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Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 14 – 16 April 2003

Chairman: Ambassador P-L. Girard (Switzerland)

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The Chairman noted that the agenda for the meeting was contained in document WTO/AIR/2064 dated 4 April 2003 and its addendum WTO/AIR/2064/Add.1 dated 9 April 2003. An annotated agenda had been circulated as JOB(03)/71.

The Chairman pointed out that since the issuance of the Airgram and its addendum, a recent clarification from India had been received and circulated, as it pertained to a clarification of its proposal as reflected in a Secretariat document. Also, a new paper had been very recently received from the United States and that was available in the room (in English only).

The Negotiating Group adopted the agenda as circulated in WTO/AIR/2064 and its addendum.

The Chairman stated that before starting the substantive work, he wished to highlight two important issues with respect to the Group's work schedule that were noted in the annotated agenda. First, due to the large amount of work to be covered at this session he intended to continue the meetings in the evenings. Furthermore, there would be a session during the lunch break on Tuesday

15 April 2003 in order for the Secretariat to give a detailed presentation of the information contained in JOB(03)/67, "Formula Approaches to Tariff Negotiations – Secretariat Simulations using Members' Tariff Concessions", as it pertained to agenda item 2(A)(II).

He wanted to ensure broad and in-depth discussions on both the modalities for tariffs and for NTBs. He intended, in accordance with the work programme of the Negotiating Group on Market Access (NGMA, to prepare a paper on modalities with respect to tariffs and NTBs which would be submitted to the Group for the next meeting, scheduled for the end of May. In order to do this he felt it necessary that delegations would give the Chair as much input as possible with respect to tariffs or NTBs and that they would do that through their statements, which could be lengthy.

The representative of the Philippines took note of the Chairman's explanation for the need for evening meetings but he believed that this created a precedent that would cause difficulties for his delegation since their workload covered not only market access but also other negotiating groups which had linkages with market access. Evenings were necessary to allow for bilateral and plurilateral meetings. Delegations also needed time to consult with their capitals on the various issues involved not only in this negotiating group but in other groups as well. For these reasons his delegation would have difficulty in agreeing to evening sessions.

The Chairman stated that he understood the constraints on delegations. He reiterated that up to now the Group had worked in a very substantive and efficient way. He said that the Group would adjust as the meeting proceeded and would decide in the afternoon whether an evening meeting was necessary or not.

The representative of Kenya stated that the Group had to be careful not to sacrifice efficiency by prolonging the number of hours that they had to meet everyday. He affirmed the point made by the Philippines that some delegations, especially small ones, had to cover quite a number of other subjects and that they did this work at night since they had to attend meetings during the day. He suggested to continue the meeting into a fourth day as a means of gaining more time, if that was necessary rather than call the meetings at night.

The Chairman stated that the amount of time necessary would depend on the delegations themselves. He proceeded with the first item on the agenda:

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

A. CONSIDERATION OF DOCUMENTS SUBMITTED BY PARTICIPANTS AT OR SINCE THE GROUP'S LAST MEETING

1.1 The Chairman noted that 14 papers had been submitted by participants at or since the last meeting of the Group (point 3 in WTO/AIR/2064/Add.1). These consisted of communications from Thailand (TN/M/W/26); Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe (TN/MA/W/27); Bolivia (TN/MA/W/28); Albania, Croatia, Georgia and Moldova (TN/MA/W/29); Barbados, Jamaica, Trinidad and Tobago (TN/MA/W/30); Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe (TN/MA/W/31); Japan (TN/MA/W/15/add.2); European Communities (TN/MA/W/11/Add.2); New Zealand (TN/MA/W/4/Add.1); Canada (TN/MA/W/9/Add.1); Chile (TN/MA/W/17/ADD.1); United States (TN/MA/W/18/ADD.1); Japan (TN/MA/W/15/Add.3); European Communities (TN/MA/W/11/Add.3). He requested those Members who wished to do so to introduce their papers.

1.2 The representative of Qatar stated that they had submitted a proposal on environmental goods which had been circulated to the Group. During the last meeting of the CTE some clarifications were made on this proposal which were currently in the process of being submitted. Therefore, Qatar

would refer to this issue at the next meeting of the Group, following the circulation of the clarifications.

1.3 The representative of Bolivia stated that with regard to modalities, Bolivia was analysing the approach of using formulae for tariff reduction and elimination based on the calculation of bound tariffs and in accordance with the level of development of Members. Taking into account that Members would already have implemented their binding commitments, Bolivia proposed 2000 as a base year for negotiations. On environmental goods, the WTO Secretariat should prepare a working paper in order to initiate the discussions. To that end, it could consult, *inter alia*, some of the studies already undertaken within the framework of APEC and OECD. With regard to trade data, there was a need for a complete and updated version of the IDB for the year 2000 in order to pursue efforts for 2001. In addition, the Consolidated Tariff Schedule (CTS), showing the applied tariffs and bindings, should be circulated to Members. On the subject of capacity-building, the best mechanisms for cooperation and technical assistance should be studied with a view to allowing greater participation by developing countries and particularly LDCs. Bolivia was particularly interested in technical assistance for the operation of the IDB. With regard to non-reciprocity, the negotiations had to take account of the special needs and interests of developing and least developed countries under the commitment to less than full reciprocity. Progress in this Negotiating Group should not go beyond the outcomes achieved in the Negotiating Group on Agriculture, in order to ensure a balance between the tariffs applied to industrial goods and those applied to agricultural goods.

1.4 The representative of Croatia stated that he was presenting document TN/MA/W/29 on behalf of Albania, Croatia, Georgia and Moldova. Those countries which had recently acceded to the WTO had made extensive market-access commitments, often going far beyond those that had been made during the Uruguay Round, and Ministers in Doha had apparently recognized the significance of these commitments in paragraph 9 of the Ministerial Declaration. The substantive and far-reaching liberalisation measures undertaken by the four co-sponsors comprised the binding by all four countries of their tariff lines at 100 per cent and expressing them in *ad valorem* duties only. In addition, simple averages for non-agricultural duties in these countries were within the tight margin of between 5 per cent and 6.6 per cent, a large portion of which would be characterised by some as so-called nuisance duties. Newly acceded Members also maintained fully liberalised and WTO compatible regimes in respect of NTBs. Their domestic industries had already been significantly exposed while undergoing the difficult process of transformation and transition to tough international competition and this in an international environment where tariff protection in other markets was generally much higher. Therefore, within the context of their countries' WTO liberalisation efforts in the area of non-agricultural market access, the outcome of the negotiations should be fair and equitable for all Members. This included a full reflection of the specific situation and concerns of recently acceded Members in the modalities that were currently being drawn up. The current disparities in the level of tariff protection between WTO Members that had a comparatively low level and the vast majority of other Members that did not could not be ignored, and the existing level of inequality had to be avoided by all means. Albania, Croatia, Georgia and Moldova had carefully examined proposals presented in the NGMA. They noted that few proposals recognised the specific situation and concerns of newly-acceded countries. Their proposal contributed to the discussion by outlining specific flexibility provisions for recently acceded Members.

1.5 The representative of Trinidad and Tobago, on behalf of the delegations of Barbados, Jamaica and Trinidad and Tobago, stated that document TN/MA/W/30 outlined their position on some of the issues under consideration in the NGMA. In accordance with paragraph 16 of the Doha Ministerial Declaration, the special needs and interests of developing countries had to be integral to all the elements of the negotiating modalities. Therefore, product coverage had to be comprehensive, with the understanding that certain products of strategic importance to developing countries would require special treatment; the goal of complete elimination of tariffs by all Members could not be realised in the foreseeable future; the core modalities had to accommodate the differences in Members' economic development, size, share of world trade and ability to offer concessions; "less than full reciprocity"

had to be the foundation on which the negotiating modalities were established; the starting-point for the negotiations had to be bound rates using HS96; positive measures had to be found to mitigate against the negative impact of the erosion of preferential margins; and as small, vulnerable economies their participation would benefit from targeted trade-related technical assistance aimed at, *inter alia*, improving the competitiveness of their private sectors and conducting studies on the impact of trade liberalisation on their economies. Ministers agreed in Doha that the needs and interests of developing countries were to be at the heart of the Doha Work Programme. Therefore, the economic realities and level of development of countries had to influence the pace and scope of liberalisation and level of obligations to be undertaken. The Group could not lose sight of these factors as it proceeded in its work.

1.6 The representative of Nigeria stated that document TN/MA/W/31 was co-sponsored by Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe and was a formal response to JOB(03)/29. The submission highlighted that the core modality had to build in the concept of less than full reciprocity. One way to achieve that objective would be to adopt differentiated rates of reduction commitments for developing and developed Members. The core modality had to also address a major concern of developing country Members which was the question of reducing tariff peaks for products of export interest to developing countries. In addition, supplementary approaches could only be considered once the core modality had been finalised. On non *ad valorem* duties, while a commonly agreed methodology should be adopted for calculating such rates, it would be useful for the Secretariat to prepare a background note on possible options. With regard to LDCs, the development needs and circumstances of these countries had to be taken fully into account in the negotiations process. The negotiating mandate, particularly as regarded the requirement to take full account of the needs and interests of developing and least-developed countries, meant that appropriate flexibility should be built into the process as part of the requirements of special and differential treatment. The negotiating mandate had also guided the co-sponsors in their answers to the questions posed on product coverage, elimination of tariff, binding, binding coverage, base rate, implementation staging among others.

1.7 The representative of India stated that TN/MA/W/10/Add.2 elaborated its proposal and presented the core modality in the form of a formula. India considered that simplicity in the understanding of any set of modalities was important and that this simplicity would also facilitate easy verification of the results. Aside from that, India had been guided mainly by the operative elements of the Doha mandate, which required reduction or as appropriate elimination of tariffs, with particular attention to be given to the reduction or elimination of tariff peaks, high tariffs, tariff escalation and NTBs. The mandate also required that particular focus be given to products of export interest to developing countries. Additionally the product coverage was to be comprehensive and without *a priori* exclusions. Most importantly, the negotiations were also to take fully into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments. India had attempted to incorporate all these elements into their tariff reduction proposal. Firstly, their core modality was a formula proposing a simple linear reduction applicable on each tariff line. The reason for the linear reduction was that many of the non-linear formulas that had been suggested would deal with higher tariffs, a phenomenon normally prevalent in developing country schedules, by reducing them much more sharply than lower tariffs. This would place a relatively more onerous burden on developing countries. Linear formulae themselves could contribute very substantially to larger tariff cuts at higher tariff levels and therefore offered a good balance between the need to address higher levels of tariffs and the ability of developing countries to bear the reduction from various perspectives including revenue and developmental considerations. The numbers contained in the proposal for linear reductions such as 50 per cent or 45 per cent were indications only and could be further discussed.

1.8 The second aspect of the formula was the building in of the element of less than full reciprocity in reduction commitments. This offered a differential reduction percentage between that applicable to developed countries and that applicable to others. India also proposed that the less than

full reciprocity parameter could be two-thirds based on the previous use of this ratio in the Uruguay Round agricultural market access negotiations. They would be interested to hear the views of other Members on whether the parameter should be higher or lower than this. The third aspect of the formula was that tariff peaks and escalation, particularly on products of interest to developing countries, would be effectively addressed through Step 2 in India's proposal, which required Members to bind tariffs at a level not higher than three times its national average. This average would be calculated after the application of the linear reduction formula, which was Step 1. India's formula would apply to all Members. However, India proposed certain special and differential provisions for developing countries and LDCs in accordance with the Doha mandate. These provisions would grant meaningful flexibilities in the application of the formula to developing countries and LDCs, allowing them to factor in their developmental priorities and sensitivities.

1.9 The special and differential flexibilities suggested were that the actual tariff binding on up to 15 per cent of the tariff lines bound as on the base date would not be subjected to the reduction formula and that developing country Members would be allowed to determine the binding on these tariff lines at appropriate levels depending on their sensitivities. In doing so, however, they would be required to meet their overall tariff reduction commitment on a simple average basis by providing for compensating cuts elsewhere. The comprehensive product coverage mandated required a substantial improvement in the binding coverage by all Members i.e. a significant number of the unbound tariff lines should be bound. In line with this, India had suggested a substantial increase in the level of binding. It recognised that unbound tariff lines by their very nature were domestically more sensitive. Hence, India proposed flexibility for developing countries, allowing retention of at least 10 per cent of the currently unbound tariff lines as unbound. There should be recognition and adequate provision for the particular needs of Members who currently had a low level of binding coverage as well as for LDCs. Regarding the binding level at which the unbound tariff lines might be bound, it was proposed that this could be at the applied tariff rate as on the base date, or at the highest of the bound rates in a Member's schedule, again as on the base date, whichever was higher. The very binding of these tariffs lines was to be considered as a concession in terms of Article XXVIII *bis*:2. India believed that these flexibility elements would help developing countries to meaningfully address their developmental concerns. It would also encourage them to go ahead with autonomous reductions and grant a measure of assurance that the negotiations were aimed at addressing the development related issues and were not seeking an unreasonable and exorbitant price from developing countries. An integral part of these negotiations would be the recognition of the constraints of least developed countries. Their developmental needs and concerns needed to be fully factored into the modalities that were agreed upon. Accordingly, they should not be expected to undertake tariff reduction commitments or increase binding coverage that was not commensurate with their level of development. The representative of India also remarked on the Secretariat's analysis of the implications of the formulae proposed on Member's tariffs circulated in JOB(03)/67. India had proposed a tariff reduction of 33 per cent by developing countries, if developed countries reduced their tariff by 50 per cent. Therefore the term "c" would be 0.5 or 0.67 and not 0.5 or 0.33 as mentioned in paragraph 11 of the paper. India had illustrated its proposal in its paper through two examples of the differential reduction rates, i.e., of 45-30 per cent and 50-33 1/3 per cent. He also drew Members' attention to a written clarification circulated in document TN/MA/W/10/Add.3.

1.10 The representative of Japan stated that his country's proposal for modalities put a high priority on a "zero for zero" or "harmonisation" approach in 18 sectors, together with the trade-weighted target tariff formula. The addendum to their proposal (TN/MA/W/15/Add.2) contained more detailed, elaborated elements including tariff lines with regard to the 18 sectors which Japan had proposed. These sectors accounted for two-thirds of the world's trade in non-agricultural products and included products of export interest to developing countries and products that were growing in trade volume during this decade. A Japanese empirical study indicated that if "zero-for-zero" and "harmonization" were achieved in the proposed sectors, the world's GDP would grow by 0.24 per cent. Furthermore, it indicated that GDP would grow far more in developing countries, by 0.7 per cent. As for tackling tariff peaks and tariff escalation, Japan considered that it was difficult to agree on a definition for

tariff peaks and tariff escalation because of the large disparity of average tariff rates world-wide and of the difference in individual country tariff structures. Therefore, Japan believed that the "zero-for-zero" and "harmonization" approaches suggested in the 18 sectors were the most realistic approach to tackle tariff peaks and tariff escalation. The tariff should be comprehensively evaluated, together with tariff reductions through the formula approach, in order to work towards reaching agreement on modalities.

1.11 The representative of the European Communities stated that they had tabled TN/MA/W/11/Add.2 in order to give the group a chance to discuss the working of the EC formula and to see whether the objective of the EC's proposal was shared by the majority of Members. The EC formula tackled tariff peaks, high tariffs and tariff escalation, three elements of the Doha mandate. It was important that the core modality did not focus only on the formula but also took into account that part of the mandate which concerned products of interest to developing countries. The EC had tried with its core modality proposal to abide by the mandate in its totality, including the introductory part which dealt with ensuring that developing countries could have a share in the growth of world trade. The introductory part of the mandate also indicated that the NGMA had to take the vulnerability of LDCs into account in the core modality. Along with tackling the three main elements of the mandate, the EC proposal also covered that part of the mandate which concerned products of export interest to developing countries and called for initiatives on textiles, clothing and footwear. The figures in the proposal, coupled with the formula and with the asymmetrical elements which were part of the core modality, demonstrated that the EC proposal was not self-serving since most of their tariffs would be dismantled by the end of the Round. When the EC introduced its first proposal (TN/MA/W/11) it talked about the asymmetrical elements such as its call for quota and tariff free access for all LDCs exports or products originating in LDCs into the various Member markets. It had also indicated that the elimination of lower duties as offered in the EC proposal would have a major impact mainly on developed countries that had schedules containing these tariffs. Finally, the modalities needed to factor in a clear point on LDCs because both Article XXVIII and the whole of the Ministerial Declaration stipulated that all Members had to pay attention to the specificities of LDCs. The EC had tried to do just that with its proposal.

1.12 A representative of the United States stated that it was important to analyse the issue of revenue implications of tariff reductions in depth, particularly in light of the concerns raised by a number of developing countries that the far-reaching modalities proposals under consideration by this Group might have a significant impact on government revenue. The IMF had done extensive work in this area. The capacity to adjust to the revenue implications of tariff reductions and elimination would vary from country to country and from region to region. The US did not want a general nervousness about revenue consequences or even the revenue problems associated with a particular group of countries to limit the overall ambition of the NGMA. At the same time, they wanted to identify those countries that could face significant revenue challenges and to point them toward the assistance programs that were already available. Some countries may be heavily dependent on import duties for government revenue, but that did not mean that such dependence was desirable or permanent. Tariff regimes were neither an equitable nor economically efficient means for developing countries to raise revenues as they tended to distort resource allocation and shift the tax burden to the poorest segments of the economy. For example, the highest tariffs in both developing and developed countries were often concentrated on consumer goods such as apparel and agricultural goods.

1.13 Many developing countries were already in the process of implementing ambitious tax reform programs to address their fiscal problems. In this context, import duties were becoming less important as a source of government revenue for most developing countries. On average, import duties accounted for about 15 per cent of total government revenue in 2000/2001, down from 18 per cent in 1991/92. With the proliferation of free trade agreements in all regions, many governments were already facing the revenue issue and were responding positively by eliminating tariffs and improving taxes. The dependence on import duties also varied from region to region. Import duties accounted for less than 10 per cent of government revenue in most developing countries in Latin America, the

Middle East and Europe which already relied primarily on other revenue sources. Asian countries, which in many cases were more reliant on import duties, had already demonstrated a capacity to expand revenue through non-trade taxes such as value-added taxes, other taxes on goods and services and income taxes. Those countries that were most dependent on import duties and that could face difficulties adjusting to the revenue impact of tariff reduction were limited to very specific groups – many LDCs, some additional poor Sub-Saharan African countries, and some island countries in the Caribbean and Pacifica. Even among these groups, there were a number of countries that had already substantially reduced their dependence on import duties. For those countries that needed assistance, the international financial institutions, particularly the IMF and World Bank, could provide advice and assistance for those willing to undertake tax and trade reform efforts in the context of sound economic programs. Of key importance, the IMF had opened or would open regional centers where assistance may be most critical – Pacifica, the Caribbean, East Africa, and (in the near-term) West Africa. The World Bank offered programs to provide substantial financial support for tax reform in those countries that asked for such help. For example, structural lending by the World Bank could provide a bridge while the borrower reformed its tax policies and improved its tax administration, and the Bank had consistently found that the economic/financial return on these operations easily offset the costs of the loans.

1.14 The IMF had emphasized the importance of implementing and sequencing comprehensive reform of the domestic tax system from the outset of the trade liberalisation process. In the near term, tariff reduction may not necessarily have immediate adverse revenue consequences. A number of studies had found that reducing high tariffs might actually increase government revenues in the early stages by stimulating substantial growth in trade and GDP. In recognition of this, many of the modalities proposals in the Group recognized that many developing countries may need time to adjust and reform their domestic tax regimes by proposing long implementation periods, in some instances through 2015 and beyond. Well-designed and properly administered tax systems represented more efficient and equitable mechanisms for raising revenues than import duties. The IMF had outlined a number of "best practices" for implementing comprehensive tax and tariff reforms. The best tax systems were those that caused a minimum of distortion in the allocation of resources, were equitable, and were relatively easy to administer. The shift from import duties to other sources of revenue would not only help developing countries generate sufficient revenue more equitably but would improve resource allocation and reinforce their growth prospects.

1.15 The US paper presented an overview of the revenue issue, but the revenue situation could differ markedly from country to country. A first step would be for each developing country to develop an accurate picture of the extent to which it was (or was not) dependent on tariff revenue for total government revenue. In making this assessment, it would be important to distinguish between "import duties" which would be reduced and then eliminated – and "other taxes collected at the border", such as excise taxes and the value-added tax (VAT) on imports which would not be reduced by tariff proposals. Where countries were heavily reliant on import duties, the next step would be to determine whether the evolving tariff modalities would create a revenue problem and then identify the sources of advice and assistance. Finally, those countries that faced a revenue issue needed to seek appropriate advice and assistance for implementing the necessary reforms. The advice and resources for the tax and fiscal reform to compliment trade reform were already available. The key was for those developing countries that needed help to ask for it. He had a list of contacts in the IMF, World Bank and a list of bilateral programs that might be able to help developing countries with the revenue issue. He invited other Members to provide information about their bilateral programs in this area and said that he was prepared to talk further with any delegation that wanted to follow up this discussion or had any questions about the paper.

1.16 The representative of Colombia stated that his delegation agreed with Thailand (TN/MA/W/26) regarding the handling of NTBs, in particular the fact that they should be identified and negotiated in this Negotiating Group, and also the possibility of adopting the request/offer approach. As a developing country, Colombia shared the view of the group of African countries

(Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe) that the modalities should be simple and user-friendly to negotiators, policy makers and those responsible for domestic implementation. Colombia was open to exploring the interesting ideas put forward by some economies in the early stages of industrialization with respect to the importance of having specific special and differential treatment. However, Colombia did not agree that developing countries should be free to decide the scope of coverage of bound products nor should African developing countries be permitted to determine what level of subsequent liberalisation they would include in their reduction commitments. Those elements should be reserved only for dealing with the special and particular situation that might be faced by LDCs. He thanked Bolivia for its views in helping to define the negotiating modalities. Colombia was assessing the different formulae proposed and their implications, including the Swiss formula which Colombia supported because it would take account of countries' levels of development. Colombia welcomed Bolivia's ideas on the need to strike a balance in the tariffs applicable to industrial and agricultural products and the importance of improving participation by the developing countries, through mechanisms to provide cooperation and technical assistance in operating the databases and other IT tools.

1.17 He said that Barbados, Jamaica and Trinidad and Tobago had made interesting points regarding the need to take account of the specific situation of developing economies in defining the modalities and of the need for special and differential treatment and less than full reciprocity in reduction commitments. On the other hand, various aspects of the paper gave cause for concern, namely, the phrase "without *a priori* exclusions", as set out in paragraph 16; the possibility of retaining some unbound tariff lines; the idea of taking the year of completion of the Uruguay Round as the base year; and the introduction of a new country category in the WTO – that of small vulnerable economies. He sought clarification on the proposal that the modalities should include a periodic assessment of reductions in the developing countries with a view to making adjustments. He queried whether this would involve establishing a monitoring mechanism and, if so, would it mean suspending the fulfilment of commitments deriving from the negotiations. He welcomed the views expressed by the group of developing countries headed by Egypt on the questions listed in the Chairman's questionnaire. In particular, Colombia agreed with those factors that would prevent tariffs from being eliminated in the short and medium term and with the practical proposals regarding less than full reciprocity. They also supported the assertion that product coverage should be extensive, without *a priori* exclusions, and that developing countries should be able, as a special and differential measure, to calibrate the level of reductions for certain bound tariff lines that were considered sensitive. He endorsed the proposal that the Secretariat should be asked to prepare background information on possible options for the adoption of a common methodology to deal with non *ad valorem* duties. Again, his country disagreed with the statement that developing countries should be allowed to retain unbound products as an outcome of the negotiations. The points concerning the core modality and base rates (paragraphs 3 and 9 of TN/MA/W/30) both suggested that some tariff lines bound during the negotiating process would not be subject to the reduction commitments agreed. This was an even more disturbing possibility, and assuming it was correct in its interpretation, Colombia queried in what cases such an option would apply.

1.18 He welcomed India's elaboration on its proposal, particularly the details regarding a tariff reduction methodology that would not impact heavily on developing countries compared to the lesser effort required of the developed countries. He noted the practical proposal for implementing the "less than full reciprocity" concept for developing countries and the various forms of flexibility for special and differential treatment, which would allow developing countries to analyse their individual situations when deciding on the actual bindings they intended to make. In any case, those flexibilities were circumscribed so as to ensure predictable outcomes that would facilitate fulfilment of the mandate. Colombia's concern was whether the formula effectively met the objective of reducing or eliminating the tariff peaks and escalation that so severely impacted on some of their exports. They wondered if India would be prepared, if necessary, to provide for some adjustment of the formula in order to achieve that goal. He reiterated Colombia's concerns regarding the possibility of some tariff lines remaining unbound after the negotiations. His country had already stated that one of the

objectives of these negotiations was that developed and developing countries alike should bind one hundred per cent of their tariffs.

1.19 The document presented by the US was very timely and it met the concerns expressed by many developing countries with respect to the tax and revenue impacts of additional tariff reduction. It properly illustrated the experiences of some other countries that in the last few years had been progressively reducing their tariffs. There was no doubt that when very high tariffs had been reduced to a rate of 10-12 per cent the tariff reduction had not had a net negative impact on revenue and the increase in imports had more or less offset the tariff reduction by 100 percent. However, the subsequent increase in exports resulting from trade liberalisation was much lower than that in imports, so in the short-term there could be a balance-of-payments problem in some of these countries. Therefore, it was very necessary to ensure that there was a corresponding export endeavour in tandem with any agreement to reduce NTMs, particularly in these countries which had particularly high tariff rates.

1.20 The representative of Chile stated that his country fully agreed with Colombia's comments regarding the proposal presented by Barbados, Jamaica and Trinidad and Tobago. With regard to the document presented by a group of 10 developing countries including India, Egypt, Malaysia and others (TN/MA/W/31), Chile agreed with some of its elements, for example, the emphasis on a formula as a principal negotiating modality and the need to negotiate on the basis of bound tariffs, among other elements. However, the document also contained some elements that Chile could not agree with. A first general comment was that the document was full of exceptions to such an extent that it was difficult to make a distinction between what was the general rule being proposed and what were the exceptions. Chile was fully aware of the Doha mandate regarding special and differential treatment and less than full reciprocity for developing countries, but in this document both concepts seemed to be more important than the very objective of the mandate in paragraph 16 of the Doha Declaration which was to reduce or eliminate tariffs, etc. The proposal incorporated a selective interpretation of the Doha mandate. For example, with regard to the importance of looking at tariffs and NTBs on products of particular interest to developing countries, document TN/MA/W/31 stated that this part of the mandate applied only to developed country markets. However, paragraph 16 of the Doha declaration did not make any distinction between the obstacles faced by a product of special interest to developing countries in either developed or developing country markets. TN/MA/W/31 seemed to assert that products of special interest to developing countries did not face barriers or obstacles in other developing countries and this idea would not withstand any analysis. To verify this it was only necessary to look at the unbound tariffs, tariff peaks and tariff escalation that many developing countries used to protect sectors such as fisheries, textiles, clothing and footwear. Some sponsors of this document committed themselves to achieve full trade liberalisation by 2020, therefore he queried how their proposal fitted in with this objective. It would be of great interest to Chile to know what specific reduction figures were asserted by the co-sponsors of this document as these figures were essential in order to judge the merits of this document.

1.21 The document argued in favour of developing countries adopting the formula that was used in the Uruguay Round for agriculture. That formula was a specific average reduction rate with lower minimum reductions for every tariff heading and it had been disastrous in agriculture. It allowed every country to play with the figures to make lower reductions, in particular, in the most protected sectors. These sensitive sectors were virtually hidden or protected from liberalisation and Chile believed that this could be repeated in the industrial goods sector. Textiles, footwear, steel, fisheries, forestry, products of timber and other products of special interest to developing countries would be the products least liberalised. For these reasons, Chile disagreed with repeating the Uruguay Round formula in agriculture for industrial products, for both developed countries and developing countries. Neither did it share the idea contained in this document that developing countries should be allowed to maintain unbound tariff rates. Chile's tariff lines were bound at an *ad valorem* rate. Latin American countries, including developing countries, some of which were very poor, had 100 per cent bound tariff lines. The co-sponsors of this proposal had an average binding of tariff lines of 37 per cent

despite the fact that two of them belonged to the LDC group. The Latin American examples clearly showed that there was not a close relationship between a lower development level and a lower impact of unbound tariff rates. The arguments presented in this proposal to justify maintaining unbound tariff rates were not convincing. In the case of products for which tariffs were not bound Members by definition were free to fix the level of protection that they felt was necessary. If a product needed additional protection, the level of the applied tariff would be greater simply because there was no limit posed by binding the rates. There was no justification to keep products unbound even for strategic reasons. In addition, Chile did not believe that tariffs which were currently unbound should be exempted from tariff reductions. This would mean establishing *a priori* exceptions, which was in contradiction with the Doha mandate. Document TN/MA/W/31 seemed to assume that developing countries only traded with developed countries and this was seen to be untrue many years ago, although South-South trade continued to be of importance. Turning to the Indian proposal, he asked what specific tariff reduction India considered as feasible/desirable in these negotiations. He also asked if the other co-sponsors of TN/MA/W/31 subscribed to the Indian proposal in document TN/MA/W/10/Add.2.

1.22 Referring to the proposal by Japan, which proposed sectoral approaches for 18 sectors, he said that sectoral approaches and/or request and offer should not replace the use of a formula as the main modality of these negotiations. It may be that application of the formula on a line by line basis was the only way to guarantee at least a minimum degree of transparency and equity in negotiations, and to guarantee that the interests of all Members received fair and equal treatment. Japan had pointed out that the sectors for which it proposed a zero-for-zero, harmonisation proposal represented two-thirds of world trade but had not indicated what would happen with the remaining one third, which included sectors of interest for Chile such as fisheries and the forestry sector. He wondered if Japan would be ready to include those sectors in its sectoral initiative approach. Japan had also stated that given the difficulty in reaching agreement on a definition of tariff peaks and tariff escalation it would be preferable to resolve the problem simply by opting for zero-for-zero in areas of interest to Japan. However, it forgot that in this way the problem would be resolved but only for those particular sectors and not for other sectors that, while not of priority interest to Japan, were of priority interest for other Member countries.

1.23 Turning to the EC proposal, he thanked them for the figures that they had provided which showed the EC's commitment to the Doha mandate and their high degree of ambition *vis-à-vis* a clear formula for tariff escalation and tariff peaks. Chile also found that the EC's pro-development approach was interesting. This approach was reflected particularly in the EC's interest to specifically tackle sectors such as the textiles, footwear, leather etc. Chile differed with the EC on environmental issues and believed that there was no mandate or any other reason for environmental products to have deeper tariff reductions than the rest of the tariff universe. If countries wanted greater reductions for environmental products than those demandeurs should improve their offers in other sectors, for example, in agriculture, fisheries and forestry sector products. This proposal confirmed what was already known, that the EC considered free trade to be a very desirable objective when it concerned industrial products but not when it came to agricultural products. In one case the principle of comparative advantage was fully applicable, but in the other case, the advantage represented a source of abuse by those countries that possessed it. The EC presented a pro-development argument for trade liberalisation, yet it presented its pro-development argument to keep obstacles and barriers in place. Chile was not convinced by the EC's arguments in favour of this situation. If the EC was able to show as much commitment in the agricultural sector that they were showing in market access then the Round in general would be a success. He thanked the United States for their document on tariffs and their related fiscal aspect. He believed that this paper provided the Group with a much clearer picture of this area and would facilitate negotiations based on facts and not presumption.

1.24 The representative of Costa Rica stated that with respect to the coverage of bound tariffs, Costa Rica agreed with Chile that the reference in the Doha Declaration "Product coverage shall be comprehensive and without *a priori* exclusions" meant that all non-agricultural products were on the

negotiating table whether or not their tariff level was bound. Paragraph seven of document TN/MA/W/31 pointed out that developing countries should have a degree of flexibility to maintain a certain number of unbound tariff lines depending on their development level. This proposal was not compatible with paragraph 16 of the Doha Ministerial Declaration precisely because it would establish *a priori* exclusions in the modalities. The proposal also seemed to favour only a limited number of developing countries. Table 8 in document TM/MA/S/4/Rev.1/Corr.1 drawn up by the Secretariat showed that virtually all Latin American and Caribbean countries had bound 100 per cent of their tariffs. In the case of Africa it showed two extremes. On the one hand, some 16 African countries including several Sub-Saharan African countries had bound more than 96 per cent of their tariff lines while 17 other African countries had less than 20 per cent of their non-agricultural tariffs bound. In the mid-range seven countries had between 20 per cent and 25 per cent of their tariff lines bound. A more detailed analysis of this group of African countries also showed that there was no correlation between the level of development and the number of tariff bindings. Therefore, Costa Rica could not see the justification for the flexibility proposed on the basis of the different development levels. If the poorer country Members of WTO had already bound their tariff universe why could countries that were relatively more developed not do so as well? The most sensitive tariff lines of any Member, agricultural product tariffs, had already been bound during the Uruguay Round. There was no valid reason to justify not binding a non-agricultural product in the Doha Round. Costa Rica was ready to consider flexibility in these negotiations for developing countries but he believed that this flexibility should be given for the level at which these tariff levels would be bound and not on the number of tariff lines that had to be bound.

1.25 With respect to the principle of less than full reciprocity, several delegations had indicated that this principle, contained in Article XXVIII *bis* of GATT 94, should be interpreted to mean that developing countries could make lesser reductions for all bound tariff lines. While it was necessary to respect this principle Members had to acknowledge that paragraph 16 of the DDA obliged the Group to make reductions in particular for products of interest for developing countries. Costa Rica believed that this included exports from developing countries to other developing countries. The annual publication "International Trade Statistics 2002" drawn up by the WTO Secretariat showed that for the decade 1990-2000 South-South trade increased to an annual average rate of 12 per cent, which represented almost double the growth rate of world trade. The publication also pointed out that South-South trade represented approximately between 35 per cent and 40 per cent of exports of developing countries, and even higher in some regions. Costa Rica's exports to other developing countries had increased considerably from 17 per cent in 1996 to more than 25 per cent in 2001. The Secretariat publication also showed that Costa Rica was not unique. Changes in the actual patterns of trade meant that South-South trade had to be one of the fundamental pillars to be taken into consideration in the current negotiations. This new pattern of trade also affected the way in which the Group should interpret the principle of less than full reciprocity. It had to adjust both concepts in order to comply appropriately with the negotiating mandate to promote the development of all Members and decide what the rules and exceptions should be with regard to tariff reduction. Costa Rica believed that the way to achieve both concepts was to adopt a principle that offered greater liberalisation while reserving a certain degree of flexibility for developing countries. This flexibility could be a greater period of time for tariff reduction but there were other possibilities and other combinations that could be explored. Significant reductions of bound rates should be the rule for all Member states and not the exception, as some Members proposed.

1.26 It did not seem justified that small tariff reductions should be the rule for developing countries. Why would a Member wish to maintain a high bound tariff or an unlimited unbound one for something that it did not produce or for a product which was not sensitive for its economy. In addition, the mercantilist idea according to which exports were "good" and imports "bad" had already been declared extinct some time ago by economists. Even within the mercantilist school of thought, experience had demonstrated that developing countries required a higher number of raw materials, intermediate goods and capital goods in order to be able to produce and export products. Far from hurting developing countries, low tariffs could enable them to significantly improve their country's

competitiveness and export capacity. The publication "International Trade Statistics 2002" clearly illustrated that those developing countries that had been more successful in increasing their exports were also those that had a higher growth rate in their imports. In the particular case of Costa Rica, imports of raw materials went from 34.7 per cent in 1995 to 46 per cent in 2001, and this was against the background of imports that virtually tripled in the 1990s. It seemed obvious that in order for a small developing country to be able to export more it needed to have more raw materials, intermediate goods and capital goods. Most of Costa Rica's imports did not pay customs duties precisely in order not to affect the international competitive ability of its enterprises. Contrary to the view that all imports hurt developing countries, in reality such imports could play a fundamental role in enhancing economic growth, for example, cheap machinery was indispensable for a developing country with an export-based economy. Table 9 of document TN/MA/S/4/Rev.1/Corr.1 clearly demonstrated that duty free applied tariff rates were quite frequent in Jamaica, Mauritius, Malaysia, South Africa, Costa Rica, Nicaragua and El Salvador and these were also some of the developing countries that applied zero duty in the case of half of the non-agricultural tariffs. All this supported Costa Rica's belief that a significant reduction in bound tariffs should be the rule and not the exception, as proposed by some Members.

1.27 The representative of Mexico stated that his delegation supported the views of the previous South American speakers. Mexico agreed that bound tariffs should be the negotiating base but they shared Chile, Colombia and Costa Rica's concern with respect to the level of bindings that some Members had in place. Mexico strongly hoped that this Round would result in full binding of all tariffs. This could be a sensitive matter for some groups of countries but a flexible formula would give sufficient room for manoeuvre in order to take account of those sensitivities once the tariffs had been bound. With respect to document TN/MA/W/28 put forward by Bolivia, Mexico supported their proposal that a zero-for-zero initiative must be maintained as a voluntary possibility for both developed and developing countries. With respect to document TN/MA/W/29 submitted by certain recently acceded countries, while his delegation was looking very carefully at this document they believed that tariff reduction commitments for those countries should in general be based on the commitments made by other Members of the Group. With respect to document TN/MA/W/30 put forward by certain Caribbean countries, Mexico agreed that the modality must have a simple and transparent approach. Mexico also agreed with some of the concepts laid out in document TN/MA/W/31, submitted by 10 African countries, particularly the possibility to find a formula which could be simple and transparent on the basis of a mean or an average. Mexico also shared some of the concerns put forward with respect to the adoption of the Swiss formula. This formula would have a greater impact on developing countries because of the tariff structures in those countries. He thanked India for the elaboration of its proposal in TN/MA/W/10/Add.2 and queried whether the proposal was intended to include less than full reciprocal treatment. With respect to the Japanese paper, the zero-for-zero approach should, if necessary, be dealt with after dealing with tariff reductions based on a formula approach. Mexico welcomed the document put forward by the EC, as it gave further clarification with respect to the EC formula mechanisms.

1.28 The representative of Uganda stated that it had undertaken autonomous liberalisation measures which reduced tariffs to the levels referred to by the representative of Colombia. Colombia had a proposal that "if tariffs were reduced to about 12 per cent that would be in the interest of those countries". Uganda was actually applying that level of tariffs, but it needed policy space to respond to its development needs. The US paper concentrated solely on the aspect of revenue and did not make linkages to other uses of tariffs. An IMF paper on the subject also concentrated on only the revenue aspect of tariffs and ignored the major linkages to their other uses, for example, the protection of infant industries. Uganda needed the policy space to respond to its development needs, like other LDCs and small, vulnerable economies. Managing reform was not simply about technical assistance. Uganda was already carrying out such reform in real, practical terms through tariff reduction. From a historical perspective, all countries had had to have tariffs for their development needs and at various stages they reformed and discarded what they no longer needed. Economic needs would dictate whether or when Uganda and other countries could make reductions greater than 12 per cent.

Malaysia was quoted in the IMF paper as a successful example of a country that managed to reduce tariffs and reap benefits from those reductions. However, it was necessary to recognise that Malaysia chose to do that at a particular stage of development.

1.29 The representative of Mauritius stated that his delegation supported the papers that had been presented by developing countries, TN/MA/W/27, TN/MA/W/30 and TN/MA/W/31, in particular, the proposals contained therein regarding less than full reciprocity. Non reciprocity was one of the principles of the WTO and Ministers emphasized it in paragraph 16 of the Doha Declaration. Taken together, these points highlighted that this principle should be applied in practice. The three papers outlined a similar approach to the modalities which Mauritius fully endorsed, including the contents of the three papers regarding the erosion of preferences. More and more Members were expressing their anxiety on the question of preference erosion. Since preference-receiving countries had very weak trade structures and were the most vulnerable countries they could remain market-less in the absence of such preferences. Many exporting companies in preferential beneficiary countries were already closing down and foreign companies were leaving to lower cost locations in anticipation of the possible outcome of the negotiations on trade liberalisation. In view of the importance of preference erosion for many poor, vulnerable countries the issue should be adequately addressed in these negotiations to ensure that a balanced outcome was achieved. Mauritius supported Uganda's comments on the implications of tariff reductions on a country's fiscal situation, and more importantly on its domestic industry. The industrial structure in developing countries was currently very weak and tariffs could be used as a means to elaborate policies that would enable them to at least set up basic industries and to devise a policy for domestic industrialisation. It would be very difficult, if not impossible, for a country to really industrialise in a situation where tariffs were extremely low. This issue would have to receive serious consideration by the Group in order to avoid radical economic casualties among the most vulnerable less developed countries.

1.30 With regard to the EC's presentation, and in their proposal regarding LDCs, Mauritius fully supported the extension of best treatment to this group of countries to enable them to export. It would be important to ensure that the protection for these countries in export markets was not dismantled, at least not in the near future, as otherwise it would not make sense to extend tariff preferences to them on the one hand and at the same time undertake very deep tariff cuts on products of export interest to them. That would nullify what presumably should have been a benefit. The question should not be limited only to the LDCs but the same treatment should be extended to all non-LDC countries that were equally vulnerable. There were references in the discussion so far to attempts being made to create groups of countries such as small economy countries. However, it was not a question of creating groups of countries, rather it was an attempt to tackle the problems of specific countries.

1.31 The representative of New Zealand stated that the NGMA had to be aware of the extent of concerns in the Group about the impact of erosion of preferences. It was potentially an issue for a wide range of Members not just developing countries. But erosion of preferences was the reality of multilateral trade liberalisation. The basic response would have to be to focus on the wider and longer-term gains from multilateral trade liberalisation. That principle was reflected in the Enabling Clause and in some provisions of the GATT. It was a recognition that a balance had to be found that did not prevent MFN trade liberalisation. It was possible that in a limited number of cases there would be a particularly acute impact on individual Members. The answer was twofold: first, more precise information would be necessary on the details of those impacts. That implied information on products, on MFN, on preferential rights before and after the application of the agreed modalities and it also implied that the Group needed to tackle some of the technical difficulties that had previously been flagged in the Group and elsewhere in assembling that data on preferential arrangements. Secondly, the Group needed to consider targeted "positive measures" to mitigate the negative impacts of the erosion of preferences. Such positive measures might ultimately need to be considered and developed on a case-by-case basis.

1.32 Document TN/MA/W/31, submitted by Egypt and other delegations, referred to flexibility for developing countries on the level of reductions in respect of certain sensitive tariff lines, along with a reference to keeping certain domestically sensitive tariff lines unbound altogether. This approach represented a slippery slope. If developing countries could freely exclude sensitive products than undoubtedly developed countries would also exclude sensitive product lines. Once this started, it was not clear where that process could stop. This was a critical issue in terms of achieving the overall level of ambition in the Round that was needed to deliver on those very core development commitments set out in the Doha Agenda. Referring to TN/MA/W/31 and the paragraph on elimination of tariffs, New Zealand concluded that it had been very carefully worded and deliberately so. They noted in particular the emphasis in that paragraph on the time dimension of tariff elimination and the reference to a residual requirement for tariffs as an instrument of domestic policy for several years to come. New Zealand was a proponent of comprehensive tariff elimination and would have preferred to see something much more ambitious on elimination. However, as this language had been chosen very carefully, this form of words was not unhelpful in terms of the overall potential level of ambition in the negotiation.

1.33 India, in its submission TN/MA/W/10/Add.2, had sought several items: to shelter sensitive products lines that were already bound from even the limited reduction commitments proposed in the paper; in the case of unbound lines to bind them at maximum rates within those Members' schedules, and to further leave a certain percentage of them not even bound at those maximum levels. The accumulative effect of those three proposals seemed to carry the same risks as those already referred to in TN/MA/W/31 and TN/MA/W/30, i.e. taking the Group into a situation where it was open to all Members to insist on shelter for sensitive sectors. It also implied that the Group risked failing to achieve comprehensive binding in the negotiations which would ultimately put core development objectives of the Doha Round at risk. Document TN/MA/W/31 emphasised the importance in these negotiations of tariff peaks, tariff escalation and high tariffs and sought a result that tackled those areas effectively. Yet the linear approach that was proposed in those three papers would simply not address tariff peaks and escalation and would leave a very large number of tariffs at high rates. From that perspective it was difficult to reconcile the approach taken in these papers with the Doha mandate in respect of tariff peaks, escalation and high tariffs. The alternative way of reading the proposal was to suggest that only developed countries should be asked to address peaks, escalation and high tariffs, in which case there would be no negotiation.

1.34 He welcomed the fact that the EC had provided values to go with its formula. Those values had perhaps more significance than the formula itself as it would be possible to use a Swiss formula to produce results that approximated those of the compression mechanism. New Zealand remained ambivalent about the values and the results they produced. On the one hand, by past standards, this proposal represented a high level of ambition, particularly given the clean and comprehensive way that it was to be applied. It helped the dynamics of the negotiations to have relatively ambitious proposals from both of the largest players. The downside was that the harmonisation approach, and in particular the specific graduations and reductions that were specified in the latest EC paper, meant that serious tariff peaks and escalation would persist even after the application of the formula. It also did not take full account of the tariff elimination methodology that now prevailed in the free-trade agreements that were proliferating outside the WTO. His delegation hoped that the EC would remain open to persuasion on the overall level of ambition. It would be important for the wider Round, and not just the market access agenda.

1.35 He referred to Japan's claim that its proposal covered two-thirds of non-agricultural trade, but the reality was that the proposal excluded many of the products that continued to face the highest tariff levels world-wide, including forestry, fisheries and textiles and clothing and these were sectors which were of major export interest to developing countries. That left an important question about the compatibility of this proposal with the explicit terms of the Doha mandate. The results of the application of the Japanese proposal would be to magnify current tariff peaks as well as the residual effects of high tariffs and escalation in sectors that were not covered by its proposal. His delegation

would be interested to hear Japan's account of how this could be reconciled with the terms of the Doha Declaration. With regard to the US submission on revenue issues, the conclusions in that paper were broadly in line with New Zealand's experience when they made a steep and rather traumatic adjustment from a regime with very high levels of border protection to a revenue base that was much more dependent on a comprehensive consumption tax. Conclusions from some recent World Bank work in several Pacific Island states, some of the most vulnerable and smallest in the world, indicated that tariff revenue was in principle fully replaceable, provided there was sufficient time, political will, planning and correct phasing. This underlined the conclusion made by the US.

1.36 The representative of Korea stated that the values provided by the EC for its compression mechanism gave a clearer picture as to how they envisaged responding to the Doha mandate. The suggested values appeared to be in line with the level of ambition which the EC had advocated. With regard to their paper, there seemed to be a need to ensure more balanced commitments from all Member countries. The problem of high tariffs would be addressed quite effectively with the use of the formula which proposed to have the maximum rate at 15 per cent. In contrast to this, Korea was not convinced that the question of tariff peaks would be equally well addressed by the formula mechanism. The mechanism did not provide any substantive design which would ensure the resolution of problems associated with tariff peaks. There was only an expectation that the mechanism would work toward that effect by compressing the tariffs into four different ranges. The uncertainty of the formula's effect on addressing tariff peaks could weaken its capacity to deal properly with tariff escalation.

1.37 Secondly, how would the flexibility needed to take care of sensitive sectors of individual Member countries be provided? Many Members had hoped that such flexibility would be fully taken into account in the Group's consideration of possible modalities. Korea attached significant importance to this flexibility element of the modalities and was glad to note that the EC paper also recognised the importance of providing this flexibility. In their opinion, the EC relied largely on the gap between bound and applied duties as a way of obtaining flexibility for the sensitive industrial sectors. It would have been preferable to have substantive measures which went beyond merely tapping the existing differences between bound and applied duties of Member countries. As a result, Korea preferred the concept of the trade-weighted average tariff reduction model which it had presented at the last NGMA meeting. By using this concept individual Members would have the flexibility to take their sensitive products into account, while still introducing the minimum reduction rate for each tariff line. This would prevent over-sheltering of those sensitive products which might result from an arbitrary application of the flexibility offered. Korea took note of two other issues in the EC proposal, the elimination of lower duties and the substantial increase in the scope of binding. Korea would welcome frank and productive discussions with Members on to how to address those issues. Korea wanted to look at the elimination of lower duties from a more positive angle, provided that the cut-off line for defining lower duties was not too burdensome to Members. A substantial increase in the scope of binding was also desirable in achieving the objectives of this Group. Korea's future work would become much easier if the products which were newly bound in this area were not subject to the application of the agreed formula for further reduction and if products were bound at the rates which could appropriately reflect the actual reality of individual Members.

1.38 With regard to India's tariff reduction proposal, Korea did not support the proposal of differentiated reduction rates between Member countries as a means of fulfilling less than full reciprocity. Korea favoured the use of a single and universal rate of reduction for all Members when applying the formula. There were other alternatives to a differentiated reduction rate, one of which could be the concept of a trade-weighted average tariff which would deliver special and differential treatment for developing countries. Its trade-weighted average tariff formula was designed to provide the flexibility for Members to be able to take into account their different development levels and economic structures in applying the reduction formula. With regard to the flexibility advocated by India for deciding on the actual binding basis, Korea supported India's idea of using an average concept in percentage reductions. However, there appeared to be a marked difference between Korea's

and India's approach which could hold significant consequences for the commitment to tariff reduction. The difference lay in whether the mechanism provided a means of curbing the over-sheltering of products, something which would be provided by the use of an average reduction. To this end, Korea suggested applying a minimum reduction rate of 20 per cent to every tariff line thereby ensuring that no Member had any products left untouched by the Group's collective effort towards greater liberalisation. Korea did not see a similar device in India's proposal.

1.39 The representative of Haiti stated that his delegation agreed with some of the proposals made by Barbados, Jamaica, Trinidad and Tobago, in particular, the proposal concerning less than full reciprocity on basic core modalities; the flexibility for developing countries with respect to bindings; technical assistance; credits for autonomous liberalisation for LDCs and other developing countries and small vulnerable economies. Haiti also appreciated some of the points raised in the communication by Egypt, Kenya, India, Indonesia, Mauritius, Nigeria, Uganda, Tanzania and Zimbabwe, in particular those regarding LDCs. Quota free market access in developed countries for LDC products, together with strengthening capacities under the Doha Mandate could be beneficial for LDCs and Haiti believed that all this was perfectly compatible with the Doha Development Agenda.

1.40 The representative of Brazil stated that the concept of less than full reciprocity was contained in a number of the documents and statements. His delegation noted with concern that the concept was being interpreted as a generic element in the Ministerial declaration that could be met simply by granting some ad hoc flexibility to developing countries as a measure of special and differential treatment after a formula of general application was agreed upon. Nothing could be further from the truth. Looking carefully at paragraph 16 of the Doha Declaration, it showed that Ministers mandated the Members "to take fully into account the special needs and interests of developing and least-developed country participants including through less than full reciprocity in reduction commitments. This was quite distinct from special and differential treatment referred to also in paragraph 16 by the reference to paragraph 50 of the Doha Ministerial Declaration. This was an unambiguous mandate that instructed developed countries to commit to larger reductions than those made by developing countries. The record in compliance with ministerial mandates from Doha had thus far been less than stellar which was precisely why Brazil attached even more importance to this specific element of the non-agricultural mandate. In this context his delegation could support the general approach included in a submission presented by 10 developing countries contained in document TN/MA/W/31 that called for a linear reduction with differentiated coefficients between developing and developed countries. Although there were some elements in these submission with which Brazil was not entirely comfortable, such as the absence of specific treatment of tariff escalation, this approach was one of the few that effectively addressed the mandate for less than full reciprocity in reduction commitments. The proposal put forward by India took the concept one step further by laying down a specific formula for the implementation of the linear reduction with less than full reciprocity and for combatting tariff peaks. Brazil could support this approach although it was still looking at the specific coefficient suggested. He sought clarification from the EC on their concept of less than full reciprocity in reduction commitments. Paragraph 6 of their submission TN/MA/W/11/Add.2 seemed to indicate that the proposal incorporated less than full reciprocity but the figures put forward seemed to indicate that developing countries would be making steeper reductions either in nominal terms or in percentage terms. This initial evaluation was confirmed by Table 2 in the Secretariat simulation of the formulae (JOB(03)/67).

1.41 The representative of Japan stated that his delegation had two specific questions on TN/MA/W/31: 1) whether or not this proposal was effective in removing the disparity in tariff levels among WTO Members, particularly after the Uruguay Round, and 2) whether or not this proposal contributed to expanding South-South trade. Japan believed that a single formula applicable to both developed and developing countries was appropriate to ensure substantial improvement in market access. Regarding the US paper on Revenue Implications of Trade Liberalization, he expressed his delegation's appreciation for the very useful US presentation on the relationship between import duties and tax reforms. In response to a number of requests for clarification about the coverage of

zero-for-zero and harmonisation in Japan's proposal, he said that their approach to tariff reduction was a combination of a formula cut together with a zero for zero or harmonisation approach.

1.42 The representative of Venezuela stated that his delegation agreed with the position expressed in document TN/MA/W/31 submitted by Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe with respect to the following elements: the aim of the negotiations was to have a reduction in tariffs and from the point of view of developing countries tariffs were a necessary trade policy instrument that may have to be retained for some years to come; binding overhang and applied rates should not be taken into account to determine the level of reduction to be achieved as Uruguay Round bound tariffs were the only legitimate commitments; the core modality should be based on a formula which could be easily and transparently applied and should be considered almost automatically in dealing with peaks; the additional modalities that had not been dealt with must be looked at in terms of less than full reciprocity; supplementary approaches should be agreed only after agreement had been reached on the core modality and they must not be obligatory for developing countries to apply. Venezuela agreed with Mexico and others on unbound tariff lines and that as a result of these negotiations there should be a considerable increase in the level of bindings. His delegation had concerns that some proposals referred to concepts that had not been recognised in this forum, such as "small vulnerable economies", "low income countries" and "more advanced developing countries". He recalled that the existing classification distinguished solely between developed countries, developing countries and least developed countries. The basic difference between a developed and developing country was structural development, which could be seen, for example, by the fact that developing countries could easily be affected by international or domestic crisis which could have a negative impact on the economy in an unexpected way. He referred to preliminary figures showing that in the first quarter of 2002 Venezuelan GDP dropped by 16.7 per cent as a result of a national strike which lasted for a single month and the consequences of which were felt for almost four months. It was difficult to accept setting up categories of countries in order to determine the level of reduction.

1.43 In their earlier submission Japan had mentioned the advisability of using zero-for-zero for motor vehicles and parts in mature markets and saw it as an additional and subsequent sectoral approach after the formula had been applied. However, in this specific document (TN/MA/W/15/Add.2) there was no reference to the fact that this type of approach could be applied on a voluntary basis. There were also specific references to longer implementation periods for developing countries. Venezuela wished to have clarification on how Japan saw the application of this type of approach with respect to the core modality. Japan had also mentioned in its proposal that the harmonization initiative should be extended to countries with a viable chemical industry or which had the potential to create a viable chemical industry. Venezuela wished to know what criteria Japan felt should be used to assess industrial policy and to determine a classification of countries on this basis.

1.44 The representative of Egypt stated that document TN/MA/W/31, of which Egypt was a co-sponsor, reflected in a very balanced manner the mandate given by the Ministers in Doha, which, *inter alia*, referred to the principle of less than full reciprocity as well as the special needs and interest of developing countries. TN/MA/W/31 outlined the need to take into account the issue of erosion of preferences. It was not possible to see how the NGMA could develop a comprehensive modality without a clear and appropriate mechanism to deal with this issue. In carrying out its mandate, the Group should not stimulate unrealistic expectations or move away from the Doha mandate. The modalities being developed should allow all Members, irrespective of production conditions and competitiveness, the flexibility to address their industrial policy and development objectives through a certain degree of policy options. A tariff harmonization formula was simply not appropriate because it did not take into account differences in production conditions among Members. Nominal tariff levels could not just be compared across countries. Moreover, the principle of less than full reciprocity in reduction commitments should be the crux of the modality. In this context, his delegation welcomed the new elaboration paper by India which contained a number of interesting points.

1.45 The representative of Norway stated that while the EC's proposal put forward a more ambitious formula than its first presentation in December 2002 the general level of reductions should be greater than that implied by the EC formula. There was one significant improvement in the EC proposal and that was setting the upper compression limit at 15 per cent thereby dealing substantially with tariff peaks and escalations. Norway disagreed with the suggestions that tariff harmonisation was not part of the Doha mandate as it specifically called for reduction or elimination of tariff peaks, high tariffs and tariff escalation. The only way to achieve those goals was to have a greater reduction in higher tariffs compared to lower ones. Special and differential treatment with respect to products of export interest to developing countries was also an area that clearly exposed the weakness of the linear reduction formula put forward by India. By proposing only a 50 per cent linear reduction for developed countries the effects on products of particular export interest to developing countries would be significantly less than the proposals put forward by China, the US or the EC. Trade liberalisation in non-agricultural products had come so far that all sectors should be exposed to tariff reduction at this stage. Egypt, India and others had asked for flexibility in order to shelter infant industries but other ways should be found to deal with infant industries in developing countries rather than through exemptions in product coverage of the formula, for example, time-limited shelter could be an approach. With regard to low duties, tariff levels at three to five per cent could often cost more in terms of collection and other administrative costs for both government and traders than the revenue resulting from them. Norway was pleased to note that the EC had increased its floor for nuisance tariffs to two per cent and encouraged them to increase it further. At the same time, it appreciated that low duties were an important source of revenue for developing countries. However, their situation could be dealt with by agreeing on different floors depending on the level of development.

1.46 Referring to China's proposal and its formula, the use of its adjustment coefficient b1 in the Secretariat simulations resulted in an average reduction of bound tariff rates for industrial countries that was as ambitious as the US proposal. With a number of exemptions for countries with very few bound tariffs, the Chinese formula resulted in countries such as the US, Japan, New Zealand and Norway making the largest reductions of all Members in average tariffs. Another interesting point with this version of the Chinese formula was that it attacked, more than any other proposal, the issue of tariffs on products of export interest to developing countries such as textiles and clothing, electrical goods and fish and fish products. Because it used the average tariff rates in each country as the basic coefficient instead of the constant eight as in the US formula, the result was a larger reduction of high tariffs in Members such as the US, EC and Norway where the average bound tariff was well below eight per cent. When the adjustment coefficient b1 in the Chinese formula was substituted with b3 the formula was far less ambitious, to such an extent that it would not be a good basis for further discussions. Two examples were highlighted: for Norway the reduction in average bound tariffs went down from 65 per cent to 37 per cent and for the EC from 57 per cent to 34 per cent. The Chinese formula, with the adjustment coefficient b1 would also have significantly reduced the level of tariff escalation and reduced tariff peaks. However, for Members with high average bound tariffs this effect would be minimal unless the formula was further adjusted. One method could be to introduce a ceiling by stipulating that for Members with higher average bound tariffs, the relevant coefficient could be constant at 25 per cent or 30 per cent. That would effectively set a ceiling for bound tariffs at 25 per cent or 30 per cent, which would not be unreasonable for most developing countries.

1.47 The representative of the United States stated that Chile, Costa Rica, New Zealand, Colombia, Japan and Norway had laid out many of the concerns and questions that the United States had. The paper from a group of African countries (TN/MA/W/27) called for a different level of participation from African participants. She sought clarification from the co-sponsors on how the Negotiating Group could distinguish between African countries, LDCs and other developing countries in order to provide this result. Regarding the proposal put forward by the three Caribbean countries (TN/MA/W/30), the US reiterated the question put forward by Colombia: what did they mean when they referred to the idea of having periodic assessments of countries' implementation of tariffs reductions. The US believed that this was already part of the TPRM process and wondered what else the Caribbean countries might have had in mind. Also, if the Caribbean countries proposed confining

the use of sectoral arrangements to a voluntary basis than why would they choose to limit their use in this negotiation? The US was grateful to the EC for providing further detail on their proposal, and went on to seek clarification on the laying out of the intervals in the tariff compression formula. It seemed from the table illustrated in their paper that there was an overlap between the different intervals and the US had originally thought that each category would have been exclusive of the other. There seemed to be a question of equity in the Group about the merit of the single formula vs. two coefficients based on some criteria of level of development already reflected in the schedule. The results of the Uruguay Round and recent accessions showed that there was no relationship between a country's level of development and its current schedules. Therefore, simply applying a coefficient to an existing schedule did not bring equity and Group should not base its whole approach on this as to do so would continue to perpetuate the existing discrimination. The use of multiple formulae or multiple coefficients was good in some senses for South-North trade and for North-North trade, but it did very little, if anything, to promote either South-South trade or North-South trade. She emphasized that the US had to have results out of this Round in order to be able to maintain the kind of commitments already on the table.

1.48 With regard to basing the formula on average tariff levels as a reflection of levels of development, statistics showed just how much of a disconnect there was between average tariff levels and country development. For example, Japan, Mozambique, China and Cuba had bound rates of less than 10 per cent. Japan, with a rate of about 2.3 per cent, had exports of US\$ 434 billion, Mozambique had exports of \$325 billion, China had exports of US\$ 237 and Cuba had exports of about US\$ 2 billion. This showed that levels of development had nothing to do with this particular situation. The same would hold for other categories whether the bound rate was over 10 per cent or 20 per cent. The mix of very advanced developed countries and very poor developing countries within those ranges was very much in existence so it was not something that could be dealt with in the Group.

1.49 The United States had concerns with regard to the question put forward in the Indian paper and several others about the use of national peaks vs. international peaks and there again there was an inequitable situation where some developing countries had very high national and international tariff peaks and others did not. For example, 90 per cent of Indonesia's tariffs and about 70 per cent of Egypt's tariffs were bound at international peak levels. Both had negligible national tariff peaks but in developed countries the reverse would be true. This penalised countries that had already liberalised trade including many developing countries, LDCs and the recently acceded Members. With regard to recently acceded Members, the US recognised that the accession process resulted in very significant liberalisation and that many in the WTO had not carried out as much liberalization. This created an inequity which had to be addressed in order to ensure that new Members of the WTO had access in other emerging markets and at the same time could contribute further to trade liberalization. The United States joined with others in stating that the Group had to ensure exemptions from trade liberalization were the exception and not the rule.

1.50 The representative of Chinese Taipei stated that the most practical way to encourage recently acceded Members to actively participate and make a commensurate contribution to ongoing negotiations was to grant them longer grace periods. The mandate of the Fourth Ministerial Conference was for WTO Members to finish negotiations by 1 January 2005. Existing WTO Members had not been required to fulfil any concession obligations for most non-agricultural products between 2000 and 2005, i.e. their national industries would have enjoyed a grace period of six years before having to adjust to a new round of liberalisation concessions. They considered it reasonable, therefore, that Members should give favourable consideration to providing recently acceded Members with a grace period of six years, on a product-specific basis, from the year completing their accession commitments to the year when implementation of the Doha commitment would begin. Regarding the paper submitted by Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe (TN/MA/W/31), Chinese Taipei support its proposal that "no presently bound tariff line after tariff reduction shall exceed three times the average of the reduced bound tariffs in a

Member's tariff schedule", as mandated in the Doha declaration. This idea should be applicable to all Members except LDC Members.

1.51 The representative of Australia stated that his country was committed to achieving a high level of ambition and a strong liberalising outcome in the non-agriculture market access negotiations and it believed that the values presented in the EC paper was moving in that direction. Australia remained concerned that the 15 per cent ceiling on tariffs as set out in the EC paper would not fully address the problem of tariff peaks and tariff escalation across the board. Document TN/MA/W/31 submitted by 10 African countries seemed to indicate that some of the authors were advocating positions that were at odds with their own economic and trade policy. At least three authors of the paper were internationally competitive in one or more sectors, textiles and electronic goods for example and diversification of their export markets would be critical for their economic growth and for the sustainable growth of these internationally competitive sectors. It was not clear how that sustainable growth could be achieved unless there was significant market access gains in both developed and developing country markets. It was also a commercial reality that in the markets of these African countries, particularly in the countries that had internationally competitive sectors, duty free access was provided for critical inputs and intermediate goods that contributed to those particular sectors. Therefore, it appeared that at the level of domestic policy they were applying duty free access but when it came to these issues in the multilateral arena they were avoiding this debate or seeking to de-emphasise those issues. There seemed to be a striking inconsistency between that position and the positions advocated by some of the authors of the paper.

1.52 It seemed in paragraph eight of TN/MA/W/31 that the sponsors were rather dismissive of the issue of binding overhang, yet the applied rates of some of these Members were quite low in a substantial number of sectors. The whole issue of closing the gap between bound and applied rates was really the core of this negotiation and it was important to approach this issue from a pragmatic point of view, based on the actual economic policies of some of the co-sponsors rather than dismissing it in the fashion in which this paper had done. Paragraph 6 stated that tariff peaks, tariff escalation and high tariffs were an integral part of the negotiating mandate and acknowledged that a core modality needed to be designed that would be effective in addressing these issues. Yet it was not clear how a core modality, if implemented in the way suggested in TN/MA/W/31 through differentiated linear approaches, would address the issue of tariff peaks and tariff escalation. Australia had some reservations regarding India's paper TN/MA/W/10/Add.2 and its proposal for a linear based approach as, again, this approach did not adequately address the issue of tariff peaks and tariff escalations. Annex A of the Indian paper indicated a large number of developing countries with high bound averages and the question for India was not the extent to which their proposal built in relative differences between developed and developing countries but whether their proposal addressed tariff peaks satisfactorily. He thanked the US for its paper on revenue implications of trade liberalisation which set out some important facts and findings from studies about the role and significance of tariffs as a revenue raising mechanism. There were some important points made, particularly about the relative inefficiency of tariffs as a revenue raising mechanism compared to other taxation instruments as well as about the international organisations that could assist countries in implementing an adjustment package in this regard. Australia had been through a major tax reform exercise in recent years and understood very well the difficulties and challenges this posed and the need for coherence between trade liberalisation and tax reform policy measures. It concurred with the argument set out in this paper as to why revenue loss consideration should not be an obstacle to an ambitious trade liberalisation outcome. In particular, he noted that Australia's near neighbour East Timor which was not a WTO Member but was one of the newer states created, when developing their approach to trade policy recognised the importance of putting in place an appropriate broadbased tax scheme rather than liberalising their tariff regimes.

1.53 The representative of Canada stated that his country shared with the sponsors of TN/MA/W/31 a similar view of the Doha declaration that product coverage should be both comprehensive and without *a priori* exclusions. Like other Members, it interpreted those words

literally, i.e. product coverage that entailed all products as covered under non-agricultural goods. It was surprised, therefore, by subsequent references under binding coverage and base rates in paragraphs seven and nine of TN/MA/W/31 that seemed to limit this product coverage to something considerably less than all. The inference was that unbound rates would not be subject to either reduction or elimination and would not be bound at any level. If this interpretation was correct, it would be contrary to the Group's agreed mandate. Canada had reservations about the notion that bound rates could be set for unbound items at the higher of two rates, one above the highest bound rate or at the applied rate. Economic evidence would argue very strongly for the opposite approach, that is to ensure maximum economic welfare gains the bound rate should be set at the lowest possible level. The NGMA should explore avenues to encourage and give credit to all Members to bind at low levels.

1.54 His delegation also questioned the appropriateness of a linear reduction approach in place of a Swiss type formula, the attributes of which were well-known. Among its several features were its inherent abilities to address both tariff peaks and high tariffs while reducing tariff escalation, all key elements of the mandate. A linear formula would fail to achieve any of these agreed objectives. Canada shared with other Members the commitment expressed in the Doha Declaration that the Group would give particular attention to products of export interest to developing countries. Since the Group's first meeting last August some Members had highlighted the substantial changes in recent years in the mix of products produced in many developing countries and there was a wide variety of developing country Members whose export interest lay beyond that of textiles and clothing. Canada would hope that these various interests were articulated and shared with the Group to allow it to give the proper focus to export sectors that met broad as opposed to narrow interest in both developed and developing countries markets. They also differed with TN/MA/W/31 in respect of the role of supplementary approaches, including both zero-for-zero and nuisance tariffs. There was a role to be played by each one in addressing market interests of various Members. After all, successful negotiation was best judged by the economic benefits it delivered to each and all Members so there was a role for each method if welfare gains were to be maximised for all.

1.55 TN/MA/W/31 suggested that the Group take account of the developmental needs and concerns of LDCs and enjoined the developed Members to provide duty free and quota free market access for developing countries. This was largely already the case. The Group's role was to seek new measures to expand export opportunities for all, especially LDCs, into new markets. It would want to ensure that its focus extended to include new fast-growing markets where opportunities abounded. In recent years, this type of growth had been seen only in certain developing country markets and had clearly outpaced that of developed countries. In the case of certain developing countries where growth had been in a high single or even double digits a new middle class had now emerged that had quickly led rapidly emerging import markets for a wide variety of consumer goods. These new markets presented tremendous opportunities, particularly to exporters and many low income developing countries and LDCs in close geographic proximity to serve these markets. Canada looked forward to hearing how the authors of TN/MA/W/31 proposed to extend new market opportunities to low income developing countries and LDCs in the most direct manner possible, that of trade liberalisation, to allow these countries enhanced market access. With regard to the issue of erosion of preferences that had been raised by some Members the unilateral preferences provided under the Enabling Clause were always envisaged to be temporary. The Enabling Clause specifically provided that preferences were not to be an obstacle to multilateral trade liberalisation. Moreover, slowing the pace of the Group's work would only accelerate this erosion by encouraging further bilateral and regional FTAs and that perhaps was not something they should be doing.

1.56 The representative of Indonesia stated that his country shared many points raised by Thailand in its paper including that the formula approach was an appropriate solution to achieve the negotiation objectives and that the zero-for-zero approach should be accepted as a voluntary method. With regard to India's paper, Indonesia saw the merit of using a linear cut approach. It was one way to implement the less than full reciprocity aspect of the Doha mandate. Their proposal that the percentage reduction

for developing countries would be two-thirds that of developed countries was also quite sensible. There were two illustrative reductions put forward in the paper and Indonesia found the more aggressive one, imposing 50 per cent reduction for developed countries and 33 1/3 per cent for developing countries, more interesting. It also considered the proposal to be a positive one with respect to flexibility for developing countries. All developing countries should have strong flexibilities in this Round of negotiation. He thanked Japan for elaborating on its proposal relating to a sectoral approach. The sectoral approach in the form of zero-for-zero and harmonisation should be supplementary to the core modality, and it should be imposed in a voluntary manner. It only worked well if it was used between Members at the same level of economic development. Having said that, Indonesia appreciated that Japan had proposed some products of interest to developing countries as part of its proposal on a sectoral approach but there were other products of interest to Indonesia which had not been included, i.e. fishery and forestry products. The proposal from Barbados, Jamaica, and Trinidad and Tobago also emphasised the important need for flexibility by developing countries and that should be translated into real terms in the current negotiations. As for the communication from Albania, Croatia, Georgia and Moldova regarding the interest of newly acceding countries, Indonesia was sympathetic to the problems that they had in the negotiations and agreed that a one-size-fits-all approach was not appropriate. The problems of newly acceded Members would be best approached by providing longer implementation periods. Indonesia thanked the EC for the further elaboration of its proposal. It was clear that the application of the EC's proposal would entail the compression of high tariffs which were currently prevalent in developing countries. The EC also proposed the harmonization of tariffs into four intervals. It was hard to conceive that the Group should aim at the harmonisation of tariffs in this Round of negotiations. Tariff structures had a purpose in many developing countries, for example, as a source of revenue or as part of its industrial policy. A drastic reduction of world tariffs would not benefit many developing countries since many of them did not have the capacity to produce and compete in world trade and thus they would not be able to reap any benefit from trade liberalisation.

1.57 The representative of Malaysia stated that the co-sponsors of TN/MA/W/31 (Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe) disagreed with New Zealand's concerns that if the level of bindings was not increased to 100 per cent then that would foster the sheltering of a few products by developing countries which in turn could encourage sheltering of products by developed countries. The proposal in TN/MA/W/31 that developing countries should be given the flexibility to decide on the level of bindings was intended to provide flexibility in line with the concept of less than full reciprocity for all developing countries. This did not mean that developing countries would not make the utmost effort to try to increase the scope of bindings to 100 per cent. Right now, Malaysia's level of binding was quite high at 81 per cent. It would not be possible to increase it to 100 per cent but it could be increased even to 85 per cent while leaving some very sensitive items untouched at this point in the negotiations. Therefore, it differed with New Zealand's view that developed countries would seek the same flexibility. If developing countries were to increase their level of bindings then they should be given the flexibility to bind at ceiling levels or at the applied level. These were the flexibilities which the co-sponsors of TN/MA/W/31 were seeking. Chinese Taipei had said that they were only willing to accept the concept of addressing tariff peaks. In the TN/MA/W/31, it was stated that tariff peaks should not be more than three times the simple average of the reduced level. Chinese Taipei said that they could accept that if it was applied to all Members, with the exception of LDCs. Malaysia referred Chinese Taipei to the Doha mandate on special and differential treatment, which stated that special and differential treatment was available to all developing countries.

1.58 The Japanese paper proposed a zero-for-zero approach yet it also said that forestry and fishery sectors should be exempted from the reduction. Japan had presented statistics supporting the reason for this exemption, as well as the exemption of other sectors. The forestry and fishery sectors were the most highly protected sectors in Japan and while all proposals tended to be self-serving this proposal was extremely so. Zero-for-zero and request and offer were additional methods which should only be carried out on a voluntary basis over and above whatever formula approach would be advocated.

Malaysia had an interest in forestry and fisheries and New Zealand had stated that these were two sectors where many developing countries had interests. Malaysia wished Japan to reconsider its position regarding these sectors, while reiterating that zero-for-zero and request and offer were all supplementary approaches to the basic formula that would be adopted. Malaysia fully recognised the concerns of newly acceded Members and was willing to discuss the issue further with them but at this point the best approach was that they should be provided with additional time for phasing in, while undertaking the same tariff liberalisation cuts that all Members were bound to do. Regarding trade preferences, the multilateral approach was the only approach to further trade reform and the notion of preferences would have to be considered. Bilateral preferential schemes came with a lot of additional conditionalities unlike the multilateral approach to trade which was the neatest way forward.

1.59 Regarding the US' revenue paper, he saw it as an effort by them to sell their proposal to reduce tariffs to zero, which Malaysia considered went far beyond the Doha mandate. It was easy to say that all countries should try to shift to a broad based tax base and move from heavy dependence on customs duties to other forms of taxes such as VAT. Malaysia was trying to de-emphasise its increasing dependence on customs revenues for other forms of revenues and it was not an easy task. For example, during the Asian financial crisis, although Malaysia was increasingly lowering its tariffs it had to resort to increasing some of them within the bound levels and for some unbound levels it had the flexibility to increase tariffs on certain luxury items. It did this on items which it considered could provide some additional revenue gains at a time of financial crisis like that in 1997-1998. It was not possible to have one general approach for every country and Malaysia was pleased to see this acknowledgement in the US paper. Many governments had faced immense social upheavals and political problems whenever they had tried to introduce VAT. He recalled Prof. Joseph Stiglitz's (presidential advisor to President Clinton) comment that blanket protection was bad and similarly blanket liberalisation was bad. Countries had to liberalise according to their level of development and their comfort level. Therefore, the US proposal went far beyond the Doha mandate and Malaysia was unable to accept it. Developing countries needed protection, particularly for fledgling industries.

1.60 The representative of the Philippines stated that his delegation had concerns about the EC, Indian, Japanese and Korean proposals. On the EC paper, his delegation commended the level of ambition inherent in the first stage of the proposal, the compression mechanism. However, the DDA imposed certain modulation in favor of developing countries, among them, that "modalities shall include the reduction or elimination of tariff peaks, high tariff and tariff escalation and take fully into account the special needs and interest of developing countries, including less than full reciprocity". The compression mechanism would apply to all Members equally, without regard for their level of economic development and would result in countries with high tariffs, mostly developing countries, suffering deeper cuts, thereby providing more rather than less than full reciprocity in the process. The application of a single coefficient for all would not cure this deficiency and it was incorrect to say that developing countries would recover it through the wide gap between their bound and applied rates. It had no significance at all as far as tariff rates were concerned. The harmonisation inherent in the compression formula at three or four intervening rates would, in fact, reinforce the retention of such tariff peaks and high tariffs. Harmonization at these intervening levels would only apply to countries that were not part of the EC Free Trade Agreement network because where tariff preferences existed as in the Cotonou and EBA initiatives, the EC still preserved the effective margins of preference of recipient countries. Therefore, the ACP and other preference recipients should not be overly concerned with erosion of preferences as far as trade with the EC was concerned. But he acknowledged that certain countries, particularly the LDCs, which had developed long term dependency on the export of a few products on these preferences, would have real problems of transition and economic viability. Although an IMF study, WT/TF/COH/14, dated 14 February 2003 had concluded that this would be confined to a few LDCs, and would affect less than two per cent of exports, it needed serious and careful attention. He agreed with New Zealand that precise information should be generated by affected countries so that targeted positive measures to mitigate such negative impacts on the most affected countries could be developed. This issue had also been introduced into the agriculture modalities, and while he did not want to bring agriculture into these negotiations, this

issue had been proposed and discussed in a more detailed manner in that sector and closer co-ordination might be required.

1.61 Japan's proposal was to negotiate on a harmonisation, sector-by-sector and zero-for-zero basis on what he estimated would cover up to 62 per cent of global trade and at the same time leave the rest of global trade in a state of distortion. Firstly, with the exception of two or three Members, the zero end rate had not been accepted by the Group. Secondly, Japan's choice to exclude forestry, fisheries and textile and clothing sectors would obviously concentrate benefits on only a few Members while excluding the others, which was contrary to paragraph 16 of the Doha mandate. He agreed with Malaysia that this was a self-serving proposal. Thirdly, under negotiations on such an approach, the concerns raised on behalf of developing and LDCs in paragraph 16 of the Doha Ministerial Declaration would not receive serious consideration.

1.62 The Korean proposal explained that the use of trade weighted averages would take care of sensitive sectors. The Philippines failed to appreciate that the protection of sensitive sectors was now a fundamental benchmark of the negotiation. It was true that weighted averages would shield high tariff, low volume tariff lines while allowing countries like Korea and Japan to reach a 40 per cent reduction objective on low tariff, high volume product lines and sectors. High tariff low volume items were essentially those protected sectors like textiles and garments, footwear and rubber products etc. Such an approach would only entrench tariff peak protectionism for Korea. Considering further that countries like Korea and Japan had high incidences of non-*ad valorem* tariff lines, again normally associated with arbitrary protectionist policy, the formula that both of them were offering would naturally tilt the negotiations to their unique advantage. He recalled that the objective of the exercise was to reach agreement on a formula based approach to modalities in the negotiations and the formula should be based on certain main criteria which comprised the following: 1) adherence to the DDA mandate, modulated with reference to products of export interest to developing countries and LDCs, taking account of their special needs and interests including through less than full reciprocity, and the development philosophy underpinning Article XXVIII *bis.*; 2) simplicity, transparency and functionality of the formula including the use of such parameters as base rates, reduction program, phasing and end rates; 3) the formula should lend itself to universal use; 4) Greater attention should be focused in these negotiations on tariff peaks, high tariffs, tariff escalation and NTBs. Where universal rates in industrial products had been considerably reduced over several decades of multilateral trade negotiations and autonomous trade liberalisation, these remaining obstacles to free and open trade needed to be broken down in order to spread the universal benefits of trade; 5) While the appropriate modalities for NTBs would be discussed separately the modality on tariff reduction should go hand in hand with that on NTBs, so as to ensure effective market access for all, and 6) Less than full reciprocity and special and differential treatment should be an integral part of the modalities to be agreed upon.

1.63 Using the above criteria on the Korean proposal, the 40 per cent weighted average cut was even less ambitious than the five other formulae covered in the Secretariat's simulation. Furthermore, any trade weighted formula was just too complicated to manage compared to the simple average bound rates in the Indian and Chinese proposals. A trade weighted formula had the ability to shield high tariff low volume tariff lines and the method of calculating the tariff line components to go into the 40 per cent total could be time-consuming and less transparent. In the end it would fail to instil confidence in participants that it had not been manipulated to the advantage of the proponent Members. Moreover, the high incidence of non *ad valorem* tariffs in the structure of the proponents' schedules would tend to depress the average reduction and reduce the obligation of these countries to commit to a broad liberalisation approach. This highlighted the need to convert non *ad valorem* duties to *ad valorem* duties or where this was not practically possible, at least to draw up agreed guidelines and a conversion table which should form part of the agreement before going into negotiation. All formula proposals referred to possible caps on tariff peaks and high tariffs, in the case of India's proposal three times the new simple average of bound tariffs, and in China's proposal, the value of existing simple average bound tariffs before reduction. However, these factors for consideration in

capping were still negotiable and could include a provision to adapt different caps for developed and developing countries with a lower cap for developed countries and a higher cap for developing countries.

1.64 With regard to tariff bindings he agreed with India that developing countries should have the flexibility to bind unbound tariffs at levels generally higher than the highest bound rates in the present country schedules. Such newly bound rates should not be subject to reduction commitments agreed in the negotiations. Where developing countries agreed to eliminate and/or bind low level tariffs voluntarily, these should be recognised as concessions similar in value to the reduction of high duties pursuant to Article XXVIII of GATT 1994. On the Indian formula, the question remained as to how the linear approach would address tariff peaks, high tariffs and tariff escalation. There was an additional concern that such linear cuts did not redress the relative disparity in tariff profiles between countries, for example some developing countries had relatively low tariff averages *vis-à-vis* that of other developing countries, and this would result in the end rates still being higher. Higher end rates would close the opportunity for enhancing South-South trade. As far as the Philippines' second criteria was concerned (simplicity, transparency and functionality of the formula, including the use of such parameters as base rates, reduction program, phasing and end rates) the Chinese proposal seemed to satisfy all of this. Through the use of a simple country-based bound tariff rate average, it captured most of the elements covered in the negotiating objectives of the Group, among them the agreed base rate, clear and transparent reduction program, phasing for developing countries tariff peaks and end rates. But one formula would not address all the legitimate concerns and best objectives of Members. It should be possible for the Group to draw on the best elements of certain proposals and integrate them into a harmonious consolidated package which would deliver the best outcome for all concerned.

1.65 The representative of Singapore stated that it shared the view expressed by other Members such as Chile and the US that the principal purpose of the negotiations in this Group was to ensure market access through tariff reduction and eventual elimination. Therefore, the exceptions should not become the rule. Singapore recognised that flexibility may be required in exceptional circumstances where there was clear justification in line with development objectives but all those exceptions and flexibilities proposed should be consistent with the main mandate of full product coverage with no *a priori* exceptions. They believed that there was very little disagreement about this principle mandate. On the point of products of export interest to developing countries, Singapore's trade figures along with statistics from elsewhere showed that the increase in the share of world trade of intra-developing countries trade between 1997 and 2001 constituted more than 40 per cent of the world trade share. In the present global economy, Singapore's export interests and the export interests of quite a few other developing countries went beyond traditional markets and they were constantly trying to diversify their export markets by looking at emerging and neighbouring markets. It was also necessary to look at the integrated global supply chain for it was important that not only developed countries but developing countries also liberalised their trade. On a separate point, Singapore supported the suggestion made by New Zealand that the Secretariat gather more information on the erosion of tariff preferences and present this information to the Group.

1.66 The representative of Israel stated that it was extremely important to include some request and offer modality in the supplementary modalities while the core modality should take a formula approach. TN/MA/W/31 contained many positive aspects and the negotiations should take some of them into account. The bound rates at the end of the Uruguay Round should form the base rate for negotiations. In addition, those issues outside the mandate of the negotiations should not be included as part of the modalities.

1.67 The representative of Thailand stated that with regard to the Japanese paper the concept of a zero-for-zero approach should be supplementary to the core modality and should be used on a voluntary basis only. It was unclear how this proposal would incorporate the less than full reciprocity principle. How would the proposed coverage of the zero for zero approach relate to the mandate of

"reduction or elimination of tariffs, in particular on products of export interest to developing countries"? The previous Japanese paper had tried to protect several products, namely fishery and forestry by using unjustified arguments on sustainable development. These two sectors were quite important for developing countries, at least for Thailand. He urged Japan to reconsider this exclusion. With regard to the proposal to expand the product coverage of the ITA agreement, he wondered how refrigerators, freezers, washing machines and home theatre systems would comply with the ITA criteria. With regard to the chemical sectors on page 15 of the Japanese proposal it was unclear which countries would have an interest in them.

1.68 Turning to the EC paper, he said that if Thailand's interpretation was correct, the compression mechanism would compress Members' tariffs to the same level. He questioned how this approach would serve the Minister's mandate of less than full reciprocity. This mechanism contained a very high level of ambition to bring all non-agricultural product tariffs below 15 per cent. While there was nothing wrong with such ambitious objectives, the EC did not appear to be as ambitious in the context of the agriculture negotiations. Developing countries such as Thailand had difficulty in considering ambitious goals and modalities in this Group while such high ambitions were lacking in another related area. Thailand sought clarification on paragraph six of the proposal which seemed to suggest the use of bound rates as the basis for negotiations. If so, Thailand welcomed this proposal. Thailand also welcomed the EC's unilateral willingness to consider adding some elements to its proposal, for example, elimination of tariff quotas for LDCs. He hoped that the LDCs would be in a position to enjoy such benefits if they could reach the high technical quality standard required. Regarding paragraph eight, Thailand did not understand what the EC meant when it made reference to "the most advanced developing countries", as Thailand recognized developing countries as a whole, not more advanced or less advanced.

1.69 The representative of the European Communities stated that the EC proposal reflected less than full reciprocity. There had been references during the meeting to that part of the mandate which referred to less than full reciprocity as if that were the only part that mattered for developing countries. The Doha mandate generally talked about the need to encourage positive measures to facilitate expansion of their trading opportunities (referring to the LDCs) but it also talked constantly about their capacity to make contributions and always linked it to the idea that developed countries were not to ask concessions that were inconsistent with the individual level of development of the various countries. From a very cursory reading of the various declarations, it was clear that the emphasis of paragraph 16 of the Doha Declaration was that of trying to get a significant outcome by removing the worst scourges i.e., tariff peaks, high tariffs and tariff escalation and that was what the Group had to aim at; it had to reduce them and where appropriate eliminate them. The mandate did not refer to eliminating them in total which was why the EC was not proposing a zero tariff approach. As shown in the studies by the Secretariat, the EC were rightly in the middle with regard to tariff reduction and elimination. In reference to Brazil's comments, a reading of all the columns showed that the EC was not unbalanced in its approach. The mention of less than full reciprocity in reduction commitments in accordance with the relevant provisions of Article XXVIII came only towards the end of the whole paragraph. Nonetheless it was important. That was the context in which paragraph 16 of the Doha Declaration should be considered.

1.70 The EC's proposed core modality did not merely consist of a formula. The formula together with the initiative which it had taken for products of interest to developing countries such as textiles, clothing and footwear was a single tier of commitment that it would like all Members to subscribe to. Looking at the EC tariffs and at the way the formula would work it could be seen that it was certainly not self-serving. Combining the textiles, clothing and footwear sectors with the compression mechanism to remove what remained of its tariffs would result in the EC having very few tariffs at the end of this Round. In addition, by eliminating duties that were below two per cent the EC were eliminating 28 per cent of 1,600 tariff lines of its schedules and this would put 28 per cent of its trade at zero duty which was in addition to the over 40 per cent share of trade at zero duty that it already had. The EC were trying to compress whatever was today between zero and 50 per cent into duties

that went from zero to 15 per cent. The compression mechanism tackled high tariffs and tariff peaks. Whatever was currently at 15 per cent, using the compression mechanism, was likely to become 7 per cent. In reply to the delegates of Malaysia and Thailand who said that the EC were trying to apply the same tariff profile to all Members, this was not the case. Each country's tariff profile would be modified according to whichever formula was used (a compression mechanism, Swiss formula, linear formula) and it would be modified based on each country's starting-point.

1.71 The EC delegate said that starting from bound rates was definitely a concession when considering the overall average of developing countries. Some proposals had been much more imaginative in that they were not just looking at the bound duties, they were also looking at the applied. Maybe if there was a consensus in the Group, there could be a discussion on the use of applied rates. While understanding the Philippines query as to whether starting from bound rates was really a concession, the EU, which had nothing to gain by proposing starting from the bound rate, certainly considered it as such, just as they considered the low duties, and quota and tariff free access for LDCs all to be concessions. Underestimating the importance of binding overhang did the Group no service at all. Newly acceded Members had experienced the difference in terms of foreign direct investment whenever they had succeeded in binding their lines. Referring to a point of clarification sought by the US on the overlapping of categories in the EU compression mechanism, it was true that if the EU formula was to be mathematically correct it should read 0 - 1.999 and then the second part would start at two and increase to 7.499999. The third interval would start at 7.50 and so on, but the categories were certainly not overlapping. They were in continuum, but not overlapping, otherwise it would be impossible to know where one duty would end and the EC did not intend to use the compression mechanism to shelter sectors as it seemed other proposed formulae were trying to do. With regard to trade preferences, some LDCs might face problems because of the elimination of preferences but this elimination could certainly be factored in ex ante. There could be efforts to discuss the situation and find some solutions on that point.

1.73 The representative of the EC thanked the US for its interesting document concerning revenue implications of trade liberalisation. Government Financial Statistics Yearbooks of the IMF contained some very striking cases related to this issue. For example, 1998 data for Uganda showed that 9 per cent of its revenue came from duties, Kenya's duties accounted for 16 per cent of overall revenue and for Indonesia in 2001 duties accounted for a mere two per cent. When faced with such figures it was difficult to know how to deal with these realities. Some countries, most of them but not all LDCs, depended heavily on duties and the NGMA had a duty towards LDCs to try and solve their problems and bring about a significant result in terms of development. Ministers had indicated less than full reciprocity in the mandate, but it was going too far to make that aspect the hub of the mandate.

1.74 The representative of Kenya stated that the overall objective of the negotiations should be to enable the development and industrialisation process in developing countries, and in line with this Kenya had proposed modalities which it believed should be guided by two principles which were mentioned in document TN/MA/W/27. This two-pronged approach to modalities was justified because of the differences in industrial capacities between developed and developing countries. This difference in capacity was recognised in the Doha declaration when it called for the reduction/elimination of tariff peaks, escalations and NTBs on products of export interest to developing countries. Kenya could agree to a substantial reduction in tariffs across the board for developed countries using a formula approach. For developing countries and particularly to borrow the World Bank classification, low income developing countries, a different approach should be taken. They should be allowed to choose the rate and timing of liberalisation for themselves, so that they could tailor their commitments to the situations and needs in their industrial and trade sectors. Low income developing countries particularly those from Africa should not be subjected to a formula approach only. The commitments could be made through, but not limited to, the request and offer approach and the Group had seen in some proposals, specially the one presented by Croatia, which clearly stated this issue, that some Members would prefer the request and offer approach. Developing countries that chose to make use of a formula could do so, those that preferred the request and offer

approach should be allowed to use it or to use a combination of the formula and the request and offer approach.

1.75 The central drawback of the formula approaches put forward was that they asked Members to make reduction commitments by a certain percentage. Basing the formula on the basis of percentage reduction was not equitable as those countries that in general had higher tariffs would have to reduce their tariffs by more in percentage points even if all countries reduced their tariffs by the same percent. In effect, the countries with higher tariffs would be undertaking higher commitments. The outcome would be the same even if they were allowed a lower percentage reduction. Since developing countries had in general much higher tariffs than developed countries, they would be making far higher commitments than the developed countries and in this respect he referred to the Indian paper TN/MA/W/10/Add.3.(Annex B). Looking at those figures and using three examples, EC, US and Kenya, he analysed the Chinese formula approaches, the EC compression mechanism, the linear formula by India, the Korean proposal and the US proposal. Under the Chinese formula approach, where $B=1$ was the adjusting co-efficient for the year 2010 and $B=3$ was the adjusting co-efficient for 2015, Kenya would be undertaking a 51.1 per cent reduction while the EC would be making a 57 per cent reduction and the US a 54.4 per cent reduction under the first formula ($B=1$). However, when using $B=3$ Kenya would be reducing by 49.3 per cent, the EC by 33.9 per cent and the US by 39.1 per cent, so Kenya would make a bigger reduction commitment than the US and the EC. Similarly with the Korean formula, Kenya would reduce by 58.8 per cent but the EC would reduce by 27.2 per cent and the US by 37.1 per cent. Using the US formula, Kenya would be reducing by 87.5 per cent while the US would be reducing by 68.9 per cent and the EC would be reducing by 65.5 per cent. Using the Indian linear cut formula, the Kenyan reduction figure would be 33 per cent, the EC would be 51 per cent and the US would be 56 per cent. So among the formulae on the table only one, the Indian formula, looked favourable to developing countries, as proven by the illustrations outlined. Similarly, the reductions resulting from the Secretariat simulation (JOB(03)/67) showed the same scenario which gave rise to the question of who would get less than full reciprocity when it came to the formula approach. Most of the developing countries would have to make greater commitments in terms of tariff reductions in percentage points than developed countries. In general, market access for developed countries would be increased only marginally for the products of developing countries due to the existing low tariffs in the developed countries. In contrast, market access to developing countries would be increased very significantly. There would thus be an imbalance in the increase in market access between developed countries and developing countries. Developing countries would suffer a significant decline in customs revenue. The delegate from Uganda had made it clear that tariffs were used not just for revenue purposes but also as trade policy instruments which would continue to be useful to developing countries for quite a number of years to come. In view of this, it was necessary to carefully consider the appropriate meaning of the special needs and interests of developing and LDC participants, including through less than full reciprocity in the reduction commitments.

1.76 If less than full reciprocity was taken to mean only a lower percentage reduction in tariff commitments, the result would be that developing countries who made relatively heavier commitments than developed countries would make more than full reciprocal commitments. Therefore, percent reduction in tariffs should not be the basis for calculating the relative commitments of developing and developed countries. A much more appropriate basis for calculation would be the tariff reduction in terms of percentage points, as calculating reductions in percentage points gave the more accurate perception of the effect it would have on the price of the imported products and on the customs revenue. Another more appropriate method would be to estimate reciprocity in terms of the effect that tariff reductions would have on the prices of the imported products. An increase in market access could be appropriately estimated in terms of the reduction in the import price. A decrease in import price would increase the demand for the product and lead to an increase in the quantity of the import. Reciprocity could then be taken to mean both parties agreeing to decrease their import price by the same degree.

1.77 In the context of taking fully into account the special needs and interests of developing and least developed participants, the meaning of less than full reciprocity in reduction commitment should be taken to mean the following: 1) developing countries should not be obliged to make commitments equal to those of developed countries and in fact should be entitled to make less reduction commitments. 2) this lower commitment should also translate into higher benefits for developing countries in comparison to the developed countries; 3) the highest benefits to developing countries should also translate into an increased share in global exports of non-agricultural products. 4) at the least, higher benefits to developing countries should mean that the modalities result in a positive effect on the trade balance of developing countries. The modalities would be inappropriate if they led to a worsening of trade balances for developing countries. Kenya was on record as requesting that studies be carried out on the implications of further liberalisation on the economies of developing countries and for these studies to be completed prior to or as a first stage of any discussion on non-agricultural products. Paragraph 16 of the Doha Declaration recognised that the modalities to be agreed would include appropriate studies and capacity-building measures to assist LDCs to participate in the negotiations. The studies and capacity building measures should be extended to assist other developing countries having the same characteristics, given the complexities and vital importance of this subject. Getting the modalities right was the most important part of the negotiations. The negotiations on the modalities should therefore be handled with great caution and should not be rushed. There was still a lot of learning and education ahead of the Group in order to attain the correct modalities which would put the special needs and interests of developing countries at the heart of the negotiations and at the centre of the results.

1.78 The representative of Argentina stated that they supported Bolivia's proposal (TN/MA/W/28) that progress in the Negotiating Group should not exceed that made in the Negotiating Group on Agriculture as, in their view, the only way to move forward was to try to have similar levels of ambition across all negotiations. Argentina agreed with the general approach proposed by India in TN/MA/W/10/Add.2, in particular with three specific elements: 1) to meet the less than full reciprocity aspect there had to be differential values for developed and developing countries; 2) the formula put forward by India to deal with the peaks, and 3) the flexibility proposed for developing countries on certain products and for the application of the reduction formula for certain products. Those three elements, less than full reciprocity, national peaks and flexibility for developing countries had to be included in any modality proposal. He also supported the comments made by Malaysia and Thailand with respect to the Japanese document (TN/MA/W/15/Add.2). With reference to the EC proposal, TN/MA/W/11/Add.2, despite the explanation given by the EC his delegation did not understand how less than full reciprocity would work in the scenario laid out in paragraph six of the EC's paper. Neither did Argentina understand how developing countries could request appropriate modulations of the application of the compression formula as described in paragraph seven, whether, for example, it could be dealt with bilaterally. If there was to be a compression formula for each individual Member this would mean a differentiation in categories of countries or the creation of new categories and Argentina would be opposed to any modality which would lead to such differentiation.

1.80 The representative of Hong Kong, China stated that the effect of some of the proposals discussed would be to allow for perpetual exemption to the general rule of increased binding coverage and meaningful reduction commitment. Such exceptions would not only remain at the conclusion of this round of negotiation but would stay intact until the end of the entire staging period. Hong Kong, China recognised that special and differential treatment and less than full reciprocity were an integral part of paragraph 16 of the Doha mandate. In this regard, some of the proposals had floated different ideas to give effect to this part of the mandate, including: a longer staging period; a different reduction commitment through, for instance, a different coefficient on the basis of the Swiss type formula; re-application of the same reduction formula in an extended cycle for developing countries; or additional add-ons to the core formula with deeper cuts on products of export interest to developing countries. All these ideas pointed in the same direction of trade liberalisation even though they had some modulations like longer implementation period and small annual cuts to soften the impact on developing Members. However, some other proposals could have the effect of permanent exemption.

Aside from the fact that the mandate referred to no *a priori* exclusions this would have the risky practical effect of excluding sensitive sectors, which could vary among developing countries. If this were to happen, the resulting lowest common denominator would not be very conducive to a more free and equitable trading environment.

1.81 The representative of Hungary stated that some Members had selective interpretations of the Doha Declaration. With regard to TN/MA/W/30, Hungary had serious difficulty with the idea of general flexibilities on product coverage, on the level of bindings and on the core modality as proposed for developing countries. Special and differential treatment provisions were not meant to set aside the common objectives and the negotiating mandate, they were to fit the reality of evolving and highly differentiated economic conditions among WTO Members and help those who needed it to get a better hold in international trade. Therefore, Hungary had doubts about those submissions which presented special and differential treatment proposals without taking into account the different needs of countries at different levels of development. It was Hungary's clear expectation that the present imbalances in the openness of industrial markets in various countries would be greatly decreased and that developing country Members with a more advanced level of development and competitiveness would also contribute to this process.

1.82 The representative of Switzerland stated that her delegation shared the concerns mentioned by Chile, Costa Rica, New Zealand, Norway, the US and others, that while exceptions were part of the Group's mandate it was necessary to first elaborate the rules before elaborating the exceptions and not the other way around. There had been repeated use of the word "flexibility" in terms of coverage, tariff reduction and *ad valorem* duties, in the context of sensitive products. It was necessary to know the rules before flexibility could be built into them. Her delegation required a little more detail from the co-sponsors regarding what kind of products would fall in the different categories of flexibility, i.e. what kind of products would need flexibility in reduction, in coverage, etc. in order to better understand the needs of the countries submitting the paper. Japan's proposal was very ambitious for two-thirds of world trade but the remaining one third was very important too. For that reason, Switzerland favoured a formula which would substantially reduce or eliminate tariffs across the board and not just for two-thirds of world trade. The Swiss delegation thanked the EC for its paper and the clarifications therein and it would now be in a better position to evaluate the possible effects of such a formula. Switzerland thanked the US for their presentation on the revenue implication of trade liberalisation which would make the discussion more objective. It showed the challenges and the opportunities of such an issue which had a large impact on the outcome of market access negotiations.

1.83 The representative of Peru stated that his delegation preferred a reduction formula which would be easy to use and for that reason they welcomed the proposal made by a group of 10 countries in TN/MA/W/31 and that made by India in TN/MA/W/10 and its addenda. In particular, with respect to the inclusion of the concept of less than full reciprocity Peru supported Brazil's comments on India's approach to the use of differentiated coefficients and dealing with tariff peaks. Peru did not feel that the Swiss type formula would be the best one for the core modality because of the impact it would have on the tariff structures of developing countries. Nor did they think it appropriate to have the application of an average reduction only, for the reasons laid out by Chile. This type of formula would lead to the maintenance of high levels of protection in sensitive areas which could be of interest to developing countries. Supplementary approaches should be agreed upon once the core modality had been accepted and should be used on a voluntary basis. With respect to the binding coverage it was important to make the utmost effort to bind the entire tariff universe as this would give greater predictability and transparency to negotiations. There should be sufficient flexibility for developing countries and LDCs with respect to the level of binding and the implementation period. Finally, with respect to Japan's proposal, Peru supported the comments and questions raised by Chile and Venezuela.

1.84 The representative of Uruguay stated that it supported the proposed formula approach in TN/MA/W/31 (submitted by Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania,

Uganda and Zimbabwe), and its proposal that the negotiations should be on the basis of bound tariffs. With respect to India's proposal (TN/MA/W/10/Add.2), it supported the concept of less than full reciprocity and flexibility for developing countries. Uruguay was prepared to work constructively on the understanding that this Group would maintain the same level of ambition in all areas of the negotiations.

1.85 The representative of Pakistan stated that, in general, his country supported the approach outlined by India in document TN/MA/W/10/Add.2 of a simple percentage cut on bound rates for each Member with a higher percentage for developed countries, and that Members should not impose tariffs on any products in excess of three times their average tariff. Pakistan was open to other tariff reduction proposals and was willing to consider them so long as they were applied in accordance with directions contained in paragraph 16 of the Doha Declaration, and these were a) elimination of tariffs on products of export interest to developing countries; b) taking into account special needs and interest of developing countries and c) less than full reciprocity in reduction commitments. If these principles were kept in mind then his country could go along with the Japanese proposal of zero-for-zero and harmonisation approach among certain specific sectors. Members agreed that the textiles and clothing sector was one sector of interest to all developing countries and this was not only the accepted position of developing countries but also supported in the submissions of the EC, Japan and Switzerland among others. Pakistan could also consider some other sectors such as IT and pharmaceuticals but they had some difficulty in agreeing with the Japanese list of IT products which included refrigerators and home theatre. Regarding the US paper on the revenue implications of substantial tariff reductions which referred in paragraph 11 to Pakistan's experience, Pakistan supported the finding to a large extent, although the reduction referred to was from 29 per cent to 12 per cent and not to eight per cent. Far more important to revenue was the introduction of new industries and there had been no suggestions as to how this could be tackled in the short term. Therefore, Pakistan agreed with Malaysia that there should not be any blanket liberalisation

1.86 The representative of Uganda stated that it was necessary to put into context the IMF paper referred to by some delegations which had shown Uganda as being reliant on duties for 9 per cent of its revenue. The figures which were quoted in that paper referred to the period when Uganda had undertaken autonomous liberalisation and was broadening and diversifying the tax base. With regard to the protection of infant industries, he gave an example of Uganda's experience in this area. Uganda's textile industry had collapsed due to some difficulties and recently there was an increase of second-hand clothes in Uganda. What would be the best policy to address such a problem? Uganda, under the AGOA, was trying to revive the textiles industry and be more export-oriented. The best policy would be one that allowed Ugandans access to new clothes as well as to exploit the market opportunities that were being offered. Within that context, he sought clarification from Norway on their suggestion that the question of infant industries could be addressed through approaches other than tariffs. He wondered what other protection mechanisms or approaches could be adopted and whether these approaches would be within the context of the WTO.

1.87 The representative of Morocco stated that the scope of the negotiations should cover all non-agricultural products without exception. With regard to tariff reductions, the formula basis was the most appropriate one but should not be applied in the same way for all Members. There should be different levels of reduction depending on the level of development. In addition, supplementary approaches should only be considered once negotiations had concluded on the modalities for reduction. Participation in any supplementary approaches had to be on a voluntary basis. Implementation of reduction commitments had to be progressive so as not to undermine the economic objectives of Members and had to be made on an annual, equal-reduction basis. With regard to special and differential treatment, developing countries should be able to benefit from an additional time-period in order to deal with increased competition that might result from a reduction in duties. The Group should include in its objectives strengthening the implementation and coverage of bindings. The base rate for reductions should be bound rates. While these negotiations on market access for non-agricultural products were being carried out, at the same time economic integration processes

were taking place on multilateral and bilateral levels. These regional integration processes would result in increased liberalisation, but the rapid erosion of preferences would have an impact on regional efforts. Consideration had to be given to preferential margin erosion and its impact on developing countries and LDCs and it had to be taken into account in respect of reduction rates.

1.88 The representative of Korea stated that Korea's reduction model had two components, the average tariff concept and the line-by-line concept. These two components worked together in a complementary and transparent manner to give a substantial outcome of tariff reductions. The line-by-line formula was applied first followed by the average reduction target rate of 40 per cent. The formula for the line-by-line cut was composed of three elements: 1) 20 per cent of a minimum reduction for every tariff line; 2) the formula to tackle tariff peaks which Korea defined as tariffs higher than twice the national average tariff rate; 3) a formula to tackle all tariffs higher than 25 per cent. In response to the Philippines, he explained that the model worked to give reduction effects, particularly in the case of a product with a high tariff and low trade volume, by applying the minimum reduction rate of 20 per cent without exception to every tariff line. If the rate in question fell into the category of tariff peaks then it would be further reduced by the formula for tackling tariff peaks. If the tariff in question fell into the category of high tariffs then it would be further reduced by the formula for high tariffs. Once these three sets of line-by-line tariff cuts had been applied to products of high tariffs and low trade volume there would not be much room for over-sheltering. With regard to the Kenyan delegation's comment on the model, Kenya had referred to the table in Annex 3 of India's TN/MA/W/10/Add.3 paper and pointed out that the percentage reduction by the Korean formula for Kenya was 57 per cent and was higher than the percentage reductions for the EC (27.2 per cent) and the US (39.1 per cent). He explained that this result occurred not because the Korean model was biased towards certain Members, but because the percentage reductions which appeared in that table for the EC and the US were not the final reductions. They only reflected part of the reduction effect, the effect from the line-by-line tariff formula. The 40 per cent reduction target would be then applied to these results for the EC and the US and this would increase the percentage reduction of those two Members by far more than what was currently estimated in the table.

1.89 The representative of Brazil regretted that his initial comments seemed to have been taken as placing the concept of less than full reciprocity as the principal guiding element in the elaboration of negotiating modalities. In reality what he had tried to underscore was that this was a clearly stated requirement laid down by Ministers and one which could not be overlooked by this Group, as many submissions seemed to have done. The EC's explanations included extensive information on the manner to which Ministers had launched previous negotiating rounds with the view perhaps to inferring that this concept should not be given as much weight as it had been in the past. Notwithstanding the broad differences in the participation of developing countries through the successive rounds of negotiations, developing country markets had not been an area of priority interest to major partners in the past. Apart from being explicitly mentioned by Ministers in Doha as an integral part of the mandate of the NGMA (NGMA), Ministers had also referred to Article XXVIII *bis* which incorporated many of the guidelines quoted from previous rounds such as "(a) negotiations shall be conducted on a basis which affords adequate opportunity to take into account; (b) the needs of less-developed countries for more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes; and (c) all other relevant circumstances including the fiscal, developmental, strategic, and other needs of the contracting parties concerned". In 1963 when Ministers launched the Kennedy Round they committed to duty free entry into the industrialised countries for tropical products by the end of that year along with other decisions regarding elimination of tariffs on primary products and on the reduction and elimination of tariff barriers to the export of semi-processed and processed products from LDCs. Members were still awaiting full implementation of these decisions after some 40 years. He understood from the EC that less than full reciprocity had been incorporated in its proposal by accepting bound tariffs as the base rate for negotiations. However, this was not sufficient to meet the requirements laid down by Ministers. Even though his delegation could agree with the EC that tariff

peaks, tariff escalation and high tariffs might be issues of concern in the industrial sector the greatest difficulty in the multilateral trading system did not lie in the non-agricultural sector.

1.90 The representative of the European Communities sought clarification from India on their presentation. India had said that they were now proposing cuts of 50 per cent and 33 1/3 per cent. Her delegation understood that India was proposing 100 per cent reduction for developed countries and whatever that reduction was, there was then to be a 75 per cent reduction for developing countries of that coefficient. If the Group were to pursue the very ambitious goal of the elimination of tariffs, she wondered if India would accept a 75 per cent cut. With regard to the Indian proposal, it was useful to study both Annex A (which showed the simple average that would remain after the application of the formula) and Annex B (which showed the percentage reduction of India's proposal) together as that would show the effect of the application of various formulae. Using the EC formula the average tariff rate for the EC would be 2.2 per cent, for Kenya it would be 13.9 per cent and for India it would be 11.4 per cent. She was concerned about the results presented in JOB(03)67 as each formula was different in essence and this needed to be captured in the results, rather than providing a simple listing of resulting tariff averages. For example, the EC was proposing a formula that cut line-by-line, but other formulae proposed average cuts which provided ample possibilities of sheltering. These formulae had been rightly described by Chile as disastrous if applied to other sectors and they would be equally disastrous if applied in this Group. It would be a very useful exercise for the Group to multiply the coverage of bindings by the cut that several formulae were proposing. Quoting figures which she had produced herself, if the binding coverage of Kenya (1.6 per cent at the moment) was multiplied by the average cut proposed by the type of results that the EC formula would give, the overall reduction for Kenya would be 1.2 per cent. For Rwanda, however, which had 100 per cent binding coverage, it would be 84.5 per cent.

1.91 The representative of India stated that their proposal fully addressed all aspects of the Doha mandate. It would bring about a very substantial increase in binding coverage; it would bring down peak tariffs and high tariffs; it would address the problem of tariff escalation, while at the same time it would ensure adherence to the principle of less than full reciprocity in reduction commitments and the broader differential and more favourable treatment for developing countries specified in the Doha mandate. With regard to the linear formula itself and the queries raised by some delegations as to whether it would address tariff peaks and high tariffs, and whether it would adjust tariff disparities, etc., the linear formula would reduce tariffs significantly while being somewhat more even in terms of its impact. In absolute terms, there would be significant cuts in higher tariffs, which would make substantial changes to importers' costs. Ultimately, this was what made a difference in market access. There was little impact on importers' cost with even a 50 per cent reduction on a 5 per cent tariff. He referred to the GATT Secretariat's document "The Results of the Uruguay Round of Multilateral Trade Negotiations" and quoted from page 10 "when considering tariff reductions it should be kept in mind that what matters as far as the stimulus to exports is concerned is not the percentage cut in tariff *per se* but rather the decline in the tariff inclusive price in the importing country. This means that the absolute size of the tariff cut is important. For example, a 50 per cent reduction in a 3 per cent tariff will in principle cause the tariff inclusive price to decline by 1.5 per cent whereas a 25 per cent cut in a 36 per cent tariff would result in a 6.6 per cent reduction in the tariff inclusive price". This was India's argument when they proposed the linear formula. For developing countries which had higher tariff levels, the linear approach was a good balance between making substantial reductions on higher tariffs, while at the same time not placing onerous burdens on developing countries. On the other hand, the Swiss formula which was softer on lower tariffs would in effect be a special and differential treatment in favour of developed countries that would really compress developing countries' tariffs. The delegate from Kenya had already illustrated that a linear formula was also straight forward and easily amenable to providing for less than full reciprocity in reduction commitments.

1.92 Another question that had been posed to India was whether its proposal addressed all tariff peaks satisfactorily. India believed that tariff peaks were related to a country's average tariff and for that reason India had proposed that tariffs should not exceed three times the average of the country's

tariff. This was called Step Two in its proposal and it was an essential element of the core modality. In response to Chile's request for specific figures, India had in mind for tariff reductions. India had given some indicative figures for tariff reductions by developed and developing countries. In response to the EC's question whether India would accept a 75 per cent tariff reduction if developed countries eliminated their tariffs, while India was willing to listen to others' view points in this regard, a 75 per cent tariff reduction would be onerous.

1.93 Questions had been raised about leaving a certain limited set of items as unbound. The flexibility proposed by India was to retain at least 10 per cent of presently unbound items as unbound. In the case of most countries, this would be a very small percentage of their tariff universe. It was required in order to allow flexibility in the case of certain sensitive items which may have had a strong development correlation in terms of small scale industries, employment, standards of living and income levels, particularly in rural areas. Some questions had also been raised regarding the flexibilities that had been proposed for keeping up to 15 per cent of the bound items exempt from formula reductions. If India had correctly understood the question raised by Mexico in this regard, which sought to know the compensation element, the developing countries would be required to meet their overall tariff reduction percentage commitment on a simple average basis by providing compensating cuts elsewhere. New Zealand had raised a concern that if developing countries were to seek such flexibilities then developed countries might also seek some sheltering from tariff reductions. The Doha mandate clearly required some flexibility for developing countries and this flexibility was the special and differential treatment. If there were fundamental differences on this concept of special and differential treatment then there were bound to be concerns about the so-called development agenda itself. In India's view, the flexibility proposed in other submissions was rather limited.

1.94 Another suggestion that had been made by a few delegations was that the special and differential element in the modalities should be in the form of exceptions to the rules once the rules had been formalised. India differed with this approach. It considered that special and differential elements should be integral parts of the core modality. It was important for developing countries to understand what these flexibilities were before being put in a position to accept the overall modality. References had been made by a number of countries to South-South trade and the need to address this issue as well. He referred to the statement made by Costa Rica quoting from International Trade Statistics 2002. The Costa Rican delegate said that there had been a 12 per cent growth in South-South trade which was double the global growth rate and that South-South trade now constituted 35 per cent to 40 per cent of global trade. Some of this growth had in fact come about as a result of regional trading arrangements among developing countries. There was no doubt that there would be further substantial growth in the years to come and the tariff reductions proposed should also encourage this. However, by attempting to be even more focused on South – South trade along the MFN route, the likelihood would be greater imports by developing countries from developed countries rather than from other developing countries. There was a need for a specific target reduction to promote trade between developing countries through such instruments as exchange of tariff concessions among developing countries under the provisions of the Enabling Clause. The issue of South - South trade had been dealt with in GATT Article XXXVII.4 which read "Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less developed contracting parties as a whole". Statistics showed that these countries had been endeavouring in various ways to promote trade among themselves.

1.95 The Indian delegate thanked the US for its submission (TN/MA/W/18/Add.2) on "Revenue Implications of Trade Liberalisation" which had dealt with several important issues relating to fiscal and tax reforms, particularly in relation to the revenues of developing countries. The Group should never lose sight of the fact that revenue needs grew in the early stages of development when it

became necessary to spend huge amounts of money on developing infrastructure and on social expenditure. Looking at historical facts relating to the average tariff rates, it appeared that most presently developed countries made use of high tariff rates in their development process. The US, for example, maintained tariffs at levels ranging from 35 per cent to 50 per cent during the entire period from 1820 until the end of the Second World War. Similar situations prevailed in a number of currently industrialised countries. The share of customs revenue in overall government revenue reduced progressively as growth occurred and incomes increased. It was important to realise that developing countries were characterised by large unorganised sectors and inadequate information linkages between various parts of the economy which imposed limits on the amount of revenue that could be secured through VAT or other indirect taxes. The political economy also had to be considered since the right to levy domestic indirect taxes was shared between federal and sub-federal governments and in a federal structure like India there were constitutional and administrative problems in having a central VAT which could compensate for the loss in customs revenue.

1.96 The US paper made a reference to the inverse relationship between a country's dependence on VAT for revenue and its dependence on import duties. Certain recent empirical studies of some developing countries had shown that compensating revenue was sourced in general from direct taxes rather than domestic indirect taxes. The capacity for direct taxation was obviously linked to the level of economic development and the nature of the economy. Another point made by the US seemed to imply that there was no relationship between levels of development and countries' tariff schedules. Current tariff schedules were the result of successive negotiations and included in one way or another concessions received by countries in the area of market access and in other areas in previous rounds. The mandate for this Group was to take forward their existing schedules in line with the Doha mandate. It was not its purpose to discuss whether all Members should follow export-led models of growth, or open liberalisation models, or other strategies. The World Bank document referred to in the US paper "Global Economic Prospects 2002" had a chapter on market access and the world's poor. The Group's objective was to carry forward its Ministerial mandate and not to try to inject harmonisation where it was not provided for, or make light of the special and differential treatment elements in the mandate by trying to suggest that they were protectionist or inefficient.

1.97 With regard to the EC proposal, numbers now being proposed were significantly different from the earlier graphic illustration. The proposal effectively placed a tariff binding ceiling of 15 per cent on all Members. Effectively, the percentage reduction rates on tariffs below 15 per cent were relatively less but these increased sharply with higher tariff levels. This would hit developing countries hard. The EC, while making a comparison with a mandate for the earlier rounds, appeared to suggest that Ministers at Doha were less keen on the issue of special and differential treatment and on less than full reciprocity compared to earlier rounds. His delegation could not understand how they had come to this conclusion. Paragraph 16 of the Doha Declaration quite clearly referred to the importance of the special needs and interests of developing countries and LDCs with reference to Article XXVIII *bis* of GATT 1994 and the provisions cited in para 50 of the Doha Ministerial Declaration itself; "the negotiations and other aspects of the work programme shall fully take into account the principle of special and differential treatment for developing countries and LDCs as embodied in part IV of GATT 1994, the decision of 28 November 1979 on differential and more favourable treatment, reciprocity and fuller participation of developing countries, the Uruguay Round decisions on measures in favor of LDCs and all the relevant WTO provisions". Neither could his delegation understand the strange and unusual logic that the first part of the paragraph was more important than the subsequent portion of the paragraph. If that was the case, he wanted to know if this logic applied to the entire declaration, making one paragraph more important than another.

1.98 With regard to the history of earlier rounds, the Uruguay Round was really the first round in which developing countries participated in a major way in terms of tariff reductions. The Doha Round was therefore the second round in which developing countries fully participated and they had made very substantial suggestions for tariff reductions with some very limited flexibilities. However, looking at the textile and clothing or leather sectors, developed countries still retained high tariffs

even after participating in many rounds of trade negotiations. Japan was suggesting that the only way to address peak tariffs in these sectors was to have a supplementary zero-for-zero approach, a proposal similar to that suggested by the EC. This would mean a top-up over and above the already high tariff reductions contained in the main formula modality and this was unfair. What was important was carrying forward the negotiations and in doing this the Group had to try and understand the problems and concerns of other trading partners and not belittle the special and differential aspects of the Doha Ministerial Declaration. The Group could not see one logic prevail in agriculture and textiles and another in non-agricultural products.

1.99 The representative of the United States stated that she agreed with the EC that it was necessary to have a clearer picture of where real cuts would occur and what the real effects of the different formulae would be. The Secretariat's work did not fully reflect the different permutations of the various proposals. It was not clear that the Secretariat's illustration included the US' low duty component. It certainly did not include additional sectoral liberalisation. The results for the US formula, as with other formulae, were not quite accurate. As the EC delegate had suggested, having a better sense of how the cuts would be applied, bearing in mind the level and number of bindings, would give a much better picture. In addition, it would be helpful to see wherever possible how these proposals really affected the difference between bound and applied rates. Comments had been made about how onerous this liberalisation would be but the point was that in many cases the proposed cuts on bound rates would not touch applied rates. The Group had to approach this negotiation in a realistic way.

1.100 Another representative of the United States stated, in response to some revenue-related issues that had been raised, that the US paper had focused solely on the revenue impact of tariff liberalisation. The US objective was to demystify the revenue issue, not address other rationales for tariffs. Empirical studies had found that open economies grew faster than closed economies. In this regard, he had taken note of the autonomous liberalisation undertaken by Uganda but what he had found most impressive was that since 1998 Uganda's import duty collection had gone up dramatically as a result of their tariff reduction. Uganda was in a unique position to allay the fears of others about some of the revenue impacts of tariff reduction. Furthermore, both Kenya and Uganda could draw directly on the IMF Regional Center that had just opened in Dar-Es-Salaam for any tax and fiscal assistance that they might require. With regard to Malaysia's intervention, he responded that the US revenue paper was relevant not only to the US proposal but to all other proposals for ambitious tariff reform. The US was not saying that trade reform and tariff reform would be easy, it was simply saying that it was doable for most developing countries. Malaysia's own record in these areas was quite impressive. As recently as 1996 import duties had accounted for 11 per cent of its total government revenue. By 2000 that ratio had fallen to 6 per cent. Malaysia had been able to almost half its reliance on import duties in just four years. India, in the last decade, had reduced its reliance on import duties as a source of government revenue by about one quarter. The US paper was encouraging tax reform in general, not just VAT. The US did not have VAT so he could understand Malaysia's reluctance to institute VAT but Malaysia and India themselves had actually undertaken reforms in the income tax area that were increasing collection significantly. Malaysia currently relied on income taxes for about 47 per cent of its government revenues and India relied on income taxes for about 25 per cent of its revenues. There was plenty of flexibility for developing countries to select the tax approach that best suited their needs and preferences whether it be an income tax, VAT or something else.

1.101 The representative of Croatia stated that his delegation welcomed the support for the underlying principles in favour of recently acceded countries in these negotiations. His delegation especially welcomed the comments made by the US on this issue and Croatia was prepared to address them in the manner proposed in the US statement. Mexico's argument that recently acceded countries should apply the same commitments as other Members was not convincing as recently acceded countries did not have the same starting position as other Members. Furthermore, Croatia was of the

opinion that if the "one size fits all" approach was to be accepted within the Group it would only deepen existing discrepancies in tariff structures among the WTO Membership.

1.102 The representative of Jamaica, on behalf of Trinidad and Tobago, Barbados and Jamaica, stated that they shared similar concerns to those addressed by other developing countries in documents TN/MA/W/27 and TN/MA/W/31. With regard to the product coverage for these negotiations, the co-sponsors looked at the mandate in paragraph 16 in its totality. The Caribbean countries understood that all elements of the negotiations were to take into account the special needs and interests of developing countries and this, in their view, also extended to product coverage. With regard to their proposal for a periodic assessment of the impact of the negotiations, the Caribbean countries were of the view that it was not always possible to assess the actual impact of tariff reductions prior to their implementation. Also, the use of trade remedies may not always be a viable or available option for some developing countries to address any resulting severe disruptions to their economies. Therefore, periodic assessments could be useful to address any potential negative consequences in a timely and effective manner. Such a process was also linked to the notion of less than full reciprocity since Ad Article XXXVI.8 in Part IV of GATT 1994, noted "that the less-developed contracting parties should not be expected in the course of trade negotiations to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments". Obligations could not be undertaken in the abstract and had to relate to a Member's actual economic ability to undertake a certain commitment and to sustain that commitment. The exact nature of any necessary adjustments or mechanism could be determined once the parameters of the modalities had been decided. Some comments had been made on the reference to small, vulnerable economies. The Caribbean countries thought that this matter had been settled at Doha but they reiterated that they were not seeking to create a new category, they were merely identifying their special needs and interests just as other developing countries had also done. They were calling for those special needs and interests to be duly accommodated in these negotiations as they believed that paragraphs 16 and 50 of the Doha Declaration allowed for this.

1.103 The representative of Norway stated that it was necessary for developing countries with a narrow industrial base and dependent on one or a few products to diversify. As part of the diversification process it might be necessary to provide infant industries in these countries with temporary shelter. In order for those countries to be able to develop new industries, infant industries might initially need temporary sheltering. Norway needed to consider how this could be done but it believed that permanent exceptions were not the solution. So far, Norway's ideas for developing countries in this situation included longer implementation periods, different coefficients for tariff reductions and improved access to OECD markets. In its paper TN/MA/W/7, Norway had indicated that more flexibility should be given to LDCs because they would be the most vulnerable countries and those most in need of developing any new industries. Her country would be willing to discuss this as a temporary measure but it did not mean that they would support exceptions for groups of countries. The linear formula approach proposed by India did not do as much for tariff peaks either in developed or developing countries as other formulae that were already on the table. The usefulness of the linear formula would vary also for developing countries and would depend on what was more important on their agendas; the export of certain products which were currently meeting high tariffs and tariff peaks in OECD countries or the sheltering of national industries.

1.104 The representative of the Kyrgyz Republic stated that the terms and conditions of recently acceded Members *vis-à-vis* original WTO Members differed considerably. This was because the Members of the former group had acceded to the WTO based on their protocols which implied they had no room for manoeuvre while the latter group after the completion of the Uruguay Round had had some room for manoeuvre. The Kyrgyz Republic had bound its tariff rates at a level equal to that of most developed countries and which went beyond many developing countries in qualitative and quantitative terms. Its percentage of HS coverage was fixed at 100 per cent. The Secretariat paper JOB(03)/67 showed that the Kyrgyz Republic had a bound tariff simple average of 6.7 per cent. In

addition, it had only a few NTMs in place on market access. (Those sectors in which the Kyrgyz Republic had sectoral agreements comprised: agriculture equipment, chemical products, construction equipment, furniture, medical equipment, non-ferrous metals (with exceptions), paper, pharmaceutical products, scientific research equipment, steel, textiles (with exceptions), toys, wooden goods and information technologies.) His delegation appreciated the fact that the recently acceded Members had been recognised as a group requiring special consideration by Members.

1.105 Paragraph 16 of the Doha Ministerial Declaration stated that appropriate studies and capacity measures should be taken into consideration and he indicated what these studies had shown with respect to some recently acceded Members. The IMF had forecast future overall trade imbalance and financial instability for some CIS countries including the Kyrgyz Republic which had experienced excessive external debt and whose economies were recognised as being sensitive and vulnerable to external negative influences. The figures provided in the report prepared jointly by the Second European Department of the IMF and the Europe and Central Asia Region of the World Bank confirmed the drastic reduction in the level of GDP in several CIS countries. Special attention had been focused on the problems related to servicing the national debt, internal fiscal policies and as a result tightening domestic policy reform. It was clear that the policy instruments available to the government should target the economy in order to avoid creeping declines in production in the coming decade and beyond. UNCTAD provided further data on the situation being faced by some vulnerable recently acceded Members in the book "WTO Accessions and Development Policies" which referred to the UNCTAD Handbook of Statistics for the year 2000. Annex II of that report reproduced the export share in global trade of those countries. The Kyrgyz Republic's export share was US\$ 455 million making it 134th among all WTO Members. There was a distinction between revenue gained from collecting import duties which would inevitably reduce as reform progressed and policy instruments available to governments which were not to protect but rather to create favourable conditions to sustain and develop manufacture capacities.

1.106 Concerning different formulae approaches to tariff reductions, Paragraph 16 of the Doha Ministerial Declaration indicated that the negotiations were to reduce or eliminate tariff peaks and tariff escalation as well as NTMs and those two pillars should not be separated or neglected. In addition, he said that a zero-for-zero approach should be done on a voluntary basis. During its accession to the WTO the Kyrgyz Republic had made significant market access commitments. It had joined some sectoral initiatives having bound its duties at zero in sectors such as furniture, metals and information technology and electronics and this should also be taken into account. On one hand, the Kyrgyz Republic was still in the implementation period for tariff reductions, while on the other hand, as a recently acceded Member it could only gain the full benefit of Membership in the WTO if other Members would temperate their rigid domestic trading practices and address tariff peaks, tariff escalation and particularly NTMs. It was apparent that no matter which formula was applied the position of recently acceded Members, including the Kyrgyz Republic, would be among the most liberal economies. Some delegates had spoken of a period of grace for recently acceded Members which could serve as a starting-point to accommodate their individual sensitiveness and developmental needs. For his country, it was clear that the way to reach a fairer and more competitive trading system was to go along the predictable and transparent way of trade liberalisation. However, the Group would only cope with the challenges of this Round of negotiations if an overall balance between all Members was secured.

1.107 The representative of Japan stated that there had been several comments on the exclusion of textiles and clothing from the Japanese proposal on zero-for-zero or harmonisation. However, as Pakistan had correctly pointed out, textiles and clothing were covered as a harmonisation initiative in Japan's proposal. The textiles and clothing sector was one of the most important sectors to be improved in terms of market access, particularly for developing countries. Harmonisation was more realistic than zero-for-zero taking into account that quotas were to be phased out by the end of 2004. Japan could not share the view that its proposal was self-serving with respect to the selection of product sectors because consideration had been given to developing countries' interests in its proposal.

The harmonization initiative on textiles and clothing was a good example. It was to be noted that Japan had made this proposal while being a net importer of textiles and clothing. With regard to the comment that zero-for-zero should be a supplementary approach to be taken once there had been agreement on the formula, Japan considered that zero-for-zero and harmonisation could play a more positive role in maximising trade liberalisation. If zero-for-zero was inserted into a core modality at a later stage it would simply play a supplementary and marginal role in terms of contributing to tariff negotiations. All WTO Members were expected to participate in the zero for zero or harmonization approach because the outcome would be applied to all Members on a MFN basis. Concerning the product coverage of the ITA, since the current agreement on ITA already included products like digital cameras, it was logical to expand the coverage to include digital-type consumer electronics. The Japanese proposal covered two-thirds of world trade and the remaining one-third of trade which was not proposed for zero-for-zero or harmonisation would be subject to the generic general formula cut. Therefore, Japan was proposing the combination of formulae as well as sectoral approach and did not intend to exclude any sector.

1.108 The representative of Kenya stated that while Kenya had bound only 1.6 per cent of its products, it had had to pay a heavy price for that binding. Part of that price was forgoing flexibility that it had enjoyed before the establishment of the WTO. The EC had demonstrated that Kenya would be cutting bound tariffs by 1.2 per cent and Rwanda, with its 100 per cent binding would be reducing tariffs by 84.5 per cent. Even so, the point that Kenya had been trying to prove using statistics had not been disputed. Kuwait had bound tariffs 100 per cent and according to the EC compression approach formula the new average would be 15 per cent. Using the US formula it would have been 7.4 per cent so developing countries would be making bigger tariff reductions than developed countries. Less than full reciprocity must also be reflected in the final results, not just in the process. Kenya was relieved to hear the US say that tariff reductions would not even touch applied rates because earlier it had said that the base rate for reductions should be the applied rate. Perhaps the US point that the LDCs should be given the ability to import in order to export should be rephrased to say that LDCs and other developing countries should be given the ability to export so as to import, because developing countries and LDCs wanted to finance their import bill through exports. The US also explained how Uganda's revenue from import duties had increased when it reduced its import duties but he believed that this increase resulted from an increase in Uganda's imports rather than an increase in production. While the Ugandan Revenue Authority was able to collect more duties the liberalisation being sought should help countries to induce some form of development so that they could stop relying on revenue collection and start relying on export earnings. While import duty collection continued to increase, the balance of trade would probably continue to deteriorate and that was not a desired outcome.

1.109 The representative of the Philippines stated that his delegation had some concerns regarding Japan's zero for zero proposal. He wished Japan to consider how the outcome of a limited negotiation based on a zero for zero approach and covering two-thirds of the world trade could be managed and implemented when only three Members had explicitly agreed to a zero end rate. His delegation failed to see evidence of special and differential treatment in the Japanese submission and in the analysis of their formula. In the Secretariat's simulation of the impact of various formulae (JOB(03)/67) the Philippines original average tariff was 23.42 per cent and that of India was 34.3 per cent, which was a ratio of 68 per cent. The resulting figures in the same simulation after the application of the Indian and Chinese formulae showed that the result was again a ratio between 62 per cent and 68 per cent. Therefore, he wondered where the change had been as far as relative disparities in tariffs were concerned. He agreed with India that there were more focused and specific trade strategies like GSTP and regional trade agreements which would address South-South trade. He wondered what else could be done in this Round to promote such trade. Regarding Korea and the issue of trade weighted averages, *ad valorem* duties impacted a great deal on trade weighted averages and it was on this basis that part-sheltering of products could occur. According to the Secretariat simulation document 3.6 per cent of Japan's total duties were non *ad valorem*. However, the TPRM country report of Japan for the year 2000 set this figure at 7 per cent. He sought clarification on the difference in the figures. Switzerland had 85.3 per cent of total duties in non *ad valorem* form, in the case of Thailand it was

21.1 per cent and in the case of the US it was 5 per cent. All of this would significantly underestimate the weighted average in favour of such countries. The Korean two-step proposal of a line by line approach followed by a weighted average would be a difficult process to undertake and in the end Members could not be confident that it had not been manipulated to the advantage of these countries using non *ad valorem* duties. The EC delegation had gone into historical, textual and logical permutations in order to justify their rejection of an emphasis on special and differential treatment in negotiations. If they did reject the emphasis then these negotiations should no longer be called the Doha Development Round.

1.110 The representative of China stated that some of the comments made on their formula were based on the Secretariat's simulation rather than the formula itself. China believed that the negotiations for non-agricultural market access should be conducted in strict accordance with the mandate embodied in the Doha Ministerial Declaration with a view to balancing the interest of WTO Members at different levels of development. It should safeguard the benefits of developing Members through the principle of less than full reciprocity and it had been demonstrated that this principle was embodied in the Chinese proposal. China's formula was only one part of its whole proposal and it should not be viewed or used separately from other parts, such as the base rate to be used, the use of non *ad valorem* tariffs etc., because otherwise the result could be misleading. Co-efficient B in China's formula could equal 3 for the first phase to 2010, and equal 1 for the phase from 2010 and 2015. It was necessary to make this clarification because some Members had misunderstood B=3 for developing countries or B=1 for developed countries and that was not the case.

1.111 The representative of Malaysia stated that his delegation fully aligned itself with the interventions made by Brazil and India as regarded special and differential treatment and less than full reciprocity, South-South trade and harmonisation. Malaysia had serious difficulties in accepting the concept of harmonisation in any proposal and the EC proposal caused them serious concern.

1.112 The Negotiating Group took note of the statements made.

See Section C.1 "Overview of Proposals Submitted – Non-tariff Barriers (NTBs) (TN/MA/9)" for the introduction of documents submitted by participants pertaining specifically to NTBs. No substantive discussion took place on the Overview Paper TN/MA/9 during this discussion. It was taken up by the Group, together with JOB(03)/72 (Chairman's questionnaire), in informal mode.

B. TARIFFS

1. **Formula approaches to tariff negotiations – Revision – Note by the Secretariat (TN/MA/S/3/Rev.2) and Formula Approaches to Tariff Negotiations – Secretariat simulations using Members' tariff concessions (JOB(03)/67)**

1.113 A member of the Secretariat (Mr. J. Richtering) introduced document TN/MA/S/3/Rev.2 and stated that it combined a revised version of the theoretical discussion of formula approaches shown in TN/MA/S/3/Rev.1 with an updated and revised version of Members' specific proposals shown in document TN/MA/S/3/Rev.1/Add.1. The new document now combined the theoretical discussion with the various specific proposals for formula reductions which were submitted by Members up to the end of March 2003. The theoretical discussion of formula approaches had been simplified and was focused more on the comparison of linear, tariff independent reductions with non-linear, tariff dependent Swiss type formula reductions. It pointed out that linear reductions always led to higher cuts in the low end of the tariff spectrum while Swiss type non-linear reductions always led to higher cuts in the high end of the tariff spectrum. The point where Swiss and linear reductions were equal depended on the specific coefficients adopted. This was illustrated in figures 1 and 2 of document TN/MA/S/3/Rev.2. It was important to emphasise that one could not make general statements of the kind that a Swiss type formulae always led to higher cuts than the linear reductions or vice versa. The

tariff line effects and the overall impact depended on each Members' tariff profile and the specific formula coefficients that had been chosen. To illustrate better the overall effects of different formula approaches on each Member's tariff schedule the Secretariat had made simulations using the electronic Consolidated Tariff Schedules (CTS) database as the basis for its calculations. The results were shown in JOB(03)/67 for all WTO Members, except the two latest accessions, Armenia and Former Yugoslav Republic of Macedonia which had not yet been processed for inclusion in the CTS.

1.114 The following assumptions had been used in the simulation exercise: only non-agricultural bound *ad valorem* tariff lines were taken into account in the calculations; the use of final bound rates as base rates was done purely for illustrative purposes; unbound tariff lines were not included in the calculations; simple tariff averages, used in some formulae, were calculated on bound *ad valorem* tariff rates only, i.e. they were not based on the entire tariff profile. For the simulation, only formula proposals listed in document TN/MA/S/3/Rev.2 that included a clearly defined functional form, explicitly specified parameters or coefficients and were applied on a line by line (product) basis had been used for the simulation. Compared to the formulae presented in TN/MA/S/3/Rev.1/Add.1 there had been one additional submission from India and a revision of the parameters used for the EC formula. Proposals or parts of proposals referring to overall tariff trade-weighted reductions were not included in the simulation exercise. The Japanese proposal therefore had had to be excluded and the reduction effects from the Korean formula would be underestimated if the proposed trade weighted reduction would imply further cuts than those calculated with the line by line reduction formula. As for the Indian proposal, different coefficients had been proposed for developing and developed country Members. As the proposal did not include a country list that would have allowed a clear allocation to either group, calculations had been made for all Members using both coefficients. It should, however, be noted that according to the Indian proposal the results shown in the column under India $c=50$ were only applicable to developed country Members and those shown in the column under India $c=33$ were only applicable to developing country Members. He acknowledged the comments of the Indian delegation and agreed with them that in paragraph 11 for developing countries it should have read $c=0.67$ and not $c=33$ as had been printed in the Job. Likewise, the reference in the table headings to $c=50$ and $c=33$ was not in line with the notation used in paragraph 11 and should rather read as in document TN/MA/S/3/Rev.2, i.e. 50 per cent and 33 per cent with the appropriate footnotes explaining its applicability to developed and developing countries respectively.

1.115 The results were presented in two tables which showed the impact on WTO Members tariff profiles resulting from the application of the selected formulae. Table 1 showed the simple tariff averages of final bound duties before and after application of each of the formulae and Table 2 showed the percentage reduction of final bound duties after application of the formulae. It was important to keep in mind that the calculated tariff averages and reduction percentages only applied to the bound *ad valorem* rates. If the binding coverage was significantly below 100 per cent, calculated reduction percentages should not be interpreted as representing overall tariff reductions. The overall tariff reductions depended on the treatment of the unbound tariff lines. To assist Members further in their efforts to evaluate the various proposals for formula reductions the Secretariat had prepared for all Members, except Armenia and Former Yugoslav Republic of Macedonia detailed datasheets which showed the application of the each of the formulae shown in JOB(03)/67 to all individual bound tariff lines as recorded in the CTS. The information had been prepared in EXCEL format and would be disseminated on a CD ROM. The information contained in the CD ROM would allow Members to better understand the detailed implications of the application of the various formulae on their own tariff schedule and on that of their trading partners. To facilitate the identification of specific products, CTS tariff line descriptions had been complemented with self-contained HS 6 digit descriptions (in English) for all those CTS files using the HS 96 nomenclature standard. The self-contained descriptions had been taken from the EU's public nomenclature classifications web site.

1.116 The representative of Costa Rica stated that with regard to Table 2 in which reduction percentages were shown using the India formula with a 33 per cent tariff reduction, in some cases the reduction cut could be greater than the 33 per cent cut which was being applied in theory. This was

the case for example for Burundi (41.2 per cent), Iceland (36.2 per cent), the EU (34.4 per cent), Latvia (35.6 per cent) and others. He believed that there had been some methodological error and he sought clarification on that. His delegation supported the EC proposal to include an additional table which would take into account the coverage of bound tariffs and show the effect of reductions on the entire universe of non-agricultural products as this would give a better overall view. They also supported the proposal made by the US to include another table which would show reductions with respect to applied tariffs. This would be important in order to see the real impact of the negotiations and especially to see and analyse the effects of the reductions on tariff revenue. His delegation supported the statement by the Philippines with regard to non *ad valorem* duties. Document TN/MA/W/31 by Egypt, India, Indonesia, Kenya, Malaysia, Mauritius, Nigeria, Tanzania, Uganda and Zimbabwe had proposed that the Secretariat prepare an explanatory document and his delegation fully supported that proposal. He requested a written version of the statement made by the Secretariat in presenting TN/MA/S/3/Rev.2.

1.117 The representative of Senegal stated that with regard to Table 2, and in reference to Senegal, the formulae proposed by the EC and the US would result in very high reductions in Senegal's tariffs, sometimes much higher than the results which would be obtained on developed countries tariffs. This did not provide less than full reciprocity because when dealing with LDCs and developing countries it was not sufficient to take applied rates into account. Their economic realities had to be taken into consideration, whether that was with regard to customs revenues or problems linked to the protection of customs duties. He asked the Secretariat whether the reductions referred to in TN/MA/S/3/Rev.2 were just customs duties or whether other duties had been taken into consideration as well.

1.118 The representative of India stated that when comparing the impacts of the various formulae with their different characteristics there were bound to be limitations to the results of the simulation although some broad comparisons between formulae could be drawn. Firstly, the question arose whether the tariff modality for each Member should be based on existing tariff averages or be independent of them. It was India's view that this dependence should be there in some way, otherwise the elements in the mandate which called for less than full reciprocity in reduction commitments, and the need for reducing or eliminating peak tariffs would not be duly addressed. Both of these issues had been reflected in India's proposal. The second question was whether high tariffs should be reduced by higher percentages, i.e., should the formulae have an harmonising element. In India's view there was no mandate for such harmonisation and they found it difficult to accept a formula which contained this element. For this reason, India found it difficult to agree to the four general observations that had been included in paragraph 50 of TN/MA/S/3/Rev.2. His delegation found it difficult to go along with the suggestion that the Secretariat should produce a new table which would look at the situation based on applied tariffs, for two reasons: the Group was discussing bound rates as these had been the rates to which the Group had committed; and there existed very many applied rates, for example, special preferences, regional trading arrangement rates, etc. so the question arose as to what was meant by "applied rates" in the context of these negotiations.

1.119 The representative of New Zealand stated that the Group was still dealing with quite a high level of imprecision in analysing the impact of these formulae. According to the presentation, the Secretariat analysis did not take into account unbound lines or non *ad valorem* tariffs. New Zealand found it very difficult to develop an accurate picture of the real effects of various proposals because of the large number of unbound lines and non *ad valorem* duties. They found it particularly difficult to obtain a good picture of the impact of the Chinese proposal in this regard because of the need to use applied rates and to have a good sense of the coverage of bound rates in developing base rates for inserting into the Chinese proposal. Members should submit more information on their applied rates to the IDB as it would allow Members to get a good sense of the current range of applied rates. As it stood, the impacts of these formulae were presented in the Secretariat's documents in a hypothetical manner because it was not possible to gauge the real impact until there was a better sense of what they would do to currently applied duties. The Secretariat should develop some possible methodology for

calculating *ad valorem* equivalents to current non *ad valorem* lines. His delegation wished to propose that, resources permitting, the Secretariat should develop a further data base of *ad valorem* equivalents to non *ad valorem* lines as this would significantly increase understanding of the potential impacts of the formulae proposed so far.

1.120 The representative of Chile stated that his delegation fully supported Costa Rica's suggestion that tables could be added to the simulations which would provide a more global view of the impacts of each of the formulae. Chile also endorsed Costa Rica's suggestion to produce a table which would give an idea of the possible impact of the application of the different formulae on the applied tariff levels of the different Members. The delegation of India had a problem with that suggestion given that the negotiations were based on bound rates but Costa Rica's proposal was not to replace bound tariffs with applied tariffs. This would be unacceptable for Chile and for most of the Members of the organisation but at the same time it would be useful and legitimate for Members to have an idea of the possible impacts of applying the different formulae on their applied tariff levels. In particular, it would allow every Member to look at the impact, if any, on fiscal revenues.

1.121 The representative of Canada stated that his delegation supported earlier interventions by Costa Rica, Chile and others that the Group needed some analysis on applied rates. The Group had not yet decided on the base rate for the negotiations.

1.122 The representative of Malaysia stated that it was unfortunate that there were gaps in the information. It was their view that a methodology should be found to convert specific duties into *ad valorem* duties so far as possible and they looked forward to some work on that, if possible, by the Secretariat. Like India, they also had difficulties in accepting the proposals made by Members urging the Secretariat to work on applied tariffs. They were unable to join any consensus on that at this time, as they needed more time to consider it.

1.123 The representative of Tunisia stated that his delegation endorsed the comments made by Senegal with regard to the effects of the different formulae on tariff cuts by countries. It had been clear in JOB(03)/67 that the Indian formula would be the least costly one in terms of tariff cuts for all Members. His delegation also supported the statement made by Kenya in seeking assurance that total non-reciprocity would be applied not only to the negotiation process but to the final results. They proposed that a new section be inserted in the table to analyse the impact of India's formula using a coefficient of 25.

1.124 The representative of the United States stated that it would prepare its own analysis as to the ramification of the various formulae on applied rates. A lot of the discussion related to the disproportionate effect of a harmonising formula on high tariffs of developing countries schedules. This failed to acknowledge the long-standing GATT principal of the value of reductions not only on high tariffs but on low tariffs as well. Low tariffs were significant for market access because tariffs and trade were concentrated at that level in developed country markets. For example, over half of the dutiable tariff lines in the US and in the EC were at five per cent or less and almost 60 per cent of their dutiable imports were located in that range. Low tariffs in developed countries were just as significant as high tariffs in developing countries in terms of overall market access. The elimination of low tariffs would cut the average applied rate by 27 per cent in the EC and by 24 per cent in Japan. By contrast, eliminating international peaks, if they were to be defined as 15 per cent, would cut the average applied rate by only 15 per cent in Brazil, 12 per cent in Indonesia and 20 per cent in South Africa. This should show that when a harmonising formula was complemented with low tariff initiatives a certain amount of balancing took place and by sheer trade volume this would provide a significant amount of liberalisation in the low end of the tariff schedules.

1.125 The representative of Costa Rica stated that they had not suggested at any point using the formula at applied levels. Costa Rica had been always said that the base rate in these negotiations must be the bound rate. Many Members including India had expressed their concern with regard to a

possible reduction of fiscal revenue as a result of tariff cuts. Costa Rica considered that this issue could be analysed by looking at the effect of tariff cuts on applied levels. If there was any other methodology available Costa Rica would be open to using it, but his understanding was that this was the only way.

1.126 The representative of Mauritius stated that his delegation supported Costa Rica's suggestion that additional information could be included in the analysis. The current analysis was highly aggregated and a more disaggregated analysis in terms of trying to identify the fiscal implication for the Member states would be helpful. They also supported the views expressed by India and Malaysia that the analysis should be limited to bound rates and not to actual applied rates.

1.127 The representative of China stated that his delegation seconded the views expressed by Canada and New Zealand which called for analysis, work or simulation on the part of the Secretariat on the basis of applied rates. This was necessary because at this stage the Group had not reached consensus on whether the base rate should be the bound rate or the applied rate. Therefore, if analysis or simulation was carried out only on the bound rate it could be misleading in implying that this would be the consensus for the future negotiations. His delegation also requested that some analysis and simulation be carried out on applied rates. As stated by Malaysia, some work should be done by the Secretariat to convert specific duties into *ad valorem* duties.

1.128 The representative of Brazil regretted that the studies and analyses presented by the Secretariat had given rise to a re-opening of the debate on the use of bound or applied rates. Chile in a previous session had been very clear in stating that the bound rates were the only legal commitment of Members because they were what had been paid for by other Members in terms of concessions. Each Member of the WTO would be free at the end of the day to judge the results of the Round by whatever measures it chose, its impact on the applied rates, etc. But to propose that the applied rate should have an impact in crafting the modality was taking things a bit too far. In the same way, Brazil would judge the results of the Round by the impact it had on effective market access. In this respect, he accepted India's point that a reduction of a very low duty had a marginal impact on effective, enhanced, market access. Brazil would be taking this into consideration as well, not only in the Market Access Negotiating Group but on the whole Round as a single undertaking and then would judge the result as a balanced package across the board. Each Member would have to decide what was important for itself and judge the result according to its priorities. There was no way that the Group would establish a common benchmark for the evaluation of benefits. Brazil also supported the request presented by Costa Rica for a study by the Secretariat on possible mechanisms or modalities for the conversion of non *ad valorem* tariffs into *ad valorem* equivalents.

1.129 The representative of Egypt stated that they supported the view of Malaysia, India and Brazil that the Secretariat should not do a special study based on applied rates.

1.130 The representative of New Zealand stated that his delegation did not want to reopen the debate on whether to use applied or bound rates. They favoured negotiations on bound rates. What his delegation was interested in was more significant information on the range of Members current applied tariff rates so that they could do some analysis on the potential impact of the formulae on those rates. Looking at the potential impact on bound rates was hypothetical in terms of what exporters paid every day. New Zealand wanted to encourage Members to submit up to date information on their current range of applied rates to the WTO so that it could be accessed by all Members. They had not specifically requested the Secretariat to carry out further analysis on the impact of the formulae on applied rates. All they wanted was to have the flexibility to do that analysis themselves if they so desired. However, they would not be adverse to such a Secretariat analysis if that was the consensus of the Membership.

1.131 The representative of Chile stated that bound tariff rates were the basis for negotiation. There had been a misunderstanding regarding Chile's earlier intervention and so he wanted to set the record

straight. It was not Chile's intention to reopen the discussion as to what the base rate should be in this negotiation. Its position was quite well-known and had not changed. What he had said in his intervention was that the information on applied tariffs would be very useful for the sake of transparency. Members should be able to calculate and determine the reductions that would be obtained by using the different formulae. Members would also be able to determine whether or not they should make cuts to their tariffs. Members would also need to assess the possible impact of the formulae on tariff revenue. As Costa Rica had also pointed out, Chile did not see any other way that the impact could be calculated if not by using applied rates. None of the Members who were opposed to the method of using applied rates had so far been able to answer that question.

1.132 The representative of Croatia stated that with regard to the simulation using Members' tariff concessions (JOB(03)/67), the simple average figure calculated for Croatia was 5.5 per cent while their own calculation, as well as the figures presented in document WT/ACC/10 on a technical note on the accession process, showed that Croatia had a simple average of individual tariff bindings of five per cent. His delegation wished to know the reason for the discrepancy.

1.133 The representative of the European Communities stated that her delegation supported the request by the US and Costa Rica to have some analysis carried out on applied duties. Since the Group had often talked about revenue problems, the only way of assessing that issue was by having a clearer picture on applied duties. Tunisia had spoken about a less expensive system when referring to the Indian proposal. Apart from the fact that it would be interesting to see for whom it would be less expensive, what was important for the EC in this Round was to see how much market access could be acquired using the various formulae. It was interesting to know where the new market in the South would be opened up using the various approaches. Her delegation corroborated the US statement concerning low duties and hoped that the projections by the Secretariat would show the impact of the EC tariff floor, if only on its own schedule. Article XXVIII *bis* contained at the end of paragraph 2.(a) a statement which said very clearly that "the binding against increase of low duties or of duty free treatment shall in principle be recognised as a concession equivalent in value to the reduction of high duties".

1.134 The representative of Ghana stated that it seemed all Members had agreed to use the bound rate. In that case, he questioned the utility of a study by the Secretariat on the possible impact of the tariff reduction formulae on applied rates since the Group would not be using applied rates in the negotiation.

1.135 The representative of Brazil stated that the issue of the phrase on the binding against an increase of low duties in paragraph 2.a. of Article XXVIII *bis* had been raised before in the Negotiating Group and he had expressed his delegation's interpretation that it did not apply to the reduction of an already bound low duty. It was meant to signify that if a country had a low applied duty and it bound it at that level than that should be treated as a concession equivalent to reduction of a high duty, but the reduction of a bound low duty to a slightly lower bound duty was not an equivalent concession to the reduction of a high duty.

1.136 The representative of Kenya stated that his delegation considered the issue of revenue implications of trade liberalization had been demystified as a result of the US presentation and the contact details they had given on where further information on this subject could be found. He had not expected that the Secretariat was going to be asked to work on the issue of revenue implications. Perhaps the Secretariat resources that some Members were suggesting should be used to produce work on applied tariffs could instead be used to start work on those studies that Kenya had requested so that Members could see the overall picture and not just the revenue implications of trade liberalization. He agreed with Ghana in questioning the value of work on applied rates if the starting point of the negotiations were to be the bound rate.

1.137 The representative of the Philippines stated that his delegation supported Brazil's contention that the issue of binding duties did not apply to presently bound duties. It should be considered as a special and differential treatment because this was really an aspect of Part IV of the GATT and any intention by developed countries to get some benefits out of this process would be entirely contrary to the spirit of Part IV. On the issue of applied rates, the Group was using bound rates as the base rate in their negotiations as these were the only legally accepted rates. Regarding work by the Secretariat on the impact of the formulae on applied tariff rates, he could see the point that it would be relevant as far as revenue loss was concerned. However, revenue losses were really the perception of individual governments and would not be helped by the provision of any additional theoretical formulations or studies. It was up to individual governments to decide whether or not there was very real and concrete revenue loss as a result of tariff liberalization.

1.138 The representative of Hong Kong, China stated that his delegation supported the suggestion made by Costa Rica regarding further work by the Secretariat. They were asking the Secretariat to assess the implications of different formulae on applied rates, not with a view to using the applied rate as the base rate but rather to assess the impact on the actual applied rate of different Members after applying the formula on the basis of the bound rate. This further analysis would go some way in helping individual Members to assess the actual revenue implications of reducing their bound rates. His delegation was one of those which supported using the bound rate as the basis for the negotiations.

1.139 The representative of Columbia stated that his delegation supported the statements made by Costa Rica and Hong Kong, China and said that those participants that wished to do so should be able to make the calculations on the applied rates that were being proposed.

1.140 The representative of Korea stated that the reduction resulting from their formula was not fully reflected in the table of the Secretariat's paper. Regarding the further analysis by the Secretariat of the impact of the formulae on applied rates his delegation shared the views of other Members who said that it might be useful to have a more detailed picture of the impact of trade liberalization on revenue implications and the improvement in market access resulting from the application of each formula.

1.141 The Negotiating Group took note of the statements made.

2. Overview of proposals submitted (TN/MA/6/Rev.1)

1.142 The meeting went into informal mode to continue its discussion on the Overview Paper on Tariffs which it had begun at the April meeting. The topics remaining to be discussed were: Nomenclature; Implementation and staging; Non *ad valorem* duties; Simplification of tariff structures; Export taxes; Initial negotiating rights (INRs); and Erosion of preferential margins.

C. NON-TARIFF BARRIERS (NTBS)

1. Overview Of Proposals Submitted - Non-tariff barriers (TN/MA/9)

1.143 Before discussing the Overview of Proposals Submitted – Non-tariff barriers (TN/MA/9) the Chairman invited those delegates who wished to do so to introduce their papers on NTBs.

1.144 The representative of New Zealand stated that their proposal on NTBs contained in document TN/MA/W/4 had been introduced at the last meeting of the Negotiating Group. It had built on an approach that they had first set out in a paper circulated in the July 2002 meeting.

1.145 The representative of Chile stated that there was a certain amount of convergence between their proposal and those put forward by other delegations such as Canada, New Zealand and the US. The matter of negotiations on NTMs was very complex for several reasons with probably the most important two being that (i) there was almost an infinite universe of NTMs which in turn was complicated by the fact that many of those measures related to very legitimate aims of public policy and (ii) the mandate given to the Group by Ministers in Doha did not deal with the opening of various WTO Agreements dealing with NTMs such as non technical barriers to trade, SPS, import licensing, etc. Bearing these limitations in mind, his delegation felt that there were several areas open for negotiation in NTMs. The problems of implementation should be dealt with in the relative subsidiary bodies. Concepts such as of request/offer could play an important role, despite having various disadvantages. These negotiations could be bilateral or plurilateral and could deal with specific measures, types of measures, or even specific production areas. The results of all of these negotiations should be extended to all Members of the WTO on a MFN basis. Negotiations on trade facilitation could be a good idea in terms of dealing with NTBs such as inspections, imposition of penalties, etc. Chile was not proposing that the Group establish any type of formal link between this negotiating group and a future negotiating group on these measures, although future coordination would be necessary. Finally, measures which could be considered as NTBs within the Doha mandate, for example, anti-dumping and countervailing, were already being dealt with within their respective negotiating groups. The aspects that this Group had dealt with here were neither comprehensive nor exhaustive.

1.146 The representative of the United States stated that in preparing its proposal the US had reviewed not only the NTB concerns that had been raised by their industries but also the variety of the NTB indicative list submissions that had been put forward by other delegations. Industry world-wide seemed to be faced with similar NTB problems and true improvement of market access depended not only on lowering tariff barriers but also on effectively dismantling NTBs. Therefore, NTBs were an integral part of non-agricultural market access negotiations. They very much welcomed the participation of each of the Members who had tabled NTB indicative lists and modalities proposals and as Chile had already noted, a number of common elements appeared in the various proposals. As the May 31st deadline for negotiating modalities approached, the US was very hopeful that these common elements would lead to a convergence of views.

1.147 The US proposal aimed to ensure that legitimate NTBs were captured by the negotiating process and were dealt with in the most effective, efficient, transparent manner possible. The US wanted to move beyond the listing and classification exercises that had hampered NTB discussions in the past. Many of the NTBs that had been brought to their attention were related either to existing rules or to work that was on-going in other areas of the Doha mandate. As a result, her delegation proposed that WTO Members consider four ways of pursuing the NTBs that were brought to the attention of this negotiating group. This built on categories that had been included in the indicative list submitted by the US in February 2003. The first category proposed that barriers that fell under the purview of existing WTO agreements should be raised in the appropriate existing WTO committee as existing committees were the best place to address practical problems involving the administration of agreements. These problems might possibly be addressed in the existing committees through dialogue, best practices and sharing positive experiences. Some of the NTBs that related to this work may or may not be consistent with WTO obligations. Only the dispute settlement system could determine if these NTBs that were arguably covered by existing agreements were WTO legal. Furthermore, there was no mandate to reopen existing agreements. Secondly, they proposed that NTBs that might most appropriately fall under the purview of other areas of the Doha mandate be notified to the appropriate negotiating or working group. Thirdly, they proposed that within this negotiating group, Members would examine the possibility for new commitments that effectively dealt with NTBs horizontally, i.e. across all industries or vertically, i.e. with regard to a single industry. Finally, they proposed that those issues that did not fit neatly into other negotiating methods should be addressed bilaterally or possibly plurilaterally with a core group of countries through a request/offer procedure either in the NGMA or elsewhere in the WTO.

1.148 They also suggested that Members consider the possibility of a new approach in which a core group of countries would make positive commitments in a particular area which would essentially be a plurilateral NTB agreement. A positive commitment would be one in which a core group of countries would agree to undertake specific new commitments. In its submission the US used the example of a group of countries agreeing to apply international standards for a particular group of products. Another way to think about this might be to think of it as an ITA type agreement but on the NTB side. For example, in the ITA there was agreement among a number of countries that they would take a particular action for a group of products. In that case, the action was to eliminate tariffs. On the NTB side, what they would foresee was again a group of countries agreeing that for a particular group of products they would take a particular action. In its submission they noted standards as an example but there were many others as well. Finally, it must be ensured that the process to negotiate NTBs and the manner in which commitments were registered was open, transparent, and done on an MFN basis. Their proposal suggested that it be up to Members to decide in which fora they should pursue particular NTB concerns. They had suggested that to promote transparency in the negotiations, Members who chose to highlight NTB issues in either existing WTO committees or in other negotiating groups could inform this negotiating group that they had done so.

1.149 The representative of Japan stated that the central theme contained in its own proposal was the importance of addressing NTBs in order to achieve meaningful improvements in market access. His country had had the experience of trying to tackle NTMs or NTBs during the Uruguay Round with no substantial results although a lot of notifications had been made. The Group should not repeat that earlier experience and instead should make every possible effort to bring about substantial results. In this respect, the following four guiding principles were important in considering the appropriate modality. Firstly, in order to avoid the duplication of work, it was appropriate to avoid the duplication of the discussion taking place in this negotiating group with activities in other negotiating groups and existing WTO committees by considering the mandate and the expertise in each committee or group. For example, in the TBT committee the third tri-annual review was scheduled for this year and such an opportunity should be used to the full. Secondly, in order to aim at a practical solution, it was important to consider practical improvements for business with regard to measures that actually impeded trade. Thirdly it was important to give proper consideration to the policy objectives of NTMs. NTMs were linked in many cases to legitimate policy objectives such as health and environmental protection and it was not appropriate to automatically eliminate such measures. Fourthly, regarding what and how to tackle the negotiations; based on the Uruguay Round experience whereby so many NTBs were notified resulting in endless discussions it was important to scrutinise the policy objective, the practical function and the trade distorting effect of measures when determining whether or not to take them up during the negotiation. Furthermore, NTBs to be taken up in the negotiating group should be limited to such measures as those implemented by each government and the issue of the appropriateness of measures granted under the WTO agreement or other multilateral agreements should not be addressed in this Group.

1.150 Based on those principles, export duties and restraints that were implemented by the exporting side and had a trade distorting effect should be taken as NTBs. Furthermore there existed an imbalance in the rights and obligations between the export side and the import side. Japan had suggested two sectors, the textiles and clothing sector and motor vehicles sector for the sectoral approach of NTBs as a result of strong requests from the private sector in these two areas to do so. These requests were definitely being supported between the borders and the activities to increase support among international industry associations had been vigorous. One of the purposes of this Round was to try to meet these strong requests from the private sectors in many countries. As usual, Japan was ready to do its best to make a substantial contribution to the negotiation work on NTBs.

1.151 The representative of the European Communities stated that paragraph 16 of the Doha Declaration had stressed the need to reduce, or as appropriate, eliminate all items concerning not only tariffs but also NTBs. It was a very ambitious mandate and had to be as NTB issues were growing in importance. There was a feeling within industry that as tariffs decreased the problems of NTBs

became more evident. Furthermore this part of the mandate was extremely important because tariff concessions could end up being circumvented by means of NTBs if no attention was paid to this issue. Effective market access was not just an issue of tariffs, but also an issue of reducing or possibly eliminating NTBs. However, the problem was the difficulty in defining NTBs. There was an inventory of NTBs which dated from 1967-68 and there had been other inventories such as the one drawn up by the Technical Group on Quantitative Restrictions but it dated from the beginning of the 80s. On the basis of that specification at least 600 notifications had been received, so in a sense there was a wealth of information available. There were also the decisions taken by the CTG which resulted in notification of NTBs, (G/L/59 and G/L/60), and which had been mentioned in the EC submission. In terms of classification, there had been a lot of work done in UNCTAD, which provided very good classification in terms of the TRAINS database but as this database went back to 1970s it presented yet another obsolete classification. In addition, there had been a slight mix of NTMs and NTBs in the database so it had been very difficult for the EC to exploit that particular classification. The OECD had done very good work on NTB items, however, it was almost impossible to have a new classification of NTBs. It was for that reason that her delegation had appreciated New Zealand's pragmatic approach in leading the Group. NTBs tended to no longer be found at the borders and historically the initial attempts made to deal with NTBs were carried out at the border. Nowadays, the EC worked permanently behind the border as they wanted to impose discipline on certain activities which were acting as barriers to trade. She stated that there already existed GATT provisions on NTBs. It was possible to refer back to GATT Articles III, V, VIII, X, XI, XIII, XVII, XX and XXI. This list was without prejudice to what other Members might think also constituted NTBs.

1.152 The EC submission described the historical process of NTBs. Several codes were drafted during the Tokyo Round which became agreements on NTBs during the Uruguay Round. The Uruguay Round was actually launched on the basis of a spur to try to attack NTBs. From that point of view, negotiators succeeded in disciplining a whole universe of NTBs but it also led to the current situation where Members were left with a few items which risked being intractable if the correct methodology was not adopted. At the same time, there were several items which had already been disciplined - TBT and SPS, TRIMs, the agreement on customs valuation, PSI, Rules of Origin Agreements, Import Licensing procedures, TRIPs and work in other areas like ITA which had tried to address NTBs. NTBs were being discussed in other areas of the Round, for example, trade facilitation, investment and competition. While the EC agreed that duplication should be avoided some NTBs stemmed from the fact that there were difficulties in implementing certain WTO Agreements. In those cases there was a need for consultations, sometimes even solutions by way of settlements in the relevant committee or body. Another important aspect, at least for the EC, was the role of technical assistance. Sometimes, implementation difficulties could only be solved through technical assistance and for that reason, in their submission the EC had tried to include the concept of technical assistance as a way of dealing with NTBs. Whatever areas remained to be dealt with could be referred back to Article III or Article XI.

1.153 Paragraph 12 of the EC submission made it clear that the EC considered certain items as deserving discussion and negotiation in the NGMA and one of these items was export taxes. They had included export taxes under NTBs and while it was clear to them that other export restrictions were covered by Article XI, the traditional GATT focus on import policies had resulted in a neglect of export trade. The EC submission listed other items like buy national campaigns or difficulties which arose from requirements by local or regional, or independent authorities and bodies. They had also listed the difficulties which resulted from the application of national laws and regulations outside country borders. Paragraph 12 of their submission offered a list of items which would require negotiation in this group on a case-by-case approach. The EC were not proposing to create new tools but to improve the usefulness of tools that already existed. Paragraph 16 of the submission was extremely important in this regard. There were very good tools in the form of notification or reverse notification mechanisms but it seemed that they were currently ineffective. The EC would like those tools to be used, possibly having been refurbished, and believed that there was no need for new measures to be introduced. The EC was not against the idea of having a request and offer process

whereby a Member offered certain concessions which then became binding through inclusion in its schedule provided that this item was multilateralised and offered as a concession to the whole of the Membership. There were a number of paragraphs at the end of the submission which referred to some more horizontal approaches for the reason that as some disciplines on specific NTBs might fail to achieve their aim the Group might like to explore the idea of horizontal mechanisms that could be useful in addressing unnecessary NTBs. In that way Members would not have to take measures which were more trade restrictive than was actually necessary for them to fulfill a legitimate objective. Furthermore, Members could discuss whether there was any point in having within the domestic regulatory process of each individual Member a mechanism that tried to examine in some way regulations that affected market access and to see whether they were, for instance, creating undue obstacles for products of interest to developing countries. In any case this mechanism of examination within the domestic regulatory system should try to see whether for example, the circumstances that had resulted in the creation of certain regulatory framework had ceased to exist and whether as a result there was a need for a revision of that regulatory framework. These were ideas that the EC offered for discussion by all Members.

1.154 The representative of Singapore stated that they had welcomed New Zealand's earlier paper TN/MA/W/4 which had outlined a pragmatic way to proceed. Therefore, they very much welcomed New Zealand's Addendum to the paper, an elaboration on possible approaches for modalities and said that they could generally support their position. Like New Zealand, Singapore believed that the approach for NTBs should primarily be a multilateral one and that the so-called bilateral type of request/offer approaches could be used as a secondary or fallback approach. Singapore also supported the approach of strengthening the application of existing horizontal disciplines, the approach of exploring negotiations to address generic clusters of NTBs and the approach of considering classes of NTBs as suggested in TN/MA/W/4/Add.1. However, they were not sure whether there was a clear demarcation between the horizontal approach and the so-called generic clusters approach as the horizontal approach included regulations that would apply to some sectors in any case. They requested further elaboration from New Zealand on the distinction between the two. Singapore very much welcomed the US approach to NTBs and found several substantive ideas in the proposal. They also found some similarity between that proposal and others on how to manage the work and fulfill the mandate for NTBs in the NGMA. The US idea for a plurilateral or core group approach was very interesting. Singapore questioned whether the US considered this as a core modality or a secondary modality because while Singapore favoured the multilateral approach, they saw some merit in the proposal to have a core group of Members such as an ITA for those who had a keen interest and were prepared to do something about the NTBs in particular sectors. Singapore was open to the US idea of capturing the results of negotiations, but they had not yet decided on the best format to do this, whether it should be in the Schedule, in Part III or in some other format. However, the important factor was that the commitments would be recorded in a transparent manner. Regarding the EC's proposal, Singapore sought clarification on what the EC was proposing in paragraph 19 of its submission whether they were referring to some kind of discipline that would allow Members to comment in advance on another Member's regulations and ensure that it was not more trade-restrictive than necessary or whether they intended something else.

1.155 The representative of Kenya stated that his delegation's reading of paragraph 16 of DDA implied that the NGMA had been given a blanket mandate to negotiate on NTBs. As Kenya had stated in its proposal (TN/MA/W/27), NTBs were one of the obstacles that developing countries, especially African developing countries, faced in their attempts to improve their export performance. The US, Japan, and the EC seemed to suggest in their proposals that certain specific issues should be dealt with by other relevant WTO bodies. In particular, Japan proposed that some of these issues could be negotiated under existing negotiating groups while others could be discussed within the relevant committees. Kenya sought further information on how bodies that had not been mandated to negotiate were going to handle the subject of NTBs. Referring NTB issues to other bodies might pose some problems for a number of delegations, including Kenya, which had limited resources and would be unable to stretch those limited resources to numerous bodies and committees. This was a factor to

be borne in mind when discussing this approach and was one reason why they supported Thailand's proposal (TN/MA/W/26) that everything be discussed in the NGMA. Also, there was no guarantee that whatever issues would be referred to other negotiating groups would be resolved in time for the NGMA to complete its work on NTBs. Some Members were hesitant about such an approach because of their experience in concluding implementation issues. However, a horizontal approach might be more appropriate for some NTBs, especially for those sectors which might be able to use existing international standards as a basis. The Japanese proposal identified export duties as one of the NTBs to be discussed by the NGMA. Developing countries opposed this view and had made the point repeatedly, Malaysia in particular, that export duties were one of the policy instruments that developing countries, especially those at the lowest level of development could use to induce industrial development. Therefore, in that context, Kenya urged the Japanese delegation to reconsider this particular issue.

1.156 The representative of Colombia stated that the contributions and submissions made by participants showed how complex and vast the NTB issue was. No doubt this was what had prevented substantial progress being made in this area in the Uruguay Round. Colombia expressed its support for Chile's submission which had taken a very pragmatic, clear and detailed approach and which could serve as a basis for developing a working methodology to identify the Group's actual range of negotiating issues. It would also enable the Group to define the level of ambition of the negotiations according to a series of factors to be identified at the Cancún Ministerial Conference, in relation to the Singapore issues and the question of implementation of the Agreements. In this connection, it was crucial to bear in mind that the process of addressing NTBs covered by WTO Agreements for which there was no negotiating mandate should not involve a re-opening of the agreements concerned or lead to the creation of new disciplines.

1.157 He supported the recommendations in Japan's paper, which were to avoid the duplication of discussions and to scrutinize the policy objective, practical function and trade-distorting effect of the measures in order to determine whether they should be classed as barriers to be removed. This would help the Group to find the best way of helping companies to overcome and do away with NTBs. He expressed special thanks to the US, New Zealand and the European Communities for their comprehensive and well-structured submissions, which gave further insight into a complex and little-explored area of international trade. They would undoubtedly serve as an excellent basis for future work under an increasingly liberalized scenario once this Round of negotiations had been completed. Given the time and resource constraints Colombia believed that, for the time being, it would not be practical for the NGMA to start specific work on a horizontal or vertical basis under a multilateral approach. New Zealand had cautioned against making the request/offer process the main modality for moving the negotiations forward and considered that complementary approaches were needed. In this context, a plurilateral agreement, as suggested by the United States, might be a suitable alternative for handling barriers identified in the WTO Agreements which were not part of the negotiating mandate. Colombia also supported Canada's proposal to use the work being done by the World Customs Organization in the sphere of tariff classification in order to achieve greater harmonization in the interpretation of the relevant rules by different customs administrations. He asked the Canadian delegation for further details regarding the scope of negotiations on quota barriers, because it was not clear whether they were referring to solving problems of implementation of agreements under which such measures were permitted, namely the Agreements on Agriculture and Textiles, or to the negotiation of new disciplines. Colombia had concerns about Japan's proposal to include export duties and restrictions in the scope of the negotiations on non-tariff barriers. They also had concerns about a series of measures considered by the European Communities to be NTBs and which were classed as "other" non-tariff barriers in the Secretariat's overview (document TN/MA/9). Finally they had concerns about some issues previously identified by Qatar. Colombia was adamant that the examples cited therein were beyond the competence of this Negotiating Group.

1.158 The representative of Romania stated the list of NTBs which had been established by the Secretariat should be considered as being illustrative and open to further additions. Romania

supported the idea already expressed in the Group that it should go beyond gathering NTBs and instead try to identify ways and means for reducing or eliminating them. Regarding the proposals currently on the table, Romania recognised certain common approaches to NTBs which confirmed the fact that businesses and industries in many countries encountered similar problems following the clearance of products through borders. Romania also shared the view that there was a need for action in order to reduce the negative effect of NTBs. Her delegation expressed its gratitude to New Zealand, which in its view, had assumed leadership in this matter. Romania recognised the value of the bilateral approach as contained in New Zealand's paper but it would have a more positive effect if any bilateral commitments could be turned into multilateral commitments. For the multilateral solutions presented by New Zealand, Romania agreed that strengthening the application of existing horizontal rules was of great importance while the use of international standards could be a future possible aim for the negotiations, but at this moment it would be rather difficult to agree on using only international standards. Romania still had to study more carefully the proposal from New Zealand concerning the sectoral approaches for fishery and forestry. Regarding the US proposal, her delegation agreed with the approach outlined for tackling existing rules and for transferring certain aspects of NTBs to other negotiating groups. This could be a solution even if there would be some legal aspects to be agreed upon by Members. As with the New Zealand proposal, the bilateral or the plurilateral approaches presented by the US delegation could be considered as having a positive effect only if they were turned into multilateral commitments. The plurilateral approach proposed by the US and the parallel it drew between this approach and the ITA could be a solution but only if a critical mass of countries was included in such an approach. Regarding the Japanese proposal, Romania fully supported its idea that export duties and restrictions should be considered as NTBs to trade in industrial products. Regarding the EC proposal, her delegation wished to point out an element that seemed to Romania to be most important and that had not been included in other proposals. It concerned part of paragraph 12 which proposed mainly to consider/negotiate on reducing/eliminating export taxes, buy national campaigns, difficulties arising from requirements by local, regional or independent authorities and bodies, and from the application of national laws and regulations outside national borders. Colombia had expressed its preference for the Chilean proposal on NTBs and Romania wished to express its preference for the New Zealand approach but to add to it all the valuable ideas and proposals from the submissions presented.

1.159 The representative of Mexico stated that it was necessary to have a method which would define and classify NTBs by type and by the competence of the group to deal with them. Members would have to collaborate on this and consider all proposals, specifically the proposals that sought to direct discussions on NTBs covered under existing WTO agreements and which already had WTO disciplines, such as dispute settlement and trade facilitation to those relevant committees or bodies. Measures on vertical or horizontal approaches or multilateral approaches were important and interesting with regard to clarifying the method of work and these contributions deserved careful studies. Mexico agreed with Romania that these approaches would require a critical mass of Members especially with regard to vertical or horizontal approaches. His delegation was concerned about the effect that the request/offer approach could have on negotiations. They could have a negative effect if Members were to strengthen their negotiating position with regard to reducing or eliminating measures. Mexico believed that the approach to take in dealing with these measures was to strengthen existing disciplines as had already been suggested. It also agreed that export duties should fall under NTBs.

1.160 The representative of Pakistan stated that all the submissions and interventions agreed that NTBs were real barriers to trade and an important part of the negotiating mandate for the NGMA. The EC had explained that the Tokyo Round and the Uruguay Round were to a great extent directed at removing NTBs. In general, there seemed to be agreement that NTBs which related to existing rules, such as Rules of Origin, Customs Valuation, TBT and SPS should continue to be dealt with in those bodies. Kenya had said it would rather not have NTBs referred to other negotiating groups and bodies but the relevant technical experts were available in the appropriate bodies and not in the NGMA. Referring appropriate NTBs to such bodies and negotiating groups would also avoid

duplication. NTBs which were not covered by existing WTO rules should also be dealt with in bodies which were now discussing those issues, such as Trade Facilitation. Pakistan had a serious objection to the US proposal for a plurilateral approach. Such an approach was already being used to a certain extent to deny market access, for example, the use of different rules of origin for imports from different sources. Already countries participating in Free Trade Agreements were denying market access to other countries that were not part of them and if the approach to NTBs also became a bilateral or a plurilateral undertaking then it would be another impediment to market access.

1.161 The representative of India stated that the importance of the NTB issue could best be seen in the number of NTBs notified to the Group, including the number of developing countries notifying them. India believed that comprehensive consideration of the NTBs notified together with appropriate solutions was critical for the successful completion of these negotiations. All the proposals underlined the necessity to avoid duplicating the work being conducted in other bodies/fora within the organization, something with which India agreed. His delegation could support the suggestion of referring NTBs to appropriate bodies but they needed to ensure that in so doing they were still able to effectively address all the issues. Now that there was a workable database of NTBs it would be useful to uniformly classify them, first by nature and then by the forum/ committee of the WTO where the particular NTB was being discussed or was best equipped to discuss it. The Secretariat could be tasked to carry out this work. Once the classification and allocation of work was complete, the NGMA could decide on the time frame within which these NTBs needed be effectively addressed. Inputs from the relevant bodies on this important aspect would be crucial.

1.162 There could be two ways to outline the work to be done. Firstly, based on the database, the NGMA itself could outline the work to be considered in the relevant body; alternately, just the NTBs could be referred, with the relevant body itself deciding on the nature and kind of work that was needed to solve the problems sent to it. For example, the SPS and TBT Committees could be specifically requested to address the standards and conformity assessment related issues being raised by the Members. However, the SPS & TBT Committees should not only take up the issues already raised by the Members in their submission to the NGMA but at the same time Members should have the opportunity to bring forth further related issues in these Committees so that the SPS or the TBT Committees could inform the NGMA as to how the work would be carried out. In some cases different aspects of a NTB could be considered in different fora, in which case coordination and information flow between all these fora would be important. Regarding the SPS/TBT issues, for example, preferential conformity assessment procedures within RTAs were seen to be adversely affecting the market access interests of non-Members. Such issues would be considered in all the three fora, namely NGMA; SPS/TBT Committees and the Negotiating Group on Rules (NGR). Proposals made on addressing NTBs had included suggestions for the consideration of both horizontal and vertical, i.e. sectoral, mechanisms. The relevant bodies/committees could consider any mechanism, i.e., a sector specific approach; horizontal mechanisms; and/ or bilateral request and offer approach, as appropriate. The NGMA should be regularly briefed by the relevant bodies/committees on the progress of the resolution of NTBs so as to facilitate harmonious developments in both tariff and non-tariff issues. India did not agree with the view that since some of the NTBs notified related to trade facilitation or government procurement, that would be a basis for commencing negotiations in those areas. Trade facilitation and transparency in government procurement were being studied in detail by Members in the relevant working groups. Whether negotiations should commence or otherwise should be a matter for Ministerial Decision and it was not for the NGMA to anticipate it one way or another. The effort within the Group should be to try and address the issues within the available rules and instruments.

1.163 Regarding trade facilitation, several types of issues had been included and some of these, for example, those relating to licensing and related procedures, rules of origin – both preferential and non-preferential and customs valuation, etc. would be considered by the existing committees/fora. However, there were some issues like restrictions on port of import, information regarding customs procedures, etc. which *prima facie* involved Articles VIII and X of GATT 1994 and which India

suggested should be referred to the Committee on Market Access for consideration. His delegation had noted the suggestion made in some proposals of following a plurilateral route, which, thereafter, could be multilateralised. However, in order for these negotiations to be meaningful and development-oriented they had to be inclusive and all points of view and options had to be considered. India refused any suggestions that excluded certain Members from participating in any aspect of the work in the Group or in any other committee or body. It was not convinced that a plurilateral approach would offer any additional benefit over a multilateral approach.

1.164 India did not support the proposal that export taxes be dealt with as a non-tariff barrier. Export taxes had a fiscal implication, they were important as a source of revenue including for financing developmental expenditure related to an industry and they also encouraged value addition. Export taxes were not a market access issue and therefore India was unable to accept some of the suggestions that they should be included as a NTB. Turning to the Japanese paper, his delegation did not comprehend the need to prioritise the NTBs, at least at the present stage, either in terms of sectors or in terms of their nature. All NTBs restricted market access and needed to be effectively addressed. He had already indicated his delegation's views on export duties and export restrictions. He sought clarification from Japan regarding textiles and clothing, on how country of origin marking, transshipment and so forth were market access barriers and why they should be taken up in the NGMA. As for the EC paper, his delegation perceived a certain preference in it for systemic solutions for the NTBs with more horizontal provisions based on GATT Articles III and XI. The proposal seemed to call for more disciplines for looking at effective implementation of current rules. Elaborate rules and agreements had not in the past ensured non-imposition of NTBs. The effort of the Group should primarily be to seek solutions to the problems using existing rules and disciplines rather than trying to create new rules and disciplines for which the Group had no mandate. India was not clear about the suggestion to use "reverse notifications" of restrictive practices as it understood that the present database on non-tariff barriers was already an example of such reverse notification. Members had informed about the practices in other countries which restricted their market access. However, Members had been sensitive in couching the information by outlining the problem, which was the focus of the Group's work. This was a constructive way forward.

1.165 The representative of Thailand stated that the US paper proposed that NTBs which fell within existing rules, for example, the Import Licensing Agreement, should be dealt with within those committees. He queried how transparency in the negotiations could be facilitated in such a situation. According to the US proposal, Members could inform the NGMA that they had raised NTBs in the relevant body or committee. His delegation sought clarification on this. He also sought clarification on the meaning of the phrases "the working committee may wish to inform the NGMA" and "specific bilateral issues". What were the criteria to distinguish between specific bilateral issues and other issues and who would decide which issues would be discussed in a multilateral, bilateral or plurilateral manner. Turning to the issue of transparency in the negotiations, he questioned why the terms of transparency between NTBs strictly related to existing rules was different from the transparency of NTBs related to other areas of the Doha Declaration. With the second group the Members could discuss and consider what kind of mechanism to use to ensure that the NGMA was fully informed, while the first group would just have to discuss whether to inform or not. Turning to the Japanese paper, export duties and restrictions should not be included in the negotiations on NTBs as they were outside the mandate. His delegation also sought clarification on the kind of procedures that Japan was proposing in terms of a sectoral approach. Regarding the EC's paper, he sought further clarification on the meaning of paragraph 19 which stated that "such an examination could, if necessary, result in modifications where the circumstances giving rise to the regulations in question no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner" as this was outside the Group's mandate.

1.166 NTBs should be discussed in the NGMA for a number of reasons. The NGMA had been granted full authority by the TNC to negotiate on NTBs. Some Members could argue that existing committees (Agriculture, Services, TRIPS, DSB, Environment) could provide some guidance or

recommendation to the NGMA but it could be quite difficult to have a solution in a timely manner. The US had provided an outline of how to work with those committees "where it may be possible to upgrade practical problems involving the administration of agreements through dialogue best practice and sharing positive experience thereby enhancing interaction between existing agreements and real market access". However, it was not the committee itself which should solve the problem but the parties who were experiencing it. Those committees became a forum for discussion and for raising concerns. It was not fair to bring additional, important topics to those committees. For example, in the case of the Customs Valuation Committee, the implementation issues were still unresolved; turning to the Rules of Origin Committee, the deadline to complete the programme of harmonisation in rules of origin had been missed for more than seven years. The second reason for retaining NTBs in the NGMA was that it would be easier on developing countries and LDCs who had human resource and budget constraints, as it would reduce the need to attend extra committee meetings. The third reason was that it would help facilitate developing countries and LDCs to better evaluate the overall picture of the industrial product market access negotiations. His delegation recognised the comments of some Members that moving NTBs to other relevant committees would avoid duplication of work but NTBs were mostly created by internal political pressure such as protectionist pressure. For that reason, political will was required to find a solution to the problem and such political will, in Thailand's view, was best found in the NGMA. The market access negotiations would be meaningless if the results in NTBs were not compatible with the results in tariff reductions. While this was Thailand's position it was ready to negotiate to ensure resolution of the NTB issue.

1.167 The representative of the Czech Republic stated that while NTBs were a very important part of the Group's work and were an integral part of the Doha mandate, it would be difficult to come to a comprehensive solution by applying only an empirical approach. In addition, some barriers could be in the form of rules, practices, action or non-action that prevented business being carried out or set limits on what could be done in business but difficulties arose from the fact that NTBs were chameleon-like and their impact on trade, rules, practice, action or non action could be different in each and every specific situation. This illustrated how difficult it could be to reach a comprehensive solution through a definition approach. Therefore, his delegation believed that a pragmatic approach would be the best way forward and many elements of such an approach could be found in New Zealand's submission. A request and offer approach could be a viable option but even so, in order to achieve substantial progress the multilateral dimension would have to be addressed. His delegation also supported proposals that the NGMA should avoid duplication of the work. In that regard, they supported the EC proposal to consider use of already existing mechanisms. An essential part of the Group's work should be to distinguish between rules and practices based on legitimate policy objectives and NTBs used for protectionism purposes.

1.168 The representative of Brazil stated that there was a certain number of common strands in the proposed approaches to treating NTBs. The basic approach in the proposals was to divide all NTBs into a series of clusters for different types of treatment. Brazil's concern was that despite the importance each Member seemed to be attributing to NTBs it appeared that very little would be left for the NGMA to do. This was all the more worrying considering that the issue of NTBs was not as easily divided into very discrete clusters as would seem to be indicated in the proposals. The first common approach was the view that those NTBs which related to existing agreements for which there was no negotiating mandate should not be dealt with precisely because there was no negotiating mandate. Some views had been expressed that they should be referred to the relevant, specific committees for treatment as an implementation issue. While this was good in theory it was uncertain how it would work in practice. Some of the agreements did have a negotiating mandate under implementation and while they had been discussed for over a year in committees the result was far from encouraging. Brazil was concerned that if the Group referred an issue to a committee it may, as it did in the implementation debate, spend half the time discussing whether it had a negotiating mandate or not. Brazil also had doubts about the success of this kind of approach when it came to the issue of rules of origin. Rules of origin had an outstanding negotiating mandate from the Uruguay Round but

there was no specific negotiating mandate from Doha so there would be an issue around where eventual problems for rules of origin in this cluster approach would be classified.

1.169 Some proposals referred to a kind of vertical or sectoral approach to the treatment of NTBs, but Brazil wondered if a vertical approach for a specific sector was agreed upon, would that include those agreements for which there was no negotiating mandate, as there was a sense from the proposals that in those cases the NGMA could deal with agreements which had no negotiating mandate. There seemed to be a lack of clarity as to the precise divisions of these clusters. The second cluster referred to those issues which had a clear negotiating mandate from Doha. There seemed to be a broad consensus that they should be dealt with in the relevant bodies to avoid duplication, and his delegation had no problem with that. Regarding those defined as "other areas arising from the Doha work programme" Brazil was a bit perplexed about a blanket coverage of Singapore issues in this area and sought clarification as to how Members saw the relevance of references to government procurement, investment and competition in this regard. This was all the more evident in the area of government procurement as Ministers specifically excluded market access from the work on government procurement. Finally, another common strand was that other outstanding NTBs could be dealt with directly by the NGMA. Brazil would appreciate some further elaboration on what these remaining outstanding issues were. There were some generic references, but they wished to have a more concrete idea of what would be done in this Group.

1.170 The representative of Switzerland stated that NTBs was a very important issue to her country and no market access negotiations would be complete without thoroughly addressing the issue. Referring to New Zealand's submissions, they were very pragmatic proposals which contained two important principles that Switzerland supported; that the NGMA should not duplicate work being carried out in different fora and that a multilateral approach should be taken. The US proposal was very clear on the different categories of NTBs and where to deal with them. Switzerland was interested in the idea of a plurilateral approach in circumstances where the sector or product at stake would be of specific interest only to some Members. It would be important that if the plurilateral approach were to be taken, it would be on a MFN basis - the example of the ITA in this respect was very helpful. With regard to the EC's paper, Switzerland supported the proposal in paragraph 10 that in order to help Members like LDCs to implement WTO obligations, technical assistance and capacity building for those countries should be fostered rather than going through dispute settlement. Switzerland supported the proposal in paragraph 14 of that submission of a thorough analysis of measures which fell into the purview of the TBT and SPS Agreements with the purpose of having these measures dealt with within the relevant fora. Switzerland sought further clarification on the thrust of the proposal in paragraphs 19 and 20 regarding the domestic regulatory process and the possibility to seek information from Members on the regulatory measures.

1.171 The representative of Hungary stated that his delegation fully supported the reduction and elimination of trade distorting measures while understanding that many NTBs were covered by the various WTO Agreements and were legal under WTO. In order to avoid duplication, Hungary fully agreed with the idea that the NGMA should deal with those NTBs for which there were no rules or where the current rules were unclear. In this respect, Hungary attached great importance to the discussion on export taxes and duties. These practices constituted a real problem because more and more countries were resorting to them mainly because the GATT had traditionally focused on import policies in the past since the countries maintaining export duties and taxes had refused to deal with this question. Export taxes and duties had trade distorting effects, avoided price competition among exporters, raised the foreign price and tended to lower the domestic price of the products concerned. As a consequence, importers' access to supplies was threatened by such policies. The problems of access to supplies and access to markets were linked. It was clearly recognised by the GATT Contracting Parties in Article XXVIII *bis* of GATT 1994 "thus negotiations on a reciprocal and mutually advantageous basis, directed to the substantial reduction of the general level of tariffs and other charges on imports and exports are of great importance to the expansion of international trade". Some delegations referred to the Group's mandate as a reason for refusing to discuss export

duties and taxes but Paragraph 16 of the Doha mandate referred to NTBs in general; Part IV of the inventory of NTBs listed export duties and taxes as NTMs. It was the Group's task to decide on the selection of NTBs for negotiations. Members were in the process of liberalising trade, discussing modalities for further reduction or elimination of tariffs including the reduction and elimination of tariff peaks, high tariffs and tariff escalation in order to improve the competitiveness and the market access possibility of third party countries in its markets. At the same time some Members were reducing their own competitiveness by levying taxes or duties on certain products of exports. This was a serious problem and consideration had to be given to the possibility of strengthening disciplines in this area.

1.172 The representative of Indonesia stated that, as mandated in the Doha declaration, negotiations on NTBs had to constitute an integral part of the negotiation of non-agriculture market access. If Members had high ambitions for tariff reductions then the same ambition should be applied in the area of NTBs. Indonesia was very interested in addressing problems related to NTBs as their proliferation was creating a significant barrier to Indonesia exports. However, Indonesia agreed with Japan's observation that NTBs were also closely linked to legitimate public policy objectives. Therefore, the modalities to be agreed upon had to take this into account and not restrict Members' ability to set legitimate policy objectives. Having reviewed this compilation of NTB notifications, it was clear that this Group needed to develop various modalities to effectively address many of these barriers. As a starting-point, Indonesia would prefer a multilateral solution to the issue and would also be in favour of avoiding duplication with other WTO work in this area. In conjunction with some other Member proposals, Indonesia believed that those NTBs which were covered by various WTO agreements for example, TBT, SPS and Import Licensing, should be addressed in various subsidiary bodies. The NGMA had no mandate to re-open various WTO agreements and it should abide by that mandate. Another issue that should be discussed was the excessive use of safeguard measures on the distribution of quotas. Some problems in this category stemmed from slow implementation of GATT and WTO disciplines or the unclear or imprecise nature of the specific provisions. Given that some Members had concerns relating to the resolution of NTBs in subsidiary bodies, it would be necessary to think creatively about how to develop a mechanism that would link the NGMA and respective committees, such as a reporting mechanism for example, as the EC delegate had said. The Group had to make sure that if it succeeded in removing NTBs they would not be replaced by new barriers. Further horizontal mechanisms might have to be developed. For those aspects related to customs issues it was necessary to build close cooperation with other international organisations such as the World Customs Organisation and to continue to work in the Council on Trade in Goods on clarification and improvement of Trade Facilitation.

1.173 Indonesia disagreed with some Members who proposed to negotiate export duties and restrictions as well as buy national campaigns in the NGMA. The Group should focus on other areas where there was consensus to negotiate and avoid prolonged discussions on contentious issues that might prevent progress on NTBs. The EC had recognised that GATT traditional work was focused on import policies and once again the negotiations were dealing with import side related problems. A specific mandate would be required from Ministers if the WTO wished to conduct negotiations on the export side. A request and offer approach could be used to address problems relating to various WTO agreements although Indonesia preferred a multilateral solution. However, given the broad WTO membership, conducting request and offer negotiations might result in a heavy workload. As far as a sectoral or plurilateral approach was concerned, Indonesia agreed with Romania and Mexico that it was necessary to have a critical mass of countries before following this approach, and it should only be used on a voluntary manner. Apart from this general approach, it was important that special and differential treatment be an integral part of NTBs modalities. Unlike the proposals on tariff negotiations, none of the proposals on NTBs contained any element of special and differential treatment. Furthermore, these negotiations had to take account of products of interest to developing countries and one way to achieve this objective would be to push the sectoral approach.

1.174 The representative of the Philippines stated that it appeared that more developed countries had a greater stake in the NTB negotiating process than developing countries, which he had considered should be the principle demandeurs as their exports really bore the impact of some very creative and non-transparent barriers from developed countries. Therefore, he hoped that developing and developed countries would work in a cooperative manner to find a resolution to the NTB issue under the Doha Agenda. As the scope of NTBs was so broad, and taking into consideration the fact that they came in discrete forms, classification of NTB was necessary, even on the inventory that each country had submitted. Arising from this classification, all submissions of individual Members should be given similar and equal treatment. This would largely be a demand-driven process and would be product and issued based. He welcomed New Zealand's pragmatic approach to the issue which not only dealt with the classification of NTBs but more importantly proposed means of dealing with the issue, especially for developing and least developed countries. The Philippines did not agree with Japan's proposal that seemed to imply a principles and objective based criteria for prioritising NTBs. It was necessary to distinguish between prioritising and classification for the purposes of equal handling, because prioritising meant that the Group would only prioritise on the basis of certain outcomes that were foreseen before going into negotiation. Because of the issue of over-lap and considering the scope and variety of diverse issues in each product and issue based category of NTBs, it would be difficult to avoid the perception of prioritising. For example, the presence of SPS, import licencing, customs valuation and rules of origin would raise questions as to whether these product and issue based problems should be dealt with in the NGMA or if they should be left to the different Committees. Paragraph 16 of the Doha mandate granted authority to the Group to negotiate NTBs regardless of whether they fell within existing WTO agreements. In addition, the Group had agreed that it should have complete ownership of the negotiating process and for that reason his delegation agreed with Thailand's proposal (TN/MA/W/26) that with the exception of those issues which currently had existing negotiating mandates like anti-dumping, subsidies and countervailing and safeguards, as far as possible this Group should set up a structure of its own to deal with these issues. The NGMA would need technical resources and other support measures to allow it to coordinate with international institutes and organisations. The negotiators in the different committee and bodies referred to were also involved in the NGMA so the Group had to decide whether it dealt with NTBs itself, controlling and managing the process and outcome according to its own time scale, or whether it would allow another group to manage them. The Philippines proposed that NTBs, with the exception of those covered by existing negotiating mandates, should be dealt with within the NGMA.

1.175 His delegation needed to reflect further on the sectoral and plurilateral approach proposed in the US paper. The ITA experience was a good guide as were other product sectors like textile and clothing, motor vehicles, forestry, fisheries and if this was acceptable, processed fruits and vegetables. His delegation recommended a product specific, issue specific discussion which could be conducted either on a request and offer list or through a plurilateral discussion. The resulting decisions could be multilateralised. Rather than stick to a cluster and sectoral approach, his delegation also recommended that any NTBs cluster or sector that would be set up should work on the basis of product specific and country specific issues that could become a cluster of sectors later on. The EC proposal on domestic regulations was over-ambitious as these were fundamental sovereign rights of States and if other such issues were perceived by the EC as NTBs they could intrude into regulatory decisions of States which could be the beginning of a very slippery road. This was a fundamental issue which the Philippines could not support. Export duties were not NTBs in the sense that they affected imports from other countries and it was really something that had to be considered as a State flexibility. Certain issues like conformity assessment could be approached on a generic basis. These were significant issues for developing countries. In its submission TN/MA/W/27 Uganda, Kenya and other African countries stated that rules of origin and some phytosanitary certification issues were obstacles to their products even under preferential agreements. The Philippines had a problem with SPS relating to food and agriculture products. An OECD survey pointed to SPS as being the major concern of 65 low and middle income exporting countries to the EC. He questioned what would happen to agricultural and food products which were under the agricultural negotiations. Noting that the market access mandate was part of a single undertaking, he questioned whether developing

countries would accept what would undoubtedly be a highly asymmetrical outcome from the negotiations. For that reason, his delegation would keep track of the linkage between progress on non-tariff barriers in the NGMA and in the Negotiating Group on Agriculture.

1.176 The negotiating mandate required that any modalities to be agreed for negotiations on industrial goods should include appropriate studies and capacity building measures to assist LDCs' effective participation in the negotiation. This had not been discussed at all in the Group, but he would recommend that an analysis be carried out of the extent to which LDCs were negatively or positively impacted upon by the NTBs in developed country markets. This should be a very focused analysis to give an idea on where developing countries should put their emphasis when negotiating NTBs with developed countries. A second study should be carried out on the issue of MRAs or recognition of equivalents and how they effectively and adversely compromised legitimate national policy objectives of developed countries and the legitimate market access ambitions of developing countries. A third study should be carried out on how to use technical assistance and capacity building resources to improve the supply side capability of LDCs and developing countries as far as products affected by NTBs were concerned.

1.177 The representative of Argentina stated that in view of the arguments presented in the written and oral submissions NTBs appeared to be a complex topic. Argentina's preference was for dealing with NTBs in the NGMA because each country would evaluate the results of the negotiations in the light of notifications presented and if this Negotiating Group did not come up with solutions to NTBs that had been notified to it, then the results would be negative. With regard to the concrete proposals made, he referred to the United States submission which included services and raised the need for the Negotiating Group to be informed of the developments in the services sector because of the implications that some services may have on trade in goods. There were some services related to goods which would not be within the NGMA's mandate and which would complicate the discussion. Export tariffs were not NTBs in terms of the Group's mandate, they did not affect imports and it was unclear how they could be considered as such. The arguments made by Japan concerning obligations between importers and exporters, as well as Hungary's argument with regard to resources, complicated the discussion even further. There were many access difficulties but these were not NTBs and therefore were not part of the mandate of the Group.

1.178 The representative of Cuba stated that his delegation recognized the growing importance of NTBs in the current transition to a tariff-free global trade environment, since such barriers were considered to be the factor with the greatest impact on market access potential. While recognizing the complexity of dealing with these issues, some of the ideas that had been put forward could contribute to advancing work in this area. One such idea was New Zealand's initiative for the promotion of horizontal disciplines in the WTO Agreements, thereby avoiding the duplication of tasks. However, his delegation did not favour dispute settlement as a modality in itself. At the same time, once the scope of the negotiations for the reduction or elimination of non-tariff barriers had been defined, the request/offer approach would be an appropriate mechanism and his delegation agreed that the results of the negotiations should be included in the schedules of concessions, in the interests of greater transparency. Export restrictions or prohibitions must be suitably dealt with as a non-tariff barrier and disciplines should be accepted with a view to their immediate elimination. It was unreasonable for this Group to propose or agree to ambitious tariff-reduction targets as a means of promoting trade liberalization, recognizing the contribution this would make to global economic growth, while at the same time allowing Members to restrict or prohibit exports to third countries. If the issue of export restrictions was not tackled appropriately, this would introduce a double standard in the current negotiations within the NGMA.

1.179 The representative of Bolivia stated that the discussions on these major issues needed to be structured in order to, for example, determine the coverage of NTBs, what exactly was under consideration and where consensus could be reached before advancing to negotiations.

1.180 The representative of China stated that his delegation strongly opposed the inclusion of export duties and restrictions in the discussion of NTBs and suggested that special and differential treatment should be fully demonstrated and taken into account in the discussion of NTBs.

1.181 The representative of New Zealand stated that the US paper outlined a very comprehensive approach which was the fullest account of the range of tracks that were open to the Group. Chile's paper had also been useful as it was a systematic attempt to identify areas of convergence in proposals that had been put forward so far. A number of submissions proposed the referral of issues to existing WTO bodies and committees as one approach. Brazil, the Philippines and Thailand, among others, had offered a caveat on that approach during the meeting, for various reasons. New Zealand shared with these delegations a sense of caution about seeing that approach as a principle modality for the NTB negotiation, in particular because there was a risk of it becoming a way of handling issues which would otherwise be considered too difficult to deal with. His delegation welcomed the fact that there was now a very substantial contribution from the EC. This was particularly important given the extent to which EC approaches and EC thinking on non-tariff issues would have to be a factor in the negotiation. There was one specific aspect of the EC submission that nevertheless caused concern and this was the reference in paragraph 14 to "thorough analysis of existing disciplines", in relation to the TBT and the SPS Agreement. Indonesia and a number of other delegations had expressed reservations on this approach and New Zealand shared those reservations. The EC had elsewhere called for authoritative interpretations of provisions of the SPS Agreement and for clarification in relation to the application of at least some provisions of the TBT Agreement. New Zealand regarded those approaches as tantamount to reopening those agreements, and questioned whether the case for those additional interpretations had been satisfactorily made in this forum. Those agreements provided generally sound frameworks for the areas they covered and his delegation would advise caution about reopening them. His delegation also sought elaboration on the EC's suggestion in paragraph 19 of its submission in relation to a review of existing regulations affecting market access. They were unclear on what the EC envisaged in that approach and how it would work. There was no formal submission from India on NTBs as yet but India's statement at the meeting contained as much substance as a number of submissions that had been received. It was an important contribution because it seemed to indicate a different philosophy from the majority of submissions that had been made so far. It might imply setting up a number of procedural requirements and conditions and linkages which would have quite important implications for the management of the NTB negotiation. It contrasted with the weight of opinion in other submissions which seemed to envisage a more open, flexible, multi track, approach offering flexibility to the proponents and to interested parties to pursue individual issues or clusters of issues effectively within a wider framework.

1.182 With regard to Singapore's question in relation to the distinction between horizontal and generic clusters approaches (TN/MA/W/4) this was simply a distinction between horizontal and vertical or sectoral approaches. In response to Brazil's concern about vertical or sectoral approaches, it came down to the nature of the measures involved. In general, it was better to deal with clusters of measures rather than individual NTMs, purely on the grounds that to tackle the individual measures risked leading to gridlock given the potentially very large number involved. It then seemed that there were two natural ways of dividing those clusters. Sometimes groups of measures would be similar across sectors in which case a horizontal approach would seem to be the natural way of dealing with them. There might equally be some measures that did not lend themselves to a horizontal approach and would be best dealt with on a vertical or sectoral basis. In their submissions, New Zealand had tried to work from an essentially pragmatic approach which implied being prepared to change or duplicate an approach if necessary. The example of the forest sector was indicated in their submission TN/MA/W/4. There were issues which suggested it could be profitable to bring together countries with an interest in the forest sector and take a concentrated approach to those issues, but equally the standards issue was an example which could equally be taken as relevant across a number of major sectors and which might ultimately call for horizontal approaches, so the two were not necessarily incompatible.

1.183 The delegation of Canada stated that the US and New Zealand submissions seemed to be the most interesting of the submissions. His delegation agreed with those who sought to avoid duplication in the Group's work. The NGMA already had a lot of work to do so they should not be duplicating what others could do better. The Group should focus on where it could add value and this would be in areas where existing committees and Doha negotiating groups were not established. New Zealand's ideas on sectoral clusters was interesting and was certainly something that Canada would be prepared to consider further. On the other hand, the horizontal suggestions for work in TBT would seem to be more suited for the TBT Committee. His delegation was not sure that the NGMA was the body to further apply international standards or address conformity assessment issues. The request -offer procedure had been mentioned by several Members, including Canada, as an appropriate means to address some issues but it should not necessarily be the preferred means. A more inclusive approach would be better. Addressing questions raised by Colombia on Canada's views on quotas, Canada could have been more precise in the language it used by referring to quotas as appropriate for work in this Group. There were obviously two kinds, one mentioned by New Zealand in its paper on quantitative restrictions and those could be addressed sectorally or bilaterally, or through dispute settlement, but there was another kind which could also be appropriately addressed in the negotiations and those were tariff rate quotas. Members might be more familiar with them in the agriculture areas but there were some Members who maintained tariff free quotas on non-agricultural goods and that would certainly be something to address in the negotiations, including the administration as well as the very existence of these issues. When Canada referred to the World Customs Organisation, they were making a generic reference to tariff classification issues and to the fact that should any specific issues arise, the WCO would be the natural place to address those. He also drew attention to the fact that while some Members had not yet implemented HS2002, the WCO was already preparing HS2006.

1.184 The representative of Bangladesh stated that given the complex nature of the subject-matter Members were still grappling with understanding the pros and cons of the details of the proposals. NTBs were an integral part of the negotiating mandate of the NGMA and Members had commented in the past that pervasive behind-the-border-trade obstacles in many cases were undermining the trade potential of developing as well as least developed countries. Members had recognised that as tariffs were being reduced countries were increasingly resorting to non-tariff measures to shield their interests with consequent injury to others. Bangladesh recognised the public policy objectives of individual countries but legitimate policy objectives should not undermine the legitimate objectives and principles of the multilateral trading system. Anti-dumping and countervailing measures were now commonplace against LDCs. A simple investigation into such measures would indicate that they were being used solely as a protectionist device. These measures acted as a deterrent to market access. Another instance of a NTB to exports was the stringent application of rules of origin. Meaningful improvements in market access required that such NTBs are eliminated. With regard to procedure, NTBs should be examined by the NGMA in order to establish appropriate modalities. LDCs had limited human resources available to them to allow them to follow meetings in the WTO and in order to allow their participation in NTB negotiations the NGMA was the right body to address all NTBs. On modalities, in principle, Bangladesh preferred horizontal approaches to the vertical approach or the product by product approach. Dispute settlement should not be pursued as a specific modality. As a principle they were opposed to the idea of a give and take approach to address NTBs. There was no need to adopt request and offer procedures because in most cases these NTBs arose from the failure of countries to properly apply the rules of the WTO agreements. Therefore countries facing such barriers should not be expected to make concessions for their removal. In the following three areas, at least, immediate measures should be taken. First, there must be a commitment from all membership on non-application of anti-dumping measures and countervailing duties on products from LDCs. Second, rules of origin must be relaxed and made flexible to match the industrial capacity of all countries. Third, with regard to SPS and TBT measures, assistance should be provided to LDCs to enhance their technological ability before countries imposed such barriers.

1.185 The representative of Latvia stated that his delegation associated itself with the views of the Hungarian delegation regarding export restrictions and duties. Having already made commitments as part of their WTO accession process not to maintain any export restrictions, either quantitative or in the form of export duties, Latvia hoped that the outcome of this negotiating group would make it possible to take horizontal commitments on a multilateral level, and not only with regard to newly acceded Members. From its own experience, Latvia had found that export restrictions were directly related to market access.

1.186 The representative of Australia stated that the papers presented seemed to indicate quite a significant degree of common elements. The immediate task before the group was to develop modalities for handling NTBs and Australia did not consider it necessarily to be a very complex task, nor did it require putting in place very elaborate structures to handle these aspects of the negotiations. In Australia's view NTBs was very much a Member-driven issue essence, therefore modalities should simply provide a framework that would give Members maximum flexibility to pursue their interests in NTBs as they saw fit. Other delegations had made that same point, particularly the Philippines. It was ultimately Members, or particularly their exporters, who had identified NTB problems and so the responsibility had to be on Members to further define that problem and make assessments about how to pursue the problem within the WTO in general and within the NGMA in particular. He outlined three areas that Australia considered should be covered by quite simple modalities. First, the modality should identify the range of possible avenues that were available for Members to pursue their NTB concerns - the papers submitted by Chile, the EC, Japan and perhaps most particularly the US had set out quite clearly what some of those avenues were. Secondly, the modalities could contain some procedural steps to enable Members to make further proposals which defined more clearly the precise nature of the NTBs that they wanted pursued in the Group. There needed to be some discipline in the description of NTB notifications as currently they were very broad and did not define precisely what the problem was and what the implications were. Once Members had details about the nature of the barriers they could then make their assessments about how best to pursue those issues. There was the dispute settlement process for any genuine problems but there was also recourse to the existing committees. New Zealand's paper provided an excellent case-study about how existing rules could be clarified to assist in addressing NTBs. If an issue related to only one trading partner it was self evident that the request /offer approach might be the best one. Alternatively, if it was an issue that potentially covered a range of sectors or could affect other Members, all these vertical or horizontal approaches might be appropriate, but the point was that it had to be a Member-driven process. Members would have to make these judgements themselves and so a range of modalities should be established that kept all these options open. There was no need to have very detailed and prescriptive rules for referring issues to other committees because as it stood, any Member that wanted to raise an issue that was within the mandate of an existing committee could do so already. The NGMA should not put in place additional bureaucratic procedures that would require a further clearance before they could do that. Some thought could be given to retaining NTBs as a standing agenda item so that if Members had concerns about the whole process they could air them. The modalities could be fairly simple and they should provide an open framework which would enable Members to signal to others that they had a concern, and to enable them to pursue their issues either individually or work with like minded Members in addressing their concerns.

1.187 The representative of the United States stated that it was looking to develop a process that would fulfil the ministerial mandate and give a successful and ambitious result on NTBs that would complement the ambitious results that were being sought on tariffs. It would be useful to have a structure that was manageable, pragmatic and flexible and that would lead to the best results. The US proposal tried to do this, bearing in mind the time constraints for the Doha negotiations. This was a demand-driven process and it was up to Members to raise their concerns in the fora and the subsidiary bodies where they thought they would get the best results. The United States proposal did not try to rank any of the particular methods. Each of them were equally applicable depending on the NTB and each Member should decide for themselves whether that particular NTB would best be taken up horizontally, vertically, through request and offer approach, in a bilateral context or any other

approach. The US strongly agreed with the need to avoid duplication of work. There had also been a concern raised that NTBs negotiated plurilaterally or bilaterally might raise barriers to third countries and mention had been made of FTAs that may in the past have done just that. The United States proposed that results be applied on a MFN basis so that benefits could be shared equally by all. Her delegation agreed with many of the points that had been raised by India and they were open to further discussion about these ideas. They did not understand India's concern about the plurilateral agreement because this would be applied on a MFN basis. To some extent these could be voluntary agreements but it would be necessary to have a critical mass in order for this to be of the optimum benefit.

1.188 In response to Thailand's question on transparency, the United States had proposed a differentiation between the transparency which operated between the NGMA and existing WTO committees and between the NGMA and other areas of the Doha mandate as an attempt to differentiate between the fact that the existing committees were already set up and some of the other groups had not yet been launched, for example, trade facilitation. The United States was not proposing to reopen any agreements through its vertical or positive commitment and looked forward to working with other delegations on some possible horizontal agreement to come out of the NGMA. Referring to Indonesia's and the Philippines comments on developing countries, the US was very interested in looking at sectors that would be of interest to developing countries. In its proposal they had suggested textiles and automotive products and were willing to discuss other sectors of interest to developing countries. In response to Argentina's question about why they had mentioned services in their proposal, it was because US industries had informed them of some services barriers that affected non-agricultural goods. Her delegation echoed the Australian comment on the need for very precise information on barriers and it was a useful exercise for delegations to consult with industry to get more detailed information on the NTBs in question. They also agreed with Australia that this was not an attempt to set up a prescriptive or bureaucratic process and that Members were free to raise issues in other committees. In fact, many of the issues that were listed in the various indicative lists reflected issues that had been in discussion in committees for some time.

1.189 The delegation of Chinese Taipei stated that the NGMA should address those NTBs covered by other negotiating mandates. They also agreed that there was no mandate to reopen existing agreements and any NTB relating to those agreements should be addressed in the appropriate existing WTO committee in order to avoid duplication of work. Those NTBs that were not already covered by other WTO bodies or negotiating groups should be addressed in the NGMA. However, it was unclear as to what NTBs would therefore remain to be discussed in the Group. He suggested that the Secretariat prepare a paper dividing those NTBs contained in TN/MA/W/25 into the four categories which were described in question 2 of JOB(03)/72 as it might give a clearer picture of the kind of NTBs that should be discussed in the NGMA and give some ideas on which approaches could be considered as core modalities or supplementary modalities. He requested Members who had proposed vertical approaches to provide more detailed information on the particular issues they wanted to deal with in those sectors they had highlighted, and how they wanted to proceed using this approach.

1.190 The representative of Malaysia stated that Malaysia's submission on NTBs would be available shortly. They were considering how to take this issue forward and were inclined to support the approach adopted by Australia that the Group should not be too structured in its approach. It should be up to Members to decide where and how to address their problems but Malaysia was flexible if there was a need for a horizontal or a vertical agreement. There should be no prioritization of NTBs. Neither should there be any reopening of the TBT or SPS Agreements. On the question of referring some of the NTBs to subsidiary bodies, while Malaysia understood the concerns of Kenya, Bangladesh and some other delegations, perhaps the best solution was to refer relevant NTBs to the subsidiary bodies but with a very clear mandate and specific timeframe outlined and a mechanism for regular reporting from the subsidiary bodies. There was the risk that nothing might happen in those subsidiary bodies but on the other hand this Negotiating Group could get into discussions on SPS or TBT measures and that would not be acceptable. The issue could be re-visited should this approach fail, but again with the caveat of no reopening of the SPS or TBT Agreements. The issue of export

taxes and export restrictions was clearly outside the mandate of the Group, as they were neither tariffs nor NTMs. Some Members had quoted Article XXVIII *bis* in support of dealing with export taxes and restrictions in this Group. But looking at it in the context of the market access negotiations, during the initial discussions on having a ministerial mandate to negotiate industrial tariffs developing countries had been assured by many Members that as in the GATT, the negotiations would concern only the import side. Some delegations had suggested that buy national campaigns were also an NTB but Malaysia did not agree with this. Malaysia had buy national campaigns but only for the purpose of encouraging domestic consumption of goods and did not involve a ban or prohibition on any imports of particular products. Similarly it had to be remembered that not all countries were members of the Government Procurement Agreement, it was a plurilateral agreement.

1.191 There had been some suggestions that trade facilitation and transparency and government procurement were NTBs, but Malaysia supported India's statement that trade facilitation issues should be brought to the Council for Trade in Goods (CTG) or the Market Access Committee. Those who were members of the Government Procurement Agreement could raise relevant issues within the confines of the plurilateral agreement. On the sectoral approach, Malaysia believed that it should be done purely on a voluntary basis and providing there was critical mass. For example, the forestry and fishery sector was one of interest to Malaysia and they might like to pursue a sectoral approach on that provided there was critical mass. In the absence of critical mass then consideration would have to be given as to how best to address the issue. However, there should not be too strict an approach. Even a request and offer approach could be used if it was an issue that a Member faced with just two or three other WTO Members.

1.192 The representative of Egypt stated that since NTBs were an integral part of the NGMA negotiations they should be dealt with on a multilateral basis. He also recalled that the NGMA was the only group with a negotiating mandate on NTBs. His delegation was not clear on the purpose of referring related NTBs to existing WTO committees. It questioned the usefulness of the exercise, the expected outcome and the required time-frame, taking into account that the NGMA had to produce modalities on both tariffs and NTBs at the same time. On the issue of reporting, Egypt felt there could be a systemic concern about one body under the CTG or the General Council being requested to report to a similar subsidiary body under the TNC and not to a higher body. His delegation concurred with the issue raised by a number of delegations concerning what seemed to be an attempt to link NGMA negotiations with Singapore issues. Addressing those issues was outside the mandate of the Group.

1.193 The representative of Chile stated that the Japanese paper provided a basis for dealing with NTBs. Chile shared its view that existing committees in the WTO could be used as a means of addressing NTBs so as to avoid duplication of efforts. National policy objectives in the use of NTBs could also be taken into consideration. However, it was not clear how horizontal disciplines would be applied in existing WTO committees. These committees in many cases administered agreements for which there was no negotiating mandate. His delegation sought further clarification from Japan on this point. Along with other Members, Chile had doubts about the sectoral proposal that Japan had made. While it was reasonable to take a sectoral approach to deal with certain NTBs, a zero-for-zero approach for certain areas would be premature. Many Members, including Chile, would prefer to avoid or minimise the use of sectoral disciplines in NTBs. His delegation also sought further information from Japan on its suggestion that new horizontal disciplines would be discussed, perhaps even in agreements that were not covered in the NGMA's mandate. The United States proposal had a number of interesting elements including specific measures which Chile considered appropriate. However, they would like further information on which inter-governmental bodies, as suggested by the United States, might play a role in the negotiations, what their role would be and how they would link with the NGMA's work.

1.194 Chile agreed with a number of points made in the EC proposal and with their general approach to the issue. Among the important points to reiterate was the need to differentiate between

legitimate regulation measures and unjustified barriers to trade. Certain NTBs were due to insufficient implementation of WTO agreements but some were a question of non-compliance. These issues could not be resolved in the negotiations. It should be possible to tackle a number of NTBs that companies encountered when they tried to do business and the Rules Committee might examine anti-dumping measures and other measures with the same objective. Chile did not agree with the EC solution for dealing with NTBs contained in paragraph 12 of its submission. The EC had identified a number of areas in which there were either no rules or insufficient rules, for example, buy national campaigns but they did not clarify whether there were laws in certain Member countries with regard to government procurement which promoted national purchasing. Chile sought further clarification from the EC on this point. Other examples raised by the EC and on which Chile wished to have clarification were the difficulties arising from regional or independent bodies and difficulties surrounding cross-border application of national law. In general, a number of areas that the EC had identified for negotiation were outside of this Group's mandate. When the EC suggested considering proposals for clarifying or interpreting the WTO rules which were not sufficiently clear this was tantamount to re-opening agreements for which the Group did not have a negotiating mandate, in particular, agreements on TBT and SPS. These were not in the mandate and Chile would not like them to be because there was no need for them to be revised. These disciplines were appropriate even though there had been some problems. Implementation and non-compliance problems could be solved through different channels without negotiations. Chile did not understand what additional mechanism could be used to do away with barriers to market access nor what the EC was suggesting with regard to the procedures and criteria for the internal regulatory process for each member state.

1.195 His delegation agreed entirely with Australia that negotiating modalities for NTBs should be a flexible framework and that the negotiations should be governed by the Members and their interests. Another point repeatedly made was that there were some measures that could be considered NTBs but for which this Group did not have a negotiating mandate. It was important to be clear about this. When Chile suggested that a measure which could be a NTB be dealt with, it was not trying to define the scope of action for the Group but rather was trying to determine responsibility; in some cases NTBs fell outside of the mandate given the Group by Ministers. Similarly, not all NTBs should necessarily be negotiated as many NTBs identified by Members were linked to implementation problems of WTO agreements. There were existing WTO structures which helped Members to solve such problems and the NGMA should not spend the little time it had on trying to find new solutions to those problems. A number of delegations had said that there was a very close inverse link between NTBs and tariffs. NTBs did have an impact on imports and it was important to reduce or eliminate them as stated in the mandate, but Chile would like to be equally ambitious when it came to actual tariff negotiations.

1.196 The representative of Japan stated that his delegation would respond to requests for clarification either bilaterally or at a later stage. With regard to comments on export duties, he expressed his delegation's support for the logical and persuasive comments made by the delegation of Hungary.

1.197 The representative of the European Communities asked whether the proponents of sectoral approaches had evidence of sector-specific NTBs and whether there were any reasons why the commitments that might be undertaken to remove these barriers might not be extended to other sectors. She sought clarification from Canada as to their reference to quotas in TN/MA/W/19/Add.1 as quotas were prohibited under Article XI. Paragraph 19 of the EC submission stated that within a domestic regulatory process there might be mechanisms by which Members could assess the impact of NTBs in terms of market access and would allow for a review of those measures once the conditions giving rise to the measure no longer existed. The EC was open to other ideas on this from Members. The EC had no intention of launching new disciplines but to use existing tools, possibly improving them, with particular reference to the notification system. Her delegation was pleased that India considered that TN/MA/W/25 might be a contribution in terms of reverse notification since there had only been one reverse notification in 2002 under that mechanism and that spoke volumes

about the effectiveness of the tools currently available. Delegations had queried the link between the proceedings in the NGMA and what the EC submission considered as other NTBs, for example, investment. Industries within the EC had identified those issues as barriers and they were owed the process of having their issues addressed within these negotiations if possible. With regard to the comment that the NGMA should only deal with negotiations on the import side, market access could not be restricted to imports only as that would be an injustice. The NGMA was dealing with market access as a whole which included both the import side and the supply side since the supply side could affect a country's possibility of further market access. It was for that reason that her delegation had addressed certain issues in its submission such as export taxes. It was inevitable that if export taxes or other restrictions to exports were also being negotiated also by newly acceded Members, they must have some impact on trade policy.

1.198 Thailand's statement provided another perspective on NTBs. While it was true that some issues might require political will, saying that bodies within this institutions were deprived of that political will was surprising. She sought further clarification from Thailand as to whether issues which pertained to implementation and which might require technical assistance rather than political will would have to be negotiated in the Negotiating Group. There had been points raised in connection with the listing that the EC had made under paragraph 12 where it referred to some specific elements which seemed to them to be important, the main one being the buy national element. The EC had the right to raise this as a NTB since it was something that was hurting exporters. It was up to the Members to decide whether this issue would be negotiated. In response to a question from Switzerland on the issue of SPS and TBT (paragraph 14), the EC were thinking in terms of the triennial review of the TBT as an opportunity for Members to discuss the problems pertaining to that agreement. While it was not something that the EC wanted to impose on the membership, document TN/MA/W/25 highlighted the fact that nearly a majority of elements listed concerned SPS and TBT and yet there was no acknowledgement of the difficulties in the TBT and SPS Agreements. Referring to rules of origin, she sought clarification on whether Members were referring to preferential rules of origin or non-preferential rules of origin which were being harmonised under the harmonisation work programme and which had an impact on different instruments such as anti-dumping. She expressed her surprise at the constant references to rules of origin as an obstacle within the discussion. The EC document was for discussion purposes. It deserved discussion on some of the ideas it contained, in particular those contained in paragraph 12 and those referred to in the final parts of the document.

1.199 The representative of Canada stated that that there were two kinds of quantitative restrictions maintained by some Members, visible and invisible. While Canada had raised the possibility of addressing this issue under dispute settlement it could also be addressed in the negotiations and the request/offer approach would probably be the best procedure to use on that. The issue could also be addressed through sectoral processes because NTBs seemed to be more prevalent in certain sectors than in others, for example, fisheries or forestry. The other kind of quota was tariff rate quotas and while those were more frequently used in agriculture, they were used as well in other sectors. There would be issues around both the level of those quotas as well as the administrative procedures surrounding them, all of which could be the subject of negotiation in the Group.

1.200 The representative of Malaysia stated that the fact that some newly acceded Members had had to make obligations on export taxes did not give the EC the legal or moral authority to impose such obligations on other WTO Members.

1.201 The representative of India stated that some interventions appeared to suggest that the approach of remitting specific NTMs to specific committees might not really deliver. India shared this concern because they had also seen how these specialised committees had not been able to make decisions on implementation issues, customs valuation issues, etc.. Therefore, when India had suggested that these NTMs could be distributed to the respective committees to be addressed there, it was with the view that the modalities being considered would enable the NGMA to ensure that these issues were addressed. On the one hand, there might be no alternative but to take recourse to these

specialised Committees for certain NTBs. On the other hand, a repetition of the experience of some countries not having their concerns addressed, or a very procedural or technical process not leading to any conclusion, would result in very difficult consequences which could have an impact on the balance of the negotiations. The mechanism agreed upon to manage the issue would have to give comfort to all Members. In this regard, India wished to include special and differential elements in the modalities, not in terms of technical assistance but in terms of items of interest to developing countries or in terms of easier conformance procedures. These were important issues to developing countries. Certain interventions seemed to suggest that the modalities should give maximum flexibility to Members to pursue their interests and that NTBs should be a Member-driven issue. His delegation would need to see balance in this approach, because while flexibility was fine, the concerns of all countries would need to be fully addressed. It was important the NGMA effectively manage this aspect of remitting to the specialised bodies was effectively managed by the NGMA.

1.202 With regard to the plurilateral aspect of the negotiations, certain delegations had remarked that such initiatives could go ahead if there was a critical mass of countries and if it was based on a voluntary decision. His delegation was worried about the critical mass and voluntary aspect. He gave the example of standards where a few countries might seek to fix them at a very high level and then seek to multilateralize the decision. This would have an impact on other countries. It was important that the process was an inclusive and multilateral one right from the beginning. He addressed the EC's question about the preferential rules of origin. It was the view of his delegation that both had been referred to but in a different context. India's frustration with the lack of progress on the non-preferential rules of origin was well known. The Secretariat could devise some means of distributing the identified NTBs among the different committees and then the group as a whole could take a decision on that issue. On the issue of export duties, if export taxes and restrictions were removed it would improve the income of farmers or producers in developing countries. If the Group was to approach the issue from that point of view then it would also have to deal with many other issues such as commodities stabilisation funds where producers would get a better return for its produce. The NGMA was limited to market access and should simply deal with that.

1.203 The representative of New Zealand stated that it was not an issue of whether there were NTBs restricted to one sector, it was more that there was potential value in applying a sectoral focus. New Zealand's submission (TN/MA/W/4/Add.1) gave a good illustration of that in the second boxed example which outlined generic NTBs in the forest products sector (page 4 of its submission). The first example was that of building codes which, in New Zealand's view, was an issue that would benefit from focused attention in a sectoral context involving in the first instance those delegations which had the greatest interest either as exporters or importers. Equally, that debate and any conclusions coming from it could be extended to a wider discussion on standards which was obviously a horizontal issue and, as India had pointed out, the TBT set of issues generally were perhaps the most prominent issues in document TN/MA/W/25. New Zealand did not see any incompatibility between those two approaches. In fact, sectoral approaches might be useful in some cases as paving the way for a wider horizontal discussion. The second question had already been addressed by Canada and related to quotas. New Zealand's answer would point to the lack of clarity and transparency in a number of the existing quota restrictions. They were not all promulgated and this made addressing them difficult in the first place. His delegation regarded quantitative restrictions as being GATT incompatible but that was true for a wide range of NTMs faced by their exporters in quite a range of markets and it was not realistic or feasible to take dispute action in the case of every measure that might be illegal. It seemed to them that the negotiation route might be a less confrontational and a more successful way of approaching some of these issues.

1.204 The representative of the United States stated that her delegation supported the comments made by New Zealand in respect of why sectoral NTB agreements might be a way to proceed. Looking through the various indicative lists they noted that there were a number of NTBs listed concerning automobile and textile industries and they thought that there might be value in exploring

whether these should be packaged together. The US was not limited to automobiles and textiles and it was very interested in looking at sectors of interest to developing countries.

1.205 The Negotiating Group took note of the statements made.

1.206 The meeting went into informal mode to discuss the Overview Paper (TN/MA/9) and the Chairman's questionnaire on NTBs (JOB(03)/72).

2. Non-tariff barrier Notifications (TN/MA/W/25)

1.207 The Chairman stated that delegations had been provided with an advance copy of TN/MA/W/25 at the last meeting. The current version contained many notifications received since and it contained the submissions of 18 countries. Since the document had been issued, submissions had been received from three additional countries, Switzerland, Uruguay and Chinese Taipei. Norway's submission as contained in the document was incomplete due to technical difficulties with the file received. The document would be revised to incorporate new submissions and complete the information.

1.208 The representative of New Zealand stated that TN/MA/W/25 was an indication of where the main issues in NTBs lay and it provided a starting-point for considering how groups of issues should be organised and addressed in the next phase of work. It would be necessary to analyse the content of the document and organise the items which were currently assembled under national headings into some sort of functional categorisation. There had already been some discussion on that. On a positive point, while there was a large number of items listed they did not appear to be completely unmanageable as might originally have been feared when discussion first took place on a notification process. It was useful that Column 1 in every submission was empty with the exception of New Zealand which had filled in Column 1 but had carefully used a code which concealed the identity of the Members being referred to. The fact that Column 1 had been left empty for the majority of submissions was a positive development because it made it easier to approach the negotiations by dealing with issues on a generic basis rather than on a market by market in a country specific basis. That in turn facilitated multilateral or plurilateral approaches rather than locking the Group into bilateral or request and offer processes about which a number of Members had understandably expressed concerns. He enquired whether any informal analysis had been carried out within the Secretariat on the break-down of issues by inventory category.

1.209 A member of the Secretariat (Mrs. D. Probst) stated that the Secretariat was in the process of finalising all the information contained in TN/MA/W/25 and Add. 1, as well as the new submissions, into a database where it would be easier to categorise them by issue or by types of element, although not by country. It was near completion, particularly for submissions received so far. While no further internal analysis had been carried out the database would facilitate the information requirements of delegates in another format in the future.

1.210 The Negotiating Group took note of the statements made.

D. OTHER MATTERS

1.211 There was no discussion under this item.

II. OTHER BUSINESS

2.1 The Chairman confirmed his intention to submit to the Members of the Group elements of modalities regarding both tariff and NTB matters before its next meeting at the end of May. He would welcome any suggestions that delegations would have to make about the way to structure the agenda, the main item of which would be the consideration of the paper related to modalities for market access

negotiations on both tariff and NTB issues. He informed delegates that the dates of the meetings subsequent to the May meeting were 9-11 July 2003 and 18-20 August 2003.
