

Council for Trade in Services

REPORT OF THE MEETING HELD ON 5 JUNE 2002

Note by the Secretariat¹

1. The Council for Trade in Services held a meeting on 5 June 2002. The agenda for the meeting is contained in document WTO/AIR/1810. The Chairperson proposed that the Council adopt the agenda as circulated.

2. The Council so agreed.

A. PROCEDURES FOR THE CERTIFICATION OF TERMINATIONS, REDUCTIONS AND RECTIFICATIONS OF ARTICLE II (MFN) EXEMPTIONS

3. The Chairperson drew the attention of Members to a revised draft of the Procedures for the Certification of Terminations, Reductions and Rectifications of Article II (MFN) Exemptions, contained in document S/C/W/202/Rev.2. The new draft was produced following an informal meeting on 22 May 2002, at which some delegations had expressed difficulties with some of the language contained in the earlier draft. The new revised draft contained three sets of changes. The first changes concerned the first two sentences of paragraph 2, dealing with terminations of MFN exemptions. In that paragraph, the first sentence had been streamlined with the first sentence of paragraph 3; the changes introduced were of a purely editorial linguistic nature. A change in the second sentence, however, added a substantive element to the notification of a Member. At the last meeting of the Council, Japan had pointed out that there could be cases where a Member had changed its understanding of whether a measure required the listing of an MFN exemption. In such cases, the Member would retain the actual measure, but could remove it from its list of MFN exemptions. In order to distinguish these cases from cases where a the MFN-inconsistent measure itself would be abolished, the revised draft now provided that the notification shall "contain information on the reasons for the intended termination".

4. The second change in the draft procedures related to paragraph 4, which contained two options for sentence 3. The first option had been inserted into the earlier draft to clarify that a Member may "not object on grounds of loss of any preferential treatment resulting from the proposed modification." However, the delegation of the United States believed that that formulation might introduce an element of uncertainty as to the status of an objection, where a Member's motives for an objection were not clear. Therefore, the second option was suggested at the informal meeting of 22 May 2002 to reduce the possibility of cases where such a doubt could arise.

5. The third change in the new draft concerned merely the introduction of a new title before paragraph 6, to clarify that that paragraph related to the entire set of procedures, and not only to the procedures for reduction and rectification.

¹ This document has been prepared under the Secretariat's own responsibility and without prejudice to the positions of Members and to their rights and obligations under the WTO.

6. The Chairperson recalled that the issue of the procedures for MFN exemptions had been with the Services Council for some time. She was confident that the current text would adequately fill a procedural vacuum that had existed since 1995, and hoped that the Council could adopt these procedures at this meeting. She requested delegations to indicate whether they had any difficulties with the text in option 2 of paragraph 4.

7. The representative of India stated that his delegation originally had had difficulties with paragraph 2 of the procedures, concerning termination of MFN exemptions. One issue of doubt was the question whether the procedure set out in paragraph 7 of the Annex on Article II Exemptions also applied to exemptions that were listed without a specified time-period. Another issue was whether an MFN exemption conferred rights to those countries listed therein. After careful consideration and after obtaining the views of legal experts, his delegation was nevertheless ready to adopt the procedures in its present format today. His delegation could go along with either option in paragraph 4.

8. The representative of Korea requested clarification on the discussions surrounding the two options in paragraph 4. He was not convinced that the first option would give rise to legal uncertainty.

9. The representative of the United States stated that the first option in paragraph 4 allowed for a degree of subjectivity in the analysis of the intentions behind an objection, while the second option made it clearer what the intentions behind a possible objection were.

10. A representative of the Secretariat stated that for the case of reduction or rectification of an MFN exemption, a parallel had been drawn to the situation of changes to schedules of specific commitments, where each Member had the right to object to a proposed change in another Member's schedule. The question arose whether the right to object in the case of MFN exemptions should be qualified, since MFN exemptions did not establish rights for other Members in the way that schedules of commitments did. Therefore, it was suggested to introduce language that made clear that a Member who was benefitting from an MFN exemption did not have the right to object to a reduction or rectification on grounds of loss of this preferential treatment. The concern with the first formulation was that it might leave open the question of interpreting the intention of the objecting Member. Rather, the objection should be based on a more factual element that was easy to verify. Therefore it was proposed in option 2 to refer to the citation of the loss of preferential treatment.

11. The representative of the European Communities requested clarification on the last sentence of paragraph 2 of the draft, which provided that "the Secretariat shall issue a communication to all Members to the effect that the termination of the Article II exemption has been certified". He wondered whether the certification could be carried out by the Secretariat, or rather would have to be done by Members?

12. A representative of the Secretariat stated that the certification process consisted of several stages. Technically, a certification was effected when the Director-General, in his function as depositary of the agreements, certified a change in the treaty copy of the agreement itself. The content of the certification was then communicated to Members. However, a certification was normally based on a substantive procedure that took place beforehand, in which Members were involved through their right to object to any proposed changes to schedules of specific commitments, or in the present case, MFN exemption lists. In the case of terminations of MFN exemptions, there was no approval stage needed prior to the legal act of certification, since the termination of an MFN exemption did not require the approval of any other Member.

13. The representative of Korea, supported by the delegation of Mexico, reiterated that MFN exemptions should not exceed a maximum period of 10 years in principle, as stipulated in the Annex

on Article II Exemptions. Paragraph 6 of the draft procedures stated that following "three years from the date of entry into force of these procedures, the Council for Trade in Services shall, at the request of any Member, review the operation of these procedures." The representatives of Korea and Mexico made clear that the joining of the consensus on the procedures did not prejudice the position of his delegation as to the permitted maximum length of MFN exemptions.

14. The representative of the European Communities pointed to an inconsistency in the French version of paragraph 2 compared to the English version. The French version did not mention the requirement that a notification shall contain information on the reasons of the intended termination. The representative of Chile stated that the same inconsistency existed with regard to the Spanish version.

15. The Chairperson suggested that the Council adopt the draft Decision on Procedures for the Certification of Terminations, Reductions, and Rectifications of Article II (MFN) Exemptions, contained in document S/C/W/203 with the two changes. First, all square brackets in the text of the draft decision would be removed; second, in light of today's discussion, the text of the draft decision would be amended such that the Council for Trade in Services decided: "to adopt the procedures for the Certification of Terminations, Reductions, and Rectifications of Article II (MFN) Exemptions, contained in document S/C/W/202/Rev.2, with deletion of the text contained in the first square brackets in paragraph 4 of that draft." The inconsistencies in the French and Spanish versions would be rectified in the final version of the procedures.

16. The Council so decided.²

B. PROPOSALS FOR A TECHNICAL REVIEW OF GATS PROVISIONS – ARTICLE XX:2

17. The Chairperson recalled that the proposal to carry out a technical review of GATS provisions arose out of discussions last year on the guidelines and procedures for the negotiations on trade in services. At the request of Members, the Secretariat prepared an informal note (JOB(01)/17) that illustrated possible areas of review. A proposal by several Members followed, suggesting that the Council for Trade in Services (CTS) conduct a technical review of the GATS to improve its overall legal consistency and remove ambiguities, on the basis of submissions of Members (JOB(01)/40). Several Members had since provided papers as input to this discussion. She observed that the focus of the discussion had gradually shifted from the overall procedural question of whether a comprehensive review should be conducted to a more pragmatic approach of looking at specific substantive issues that might require attention by Members. At its informal meeting on 22 May, there appeared to be an interest that the Council continue its discussion on the technical review of GATS by examining paragraph 2 of Article XX of the GATS.

18. Article XX:2 attempted to resolve a scheduling issue arising from the overlap between Articles XVI (on market access) and XVII (on national treatment). The provision stated that "(m) easures inconsistent with both Articles XVI and XVII shall be inscribed in the column relating to Article XVI. In this case the inscription will be considered to provide a condition or qualification to Article XVII as well."

19. Previous notes and discussions on the issue had shown that the overlap between the two Articles did not create a technical or a legal problem in scheduling commitments so long as, in relation to a given mode of supply, both market access and national treatment were either fully bound or unbound. However, a problem could arise in other cases, for example where, for a given mode,

² The decision adopting the draft procedures was issued as document S/L/105. The procedures were issued as document S/L/106.

market access was bound and national treatment was not, or vice versa. If, for example, a Member entered "Unbound" under market access and "None" under national treatment, a question arose as to whether that Member could maintain any discriminatory measures falling within the scope of Article XVI.

20. The representative of Hong Kong, China reiterated his delegation's interest in issues raised in the context of the proposals for a technical review. The difficulty that could arise with Article XX:2 had to do with the interpretation of the scheduling language. If an entry in the market access column provided "unbound" and the corresponding entry under national treatment provided "none", did this imply that the "unbound" also applied to measures inconsistent with both market access and national treatment? If that was the case, the "none" entered in the national treatment column should be further qualified to make this clear. As for the reverse case where market access was fully bound, and national treatment was left unbound, the problem was just reversed. The more general problem was how Members could ensure sufficient clarity when making commitments.

21. Members should consider whether the scheduling guidelines needed further elaboration on the possibilities of such discrepancies in the interpretation of schedules. There was a need to suggest a common scheduling format to eliminate discrepancies. One possible example could be a footnote in Members schedules to clarify relationship between the two columns. Perhaps the drafters of GATS had not been totally unaware of the problem. He wondered whether the Secretariat or Members could shed light on the question whether there were at the time of drafting any particular needs or reasons for the current situation as regards Article XX:2. Lastly, if a solution to the problem was found, what were the implications with regard to the existing commitments. One needed to reflect whether such a solution should apply to existing, or only to future commitments.

22. The representative of Canada underscored the last point raised by the previous speaker, i.e. what any solution for this problem would imply for new schedules that would come out of the present negotiations. She emphasized that Members agreed that any changes from a technical review should under no circumstances affect the balance of rights and obligations arrived at by Members to date. If Article XX:2 was clarified such that it was required to indicate where a market access limitation also implied a national treatment limitation, would there be a possibility to retroactively list national treatment limitations across the board? It could be argued that any market access limitation also contained a national treatment limitation. She further requested clarification whether Japan favoured any of the three solutions it had proposed to the problem in JOB(01)/107.

23. The representative of Switzerland recalled from discussions in the Committee on Specific Commitments some years ago that Article XX:2 was indeed not clear. He supported that the Council address the questions raised by Hong Kong, China.

24. The representative of Brazil stated that his delegation had submitted a paper (JOB(01)/165) in order to help the Council identify issues that could possibly form part of a technical review of GATS provisions. Such a clarification was important before engaging in a substantive exercise. The question of how different modes of supply relate to the basic obligations of the agreement such as MFN and national treatment was of utmost importance in order to ensure legal certainty and predictability for present and future specific commitments. He emphasized that his delegation was not intending to introduce any alien concepts into the GATS. The notion of "like circumstances" was solely for the purpose of illustrating that the basic disciplines should be understood to apply within each mode of supply, and not across modes. The question of mode-specificity of commitments was not limited to a narrow range of cases, such as the case mentioned at the previous meeting. Other examples where mode specificity could become relevant included taxation measures, subsidies and many others. His delegation remained interested in several other issues, as mentioned before, including Article XX:2 of the GATS.

25. The Chairperson concluded that delegations had raised some pertinent questions at this meeting. She suggested that the Secretariat provide information requested by delegation on the drafting history of Article XX:2 and the other questions raised. She also suggested to convene informal consultations to discuss the issue further, as well as the question of other issues on which a substantive discussion could take place in future.

26. The Council so agreed.

C. REVIEW OF THE UNDERSTANDING ON ACCOUNTING RATES IN TELECOMMUNICATIONS

27. The Chairperson recalled that the review of the understanding on accounting rates in Telecommunications had been on the agenda of the Services Council for a long time. At the last meeting, Australia had submitted a proposal, JOB(02)/25, on a survey of Members' practices relating to accounting rates. The suggested survey was intended to help Members evaluate the extent to which a removal of the moratorium would give rise to MFN issues. It was the common understanding at the end of the meeting that delegations could voluntarily reply to the questions presented by Australia, and the Secretariat would circulate the replies for all Members' information. To date, no replies had been received by the Secretariat.

28. The representative from the United States stated that his delegations had no objections to the survey on accounting rates that Australia had proposed. In today's age of competition, concerns about the MFN-consistency of accounting rates appeared to be moot. In many cases, WTO Members provided telecom service providers with opportunities to negotiate competitive alternatives to accounting rates. Therefore, in conducting the survey that Australia proposed, the United States believed that it would be useful also to ask Members the following questions: "Is the accounting rate the only means that the Member permits suppliers to settle international traffic? Or does the Member government allow suppliers to negotiate alternatives to the accounting rate?"

29. The representative of Mexico reiterated that any replies to the proposed survey by Australia, as well as answers to the questions posed by the United States, could be made on a voluntary basis. It was Mexico's view that the Understanding was presently still in effect.

30. The representative of Chinese Taipei stated that there were no regulations for telecommunications accounting rates in Chinese Taipei. However, if a country was a non-WTO Member or there was only one international telecom operator in that country, it was required that the principles of International Proportional Returns and Parallel Accounting Rate were complied with and that the accounting rate was negotiated by the representative chosen from Chinese Taipei's domestic fixed-line operators and the foreign telecom operator(s); or, alternatively that it just followed the existing rate. If the country of the counter-party was a WTO Member and there were no less than two international operators in that country, the accounting rates were negotiated respectively by the involved operators in both countries. He suggested that Members increase the pace for market opening and hoped that the accounting rates could be based on cost as soon as possible. Besides, if the results of the survey showed that there was over 50 per cent international tariff being evaded from the existing accounting rate system (e.g. by Internet), he suggested that the existing accounting rate system should not be maintained any more.

31. The representative of Cuba restated his view that the understanding on accounting rates was still in effect. This system was still the predominant system for developing countries. Any change to the understanding required consensus.

32. The Chairperson suggested that the Council take note of the statements made and revert to the item at a future meeting.

33. The Council so agreed.

D. REOPENING OF THE FOURTH PROTOCOL FOR ACCEPTANCE BY PAPUA NEW GUINEA

34. The Chairperson drew the attention of the Council to document S/C/W/209 containing a communication from Papua New Guinea requesting that the Council reopen the Fourth Protocol to the GATS relating to Basic Telecommunications, for acceptance by Papua New Guinea. The Secretariat had prepared a draft decision for consideration and adoption by the Council in this regard, S/C/W/210. She suggested that the Council adopt the draft Decision.

35. The Council so decided³

E. NOTIFICATIONS MADE TO THE COUNCIL PURSUANT TO GATS ARTICLES III:3, VII:4, AND V:7

36. The Chairperson informed the Council that since the last time an item on notifications had been on the agenda of the Council, in December 2001, notifications by Latvia had been made pursuant to paragraph 3 of Article III of the GATS, S/C/N/ 183 and 184.

37. She then drew Members' attention to notifications made by Latvia made under paragraph 4 of Article VII (Recognition), S/C/N/185 and 186.

38. The Chairperson then drew the attention of Members to the following notifications pursuant to Article V (Economic Integration).

European Communities and Latvia	S/C/N/187
European Communities and Estonia	S/C/N/188
European Communities and Lithuania	S/C/N/189
European Communities and Slovenia	S/C/N/190
Chile and Costa Rica	S/C/N/191

39. She suggested that the Council take note of the notifications made under these provisions and that the agreements notified under Article V:7 of the GATS be referred to the Committee on Regional Trade Agreements.

40. It was so agreed.

F. IMPLEMENTATION OF COMMITMENTS BY THE PEOPLE'S REPUBLIC OF CHINA – STATEMENT BY THE UNITED STATES

41. The Chairperson stated that the United States had requested that an item on the implementation of commitments by the People's Republic of China be placed on the agenda of both the last as well as the present meeting. At the last meeting, the United States had made it clear that this item was raised independently from the review mechanism established under Section 18 of the Protocol of Accession of the People's Republic of China. She noted that the present item was not linked to the following agenda item, which addressed preparations in connection with the Review Mechanism.

42. The representative of the United States recalled that his delegation had raised a number of serious concerns with China's implementation of its GATS commitments relating to insurance and

³ The decision was issued as document S/L/104.

express delivery services at the meeting of the Council on Trade in Services on 19 March 2002. At the time, China had not been in a position to respond to the substance of those concerns. As the concerns that were raised back in March remained unresolved today, he was looking to the Chinese delegation for substantive responses at this meeting.

43. As far as the insurance sector was concerned, China had clearly scheduled a commitment to allow non-life firms to establish as a branch in China upon accession and to permit internal branching in accordance with the lifting of China's geographic restrictions (see WT/ACC/CHN/49/Add.2). In addition, China had committed in paragraph 313 of the Working Party Report that "the qualifications for foreign insurers applying for a license to enter China's market would not apply to foreign insurers already established in China that were seeking an authorization to establish branches or sub-branches." Notwithstanding these clear GATS commitments, China's insurance regulatory authority continued to insist that non-life firms that were already in the market as a branch and that wished to branch or sub-branch could do so unless they first established as a subsidiary, which was a costly and unjustifiable proposition.

44. His delegation continued to have concerns with a lack of transparency in the relevant regulations. These regulations invited considerable bureaucratic discretion and offered very little certainty to foreign insurers seeking to operate lawfully in China's market. To date, this lack of transparency had manifested itself particularly in the licensing process, where, for example, more than one foreign insurance company seeking a license had fulfilled all licensing requirements yet remained unlicensed.

45. As also stated at the meeting of 19 March 2002, the United States remained unconvinced that China's very high and redundant solvency requirements were appropriate. China had a justified interest in maintaining an appropriate prudential environment, but China's solvency standards were significantly more exacting than those of other countries with no less an interest in preserving a healthy insurance market. His delegation believed that the effect of these requirements was to limit the ability of foreign insurers to make necessary joint venture arrangements, and thus limited the viability of foreign participation in the Chinese insurance market. He renewed the offer to assist China's insurance regulators to bring China's requirements in line with those of other trading partners.

46. Turning to express delivery services, he recalled that the United States had sought to have the Chinese authorities modify or rescind two post-accession measures that called into question China's compliance with its horizontal commitment on acquired rights which would undercut China's commitments related to express delivery services.

47. Under the first measure, issued on 24 December 2001, China required express delivery companies already licensed by the Ministry of Foreign Trade and Economic Cooperation to file so-called "entrustment" applications with China's postal authorities in each province where they currently operated. That requirement was not only overly burdensome, but also inappropriately gave broad discretion to the postal authorities to accept or reject applications. Given that the postal authorities were direct competitors of foreign-invested express delivery companies, the United States was very concerned that the postal authorities would exercise their discretion in a way that restricted trade. A second measure, issued in February 2002, placed new, unwarranted restrictions on the same foreign-invested express delivery companies. Essentially, through weight and rate limitations, that measure narrowed the scope of activities and operation of these companies in China and therefore limited their previously acquired rights.

48. Since the last meeting of the Council, there had been some developments. In particular, his delegation understood that Chinese authorities postponed the effective date of the two measures in question so that they could engage in internal discussions aimed at addressing these and other concerns that were raised. He appreciated those efforts, and hoped that the Chinese authorities would

remedy the problems that his delegation had described. Although the United States had received some reports on the status of China's efforts to remedy the problems with the two measures in question, both in our bilateral discussions with Chinese officials in Beijing and from other sources, these reports were conflicting. He therefore requested the Chinese delegation to provide the United States with an update on the status of China's efforts in this area.

49. The representative of Japan shared the concerns raised by the United States on the introduction of more restrictive measures on courier services, and requested China to further clarify the content of those measures. His delegation was ready to engage in discussions with China, as necessary, discussions

50. The representative of Canada stated that her delegation also had problems with China's implementation of its specific commitments, particular as regards financial services and telecommunication services. Canada had raised these issues bilaterally and looked forward to examining them in greater detail in the context of the transitional review mechanism.

51. The representative of the European Communities acknowledged that the deadline for the entrustment procedures had been postponed in order to allow for consultations. She was concerned that local initiatives were tending to restrict the activities in the postal and courier area of joint ventures even before the expiry of the deadline. She was looking forward to finding a solution to these problems in a timely fashion.

52. The representative of China took note of the statements by the previous speakers. He had no instructions to respond or comment on the substance of the issues raised by the United States. His delegation looked forward to further bilateral consultations on these issues.

53. The representative of Switzerland stated in consultations of the Swiss government with Swiss companies, the latter had criticised the recent massive increase of the branch, work and capital requirements by China's insurance regulation commission. This move had impacted Swiss companies, as it was difficult to achieve adequate returns on the requested working capital. Given the weakness of worldwide capital and financial markets, multinational financial services companies found find it very difficult to run overcapitalised business in these days. This new laws were implemented shortly after China's accession to the WTO and were considered unfair by all companies concerned.

54. The Chairperson suggested that the Council take note of the statements made.

55. The Council so agreed.

G. PREPARATIONS IN CONNECTION WITH PARAGRAPH 18 OF THE PROTOCOL ON THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA

56. The Chairperson stated that this agenda item had been requested by the delegation of the United States. Section 18 of the Accession Protocol of the People's Republic of China provided for an annual review of the implementation by China of the WTO Agreement and of the related provisions of China's Accession Protocol. As indicated in Section 18, the Services Council was one of the bodies in which this review had to be conducted. The results of the Services Council's review, as well as those of other bodies referred to in Section 18 of the Accession Protocol would then be reported to the General Council, which in turn would conduct its own review.

57. The representative of the United States stated that China's WTO Accession Protocol gave Councils and Committees a specific role in developing the basis for the General Council Transitional Review Mechanism later in the year. In the weeks preceeding this meeting, the United States had

been working with China and other WTO delegations to establish a practical and pragmatic timeline for developing the information and receiving the notifications necessary to conduct the review. In particular, his delegation sought an understanding of when Members could expect the required information so that it allowed for time for an exchange of written questions and answers in advance of the meeting. It should be noted that the development of such guidelines should allow sufficient time for translation to all official WTO languages and circulation by the Secretariat.

58. The main objective was to allow sufficient time to receive information as well as answers to questions that would allow Members to adequately prepare for the meeting. His delegation proposed a 90-60-30 day formula as a possible approach. Notifications and information by China would be submitted 90 days in advance of the meeting; any questions would be provided 60 days in advance; and the answers to these questions would be provided at least 30 days in advance. The United States sought to ensure that the standard practice for similar notification and exchanges was applied to the procedure in question. It was also worthwhile considering how the Council should deal with questions that China may not be able to answer at the meeting. He was interested in China's views, as well as other delegations' views on the appropriate timeline would be that would allow to manage the work in order to make the Transitional Review Mechanism a meaningful and efficient exercise. He underscored that the United States were not interested in negotiating China's protocol commitments.

59. The representative of Canada stated that the Transitional Review Mechanism was an important provision of China's Accession Protocol and would contribute to maintaining transparency and build confidence among WTO Members that China's obligations were being met. China had issued a number of important regulations since its accession. Members needed to examine these in the context of the Review, in particular in financial and telecom services. China had the opportunity in the Transitional Review Mechanism to give Members an appreciation of the larger scope of its implementation efforts. Canada supported constructive measures that would begin this process soon. Sufficient time needed to be available for the CTS and the Committee on Trade in Financial Services to conduct their reviews as set out in Section 18 of China's Protocol of Accession, and, in turn, to report to the General Council in time for its December meeting.

60. The representative of the European Communities was also interested in ensuring that appropriate procedures were in place to allow the transitional review mechanism to take place. As China had indicated, it was open to receiving and replying to questions in advance. She noted that the Council for Trade in Services had to consider input from the Committee on Trade in Financial Services and would have to refer to the General Council's in time for the General's Council's own review. Therefore, there was a need to ensure that the review was conducted in a timely fashion. A horizontal solution would help. In any case, she suggested that the Chairman conducted consultations on this issue.

61. The representative of China emphasized that as a new Member of the WTO, China took its membership very seriously. China was willing to fulfil its obligations including those in Section 18 of its accession protocol. In making good efforts in the preparations for the Transitional Review, China was determined to do its utmost in trying to overcome the practical difficulties in this regard. However, as far as the Transitional Review is concerned, China had no more obligations than what had been stipulated in Section 18. However, any suggestion to go beyond these obligations and to increase the obligations of China in terms of a specific timeframe, procedure etc. had to be rejected. Section 18 already established important guidelines on the procedure, scope and substance of the Transitional Review. It was inappropriate for any subsidiary bodies to try to renegotiate or redefine the terms of the Review. According to Section 18, subsidiary bodies of the WTO which were given mandates in that section could conduct the Transitional Review once a year. China was of the view that such a review may in principal take place at the last regular meeting of each subsidiary body concerned for that year. Once a specific regular meeting was chosen and a date was fixed for the Transitional Review to be included as one of its agenda items, it was hoped that the WTO Secretariat

could inform China of the schedule for the meeting as soon as possible so that China could make the necessary preparations. To facilitate the process of the Transitional Review, Members were welcome to raise relevant questions and concerns well in advance of the review. China was prepared to do its best to address these questions under Section 18. On the other hand, China was also entitled under the same Section 18 to ask questions and raise concerns to other Members who were maintaining measures against imports from China which were inconsistent with the WTO rules and inconsistent with their commitments with regard to China's accession. He hoped that through such an exchange of views and dialogue, better understanding would be reached among WTO Members on how to improve the implementation of obligations by all Members.

62. The representative of Cuba referred to the fact that in less than 24 hours the same issue had been discussed in two different meetings. Given that it was a recent Member of this organization, he stated that China deserved far more flexible treatment, more in keeping with the progressive adjustment to the mechanisms operating in this organization. Generally, delegations should not demand of them more than what was set out in Section 18 of the Accession Protocol.

63. The representative of Djibouti shared the view of Cuba. As a country that had just acceded to the WTO, China should be given special treatment to enable them to meet all the requirements of the WTO Agreement. Each new Member needed a certain amount of time to meet the different requirements and therefore no exaggerated demands should be placed on China to satisfy its requirements.

64. The representative of Pakistan supported the statements of Cuba and Djibouti.

65. The representative of the United States took note of China's statement and requested that the Chair consult informally with China and other delegations to find a solution.

66. The representative of Paraguay drew the attention of Members to the fact that Section 18 referred not only to services related bodies, but also several other bodies of the WTO dealing with goods, rules, or TRIPS. All these bodies were facing the same questions as regards timing. A horizontal solution to this issue was desirable to avoid repetition of the same points in each one of the WTO bodies.

67. The representative of Switzerland understood that the proposal of the United States was not a question of introducing any new obligations which would go any further than what was stated in Section 18 but simply to create a framework which would make it possible to have a serious preparation of this Review. Switzerland therefore believed that it was a constructive and useful proposal to prepare for this very important exercise.

68. The Chairperson stated that any consultations that she would hold on this matter would be open-ended. She suggested that Members take note of the statements made and revert to the item at the next meeting.

69. It was so agreed.
