. His delegation supported many of China's proposals, for instance, its suggestion to use the applied rates or the average of the applied and bound rates. This was in line with Singapore's thinking although Singapore had expressed its preference to use applied rates as the basis for any meaningful market access. They also supported China's proposals for a sectorial approach as a supplementary element, their suggestions to convert *non ad valorem* duties to *ad valorem* duties, the elimination of nuisance duties and the binding of reductions. He sought clarification from China as to whether they were suggesting 100 per cent binding following reductions. His delegation welcomed Thailand's strong endorsement of the mandate that there should be no *a priori* exclusion of products and its suggestion on how to deal with unbound rates, although this required further examination. Thailand's proposal to use statutory rates sounded fairly close to using applied rates although they welcomed Thailand's assurance that there was a distinction between the two. His delegation also welcomed Thailand's views on non tariff barriers, although they may have a divergence of opinion as Singapore believed that although the NGMA had the mandate they should be looking at ways of how best and most efficiently to tackle negotiations on NTBs.

1.63 The representative of Australia stated that most of the new submissions continued to reflect a wide support for formula-based approaches. However, with regard to the Korean paper, he still had

difficulty accepting proposals that involved reductions from one trade-weighted average rate to a lower target rate. Such proposals opened up the possibility of wide exemptions from reduction commitments and fears in this regard were reinforced by the reference in the Korean paper to the ability of Members to make reductions at their discretion. Another concern with the trade-weighted average tariff rate approach was that there might be situations where the tariff rates were so high that trade could not flow. In these situations where the weighting applicable to such tariffs could be as low as zero, it would have the effect of imposing the burden on Members of achieving the target rate cut through reducing lower tariffs leaving very high tariffs untouched. This would effectively fail to meet the Doha mandate which explicitly referred to the need to address tariff peaks and high tariffs. His delegation associated itself with the concern expressed about Japan's proposal to give special treatment to the fishery and forestry sectors. It was clear that the cases they made for any such exemption would be inconsistent with the Doha mandate and an undesirable precedent for negotiations. He welcomed the proposal by India and would share their disappointment if the Doha Round did not result in a major gains in market access for developing countries. Given the key role that geography played in determining the direction of trade, he noted however that the scope for gains in market access for developing countries depended critically on developing countries improving access to each others' markets. He noted the concerns expressed by India and others about the possible loss of revenue due to lower tariffs, and he noted with great interest the recent communication from the IMF. It addressed the dynamic gains that could flow from trade liberalisation and the welfare that arose from trade and investment due to substantial market access openings in export markets and the fact that this could create new sources of revenue for national governments.

1.64 While tax reform was difficult, he welcomed opportunities that could be seized in these negotiations to put in place a more sustainable and progressive tax structure which could supplement the role of trade liberalisation in economic growth. With regard to the paper from Bangladesh, he noted the call for Members to provide quota free access and tariff free access to exports from least developed country Members. Australia had announced that it would provide tariff and quota free access without exceptions from July 2003 to all LDC Members in the WTO. The idea that LDCs could request another Member to defer their MFN tariff reductions in order to prolong the benefits of preferential margins needed careful thought because it could complicate the negotiations and lead to a very complicated patchwork of implementation dates and timeframes which could substantially delay the global welfare gains that could arise from the Doha Round. The Thailand paper raised the question about defining national and international tariff peaks. His delegation was not convinced that this debate had to be addressed or even resolved as part of the negotiations. If an appropriate formula was agreed by all Members, it would not matter if a peak was defined as a national peak or an international peak, it would ultimately get crunched. On environmental goods, he welcomed the proposals by Korea and Qatar that environment goods should be defined according to end-use criteria and supported the statement by Kenya and Ghana, and other Members of the African group that it would be futile to introduce issues like production and processing methods into the debate.

1.65 The representative of Hong Kong, China stated that the Indian paper included many interesting elements. In paragraph 4.b.1 India had proposed a simple percentage cut in the bound tariff of each Member but did not suggest the size of such a reduction. On the paper by Japan, he had also taken note of the concern expressed by many other Members. He shared the concern that once certain sectors started to be excluded it would harm negotiations as other participants might propose their own sensitive sectors for exclusion. He doubted whether this was consistent with the mandate that the negotiations should be comprehensive without *a priori* exclusions. On the paper from Chinese Taipei, the suggestion on using a sector-by-sector approach as the core modality whereby the modality could differ from sector to sector, apart from being likely to bring about prolonged discussion on what modalities had to be adopted for individual sectors he was also worried that this approach would leave the door open for sectoral exclusions in the negotiations. Also this approach could not automatically adjust tariff peaks, high tariffs and tariff escalation like a formula cut. Regarding a suggestion made

by some delegations to use a trade-weighted tariff rate reduction, while the proposal provided flexibility to Members in deciding tariff reduction for individual tariff line it would also shelter certain tariffs from tariff reduction. Such an approach could not properly tackle tariff peaks, high tariffs and tariff escalation.

1.66 The representative of Uruguay stated that her delegation shared the concerns of other delegations regarding the Japanese proposal for the fisheries and forestry sectors. They could not accept such a proposal in the negotiations. Uruguay also associated itself with Argentina and Costa Rica regarding Chile's question as to the level of ambition in the Group.

1.67 The representative of Pakistan stated that product coverage should be comprehensive and without *a priori* exclusions. Tariff peaks and tariff escalation should be minimized and if eventually it was agreed to use the Swiss formula for this purpose then perhaps there was a need to have different coefficient in terms of fulfilling the less than full reciprocity principle. However, he would like to see some linkage with agricultural liberalisation so that Members could apply a similar approach. He agreed that there was a need for more binding of tariff rates and the need to reduce the gap between applied and bound rates. Large gaps created uncertainty. However, as a basis for negotiations bound rates should be taken into consideration as suggested by many delegations. Non *ad valorem* rates were not transparent and should be converted into *ad valorem*. As a special and differential

1.68 The representative of Korea stated that the Chinese proposal seemed to indicate the outcome of tariff reduction through a uniform formula to address both high tariffs and tariff peaks simultaneously by using a peak factor and it also seemed to ensure substantial market access for developing countries. However there was a need for further clarification with regard to the terms used in the model to understand more clearly their purpose. Firstly, the peak sector was defined and incorporated in the formula. His delegation required clarification on the terms  $P^2$  and  $B \times P$  respectively and the effect of the result when they varied. Secondly, it also defined tariff peaks as three times more than the simple average tariff level of a Member. Korea also sought clarification on the relationship between the definition of tariff peaks and the actual formula. The Chinese proposal generally provided developing and newly acceded Members with excessive preferential treatment. The commitments made by newly acceded Members was the price they paid for the benefits of acceding to the multilateral trading system. Therefore, the special consideration to the newly acceded Members was unacceptable to Korea. With regard to the Japanese paper, efforts should first be concentrated on the formulation of the modalities but if it became necessary to pursue a sectoral approach, especially concerning forestry and fisheries products, then the sector specific approach including zero-for-zero and harmonisation was not the one to be pursued. In this respect the Korean proposal of tariff reduction ensured some flexibility for the sensitive items of each Member country.

1.69 The representative of Kenya stated that he did not understand the argument that the elimination of nuisance duties would save Members the administrative cost of collecting this revenue because customs would still have to do administrative work and subject products to the rules of origin, for example. Some of the tariffs considered as nuisance tariffs were on raw materials, supplied by developing countries, especially Africa. It was not the intention of countries like Kenya to continue being perpetual suppliers of raw materials. It would at least want to add some value to the raw materials so as to participate more fully in international trade. Regarding the loss of government revenue, some countries, such as Kenya, had large informal sectors and it would be very difficult and expensive to administer other revenue generating programs such as a consumption tax, for example. In some cases Governments could have to spend more to raise less revenue and this did not make economic sense. Regarding paragraph 19 of the LDCs paper, he would like to have further clarification from the LDCs given that some developing countries, especially those from Africa had the same if not worse economic characteristics as LDCs. He would like to know from the LDCs whether the suggestion they were making would apply to all developing countries?

1.70 Turning to the Korean paper, Kenya believed that more benefits should go to the developing countries so that the gap between developed and developing countries could be narrowed. The Korean paper was talking of "equal or proportional", therefore the gap would not change but it was the intention of developing countries to catch up with developed countries. He needed further clarification from the Koreans on sub-paragraph II(e) on what was meant by "principles". He had difficulties with both the Korean and Taiwanese proposals regarding the base rate. If they were suggesting using the applied rate in the case of products which were unbound this was where the development perspective had to be brought into picture so that it could be seen whether it would benefit those countries that had not bound their tariffs to do so at the applied rates. With regard to the implementation period, seven years had been suggested for developing countries and five years for developed countries. Seven years was inadequate for developing countries like Kenya to adjust and to participate fully and therefore favoured a longer period. Turning to the Mauritius paper he agreed that an across-the-board formula approach would neither take account of the different regimes under which countries traded nor would it ensure maintenance of the current preferences accorded to some developing and least developed countries. He agreed with Mauritius that tariff cuts should be based on bound rates and those Members which had not bound their tariffs should be allowed to do so in accordance with their level of development. This should include not binding sensitive products.

1.71 The representative of Zimbabwe stated that her delegation associated itself with the paper presented by Kenya. It also associated itself with the proposals presented by India on the impact of tariffs. With regard to environmental goods, before going deeper into negotiations it was necessary to have a clear idea of what was meant by environmental goods.

1.72 The representative of Paraguay stated that his delegation concurred with Argentina and Uruguay that the level of ambition to be achieved in the NGMA was in direct proportion to the level of ambition to be pursued in the agricultural negotiations.

1.73 The representative of Brazil stated that the delegations of MERCOSUR had from the outset of the discussions emphasized the high importance they attached to the principle of the single undertaking that governed the negotiations. Experience had shown that tariff concessions negotiated within the multilateral trading system were subsequently undermined by an abusive recourse to instruments such as anti-dumping duties and countervailing measures with clear protectionist purposes. The track record of the DSU showed the high proportion of issues brought before it which concerned the application of these instruments as well as the high proportion of such measures which had been deemed inconsistent with Members' obligations. MERCOSUR had attempted to highlight in the paper that achieving an overall balance in this negotiating round would require improvements in the disciplines governing those instruments so that concessions negotiated here could translate into effective market access.

1.74 The representative of India stated that the Doha Mandate placed development at the heart of the Doha work programme and India had tried to flesh out the modalities keeping the centrality of development in perspective. He confirmed that when referring in paragraph 4b to the method of reduction in existing tariff bindings for bound items "Members shall not impose tariffs on any product in excess of three times its average tariff", they were referring here to the bound tariff only and not to the applied levels. There had been some comments made regarding the magnitude of the bindings India had in mind. These were certainly matters for further discussion and negotiations. He believed it was also dependent on what might be decided on special and differential treatment and on the meaning of less than full reciprocity. As an illustration, India had suggested that the reduction percentage for developing countries could be stipulated to be two-thirds of the percentage stipulated for developed countries. With regard to the revenue implications of tariff reductions, he referred to an analysis by economic specialists who had undertaken an empirical examination of sources of compensating revenue for falling trade tax shares over a period of time (1975 to 1997) for a select set of ten large developing countries. The compensating revenue from customs duties reductions was

sourced in general from income taxes rather than from domestic indirect taxes. In an earlier intervention India had brought forward the particular difficulties that countries had where there were sub-national governments. There was the political economy aspect that central governments had to keep in view because if the level of taxes that the central government collected became lower than what the state Governments collected there was an imbalance. He quoted a comment from India's national economic newspaper that this was not as simple an issue as displacing revenue from one source (which was customs duties) by revenues from another source. Regarding the revenue loss, some of it could be compensated according to the IMF, by tariffication of quotas which also suggested the replacement of the remaining revenue loss by a price neutral domestic rate which preserved the efficiency objectives of tariff reduction. The IMF paper set up a small arithmetic example to show how simple it all was, disregarding the immense administrative complexity of introducing a VAT tax. In respect of other papers, he noted in the paper by MERCOSUR a reference in paragraph 10 to the use of differentiated coefficients in a formula approach that whatever formula was used differentiated coefficients be used by developing countries and developed countries at different levels of development. He requested clarification or confirmation from them to this effect. In Thailand's paper a reference was made to statutory rates in respect of unbound items and he requested clarification as to whether this related to applied rates. The submissions of Mauritius and Bangladesh on behalf of LDCs raised some pertinent issues. Reference had been made to the erosion of preferential margins given to small, vulnerable and marginal economies. The proposal made by Mauritius regarding a compensation mechanism for assistance was an interesting one that could be considered.

1.75 The representative of Mauritius stated that some of their concerns regarding the erosion of preferences were shared by other delegations. Kenya and other participants, as well as the LDCs had elaborated on the issue. His delegation was open to ideas from other Members on its proposal. He did not consider that discussing a compensation mechanism was going to overburden the work of this Group, as pointed out by one delegation. His delegation had a legitimate concern on the erosion of preferences and several delegations thought this should be addressed by the group. His delegation were reflecting on the form this mechanism could take.

1.76 The representative of Japan stated that some Members were of the view that Japan was trying to exclude the fishery sector from the Doha Mandate. Japan was truly committed to the Doha Development Agenda and forest and fishery products were being negotiated under paragraph 16 of the DDA. Some Members referred to the concept of "multi-functionality" although this term was not used in the paper. He agreed that the forestry and fishery sectors were being negotiated within the NGMA and raised questions to be addressed in considering trade liberalization of these two sectors. Forestry and fishery used exhaustible natural resources which should be managed properly and great efforts had been devoted to sustainable use of these resources which had been declining over years. Special consideration should be given to trade liberalization of these products and issues such as mitigation of global environmental problems should not be overlooked. Another point mentioned by Members was that the importance of resource management posed questions about the linkage between tariff levels and resource management in the case of fisheries. Proper resource management was the most important element to achieve sustainable use of exhaustible natural resources. Japan was concerned that the reduction or elimination of tariffs without considering the status of resources and management might have adverse impacts on resources. Some Members had said that Japan was somewhat contradictory in talking about fishery subsidies issues and market access issues. Japan consistently insisted that trade in fishery products should be discussed in view of the sustainable use of exhaustible natural resources. Japan was proposing at the market access group that flexibility be retained among products taking into account the state of stocks when reducing tariffs. It was also important to discuss the fishery subsidy issue in terms of sustainable use of resources. The WTO should discuss this issue in the Committee on Trade and Environment, taking into account the work of specialised organisations. Other delegations had asked why Japan had focused on only two sectors among many non-agricultural products. The answer was that forest and fishery resources were exhaustible natural resources. Some Members had expressed concern about Japan being a "unilateral

referee" who would judge the status of resources and management. There was a common recognition among Members that the status of resources and resource management all over the world was of great concern and international efforts had been devoted to address this concern. Some delegations said that the sustainable use of fishery resources should be tackled in another international multilateral framework such as FAO or at the Regional Fishery Management Body. He agreed with the suggestion but when those organisations were struggling to institute a better fishery management, unfortunately without success, could the WTO be indifferent to the same issue? Japan raised several points or possibilities in the paper by which the WTO could help these organisations implement better resource management. The sustainable use of resources would ultimately be good for trade.

1.77 Regarding the forestry issue, many delegates had raised the issue of the relationship between trade liberalization and the global environment. It was quite obvious that trade was related to the decrease in world forest resources. Appropriate environmental measures must accompany trade liberalization. The promotion of sustainable forest management was difficult without giving special consideration to forests in the use of a tariff formula and could result in forest degradation caused by harvesting without spending the necessary amount in appropriate management and stable use of forest and wood products. Japan was insisting that special consideration be given to tariffs from forest products from the perspective of global environmental issues and sustainable use of exhaustible natural resources. On Costa Rica's question regarding the balance between import and export tariffs, he considered that the obligation between importing and exporting countries remained imbalanced. For this reason, export taxes should be discussed in the negotiations on market access for non-agricultural products. As to labelling, Japan raised the issue of labelling on forest products in the regular session of the Committee on Trade and Environment in order to expand discussions on illegal logging. Finally, as to the questions on export restrictions raised by Malaysia, Japan was of the view that export restrictions should be addressed in some manner since it had trade-distorting effects. It was not Japan's intention that export restrictions should be imposed on processed products.

1.78 The representative of Kenya stated that it was correct that Kenya's binding was at 1.9 per cent but that small binding had not induced any form of positive development in Kenya's economy and the situation was the same for the other six co-sponsors of the paper TN/MA/W/27. It was for that reason that they had an interest in the few products which they had bound and the purpose of seeking the adjustment was to address their development concerns.

1.79 The representative of Korea stated that their proposal adopted the notion of an average tariff rate in order to reflect each level of development. This average tariff rate in itself implied a kind of special and differential treatment. Korea also envisaged some longer period of time and suggested for the LDCs exemption from the tariff reduction obligation commitment. In response to the point raised by Brazil as to whether there was any contradiction between the principles of paragraph 5 d) and e), there was no contradiction as the modalities should take into account the current tariff structure which implied the introduction of the average tariff rate which reflected the respective level of development. A formula resulted in the convergence of the tariff structure by addressing tariff peaks and high tariffs by deeper cuts. Thirdly, regarding the list of environmental goods, Korea was closely examining this list and would make a submission in due course. Chile and Australia questioned whether according to the model there was a possibility of exclusion of some sensitive items. Each country had some sensitive items so the proposal gave some flexibility for each country but it envisaged a minimum tariff reduction without exemption of 20 per cent, even in these very sensitive sectors. In terms of market access overall, there was a balanced benefit for developing and developed countries. New Zealand and Singapore had suggested more ambition regarding the target but Korea suggested a 40 per cent reduction of the average trade weighted tariff rate. This implied that the objective went beyond the objective of the Uruguay Round. In response to Kenya's questions regarding the applied rate, the base rate should be as close as possible to the present rate, so for unbound items the 2001 applied rate should be the basis for the tariff reduction. There was a specific implementation period

proposed for developing countries, but he envisaged that a seven year period was the most appropriate for developing countries for implementation.

1.80 The representative of Chinese Taipei stated that, with regard to its sector-by-sector approach that could effectively eliminate tariff peaks, high tariffs and tariff escalation, at a first stage Members could consider reducing the tariff rate among the same sectors to a harmonised tariff level and consequently the tariff peaks and escalation on those sectors could then be eliminated. In the second stage, a zero-for-zero approach could then be taken into consideration. A high tariff situation would then no longer exist. Through this two-stage approach he believed the problem with regard to tariff peaks, high tariffs and tariff escalation could effectively be removed.

1.81 The representative of the European Communities stated that he welcomed India's affirmation that the issue of development, as agreed in Doha, should remain at the core of this Round. But listening to the numerous proposals and interventions made it was not clear what the status of the negotiations was at the current point in time. If development was to be placed at the center of the Round than it was crucial to consider the contribution that this Round of trade liberalization could made to development. All Members must take responsibility for a successful outcome and it was very important that the Group establish a straight forward formula that was easily understood in order to reach the objective. With regard to LDCs, participants must be aware and take full account of the situation of these countries and, as far as the European Communities was concerned, it had made a number of proposals that would support the LDCs in these negotiations.

1.82 The representative of China stated that the new round of negotiations would have to realize the target of "substantially improving market access conditions", especially for developing countries, so as to allow them market access to developed country Members, in the spirit of the Doha Declaration. If bound rates were to be used as the base rate for negotiations, as had been proposed by some Members, it would be difficult to achieve a minimum reduction of the tariff levels. If, on the other hand, applied rates were to be used as the base rate it would be too difficult for developing country Members to sustain. Therefore, according to the principle of special and differential treatment China proposed that the base rate for developed country Members should be their applied rates in 2000, and for developing country Members it should be the simple average rate between their applied rates in 2000 and their final bound rates committed to in the Uruguay Round. In this way developing country Members would enjoy less than full reciprocity. It was China's belief that the use of applied tariff rates as the base rate in the formal GATT tariff negotiations did not prevent Members from exploring new approaches to tariff negotiations at the WTO.

1.83 He reminded Members that China's formula was derived from the Swiss Formula but with a variable coefficient (a). He remarked that as tariff levels differed among Members, it was better to use the average level of existing tariffs as a coefficient in the formula. The formula conformed to both the concept of less than full reciprocity and the requirement of improving market access conditions for the exports of developing Members. By including the factor (P) the nature of the tariff structure would also be reflected in a formula. For those Members with a very low tariff level, a formula would achieve a smaller reduction in tariffs compared to a Swiss formula with the same coefficients. With a constant (B) the formula would provide more flexibility to achieve different tariff reductions. The constant (B) would have to be decided through negotiations and China suggested that (B) should be equal to three for the current phase to 2010. Answering the Japanese question, the representative of China stressed that the Chinese formula took full consideration of the interests of all Members and noted that it was reasonable for developing country Members to have smaller reduction margins compared to those of developed country Members given their strikingly different development levels. This approach also reflected the principle of less than full reciprocity. In response to a question by the representative of Columbia on tariff escalation, he said that China's formula could help address the problem of tariff escalation and that China was willing to cooperate with other Members to resolve this problem on the basis of their formula and other initiatives.

1.84 Addressing the questions on non *ad valorem* tariffs raised by Costa Rica, the Delegate of China noted the differing views expressed by Members on whether developing countries were to maintain non *ad valorem* tariffs. He noted that China had no non *ad valorem* tariffs in their tariff schedule and that they did not seek to revert to them in the new round of negotiations. He underlined that all non *ad valorem* tariffs should be eliminated while taking due consideration of developing country Member's situation. In this regard he noted the Chinese proposal suggested a three per cent flexibility for the developing country Members. With regard to the question raised by the U.S. on tariff bindings, China stressed that agreement on binding tariffs was one of the most important targets in the non-agricultural market access negotiations. China's view was that developing country Members, especially LDCs, were not to use their current applied tariff rates to bind unbound tariffs. Addressing the question raised by Australia and Korea on newly acceded Members and their apparent reluctance to grant flexibility to these countries, the representative of China recalled that newly acceded Members had made substantial broad commitments during the accession negotiations, and that this had been recognised by all Members and had been noted in the Doha Declaration. He stated that newly acceded Members were confronted with numerous difficulties and challenges when implementing tariff reduction commitments. It therefore appeared unreasonable and impractical to ask these Members to reduce tariffs substantially and on a broad basis before the end of their implementation period of accession and before they were in a position to make an overall assessment in social and economical terms of the impact of accession.

1.85 The representative of Thailand stated that with regard to their proposal to use the national statutory rate as the base rate for negotiations on unbound tariffs, there was a distinction between the applied and national statutory rates as currently practised by the Thai customs. The applied duty was the customs duty that was actually paid at the border and this rate could be increased or reduced from time to time depending on the economic situation. The Ministry of Finance had the authority to adjust the rate and republish the adjusted rate in its announcement on notification. The national statutory rate was the customs duty that was published in the National Tariff Act or Decree which constituted the national framework of Customs tariff structure and was adopted by Parliament. It could only be changed if granted an approval from the Parliament. The last time Thailand changed its national statutory rate was after the Uruguay Round when they had had to bind their tariff lines for agricultural products and some non agricultural products below their normal national statutory rate. However, although some of those statutory rates were unbound and were published in the National Tariff Act - the representative noted that the Customs Authority did not always use this rate on import products due to the economic reasons he had mentioned earlier - most of the unbound products would be charted at a rate lower to that of the statutory rate.

1.86 The representative of Brazil, speaking on behalf of MERCOSUR stated that the concept of differentiated coefficients as contained in their proposal could be applied to any formula.

1.87 The Negotiating Group moved into informal mode to discuss the Overview Paper on proposals submitted (TN/MA/6). The Negotiating Group discussed the following items: product coverage; elimination of tariffs; core modality; supplementary approaches; elimination of low/nuisance duties; tariff peaks, tariff escalation and high tariffs; bindings/binding coverage; binding overhand; base rates; base year; credit for autonomous liberalization; newly acceded Members; Least Developed Countries. The Group agreed to return to the remaining items at its next meeting.

1.82 The Negotiating Group took note of the statements made.



B. TARIFFS

1. Overview of Proposals Submitted (TN/MA/6)

1.89 The discussion under this agenda item took place in informal mode.

2. Formula Approaches to Tariff Negotiations – Addendum – Note by the Secretariat (TN/MA/S/3/Rev.1/Add.1)

1.90 A member of the Secretariat (Mr. Jürgen Richtering) introduced document TN/MA/S/3/Rev.1/Add.1 which had been prepared jointly by the Economic Research and Analysis Division and the Statistics Division. This paper broadened the presentation of formulae from the theoretical to the specific formulae that had been proposed in the context of the negotiating group. Only those formula proposals which specified their functional form and parameters were included in the document.

1.91 The paper contained a comparative analysis of the selected formula proposals and presented some simulations using a hypothetical tariff profile similar to the one used in the earlier document TN/MA/S/3/Rev.1. The results were presented both in tabular form and through comparative graphs which showed how the initial base rate was reduced to a new final rate using different formulae. For the sake of comparison, the tables and figures also included the effects of a hypothetical 50 per cent linear reduction. For those formulae that used tariff averages as a parameter, the tariff average of the hypothetical tariff profile was used in the tables and graphs.

1.92 Some general conclusions were reached on the results of the application of the different formulae that had been looked at so far on the hypothetical tariff profile. All the proposals examined in the paper made the reduction rate dependent on the initial tariff rate, meaning that all proposals reduced higher rates proportionally more than lower rates, but with different specifications. The effect of the cuts were relatively similar at the higher levels of tariffs but they had very different absolute values. However, there was a very large variation in the treatment of lower tariffs, which varied greatly between the proposals. Some proposals took the diversity of Members tariff profiles into account by making an explicit provision for the current level of base rates in the functional design of the formula.

1.93 The representative of New-Zealand requested elaboration on the variation in the treatment of the lower tariff rates amongst the various proposals, with specific reference made to the formulae illustrated in their graph.

1.94 A member of the Secretariat (Mr. J. Richtering) stated that illustrated the percentage reduction in the initial tariff rate for the five submissions which proposed a line-by-line cut. Using a graph which indicated the initial tariff rate (going from 0 to 60 per cent as a hypothetical tariff), the reduction in percent, and the 50 per cent reduction if there was a linear cut, he showed the different proposals and how they compared to the linear cut. Starting from the lowest, the US proposal had a 100 per cent cut of tariff rates up to five per cent, then for rates above five per cent the Swiss curve showed an increasing percentage of tariff reduction. The next curve was that of the EC, which started with a linear reduction in the first part and then the reduction increased slightly to pass the 50 per cent level at 50 per cent. The Chinese and Korean formulae resulted in much lower reductions in the lower ranges of tariffs but then increased above the 50 per cent benchmark. For the Chinese formula it was 30 per cent and for the Korean formula about 45 per cent. Therefore, looking at the lower range of tariffs, there was a very large variation in the different proposals regarding the percentage cut. This also applied to the cuts proposed for the weighted tariff averages. The representative of the Secretariat showed a graph which was not in document TN/MA/S/3/Rev.1/Add.1 and which showed the reductions in percent of the initial weighted tariff average for the Korean and Japanese proposals,

both of which had a proposal for the reduction of the weighted average tariff. The graph showed that the Japanese proposal had a relatively low percentage reduction in the lower range of weighted average tariff and then increased to about the 40 per cent level. The Japanese reduction crossed the 50 per cent level whereas the Korean proposal stayed linear at 40 per cent across the board.

1.95 The representative of New-Zealand stated that the Secretariat's paper used hypothetical profiles. Two of the formulae addressed were radically different in their starting assumptions. China's formula, for example, assumed that the base rate in the case of developed country Members would be their applied rates and for developing country Members it would be the average of their applied and bound rates. Were there any graphs available on a "real world" situation, that used applied or mixed applied and bound rates?

1.96 A member of the Secretariat (Mr. J. Richtering) stated that they had produced some graphs showing the different effects on the hypothetical profile using different tariff averages. In the case of the Chinese formula using different averages, an initial tariff of 30 per cent would be reduced to about 17 per cent or so using an average tariff of the base rate of 30 per cent. Using an average tariff base rate of five per cent would result in a much lower percentage for the new tariff rate. Using an average tariff rate of 50 per cent would result in a much higher percentage for the new tariff rate. This illustrated how the reduction percentages varied depending on the tariff average of the underlying tariff schedule. In the case of the Korean example there was a linear cut of 20 per cent and after a certain level of 25 per cent there was a much steeper cut which was shown on the graph through a much lower slope. This was for tariffs above 12.5 per cent. A linear cut of 25 per cent gave a much steeper cut than a linear cut of 20 per cent. This was again for tariffs which were above 12.5 per cent.

1.97 The representative of the European Communities stated that in the absence of figures from the EC, the graphic representation of their formula was an example developed by the Secretariat in order to make the mechanism more visible.

1.98 A member of the Secretariat (Mr. J. Richtering) stated that as they did not have a fully specified functional form they had to use the graphical example presented to give an idea about the concept. He went on to say that the paper just presented followed on from the earlier paper (TN/MA/S/3/Rev.1) and showed that the all the formulae had basically similar functional forms which meant that while various kinds of coefficients could be negotiated and discussed they would have similar kinds of impacts.

1.99 Another member of the Secretariat (Mr. B. Bora) stated that there was a reason why the effects of the formulae on lower tariff rates varied so much between proposals. The non-linear or Swiss formula worked by essentially adding a fixed constant and whatever that fixed constant was, it would have a larger impact on lower numbers than on larger ones because a fixed number being added to small number had a larger impact than a fixed number being added to a larger number. He said that the paper was an attempt to demystify some proposals so as to get a better understanding of how these formulae worked and to give the members of the negotiating group a better appreciation of the precise coefficients that Members wished to negotiate.

1.100 The delegate of Korea stated that the illustrated graphs gave Members a first glimpse as to what the proposals really meant and increased their understanding. He pointed out one correction in the paper regarding Korea's proposal. Korea stated two criteria, the 25 per cent and twice above the average tariff rate. There were four cases in Korea's proposal, yet document TN/MA/S/3/Rev.1/Add.1 covered only one case, that of tariffs below 25 per cent but more than twice the average tariff rates. In order to ensure clarity, Korea wished to make a correction in paragraph 16 of the paper to address any possible misunderstanding. In the phrase "The case where tariffs are above twice the national average even after the minimum reduction of 20 per cent", Korea would like to delete "even after the

minimum reduction of 20 per cent" and replace it by "but less than 25 per cent". He believed that this would clarify the intention of the Korean formula.

1.101 The delegate of the Philippines stated that the hypothetical cases used in the TN/MA/S/3/Rev.1/Add.1 and the projected outcomes of the various proposals was very helpful from a developing country perspective.

1.102 The representative of India stated that the presentation contained some graphical illustrations that were not contained in document TN/MA/S/3/Rev.1/Add.1 as distributed. He felt it would be extremely useful if delegations could have copies of those illustrations, as they elaborated a little more clearly on some of the proposals. He also noted that the Indian proposal tabled was not reflected in the Secretariat paper. He would like to have it included and illustrated in the next update of the document.

1.103 The Chairman stated that those elements would be included in the next update of document TN/MA/S/3/Rev.1/Add.1 which would be a much more comprehensive document.

1.104 A member of the Secretariat (Mr. B. Bora) stated that in their paper they had tried essentially to explain the proposals that had been put forward by Members. However, in some proposals parts of the formulae were open to broader interpretation by the Secretariat, and in order to avoid such an event which might have prejudiced the proposal, the secretariat did not include them in the presentation. He invited the Indian delegation, as well as other delegations, to work with the secretariat in order to clarify their proposal and have it added to the document.

1.105 The representative of Brazil requested that the information contained in TN/MA/S/3/Rev.1/Add.1 be made available on the WTO website to facilitate use by all interested parties.

1.106 A member of the Secretariat (Mr. J. Richtering) stated that it would be placed on the website and Members would be informed via fax of how to access it.

1.107 The Negotiating Group took note of the statements made.

C. NON-TARIFF BARRIERS (NTBS)

1.108 The discussion under this agenda item took place in informal mode.

D. OTHER MATTERS

1.109 There was no discussion under this item.

## II. TRADE AND TARIFF DATA

2.1 A member of the Secretariat (Mr. J. Richtering) stated that document TN/MA/S/9 was a listing of data submitted to the IDB concerning MFN applied tariffs and imports. It showed the latest year for which data was submitted by each Member on imports and applied tariffs and the number of years for which data had been submitted. In order to be complete it should contain the tariffs for the year 2002 and the imports for the year 2001 together with overall information for seven years of tariffs and six years of imports. However, there were still a number of countries for which there was no information at all as well as a number of countries for which the submissions of import and tariff data were not fully up to date. Table 2 of TN/MA/S/9 indicated that there were 90 Members for whom there was at least one year of import data and 95 Members for whom there was one year of tariffs. However, only 53 members had supplied tariffs for 2002, two of which had already submitted 2003

data, and only 52 members had supplied imports for the year 2001. Looking at the gaps, some regions were more problematic than others and, as in the past, these problems would continue to be addressed through technical assistance and other direct contact with Members. The IDB also contained information on trade preferences but such information was provided on a voluntary basis and was far from complete.

2.2 The Chairman stated that he was disappointed with the lack of results to the letter he had sent to delegations in October 2002 regarding timely submission of tariff and import data to the IDB. Only four Members had given authorisation to source data from other sources and those were Cameroon, Ecuador, Grenada and Sri Lanka and the Chairman thanked them for their efforts. Some countries did not need to respond because they were up to date but those countries which were still lagging with their data should draw the attention of their authorities to the importance of having the IDB complete and up to date so that they could have the instruments at their disposal in order to proceed in the negotiations.

2.3 The representative of the United States stated that they were willing to help countries who had not been able to provide their data. They had already done so in a couple of cases and believed it was important to have full data available not just for these negotiations but in terms of other planning needs and also for carrying out many of the WTO analytic studies requested by developing countries.

2.4 The representative of South Africa stated that document TN/MA/S/9 indicated that the latest data from South Africa was for 2001 but they had submitted more recent up-to-date information to the WTO Secretariat and this had not been reflected in the document. They would ask the WTO Secretariat to make this information available.

2.5 The Chairman urged all Members to recognise the importance of this exercise and especially those who still had gap in terms of the information they had provided or who had difficulty in gaining authorisation to put the data at the disposition of the IDB to persuade their capitals of the importance of doing so.

### **III. OTHER BUSINESS**

3.1 There was no discussion under this item.

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