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Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 26 – 28 May 2003

Chairman: Ambassador P-L. Girard (Switzerland)

<u>Subjects discussed</u>	<u>Page</u>
1. CONSIDERATION OF POSSIBLE MODALITIES FOR NEGOTIATIONS ON MARKET ACCESS FOR NON AGRICULTURAL PRODUCTS.....	2
A. CHAIRMAN'S PAPER ON DRAFT ELEMENTS OF MODALITIES FOR NEGOTIATIONS ON NON-AGRICULTURAL PRODUCTS (TN/MA/W/35)	2
B. TARIFFS	52
- Incidence Of Non-Ad Valorem Tariffs In Members' Tariff Schedules And Possible Approaches To The Estimation Of Ad Valorem Equivalents(TN/MA/S/10)	52
C. NON-TARIFF BARRIERS (NTBS)	53
- Non-Tariff Barrier Notifications – Addendum (TN/MA/W/25/Add.1).....	53
D. CONSIDERATION OF DOCUMENTS SUBMITTED BY PARTICIPANTS AT OR SINCE THE GROUP'S LAST MEETING.....	54
E. OTHER MATTERS	55
II. OTHER BUSINESS.....	55

The Chairman stated that the agenda for the meeting was contained in document WTO/AIR/2098 dated 12 May 2003. An annotated agenda had been circulated as Job(03)/92. In addition, a fax had been sent to participants on 23 May 2003 which indicated that an informal information session on the formula was going to be held at 12.15 that day, in the same room, for clarification and questions by Members.

He pointed out that since the issuance of the airgram, three papers had been circulated, submission by Chinese Taipei TN/MA/W/19/Add.1, Colombia TN/MA/W/36 and the United Arab Emirates TN/MA/W/47. He also noted two corrections to TN/MA/W/35 for the French and Spanish versions.

The Negotiating Group adopted the agenda as circulated in WTO/AIR/2098.

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

A. CHAIRMAN'S PAPER ON DRAFT ELEMENTS OF MODALITIES FOR NEGOTIATIONS ON NON-AGRICULTURAL PRODUCTS (TN/MA/W/35)

1.1 The Chairman stated that the focus of the meeting would be on the draft paper on possible modalities as prepared under his own responsibility as Chairman and circulated under document TN/MA/W/35. The paper had been prepared on the basis of paragraph 16 of the Doha Ministerial Declaration and the Work Program of the NGMA as outlined in document TN/MA/3. It had also included the results of the work carried out during a series of formal and informal meetings of the Group since August 2002. He emphasized that the draft was not meant to represent the elements agreed on in whole or in part and that it was without prejudice to the positions of the participants. He underlined that some parts of the draft had not been fully elaborated and some points raised during discussions had not been included. It was in no way meant to be comprehensive. Rather, he hoped it could serve as a basis for the discussion on possible modalities. It would need to be adjusted, completed, refined or further expanded upon based on the discussions during the meeting. Furthermore, he hoped for a constructive discussion that would lead to an improvement of the text so that it could be positively considered by all. Participants should keep in mind the importance of preserving the integrity of the WTO multilateral trading system as embodied in the WTO agreements, building upon the market opening realised thus far as a major element in promoting trade and development and incorporating special and differential treatment as an integral part of the negotiations.

1.2 The formula was a new one that participants had not seen before and had been inspired in part by the formula proposed by China. It was meant to address the important points in the mandate such as reducing tariff peaks, high tariffs and tariff escalation as well as taking fully into account the special needs and interests of developing and least developed countries and the issue of less than full reciprocity. This would be achieved through various means. Participants own tariff averages were used as a core element of the formula, thus for those participants who had a relatively higher tariff average, the reduction would be lower because factor "ta" would be relatively high. "ta" was to be calculated as set out in footnote 6 of the document. Equally important in the application of the formula was the factor B. B taken together with ta would determine how much each tariff would be reduced for each participant. B was a unique coefficient that would need to be determined by the participants. In general, the lower B was, the greater the resulting tariff reduction would be. There was a document available in the room which provided detailed information on how the formula would work and what the reductions would be for different levels of "ta" and B. It would apply to each tariff line. The basis for applying the formula was set out in the five bullets to that section. The reductions would occur from bound rates after their full implementation (i.e. at the end of all Uruguay Round commitments for most participants. However, in the case of unbound items, the starting-point for reductions would be the rates established by multiplying the 2001 applied rate by a factor of 2. Non-*ad valorem* duties would need to be converted and their *ad valorem* equivalent would need to be based on the methodology outlined in Annex 1. The nomenclature used in the schedule would be 1996 but the negotiations would be finalized in HS 2002 nomenclature. However, if Members so desired they could commence with HS 2002 nomenclature if the corresponding concordance tables were provided. Finally, the reference period for import data would be 1999-2001, following the practice of providing three years of data in order to mitigate yearly fluctuations.

1.3 Credits may be given for autonomous liberalisation, as set out in footnote 2, provided that the items were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round. Credit would be given by using the previous higher base rate that was in place before the autonomous liberalisation took place. Thus for the tariff line affected, the reductions when using the formula might not require any further liberalisation or in any case would be less. Because the formula would be applied on a line by line basis the credit would not be applicable in those cases where the autonomous

liberalisation had been reduced to zero. This would be the case for the ITA and other similar initiatives. He underlined that the formula could only be successful if the relevant data were available for all participants. Therefore he urged all delegations to make their annual submissions to the IDB so that everyone could participate adequately in the Round of negotiations.

1.4 Sectorial tariff elimination would be an integral part of the modalities and applicable for all participants except LDCs. The sectorial elimination would commence from the bound rate after the full implementation of current concessions or in the case of unbound items the MFN applied rate in 2001. Elimination would take place according to different phases of implementation depending on the participants. For developed participants and those other participants who so decided, elimination of tariffs would occur at the end of the first phase. Each of the three phases would be of the same length and participants would determine what the length of the phases would be. Thus, for this category of participants tariffs would be gradually eliminated in equal annual stages within the length of time determined by the participants for the phase. For other participants a longer time-period was envisaged in order to achieve tariff elimination in those sectors. This would also be done in three phases. During the first phase tariffs would be gradually reduced in equal annual reductions to a level not exceeding 10 per cent. A second phase would then commence whereby no further reduction would take place but the same tariff level would be maintained. Finally, phase three would commence whereby the final reductions towards elimination would take place, again with equal annual stage reductions during this phase. The sectors had been chosen with a view to identifying products or sectors that were of particular exporting interest to developing countries. This was in line with the mandate which stated "...to reduce or eliminate tariffs in particular products of export interests to developing countries". He had requested the Secretariat to identify sectors where developing countries were significant exporters compared to developed countries and where there were significant possibilities for them to increase export growth through liberalisation of their markets. He realized that each participant would have particular products or sectors that were of interest to them but the sectors chosen were to benefit developing countries and least developed countries so that they could increase their export growth. He had defined these sectors very broadly and it would be up to the participants to specifically identify what was to be covered under each sector as noted in footnote 7. Thus, for the sectorial approach, participants would need to determine the product coverage applicable to each sector and also determine the length of the phases.

1.5 With reference to the negotiating mandate and the work program, the Chairman recalled that special and differential treatment for developing and least developed countries would be an integral part of all elements of the negotiations. Therefore, in order to provide for the issues raised in the discussion thus far, most importantly the issues of special and differential treatment and less than full reciprocity, the modalities included additional provisions to take these points further into account. In addition to the flexibility already provided for in the formula by using the tariff averages of each participant, developing countries were given additional flexibility by the proposal that up to five per cent of tariff lines could remain unbound provided that they did not exceed a total of five per cent of the value of their imports. They would also have longer staging periods for implementing the tariff reduction. LDCs would not be required to make reduction commitments as pertaining to the formula, sectorial elimination approach or supplementary approaches but they would be expected to substantially increase their level of binding commitments. Many participants had recognized the substantial market-access commitments already made by newly acceded Members on accession. Therefore, in order to provide some flexibility to them and noting some of their commitments had not yet been fully implemented it was proposed that coefficient B in the formula could be adjusted. Again, as B would need to be determined for all Members, it was not clear at this time what specific B could be used for newly acceded Members. However, he hoped that by incorporating this flexibility it would encourage the desired participation level and outcome for all participants.

1.6 The first four elements were all an integral part of the tariff modalities for participants. However, subsection 5 was meant to be a supplementary element to be undertaken by participants if they so desired. Based on the discussion thus far, modalities such as request/offer, zero-for-zero,

additional sector elimination as well as sectorial harmonisation had been mentioned by many participants and this was the reason for their inclusion under "supplementary modalities". Furthermore, the issue of elimination of low or nuisance duties was included. As there was no emergent consensus on these issues, they were included as a possibility in that section. Further discussions on these elements would be necessary.

1.7 With regard to the section on NTBs, the intent was to capture the discussion of the Group on this issue. Therefore, there were a number of approaches based on the type of NTBs identified. He emphasized the need for participants to continue with their identification and examination of NTBs, and the outcome of that exercise should allow the Group to proceed in the appropriate manner. There would be NTBs that related to other areas of the Doha agenda and previous discussions indicated that they should continue to be addressed in the appropriate fora established for them. For NTBs that currently did not have a specific negotiating mandate in the Doha declaration, the NGMA would need to further clarify the matter and decide if there was a need to send them to another WTO body. This would be done by reporting to the TNC in order for the NTB to be forwarded to the appropriate WTO body for action and reporting back. As for NTBs that would need to be addressed by this Group the specific modalities such as request/offer and horizontal or vertical approaches would need to be determined. It was currently premature to determine which modality would be applicable and therefore all possibilities should remain open.

1.8 Paragraph 16 of the Doha Declaration and its reference to paragraph 50 provided for appropriate studies and capacity building measures to assist LDCs to participate effectively in the negotiations. Part D of the Draft Elements paper explained what the Group had already done in this area and proposed that work would continue in this respect. The information contained therein was factual and there had been a substantial amount of work already completed as listed in footnote 11. The Chairman hoped that the Group could continue to make proposals and identify issues that would reinforce the importance of continuing this work as the negotiation proceeded.

1.9 The representative of Chinese Taipei stated that the paper on Draft Elements of Possible Modalities might demand further elaboration, fine-tuning or improvement before it served as a basis for more substantial discussions. In terms of the formula proposed in the draft, the introduction of the "ta" into the formula would result in a situation where Members with lower base rates would enjoy a larger tariff concession. His delegation questioned whether this was fair. In addition, the line by line approach with no flexibility for Members on some of their very sensitive product items could lead to deadlock in the negotiations. Members always had a few product items which were not only economically sensitive but politically or socially sensitive as well. If participants insisted on disallowing any flexibility on those sensitive items the negotiations would face a difficult situation. Bearing this in mind, Members should be allowed to retain lower tariff concessions on a limited number of very sensitive and difficult items. With regard to sectorial tariff elimination, his delegation was pleased to see that the sectorial approach had been listed as an element of the Chairman's paper. However, the draft should only provide Members with a guideline for further negotiation on a sectorial approach, rather than giving Members an impression that they already had an outcome in the NGMA negotiations. The sectors for sectorial tariff elimination should be open to further negotiations. In deciding these sectors the tariffs on exhaustible natural resources such as fishery products should not be eliminated for reasons of sustainable development. With regard to the issue of newly acceded Members, Chinese Taipei had proposed a longer grace period for Members' further consideration. However, it was regrettable to note that their points had not been incorporated into the Chairman's draft proposal. They hoped that the revised version of the draft proposal, if any, could accommodate their point in that regard.

1.10 The representative of New Zealand stated that the draft framework was a very technically sophisticated piece of work, with subtleties in its varying treatment of different elements, some of which were dealt with in a very specific way, some only sketched in, some defined but left wide open in terms of ambition and some left out altogether as gaps to be filled in at a later stage. Substantially,

it was a very direct response to the mandate, certainly for paragraph 16 of the Doha Declaration, although there was a question about consistency with paragraph 1 of the Declaration. His delegation welcomed the precise language on base rates, particularly the negotiation on bound rates, and on final rates being bound in *ad valorem* terms. Overall they were pleased to see definitive language on the table at an early stage on elements that would be critical for ensuring that negotiated tariff cuts would actually be delivered on in terms of the final results. As a core modality for tariff reduction, the paper proposed a single non-linear formula. The fact that it was a harmonizing formula acknowledged that the Group was heading towards zero, although his delegation would have welcomed a more explicit signal towards a comprehensive tariff elimination objective in the framework. As noted by the Chairman, the formula did address national peaks and escalation. To address international peaks along with high tariffs in many schedules would require a value for coefficient B that was closer to zero than to one. The framework delivered generously on the developing country provisions of the mandate, in particular, the use of national tariff averages as a variable coefficient was a fulsome response to the reference in the mandate to less than full reciprocity in reduction commitments.

1.11 The elements of the draft framework could be worked upon but balance and ambition would need to be built in. The current formula proposal implied that if a value of $B=1$ was assumed the major developed participants would face a tariff ceiling in the range of 2-4 per cent, while many major developing country participants could retain tariff ceilings in the 30-40 per cent range. That was a huge gap. This was matched by parallel issues among developing country participants. Assuming that $B=1$, and excluding newly acceding Members, tariff ceilings for the larger developing economies under this approach seemed set to range from 15 up into the 30s and 40s. These differences were not sustainable, leaving a question about how to ultimately address them. If the value " t_a " could be harmonized or compressed before running the formula, he questioned whether a ceiling or a floor could be put in for some participants to limit the discrepancies. Likewise, the proposal to allow some participants to leave up to 5 per cent of lines unbound raised a further issue of equity given that a large proportion of the Membership, including many developing countries, already had 100 per cent binding. Turning to market access, it was uncertain whether and how this framework delivered real market access results. It would certainly deliver for exporters into developed country markets, again under common assumptions about B. Gains into those markets would be even bigger with a low duty component, something which should be looked at seriously if the Negotiating Group was to derive an ambitious package. But to get new market access into major developing markets (South-South as well as North-South trade), there would need to be ceilings on final rates not in the 30s or in the 20s, but in the teens. With regard to the formula, such an outcome presented a value for B closer to zero than to one. The question was whether that was going to be achievable and whether it was realistic. If not, perhaps the Group should instead be looking for market access gains elsewhere in the modalities.

1.12 Turning to the sectorial element of the proposal, it was objectively a direct response to the mandate's emphasis on products of export interest to developing countries. Sectors identified were those in which developing country exports were concentrated and in which barriers were highest. It seemed that against the same criteria there had been at least one obvious omission in the form of forest products. New Zealand wondered whether consensus was going to be swiftly or easily achieved. If sectorial elimination and harmonization, rather than the formula, was to carry the weight of ambition, a wider range of sectors that responded to developed country interests would need to be seen under this part of the modalities. Again, the question was whether that was feasible. There were important trade-offs that emerged from these questions: domestic sensitivities vs. export interests; and a sectorial approach to achieving real market access vs. achieving market access through the formula for comprehensive tariff reductions. He believed the Group would hear some calls for a soft value for coefficient B, calls for further flexibility on leaving products unbound or outside the reduction commitments and calls for sectorial liberalisation to be purely voluntary – essentially a modality for developed participants.

1.13 The New Zealand representative questioned whether the mandate envisaged essentially unilateral reductions by developed countries and whether "less than full reciprocity in reduction

commitments" implied leaving actual applied rates largely untouched in the majority of markets. He also wondered whether the main contribution from major developing country participants would be purely in the form of binding final rates somewhat closer to current applied rates. His delegation did not see that as the sort of deal the mandate envisaged, nor did they not see it as commercially or politically realistic. Overall, his delegation did not see the core issues of ambition and reciprocity issues being resolved in the Geneva process without some further political guidance. Those sort of choices ultimately involved accepting serious political pain by virtually all parties in the negotiation. Likewise it was hard to imagine those issues being resolved in a NGMA context as there would be a need for parallelism with other major market access and rules elements in the mandate. This would imply that there were limits to how far the Group could go without further input from ministers. Over the next few months work could be focused on exploring technical options within the Chairman's overall framework. The Group could aim to be in a position to give ministers in Cancun some more refined choices, but to get the best results from the framework they would need to play it long. His delegation could certainly work from the elements in the text to build ambition, but it would require full use of the flexibility envisaged in paragraph 3 of the Chairman's text. It would involve treating the elements in the paper as a tool kit rather than as a definitive approach and would require the Group to identify how to deliver better balance as well as to deliver reciprocity and genuine market access. Finally, there was a need for some concept of how to bring MFN tariff liberalisation into line with the reality that applied and preferential rates covering most world trade were now moving towards zero.

1.14 The delegate of Morocco, on behalf of the African Group, stated that paragraph 16 of the Doha Declaration outlined the development component which characterized all areas of negotiation agreed on in Doha and recalled particularly the importance for African countries of an agreement which would permit real market access for their products which so far had been limited by various non-tariff and tariff barriers. The African Group's concerns which had been expressed on many occasions had to be taken fully into account in the formulation of any draft modalities. They were disappointed that their concerns had not been taken into account at all in the approach which had been proposed. The formula as well as the sectorial supplementary approach would not enable them to restore balance in their fragile economies. Industrialisation in Africa was a vital necessity in order to fight the poverty which was now endemic and industrialisation needs had to be met urgently in order to stimulate economies and permit the development of entities that could survive in an increasingly competitive world. Furthermore, customs duties still played a very important part as a provider of income and in certain African countries the tariffs by themselves constituted more than half of the fiscal income of the state. Progress in fiscal reform, appropriate and adapted to each case, was certainly the medium or the long term solution, but any considerable reduction in customs duties in the present phase would mean stifling many of the African economies. African economies largely depended on trade preferences which were a vital resource for their continent. Therefore, a considerable and sudden reduction in tariffs would bring about an erosion of those preferences with all the resulting negative consequences. The African Group remained open to any proposal which would take legitimate concerns into consideration, particularly when it came to special and differential treatment. There had been little debate on NTBs in the Group but the obstacles and difficulties which they posed for African countries had to be taken fully into account.

1.15 The representative of Kenya stated that some of the proposed elements, if agreed and applied by developed country Members, would lead to improved market access for products originating from developing and least developed country Members. However, the Chairman's paper did not take into account most of the elements proposed by a number of developing countries, particularly those from Africa. For instance, one proposal not included was that made by a group of African countries that, based on their weak industrial base and their dismal gains from the previous liberalisation efforts, they should be allowed to determine their further liberalisation including reduction commitments. Similarly, it did not take into consideration the adverse impact that the proposed tariff reductions would have on the preferences enjoyed by African and other developing countries in developed country markets. On many occasions they had implored the Negotiating Group to explore ways and

means of developing an appropriate mechanism to respond to this situation. The inclusion in the Doha Ministerial Declaration of the concept of less than full reciprocity in the reduction commitments in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 had been a clear recognition that all Members were not expected to undertake similar levels or types of commitments due to their different levels of development. Although the proposed formula appeared to have built in less than full reciprocity in the use of different averages, it prescribed the same formula approach. It was not the process of applying the formula that should reflect the less than full reciprocity but the results of such a formula. The proposed formula, while seemingly taking into consideration Members' different tariff profiles, nonetheless exerted a similar effect on them all. This would lead to serious consequences for their balance of trade. The formula proposed was a variation of the Swiss formula which tended to harmonize tariff structures of Members, an exercise which was not specified in the mandate. It would impose deeper cuts on higher tariffs than on lower tariffs and developed country tariffs on non-agricultural products were relatively low compared to those in developing countries, particularly those in Africa. Hence, developing African countries would be forced to undertake dramatic overall tariff cuts that would drastically reduce protection of their fragile industry and lead to firms not withstanding the competition from outside. Consequently, firms would be forced out of the domestic market and de-industrialisation would result. Under such circumstances efforts to industrialise would become a mirage.

1.16 Developing countries, particularly African countries, needed a different approach to tariff reductions. They should be allowed to choose for themselves the rate and timing of trade liberalisation so that they could tailor their commitments to their situation and needs in the industrial and trade sectors. A more realistic and practical approach that reflected less than full reciprocity in tariff commitments was equal percentage point reductions for all Members. This would also give a more accurate perception of the effect it would have on imports and on customs revenue. In this case, less than full reciprocity should be measured in terms of less reduction in customs revenue for developing countries compared to developed countries. His delegation welcomed the proposal of using bound rates as a starting-point for tariff reductions. However, they had a problem with the proposal of converting unbound rates at twice the applied rates and increasing the binding coverage to at least 95 per cent. Increasing the scope of product coverage improved the security of access and reduced the incidents of reverting to trade remedies but this should not be at the expense of constraining developing countries from using appropriate trade and industrial policy measures to stimulate growth and development in these sectors. That was why they had argued in their communication TN/MA/W/27 that the rate and the scope of coverage of bound products should be left to each developing country to decide. This important element should find a place in the Chairman's paper.

1.17 Sectorial tariff elimination might not bring about the desired results, particularly for developing countries with a weak industrial base. This was because firms located in Africa, for example, had not become competitive to the extent that they could withstand competition from outside. Thus, while the elimination of tariffs in the export market for products originating from African countries could be beneficial to them, application of the same measures in their domestic markets could be counterproductive. It would not be in the interest of African countries, therefore, to engage in sectorial tariff elimination until they had well-developed and competitive industrial bases. While the work program which was adopted on 19 July 2002 recognized that special and differential treatment was an integral part of these negotiations, it had not been given prominence in the Chairman's paper. In addition, the special and differential treatment that was included took the traditional style of lower percentage reductions and longer implementation periods. It also limited the unbound products to a conditional five per cent of tariff lines. They wondered whether this kind of special and differential treatment provided adequate flexibility to stimulate any meaningful industrial development. Special and differential treatment should be based not on arbitrary decisions but on objective criteria like the level of industrial development, export capacity and the likely consequences of a dramatic increase in the scope of binding. The new special and differential treatment should, therefore, ensure that the multilateral obligation would assist in, and not detract from, the realization of the Group's development objectives in trade and industrial sectors. Notwithstanding, they noted the

Chairman's efforts to address the special needs and interests of developing and least developed country participants through additional provisions suggested under paragraph 8 of the modalities paper. That part of the text could be improved upon to adequately cater to the developing and least developed countries. Therefore, they proposed that in line with most of the previous rounds developing countries should not be subjected to tariff reductions based on any harmonization or formula approach. Instead, developing countries with a weak and vulnerable industrial base should have the flexibility to choose their own commitments regarding which sector and at what rate of reduction their commitment should be. They should be allowed to increase their binding coverage at the rates and levels to be determined by them and in accordance with their levels of development. The newly bound tariff lines should not be subjected to reduction commitment. Increasing the scope of binding should be considered to be a sufficient concession and a contribution to the strengthening of the multilateral trading system.

1.18 They were nonetheless gratified to note that the paper proposed that least developed country Members were not expected to undertake any reduction commitment as part of special and differential treatment applicable to them. While LDCs could be encouraged to increase their level of binding commitments, this should be on a voluntary basis commensurate with their level of development. Furthermore, the African Group welcomed the Chairman's proposal to integrate LDCs in the multilateral trading system under paragraph 9 of the Draft Elements paper. There was a need for firm commitment on the part of the developed country Members to integrate LDCs and other low income developing countries into the multilateral trading system by supporting them through product diversification and increasing their export base. In that regard, well targeted, unrestricted market access in developed countries would be a practical way of achieving the desired results. The proposal on supplementary modalities would need further reflection in order to assess the impact of some of the elements identified so that countries with a weak industrial base did not end up being worse off. They were inclined to favour a voluntary approach where no compensation or credit was claimed.

1.19 With regard to NTBs it would not be in the interest of the African countries with limited human resources to disperse negotiations to other WTO bodies. They were determined to negotiate effectively and in a comprehensive manner and this could only be accomplished under the established negotiating bodies. Referring some NTBs to other WTO bodies that did not have the mandate to negotiate would effectively render those NTBs covered by WTO Agreements immune from negotiations. The African Group would partially agree with the Chairman's suggestion that NTBs that had a specific negotiating mandate could be addressed in that body and the results transmitted to the Group but work on the other NTBs should be carried out in the NGMA. Any referrals to other bodies should be done after exhaustive discussions had taken place in the NGMA.

1.20 Kenya and a number of other African countries had proposed prior to the Doha Ministerial Conference (WT/GC/W/453) that a study process be conducted to assess the impact of previous liberalisation before embarking on negotiations. Unfortunately this did not happen. Since the launch of the Doha work program they had repeatedly requested for the studies to be extended to other African countries and they hoped this would find favour in the Chairman's paper. They requested the WTO Research Division and other organisations including UNCTAD to carry out studies to determine the implications of each of the elements proposed in the Draft Elements paper on Members' exports and imports both in volume and value terms. The studies should ascertain what would be the reciprocal equivalent of different tariff percent reductions if the starting points of tariff structure and rates were different and how to achieve the same results in terms of percent decrease in custom import prices. Until these studies could be completed and their implications fully explored, it would be difficult to assess whether the draft modalities proposed would meet the Doha mandate of less than full reciprocity and of fully taking into account the needs and interests of developing and least developed countries. More work needed to be done to evolve modalities acceptable to the entire Membership. Time could be of essence and there was a need to work towards the consolidation of any gains made so far. The African Group would remain positively engaged but they would urge caution in any attempt to accelerate the pace of negotiations beyond what was necessary given the challenges

involved and to avoid undermining the atmosphere of goodwill currently prevailing in the Negotiating Group and the progress so far achieved.

1.21 The representative of Japan stated that the Chairman's paper had a very serious problem in that the proposed formula leaned too far towards the high average tariff countries and it treated unfairly the efforts of low average tariff countries that had reduced their tariffs with great pain. The purpose of the current negotiations was to further stimulate trade liberalisation by reducing tariffs "building upon the market openings realized thus far as a major element in promoting trade and development" as stated by the Chairman. Failure to require sufficient liberalisation efforts by higher tariff countries was a very serious problem since trade liberalisation would bring benefits to the whole world and especially to developing countries. Using the proposed formula would mean the higher a country's average tariff rate the smaller the rate of reduction in the equivalent tariff level would be. On the other hand, this formula would harmonize tariff levels of different goods within a specific country. Overall, the formula was totally insufficient from the view-point of encouraging further reduction efforts by higher tariff countries. Equally it was insufficient as regarded harmonizing the tariff levels among different countries by correcting the disparities in tariff levels world-wide. Consequently, the formula did not sufficiently stimulate trade nor, as a result, the development of the world economy.

1.22 Development was a crucial agenda for Japan in this round of negotiations and it was natural that the Chairman had said "special and differential treatment was an integral part of the negotiation". Yet neither a higher average tariff level nor a lower level of tariff binding coverage meant a lower level of development. A lower tariff level sometimes reflected the simple fact that the country in question had recently acceded to the WTO. Even though South-South trade was often cited as a key to promoting trade for developing countries, the draft formula would not support South-South trade and was even counter-productive by not sufficiently addressing issues of higher tariff levels in developing countries. Another major unfavourable impact of the formula was that, because it did not remove high tariffs in developing countries, developed countries could take the option of engaging in bilateral or regional trade regimes like FTAs or RTAs more than ever. This was exactly opposite to the reference in the Chairman's draft paper that "we will keep closely in mind the importance of preserving the integrity of the WTO multilateral trading system." The line by line tariff rate reduction approach made it difficult for Members to address sensitive sectors. In light of these problems with the Chairman's paper, Japan's proposal, by contrast, would be very realistic. It was essential that most developed and developing countries applied the single formula which would substantially harmonize the general tariff level among different Members. As a realistic means to this end, Japan had been emphasizing the effectiveness of a target average tariff rate reduction formula that would maintain flexibility, taking into consideration the various difficulties experienced by individual countries.

1.23 As for the sectorial approach, bearing in mind the DDA for the current round, Japan understood that certain consideration for export interests of developing countries was needed. At the same time, Japan was ambitiously seeking to continue negotiations to reach an agreement on harmonization and elimination of tariffs in 18 sectors that accounted for two-thirds of global trade in non-agricultural products, for example, chemical products, watches, toys, porcelain, cameras, office machines, ITA related products and motor vehicles. However, his delegation could not agree with the inclusion of some sensitive sectors like fish, fish products, footwear and leather goods. The Doha Ministerial Declaration strongly affirmed a commitment to sustainable development yet the Chairman's paper did not address that point. Positive consideration of global environmental conservation and the sustainable use of exhaustible natural resources was a critical element of the discussion. From the perspective of expanding global trade the modalities for negotiations should be well balanced and should resolutely press forward the market access negotiations.

1.24 The representative of Mauritius stated that his delegation fully supported the statements made by Morocco on behalf of the African Group and by Kenya on behalf of the Group of African Countries. Mauritius had deep concerns with regard to the Chairman's paper. They noticed with regret

that some of the fundamental elements which had been canvassed and discussed since the beginning of the Group's meetings had been completely ignored, despite their importance for the current negotiations. One of these elements was the "erosion of preferences". This situation was seriously compromising the position of the countries benefiting from preferences which also happened to be among the poorest and most vulnerable Members of the WTO. However, Mauritius had taken note that the draft was not comprehensive and that it would be subject to further amendments and additions. It could not accept a partial negotiating document containing only certain elements of modalities when some of the major issues raised by developing countries had been omitted. It would be impossible to negotiate or even discuss the elements being proposed without all the other issues of particular concern to developing countries being included in the draft modalities. No less than six submissions from individual as well as groups of developing and least developed countries from Africa, the Caribbean, Asia and Latin America had stressed the need to address the issue of "erosion of preferences". In addition, a large number of delegations had expressed their views on this issue. It was a substantial item of the Chairman's Overview Paper (TN/MA/W/6) and had been discussed at length in the two previous Negotiating Group meetings, resulting in a fruitful exchange of views and some concrete proposals being made. His delegation failed to understand the selective approach adopted in the Chairman's draft. The absence of any reference, deliberate or not, to such a vital element was tantamount to creating an imbalance in the negotiations, with the resulting devastating consequences on their economies. These elements would shape the negotiations as well as their outcome and for that reason it was crucial to include elements raised by developing countries and to discuss them on a par with other proposed elements. The fact that the Group was in a negotiating process and that all participants wanted to achieve success should not distract them from the fundamental objectives of the Marrakech Agreements which were: "raising the standards of living, ensuring full employment and a large and steadily growing volume of real income...". The draft elements would lead to negative repercussions since the market access conditions of the most vulnerable countries, including the LDCs would undergo a rapid deterioration as a result of the substantial erosion of their preference margin. The proposal to extend full duty free access to the LDCs to improve their access would be siphoned off as a result of the level at which tariffs would be reduced or eliminated, as the case may be. It would be tantamount to snatching with the left hand what has been granted by the right hand. He was sure that the LDCs were fully aware of the dangers looming ahead.

1.25 The myth of trade liberalisation had engendered numerous economic casualties. He cited the case of Mauritius as an illustration. Since 2002, 10 firms in Mauritius had been closed down with the loss of about 3,600 jobs because of the quotas phased down in the textiles and clothing sector and the anticipated tariffs cut. This was disastrous for a small economy like Mauritius. Since 2000, unemployment had soared to around 10 per cent of the total work force due to job losses in the textile industries. Compared to double-digit growth in the eighties and the first half of the nineties, the EPZ Sector had registered a negative growth of 4 per cent last year. Already the anticipated phasing down of the Multi Fibre Arrangement had had a negative bearing on the local textiles industries. The combined effect of quota phase-out with tariff dismantlement would have devastating implications for the industrial sector in Mauritius with massive job losses which by extension would jeopardize the socio-economic fabric of the country which was reputed for its peaceful coexistence. This clearly could not be the what the WTO aimed to achieve and was again clearly in breach of the objectives of the Marrakech Agreement. Trade preferences had been instrumental in fostering the economic development of many poor and vulnerable countries. They had also contributed to investment inflows and by extension to job creation and to raising the standard of living of the people. The concrete example of AGOA (Africa Growth and Opportunity Act) supported this view. The report to the United States Congress on the achievements of AGOA indicated the creation of 2,000 jobs in Kenya, 15,000 in Lesotho, 5,000 in Malawi, 8,000 in Namibia and 11,000 in Swaziland. Moreover, new and planned investment in Namibia was estimated at US\$ 250 million, in Uganda US\$ 20 million and in Kenya US\$ 12.8 million. All this was due to the preferential access which AGOA provided to Sub-Saharan Africa and these countries were starting to make progress thanks to such arrangements. The countries of Sub-Saharan Africa were particularly grateful to the US for the timely initiative. The

substantial benefits ACP countries had been deriving from the Lomé Convention and now the Cotonou Agreement should also be remembered and he expressed thanks to the European Communities. The consequences resulting from a substantial erosion of those preferences would be that ACP countries and the countries of Sub Saharan Africa would again have to bear the brunt of unbridled trade liberalisation and be subject anew to the shackles of poverty and marginalization. The issue of erosion of preferences had been discussed only two weeks earlier in a Special Session of the General Council on Coherence in Global Economic Policy-making. He quoted the statement of the WTO Director General during that meeting: "Some areas have already been identified in our work at the WTO – support for adjusting to the fiscal effects of reduced revenues, for example, and to the erosion of trade preferences". Both the President of the World Bank and the Managing Director of the IMF had stressed the need for adequate responses to address the problem of preference erosion. Therefore, failure to address such an important issue would definitely accentuate the imbalance.

1.26 With regard to the broad thrust of the Chairman's paper, it put his delegation and others from the African Continent in a straightjacket and left them with no option to manoeuvre. This was clearly inconceivable in a member-driven organisation like the WTO. The formula which was being proposed as the core modality was unacceptable to them, even more so was the sectorial approach. The proposals on the table would perpetuate de-industrialization in the majority of developing countries, in particular, in the African continent. They would also lead to severe shortfalls in government revenue thus creating an explosive combination of declining export earnings with revenue compression. On the question of NTBs, it was essential that this issue which was more trade distorting than tariff barriers should be fully addressed and the mandate to negotiate NTBs rested with the NGMA and not with any subsidiary bodies. The draft text did not reflect the work and discussions that had taken place in the Negotiating Group and therefore, Mauritius could not accept those draft elements in their present form. Mauritius wished to have a firm commitment from the Chairman that these draft elements would be revised and would incorporate Mauritius' legitimate concerns. Mauritius remained committed to working constructively within the Group with the view to finding an acceptable solution.

1.27 The representative of Nigeria stated that his country joined the statement made by Morocco on behalf of the African Group and by Kenya. His delegation welcomed the Chairman's bold effort at introducing a draft elements paper while noting its element of caution in leaving ultimate responsibility for decision-making in crucial parts of the modalities to the Membership. This cautionary attitude had also been amply displayed in refraining from giving specific figures in the formula suggested. While welcoming this measure of caution, the lack of specific details and elaboration in certain crucial areas had rendered it difficult to make categorical assessments of the impact of the proposed formula for tariff cuts, among other elements.

1.28 On a preliminary basis, there were some issues of concern which required further re-examination or clarification. They wholeheartedly agreed with paragraph 4 of the Chairman's paper but they wondered if the formula proposed went far enough to address the concerns of developing countries. Their initial assessment of the formula on tariff reduction commitments indicated that in the final analysis the formula weighed more on developing country Members who would undertake deeper tariff cuts, in spite of the fact that some element of less than full reciprocity had been built in. They were also concerned about the Chairman's recommendation for handling unbound items. The proposal had attempted to factor in the principle of special and differential treatment in allowing five per cent of tariff lines to remain unbound, provided that they did not exceed five per cent of the total value of a member's imports, calculated for the reference period. His delegation questioned the criteria used in arriving at the figure of five per cent. They also questioned what criteria had been used in arriving at the recommendation of two times the current applied rate as the basis for binding all unbound rates as this inferred an attempt to force all Members to dramatically increase their binding scope. Such a proposal did not seem to take cognisance of the serious difficulties which those Members who still had a significant proportion of their tariff lines unbound would have to accept, particularly when no criteria had been spelt out for arriving at such a dramatic increase. They

reiterated their support for efforts aimed at increasing the scope of binding, particularly by those Members who still had a significant level of tariff lines unbound. But this should be gradual in order to allow for the policy space needed by such countries to adjust according to their economic circumstances.

1.29 Nigeria had concerns about the issue of sectorial tariff elimination. The proposal was targeted at eliminating and binding all tariffs on products of particular export interest to developing and least developed countries and footnote 7 referred to the need for Members themselves to determine the applicable scope of coverage. However, it was not clear why items such as electronics and electrical products, motor vehicle parts and components would be included as products or sectors of export interest to developing countries and particularly so for African countries. They welcomed the recommendation for the elimination of tariffs by developed countries on a one-off basis. But the call for elimination of tariffs by developing countries, even on a three-phase programme was not acceptable and neither was it helped by the lack of any specific mention of time periods to enable a better evaluation of the merits of such an action. There was a lack of consideration for the revenue-generating role played by tariffs in developing countries. African countries, in particular, depended to a large extent on customs revenue and therefore calls for the elimination of tariffs tended to undermine the peculiar economic circumstances of this group of countries. In this regard, the idea of sectorial tariff elimination might not offer significant benefits for African countries if they would be expected to apply similar measures to their own domestic sectors in a situation where their exports were not very competitive and their industrial base still remained very weak.

1.30 The Chairman's paper was silent on the subject of tariff preferences in spite of the fact that a significant number of preference-receiving participants had serious fears over the impact of a possible erosion of tariff preferences. It was clear that the use of the proposed formula would result in the erosion of preferences and preference-receiving countries were themselves coming to terms with this possibility. Suggestions had been made on the need to establish possible mechanisms to compensate or cushion the adverse effect of the loss of preferences. It was critical to note that this issue affected a significant number of WTO Members and if no timely solution was found the fate of the negotiations would be in jeopardy. The countries that enjoyed trade preferences continued to be the most marginalized in the global economy, therefore, the Group could not talk about improved market access conditions only to shut the door against the most marginalized set of countries in world trade. Regarding NTBs, the Chairman had only characterised the state of play in the discussions and pointed to the fact that more would still need to be done before a clear cut direction could be identified on how to deal with NTBs. Equal weight should be given to this aspect of negotiations as was given to tariff negotiations. Otherwise, the gains eventually made in tariff reductions would be undermined by the inadequate solutions to the problems posed by NTBs. With regard to the positive aspect of the proposal targeted at the LDCs, Nigeria particularly welcomed the recommendation that LDCs should not be required to undertake reduction commitments applicable to those of the other WTO Members. LDCs should increase their scope of binding commitments as part of their contribution but they should be allowed to do so in accordance with their economic circumstances. Nigeria considered the Chairman's draft as a fair attempt and it would remain positively engaged in the negotiations. Nigeria would continue to urge some level of caution and restraint with regard to ambitions to conclude the modalities negotiation in record time as a lot still needed to be done to risk too much adventurism.

1.31 The representative of Mexico stated that the Chairman's paper did not cover the basic requirements of several developing countries, including Mexico. As Mexico had stated in its proposal (TN/MA/W/13) the recognition of the principles of special and differential treatment would help in the development of the negotiating process and in obtaining results for developing countries. The Chairman's draft did not fully cover the issues of special and differential treatment nor less than full reciprocity, or if it did, it was set out in a too subtle a manner. This meant that there was an un-level playing field for the reduction of customs duties which made it impossible to have substantive discussions on the issue. While the establishment of longer implementation periods for customs duty reductions was a valuable element of special and differential treatment the modalities should be

sufficiently flexible to take account of the sensitivities of some developing countries. As stated in the Mexican proposal, if the negotiations sought an overly-ambitious modality with minimum standards of liberalisation for each tariff line the general liberalisation would be less for developing countries. While there was space for flexibility in the Chairman's proposal, it was only proposed for some developing countries and not all. Those who had not consolidated all their tariff schedules were allowed to maintain five per cent of their tariff lines unbound while those countries which had bound all their tariff lines had no protection. If not all developing countries had the right to flexibility it would risk disparity in the modalities between those who had not bound all their custom tariffs (even though they had participated for 40 years in the multilateral system) and other Members who had bound their schedules. All developing countries had some sensitive sectors.

1.32 With respect to sectorial elimination, Mexico recognized that this measure tried to complement the Doha Declaration Mandate regarding products of export interest to developing countries. However, there should be much more discussion on the list of sectors proposed for elimination as well as the inclusion of other sectors. Some elements of the methodology were worrying, particularly the sectorial elimination of tariffs for developing countries which went further than the formula and also the issue of whether the elimination would be over the same time-period as agreed on for a possible tariff reduction formula. Some of the sectors proposed were of great interest for developed countries' exports. The efforts to eliminate tariffs in a shorter period seemed to generate great imbalance in terms of tariff elimination. The second approach was called supplementary modalities. It was not clear from the paper whether this approach would take place at the same time as the application of the formula or in a second phase or whether the application was voluntary, as had been the case with many initiatives in the WTO so far. Mexico was in favour of this type of initiative being considered on a voluntary basis in a second phase once each member had been able to evaluate the degree of liberalisation achieved. To insist that the supplementary modalities should be a point of departure for negotiations would create an imbalance in the negotiations since some of the sectors proposed might be of more interest to developing countries than to developed countries. Mexico was conscious of the difficulties involved in these negotiations because of the different degrees of development and the different economic situations of countries. However, as a result of the very little progress, if any, achieved in the Negotiating Group so far, there could be a risk of not meeting agreement in time for the fifth Ministerial Conference. All developing countries should enjoy the same point of departure in the negotiations not the unequal conditions proposed in the Chairman's draft.

1.33 The representative of Thailand stated that the Chairman's paper indicated an ambitious scope by proposing a harmonisation formula plus a sectorial approach. As a result it was difficult if not impossible for Thailand to accept such elements as a basis for negotiations without knowing the level of ambition in the agricultural negotiations. The harmonisation formula with a single coefficient value would definitely not reflect the ministerial mandate on the less than full reciprocity principle between developing and developed countries. Moreover, the proposal to use the average base rate as an integral part of the formula applicable to all Members could not count as special and differential treatment. In order to help Members to understand the proposed formula they requested the Secretariat to provide a simulation on the proposed formula for different coefficient numbers, for example 5, 10, 20 and 30. In this way Members would get a clear picture of how the coefficient values would affect the rate of tariff reduction for each Member. With regard to the sectorial elimination, this approach could be accepted as a supplementary approach and on a voluntary basis. However, from past experience, Members should agree the details of product coverage in each sector before taking part in sectorial negotiations. Unbound items had long been recognized as sensitive products for developing countries, therefore, Thailand would not accept using the applied rate as a starting point for tariff reduction. For developing countries the maximum tariff rates allowed in their current national tax laws should be a good basis for binding a reduction. With regard to non-*ad valorem* duties they were currently analyzing details of the AVE calculation methodology and Thailand supported the proposal that final tariff binding should be exclusively bound in *ad valorem* form. The definition of " t_1 " should be the final rate to be exclusively bound in *ad valorem* terms keeping in mind that in the current WTO

tariff schedule a variety of tariff binding terms had been used, i.e., *ad valorem*, specific tariff rates, compound rates, mixed duty rates and technical duty rates etc.. Furthermore, for the sake of transparency, the Secretariat should carry out the conversion of non-*ad valorem* duties to *ad valorem* with the results being approved by the relevant Members.

1.34 On special and differential treatment they supported having a longer implementation period for developing countries. However, in order to achieve meaningful results all tariff lines should be bound. However, they were currently examining possible flexibility for LDCs on this particular subject. Regarding newly acceded Members, Thailand was still to be convinced of the need to give special treatment to these countries. Concerning low duties, there were several points that needed to be further clarified such as, the rate of duty referred to and whether the proposed elimination of such tariffs would be applied before or after or both before and after applying the reduction formula. The elimination of such tariffs should be mandatory for developed countries while keeping it voluntary for developing countries. With regard to NTBs, Thailand requested further clarification on the proposed approach to NTBs, especially indents 1, 3 and 4 of the draft paper. All NTBs should be discussed and negotiated in the NGMA with flexibility regarding certain NTBs that might fall into other areas of negotiations.

1.35 The representative of Egypt stated that the statement made on behalf of the African Group by Morocco and the statement made by Kenya had already expressed Egypt's reaction to the paper. Egypt had serious concerns regarding the procedures followed in presenting the draft as they would have liked to see a complete set of proposals put before the Negotiating Group as a specific proposal from the Chairman. The paper, specifically paragraph 6, reflected to a great extent the demands made by major industrialized countries to harmonize tariff structures among all Members regardless of their level of development and economic needs. Egypt had expected a proposal that took into account the different views expressed by all Members, particularly developing countries who had clearly indicated that a harmonization approach was not the way forward. In addition, a harmonization approach did not correspond to the Doha Mandate. With regard to the modalities, it would be important to have a linkage to what was happening in the Agriculture Negotiations. The sectorial approach proposed for tariff elimination on certain sectors should be discussed after the Group had agreed upon the core modality. There was no need for additional or supplementary approaches as Members' concerns could be taken care of in the core modality. The Chairman's draft paper ignored the concerns raised with regard to the erosion of preferences even though several Members had expressed the need to take that issue into account. Egypt had proposed the adoption of a linear reduction approach and in order to address the part of the mandate concerning high tariffs all tariff lines above 50 per cent could be reduced to 50 per cent and all other lines up to 50 per cent could be reduced by 15 per cent.

1.36 The representative of Chile stated that the draft contained some elements which his delegation supported and others that it could not. They were not yet in a position to say whether it was an acceptable basis for negotiation. They hoped that the debate would make it possible for adjustments to be made or even a new proposal put forward so as to comply with the mandate. There was flexibility in many elements of the document, for example, the possibility for some Members to leave some of their tariffs unbound. In this way the document lacked ambition, which was in sharp contrast to the high level of ambition in other bilateral or regional negotiations throughout the world. While total liberalization was being negotiated outside the WTO it appeared from the Chairman's draft paper and the interventions made by delegates that the NGMA did not wish to be even fairly ambitious. If a certain level of ambition was not maintained in the negotiations, it would generate considerable incentives for Members to continue concluding free trade agreements outside the WTO. As a result of those bilateral agreements all the preferences that were being defended would continue to be eroded. Mauritius and other delegations who had spoken of preferences would have to face greater competition as a result of those bilateral agreements. Even worse, they would have to face this increased competition with rules of origin which would be even more detrimental and could push them out of the market. The problem of preferences was one of time; they would erode whether or not something was done. Therefore, it was better to tackle the issue in the NGMA and create programmes

that would help preference-benefiting countries to face possible resulting disturbances and improve their export capacity, among other things. In order to do this a concerted programme by the WTO together with other international organisations would be required.

1.37 Chile considered as inadequate the proposal that the base rate for unbound tariffs would be two times the MFN rate. Applied rates, if they were not already bound, reflected the sensitivity of those products. Multiplying the applied tariff by two would artificially increase the tariff average of those Members and as a result Members who had retained unbound tariffs would be rewarded more than those which had bound their tariffs. The majority of Latin America countries had bound all of their tariffs and as a result of the approach put forward by the Chairman, Chile would end up being punished. Taking the mercantilist approach to the document, Chile had trade agreements with many other countries, for example, with the US, Latin American countries and the EU among others. The relevant markets for Chile were in the Asia-Pacific regions. Therefore, using the approach of two times the MFN applied rate as the base rate for unbound tariffs would be a poor starting-point for Chile. The negotiations needed to be completed in such a way that all Members would bind 100 per cent of their tariffs with perhaps the exception of LDCs, who could have flexibility in this regard. This would lead to increased certainty and predictability. Mandatory participation in the proposed sectorial tariff elimination would pose a serious problem for Chile. Without prejudice to bilateral FTAs, Chile managed to maintain a tariff policy which had a single tariff across all products. In this way it was able to avoid distortions in the allocation of resources and it also avoided complicating the political economy whenever the relative values of tariff protection for any particular product had to be determined. The proposed harmonization formula would alter that approach and therefore would be very difficult for Chile to accept because it would imply taking a step backwards in the way they handled their tariff policy.

1.38 As a positive element, in the Chairman's paper certain sectors had been identified as having a priority interest for developing countries and Chile agreed that a special liberalization effort should be made in these sectors. However, not all the sectors in the paper were of interest to Chile and some sectors which were of a more primordial interest to them or to other developing countries were lacking. Chile had a keen interest in the fisheries, forestry, minerals and non-ferrous metal sectors. Adding these sectors to some formula that would give incentives to deepening liberalization would be a better overall approach that was more in line with the interests of developing countries. With regard to Newly Acceded Members and without prejudice to any further statements by Chile, the Chairman had been excessively generous to those Members. While they required a formula which would give them a longer implementation period for tariff reductions they should be treated in the same way as all other WTO Members and make a significant contribution to trade liberalization.

1.39 The representative of Senegal stated that his delegation endorsed the statement made by Morocco on behalf of the African Group. He welcomed the LDCs exemption from tariff reduction commitments which was fully in line with their need to benefit from a certain degree of flexibility in their tariff policies since they did not have any other trade defense mechanisms to adopt. Referring to duty free, quota free access for LDCs, paragraph 42 of the Doha Declaration stated clearly that Members committed themselves to duty free, quota free access for products originating from LDCs. Senegal welcomed the fact that since the adoption of the declaration, many developed countries had improved market access for LDCs and the Chairman's draft was also along these lines. It seemed to suggest an attempt to set a deadline for participants to achieve that objective. In order to fully work towards that objective the duty-free, quota-free access should be a part of the developed countries' schedules of commitments. This would ensure greater predictability and efficiency of duty-free access. There was no reference in the Chairman's paper to addressing the issue of erosion of preferential margins, and Senegal fully endorsed the comments made by Mauritius in this regard. Knowing that an overall drop in duties could have a negative effect on the exports of LDCs in sensitive products to their main markets, Senegal hoped that this was an oversight and that it would be mended. Improvement of market access for LDCs was a fundamental objective of the DDA although Senegal agreed that this should not imply that duties could not be cut for other Members. In the

context of studies and appropriate capacity building measures for LDCs provided for in the negotiating mandate, there should be an impact study carried out on any modality or reduction formula to consider its impact on the LDCs' markets. He hoped that these remarks would be taken into account in the improved version of the draft.

1.40 The representative of Indonesia stated that although the Chairman's paper did not accommodate all of his country's interests, they were ready to work constructively with others to improve it. With regard to the proposed formula, using average base rates as a determinant factor alongside the coefficient would entail a tariff reduction in accordance with the level of current tariff average rates. Furthermore, this formula would result in a deeper cut for high tariffs than for low tariffs. His delegation preferred to use linear cuts, however, in order to be constructive they were willing to look more closely at the formula proposed by the Chairman. They were also willing to consider using line-by-line tariff reductions in this respect. Indonesia supported the Chairman's proposal to use bound rates as base rates. There had already been an argument made for using bound rates as one type of flexibility for developing countries but Indonesia disagreed with this view. Bound rates were the legal commitment and should be the basis of the negotiations. Even if starting from bound rates, in terms of real reduction, many developing countries would still make a significant reduction compared to developed countries. A reduction in high tariffs had a different effect to a reduction in low tariffs. For example, a 50 per cent reduction from 30 per cent to 15 per cent in developing countries was very significant whereas a reduction of a low tariff from 5 per cent to 2.5 per cent in developed countries would have less impact.

1.41 While the proposed formula did not contain a specific coefficient, there should be more flexibility for developing countries with regard to the formula through the use of a higher coefficient. This would be an appropriate implementation of the principle of less than full reciprocity. The draft provided that if a Member wanted to bind an unbound item it had to convert that rate by using the proposed formula. This would result in a Member making a double commitment which was an onerous undertaking. A Member's willingness to increase binding coverage was already a substantial commitment and should not be subject to further reduction by applying the formula. The formula should only be used to cut bound items and a different method should be used for unbound items that would facilitate and encourage Members to increase their binding coverage. Applying the proposed formula on unbound items could discourage Members from substantially increasing their binding coverage. Their own preliminary exercise showed that leaving five per cent of tariff lines unbound would still not accommodate their interest. However, they were not clear as to the purpose of having an additional condition that these five per cent unbound items should not exceed five per cent of the total value of a Member's imports. It was not necessary to make a linkage between unbound items and total import value. With regard to sectorial tariff elimination, the sectorial approach should only be applied on a voluntary basis taking into account a certain degree of critical mass. Indonesia had strong reservations about the pursuit of mandatory sectorial tariff elimination for all Members. They supported the Chairman's intention to give priority to the products which were of interest to developing countries. The best way to pursue sectorial tariff elimination was properly set out in the first bullet of paragraph 7 of the draft. However, the second bullet of that paragraph had gone too far in suggesting a mandatory elimination of tariffs for all Members. Indonesia had no objection to the proposal to include supplementary modalities as long as those modalities were voluntary.

1.42 Indonesia agreed that the NGMA should have overall responsibility to address NTBs with the exception of NTBs that were dealt with in other negotiating groups. They recognized the challenge ahead and further endorsed the need to conduct the process of identification and categorisation of NTBs. This process of categorisation was at a critical stage. There should be a common understanding on what constituted NTBs and how to address them. It seemed that the modalities on NTBs were not yet fully elaborated but they understood that this was due to the fact that the negotiations were not sufficiently advanced to enable the Chairman to develop comprehensive modalities. Indonesia agreed with the Chairman's direction on how negotiations should be conducted. Those issues, as far as possible, should be addressed horizontally while at the same time the use of request/offer and vertical

approaches should be on a voluntary basis. In particular, the use of the request/offer approach would be burdensome for many developing countries. Indonesia recognised that some parts of the draft were not yet fully elaborated and they urged the Chairman to complete the draft modalities. He hoped that the Chairman would take into account the various points raised by delegates, especially those from developing countries, in order to make this round of negotiations truly a development round.

1.43 The representative of Malaysia supported the inclusion in the Chairman's draft of the proposal that bound tariffs should be the basis for the reduction process. Malaysia also agreed with 2001 as the base year. However, Malaysia had serious concerns regarding the proposed formula which was a modified version of the Swiss formula. The incorporation of a Member's average bound tariff into the formula had the effect of penalizing those Members which had a lower average bound tariff, but which had, for development purposes, maintained some high tariffs and some selected tariff peaks. Furthermore, the formula incorporated the concept of harmonisation, albeit with one's own national average, which Malaysia had urged the Chairman to reject at previous meetings of the Negotiating Group. Malaysia had also spoken against too-steep tariff cuts because of their negative effects on the domestic economy. In addition, the formula did not incorporate the principle of less than full reciprocity. It could not be argued that the use of a Member's own average bound tariff constituted special and differential treatment or the principle of less than full reciprocity. Even if there was agreement for all developing countries to use a higher coefficient *vis-à-vis* developed countries, it would differentiate the treatment between developing countries. Therefore, the formula to be adopted for the reduction process should be the linear-cut approach. All developing countries should be given the flexibility to bind unbound rates at above the highest prevailing bound rate or at the applied rates, whichever was higher. Moreover, the items that developing countries were willing to bind should not be subject to any reductions. The flexibility that was provided for developing countries in paragraph 8a of the draft was clearly insufficient.

1.44 With regard to the proposal that sectorial tariff elimination should be an integral part of the modalities, the sectorial approach, whether reduction or elimination, should be purely voluntary and only if there was a critical mass of Members willing to undertake such an approach. In this context, Malaysia was unable to accept any modality that made the sectorial approach mandatory. It should be treated as a supplementary approach, on a voluntary basis, along with request and offer approach, zero-for-zero and the sectorial harmonization. On credit for autonomous liberalization, according to footnote 2 credit could not be given for reductions made by participants to the ITA on the grounds that such reductions had not been autonomous. Malaysia disagreed with this view as even the decision to join the ITA was a conscious autonomous decision, resulting in bound tariff commitments which were well below what had been required of ITA participants under the formula approach in the Uruguay Round. Regarding the treatment of newly acceded Members Malaysia shared the concerns expressed by Chile.

1.45 The representative of Croatia speaking on behalf of four recently acceded countries; Albania, Croatia, Georgia and Moldova stated that the Chairman's draft did not adequately address the specific situation of the recently acceded Members. From a conceptual perspective, more thought could have been given to the particular concerns faced by recently acceded Members in the course of these negotiations. Furthermore, the proposal for the base rate, that was of essential importance for the reduction of tariffs in the proposal, would not result in equal treatment for all Members. In respect of unbound tariffs, commencing tariff reductions from two times the MFN applied rates could not have the commonly declared goal of reducing duties after this round of negotiations. This concept penalised the recently acceded Members that had bound 100 per cent of their duties without granting them credit for autonomous liberalisation. According to the Chairman's draft some newly acceded Members would have to implement the commitments arising from this round of negotiations directly after the accession transition period without providing for a grace period or a long transition period. This kind of approach was unjustified because the well-known scope of their excessive commitments and highly liberal tariff structures had not been adequately acknowledged and compensated. The proposed formula contained some doubtful elements which had to be addressed in order to preserve

equal treatment within the Membership. The coefficient defined as the average of the base rate was the most disturbing element in the formula. It gave the upper hand to those countries that had not bound their duties yet and again punished those that had bound 100 per cent of their duties. Their own preliminary calculation showed that the countries with higher average tariffs would be reducing their tariffs less than countries with lower averages. Simple averages for non-agricultural duties in their countries varied within the tight margins of between four per cent and 6.6 per cent. Furthermore, while still examining the impact of different levels of disaggregation of tariffs when calculating the simple average it seemed to contain elements which favoured countries with a lower number of tariff lines on a higher digit level. They commended the proposal in the Chairman's paper that newly acceded Members could apply a higher coefficient in the formula but this would be insufficient to address all the existing discrepancies between their tariff profile and the vast majority of other Members' schedules, especially compared to Members with similar levels of development. Their specific concerns were how big should the difference in the coefficients be and within which margins should they expect the future coefficient to be determined. The answers to those questions could determine the extent of the potential benefit to their countries.

1.46 The proposed approach to sectorial tariff elimination left open several questions. The seven proposed sectors for elimination of tariffs were very sensitive for the domestic industries of the four countries. Coupled with ambitious formula reductions the sectorial tariff elimination would result in leaving their industry virtually without any form of protection within the few years from the date of their accession. Such an outcome would create an additional disadvantage for their countries in the global economy. Furthermore, some countries that would benefit through this type of elimination were far more developed than any of the recently acceded Members. Some of them had stable and well-protected domestic markets with GDP even 10 or 15 times higher than some of their own countries. They were not convinced that they should be giving autonomous preferences to the countries at the far more advanced stage of development and therefore believed that they themselves should not be included in sectorial tariff elimination or, if they were, their participation in such initiatives could only be on a voluntary basis. Regarding the recommendation to consider the elimination of low duties, they would be extremely hesitant to undertake such a step given the extent and importance of low duties in their tariff profile. They had clearly presented arguments which proved their existing constraints and difficulties in addressing this issue. Therefore a final package of modalities should provide for meaningful additional flexibility for their countries in respect of the question and definition of low duties. The countries on behalf of whom he was speaking were seriously committed to the process of liberalisation in spite of the already high level of market openness achieved. They believed that the path which they had taken could serve as a good example to many WTO Members.

1.47 The representative of Colombia stated that the proposed formula incorporated several of the elements that were stressed by ministers in the Doha declaration, namely, the elimination of tariff peaks, reduction in high tariffs and reduction in tariff dispersion. However, the formula was more aggressive than Colombia would have preferred. Their capital was evaluating the formula with a number of different coefficients to see how it would be possible to accommodate their sensitivities. While the use of the average base rate identified as " t_a " would help some developing countries, it was not sufficient in order to meet the mandate of less than full reciprocity. Introducing an element of flexibility and making it possible for developing countries to apply a differentiated coefficient, even if it did not differ very much from that applied by developed countries, might fill in the gap referred to earlier at least for the most sensitive products in each developing country. With regard to the Chairman's draft, Colombia supported the negotiations being conducted on the basis of bound tariffs; a substantial increase in the percentage of bindings and submitting those bindings to reduction. The proposal to use as a base rate two times the applied MFN rate for those products that were unbound was excessive in view of the fact that the differences between the applied and the bound rates in the present structures in developing countries was not so substantially different. A date had to be set within the base year for reference to MFN tariffs which would be taken into account in the binding process. This date could be 31 December 2001 because there could have been variation in these rates

over the course of the year. They also supported the idea of promoting conversion of the non *ad valorem* duties into *ad valorem* equivalents and binding the final tariff rates in *ad valorem* terms.

1.48 Colombia was disappointed with the proposal for the sectorial elimination of tariffs as this did not reflect the views and feelings of developing countries, in particular, of Colombia. A large majority of developing countries had expressed their preference for the supplementary and voluntary nature of sectorial approaches. Colombia could not accept that as a result of the sectorial approach the elimination of tariffs by all Members, using an accelerated formula, would be a central element of the Chairman's draft paper. Furthermore, they wanted to know the criteria used for the selection of the sectors proposed, since developing countries had not indicated any sectors of particular interest to them for coverage under such an initiative. Colombia would be willing to consider sectorial approaches as a central element of the modalities under other conditions, i.e., as part of special and differential treatment where developing countries would not have to assume burdensome commitments. One of the elements of this negotiation should be to achieve 100 per cent binding in all developed and developing countries, therefore, it would not be appropriate to allow developing countries to maintain up to five per cent of their tariff lines unbound. With regard to the LDCs, Colombia would have no difficulty in agreeing to them applying the proposal contained in the draft. Colombia reiterated its willingness to consider alternatives in order to deal with the specific situation of newly acceded Members vis-à-vis the commitments that they had already undertaken. Colombia would not be in favour of adopting decisions that might generate imbalances by granting advantages to some countries to the detriment of others. The best alternative would be to grant longer implementation periods rather than applying differential coefficients in the tariff reduction formula for newly acceded Members.

1.49 The section on NTBs reflected the discussion so far in the Group regarding the means by which they should be dealt with. The procedures as set forth in sub-paragraphs a, b and c of the Chairman's draft were very appropriate. Colombia had concerns regarding coverage of the NTBs to be included in bullets 3 and 4 of the sub-paragraph and sought clarification of these through some practical examples. Referring to the erosion of preferences, it was quite clearly a topic of legitimate concern for some countries. However, the point made by Chile was also a valid point. Bilateral and regional negotiations would continue to erode preferences at an ever faster pace and therefore a multilateral type approach supported by other intergovernmental organisations within the coherence programmes would be the best response to compensate those countries which might be suffering from the erosion of their preferences. However, at the same time, the erosion of preference issue should not diminish the levels of ambition in the negotiations.

1.50 The representative of Costa Rica stated that in very general terms Costa Rica could agree with the incorporation of some of the elements described in the Chairman's draft paper, which were consistent with the mandate in paragraph 16 of the Doha Ministerial Declaration and the multilateral nature of the WTO. However, other elements fell short of fulfilling the mandate. Costa Rica had two issues of concern with regard to the draft text. First, the choice of elements could make it more difficult to attain ambitious results in the negotiations on market access, particularly regarding South-South trade. Almost 40 per cent of developing countries' industrial exports were directed towards other developing countries and this needed to be properly addressed. Second, the draft text tended to reward or favour Members that had not finished binding all their tariff headings. There was no reason why any tariff heading should remain unbound. In agriculture, tariff lines among the most sensitive for many Members were already bound in the Uruguay Round. It was contradictory that the sector most lagging behind in the Organization, namely agriculture, had taken the major step of full binding since 1995, whereas this would not happen within even the next 10 to 15 years in the sphere of non-agricultural products. The reason for this could be that the Group was starting from the wrong premise, which was that there was a direct link between the level of binding and a Member's level of development. The information prepared by the Secretariat for previous meetings clearly demonstrated that this was an erroneous assumption. Failure to bind tariffs tended to lead to major inequalities between the rights and obligations of Members at similar levels of development and it created

inequalities among LDCs and developing countries generally. More serious still, some developing countries enjoyed more flexible treatment than certain less developed countries. Mauritius, for example, had committed to a minimum level of bound tariffs and hence would be able to maintain five per cent of its tariffs unbound, although its level of development was relatively higher than, for instance, Gabon, Djibouti, Rwanda, Lesotho and Papua New Guinea, which had bound all their non-agricultural tariffs and would, therefore, not be in a position to enjoy such flexibility. This created a serious imbalance. Most Latin American countries had bound 100 per cent of their tariff lines, which provided considerable legal security for other developing countries' exports to that region. Such legal security should be reciprocal. The principle of less than full reciprocity had been extensively discussed in recent months, but this principle did not apply among developing countries. All Members should bind their entire tariff universe and flexibility in this regard should be reflected only in the level of the bound tariff.

1.51 With regard to the elements of the formula, paragraph 5 contained many of the items that had been supported by Costa Rica and other developing countries, such as the need for the base tariffs to be determined according to the bound rates. Tariffs bound in this Round should also be cut, as this was the only way to ensure fulfilment of the mandate of tariff reductions across the board, without *a priori* exclusions, for non-agricultural products. Concerning tariffs that had not yet been bound, the use of "two times the applied rate" could drive up the average of the base rates " t_a ". In practice, this meant that some Members would become entitled to make lesser cuts than if their tariffs were bound. Costa Rica was also concerned about the clarification given during the technical session that such tariffs could be used in order to raise the average and then be excluded from any binding. This was not equitable in that it generated a perverse system favouring Members that had not bound all their tariffs. There had to be reciprocity and equivalence in the concessions made by developing countries. As to the comments in the footnote regarding autonomous liberalization, Costa Rica was in the process of reviewing the listed documents in order to ascertain whether these documents included only tariff reductions or whether they also covered increases in some tariff levels. Costa Rica would be reluctant to accept the latter as grounds for accruing credit and they reserved their right to revert to this matter as a later stage. With regard to the base year for tariff rates, Costa Rica had no problem with the use of the MFN tariff for a specific day in 2001, which could be set by the notification procedures for the Integrated Data Base (i.e., those covering the initial part of the year and notified in March of that same year). It had been made clear in document G/MA/IDB/2/Rev.16 that the key problem was the chronic absence of data for entry in the IDB. In Costa Rica's view, it was essential therefore that the basis for unbound tariffs should be the tariffs notified by the Members for the IDB and where the relevant information was not available in the IDB, to set the deadline for filling data gaps by 1 September 2003 or any date close to that date. If Members failed to submit the data within the specified deadline, then the Secretariat could be granted authority to enter in the IDB any tariffs that could be obtained from other sources, such as trade policy reviews or TRAINS – or it could be possible to consider establishing counter-notifications in this area. Regarding the proposed formula, Costa Rica wondered why the national average was selected as an element for modifying the Swiss formula - whether it was in order to reflect Members' levels of development. If that was the reason, then Costa Rica could not agree. The wording of element t_1 (final bound rate) was very interesting. They, like Thailand, understood this as already establishing the obligation to bind all tariffs in *ad valorem* form, which was why they would be in favour of adding the word "exclusively". Costa Rica fully endorsed such an obligation, thereby joining the large number of Members that had expressed support for this element. He drew attention to an apparent error of translation in the Spanish version of paragraph 6, which began by stating that the "*aranceles aplicados*" would be used as a basis. With regard to the proposal to conduct mandatory zero-for-zero negotiations in some sectors, Costa Rica was not convinced that this was the best course to take in these negotiations. As other participants had indicated, these types of element should be dealt with on a voluntary basis. Far from promoting liberalization, mandatory participation in all these sectors would guarantee the inclusion of only very few products. Costa Rica preferred these sectorial negotiations to be conducted on a voluntary basis and to focus on achieving ambitious results with the primary formula.

1.52 Paragraph 12 proposed considering the elimination of all low duties. Almost 50 per cent of the value of developing country exports entered developed countries on a duty-free basis. If the matter was negotiated properly, a further 30 per cent of the value of exports could be added to this significant category (by eliminating tariffs bound in the 0 to 5 per cent range). It could be ensured that more than 80 per cent of the value of developing country exports enjoyed duty-free entry into the developed countries. This was not a minor issue and was worth adding to the main formula. On the subject of the erosion of preferences, Costa Rica fully endorsed the statement made by the Ambassador of Chile. It welcomed the fact that such a notion had not been included in the draft text and urged the Group to abide by paragraph 3 of the Enabling Clause, which established that tariff preferences could not and should not constitute an impediment to multilateral liberalization. There were vast disparities between the commitments undertaken by Members, but the Group had to resist the temptation to reduce the level of ambition to the lowest common denominator. On the contrary, it needed to do its utmost to make tariff reductions the rule rather than the exception. As in agriculture and in many other areas covered in the Doha Round, Costa Rica remained committed to an ambitious outcome that truly established a sound basis for future development.

1.53 The representative of Pakistan stated that the Chairman's paper was a workable text and that it would help the Group to move in the right direction in a constructive manner. Pakistan would have preferred the base year to be 1995 but overall they supported various elements in the proposal such as: the base rate; the draft proposal on non *ad valorem*; the use of HS96 nomenclature; and the reference period for import data. They could support the line-by-line formula but their final position would largely depend on the value of the coefficient. Pakistan generally supported sectorial tariff elimination but had some sensitivities with certain items like electronics and electrical goods, motor vehicle parts and components. Pakistan was also unsure about the size of percentage reduction for the category of other participants. Pakistan supported the additional provisions for developing countries and LDCs as contained in paragraph 8 a and b; Pakistan would be in a position to give their position regarding newly acceded Members once the issue of the coefficient in the general formula was agreed. Pakistan could also support the proposal on supplementary modalities, NTBs and the reference to appropriate studies and the capacity-building.

1.54 The representative of Guatemala stated that with respect to the formula, Guatemala believed that the base rate for reductions should be the bound rate. Guatemala was concerned about the proposal that the bound rate for unbound tariffs should be double the applied rate. This would create an imbalance among developing countries. The whole tariff universe had to be bound for all Members. The crucial point was the negotiation of the coefficient B and Guatemala hoped that special and differential treatment would be reflected in the coefficient between developed and developing countries, especially for more sensitive products. Guatemala was confused about the sectorial approach. In Section II of the draft it would seem that the sectorial approach was non-voluntary but in part V, sub-section 2 it was mandatory. In either case, his delegation did not support sectorial negotiation as it did not contribute to achieving the balance which was sought. It would be fairer to have a single, unique formula throughout the tariff universe. Guatemala supported the conversion of all tariff rates to *ad valorem* and for having a single conversion methodology as Annex I tried to show. Guatemala requested certain clarification on the proposal regarding supplementary modalities, particularly the last two bullet points of paragraph 13.c. Guatemala could not agree with including issues in this paragraph which had not been approved by the NGMA, neither could Guatemala agree to their inclusion for subsequent negotiations.

1.55 The representative of China stated that the draft modalities could be a basis for further focused discussions among Members. The draft modalities put forward a method of tariff reductions, covering almost all the elements of tariff negotiations with specific suggestions from a technical perspective. The proposed formula for tariff reduction would meet the target of substantial tariff reduction as specified in the Doha declaration. However, the coefficient suggested by the Chinese formula could address problems such as tariff peaks and tariff escalation in a more flexible, balanced and efficient manner than the proposed formula. China was ready to explore with Members

appropriate coefficients or ways of making further improvements to the formula. With regard to the base rate, in the case of developed Members, applied tariff rates should be taken as the base tariff rates and for developing country Members, the mean value of bound tariff rates and applied tariff rates should be taken as the base tariff rate. In this way, the difference between applied and bound tariff rates would be reduced effectively so that market access conditions would actually be improved. China agreed that there was some merit to the sectorial tariff elimination approach. The paper gave consideration to some products which were of great export interest to developing countries. However, sectorial tariff elimination should be on a voluntary basis and it should be a supplementary modality to the reduction formula. China fully agreed that developing countries and LDCs should enjoy a longer implementation period for tariff reduction, which would help to ease the pressure on their domestic industries. China welcomed the effort in the paper to raise the percentage of bound rates - the overall binding of tariff rates should be an important target in this Round, as it would contribute to effectively enhancing the predictability and transparency of trade. As a means of flexibility, higher tariff rates could be applied as bound rates for sensitive tariff lines. China also supported the proposal of not requiring LDCs to reduce tariff rates. With regard to the issue of newly acceded Members, China was willing to work with the Chairman and Members for an appropriate arrangement of the issue on the basis of the draft paper. China hoped that those Members not in favour of the proposal would read the Accession Protocols of China and other newly acceded Members so they could appreciate why newly acceded Members should not be subjected to further substantive tariff reductions during the Round. With regard to NTBs, China supported the idea of identifying them as a first step before starting negotiations on them. It was preferable that the negotiations should not spread out to other committees to allow Members to focus their efforts on dealing with this trade distorting issue in the NGMA.

1.56 The representative of Australia stated that the Chairman's draft made a very important point in paragraph 4 about the importance of preserving the integrity of the WTO multilateral trading system. Many Members were losing faith in the ability of multilateral negotiations to deliver market access for their exporters as more and more trade was taking place through preferential trade deals. Preferential agreements should be exceptions to the multilateral trading system but there was a very real risk that these preferential arrangements were becoming the preferred road to liberalisation. The Doha Round was a unique opportunity to reverse this trend. It was an opportunity for Member governments to demonstrate to business and consumers that the multilateral trading system could still deliver real results in terms of market access. The Round was also an opportunity to build on the impressive growth of trade between developing countries by locking in market openings during the 1990s on a genuine MFN basis. It was an opportunity for all Members to work collectively to address tariff peaks, high tariffs and tariff escalation. It was necessary to set modalities for these negotiations that would maintain a high level of ambition and that would put multilateral trade liberalisation back at the forefront of Members' trade policies. Australia was not convinced that the package of draft elements for consideration realised the full potential of the Doha mandate for all Members. In particular, a comprehensive, non-linear harmonising formula should be the core modality. Sectorial negotiations had a role to play as supplements but Members should attach priority to an ambitious trade liberalising formula that was simple, transparent and equitable. Australia welcomed the fact that the proposed formula involved an across-the-board cut with no products or sectors excluded and that currently unbound tariff lines would be bound in the process. However, as other Members had noted, the extent to which high tariffs were addressed in each Members' tariff profiles was conditioned by their respective Uruguay Round bindings. These bindings would vary significantly between Members, especially between developing country Members. This led to tariff reduction results that were in some respects arbitrary and inconsistent. Australia was not convinced that the approach set out in the paper was necessarily the best approach to operationalising the Doha mandate on less than full reciprocity and they looked forward to further discussion on this aspect.

1.57 Regarding sectorial elimination, the Chairman's paper put forward a number of sectors that were of export interest to developing countries and Australia was very interested in the reactions of developing countries to this aspect of the proposal. It was important for all elements of the package to

reflect a high level of ambition. Australia supported the formula approach being supplemented by other approaches such as zero-for-zero sectorial elimination, sectorial harmonisation and request/offer but an ambitious formula should be the first priority. Similarly with regard to the elimination of low duties, Australia was prepared to consider obligations in this area after the formula had been agreed to and the balance of outcomes and offers had become a little clearer. All Members should be making a contribution to this round. While acknowledging the issue facing newly acceded Members the long implementation time frames as actually requested in their negotiating proposals offered the best way forward. Regarding NTBs, the draft elements set out in the paper were a good basis for advancing the issue. There were a number of decisions to be made concerning identification and categorisation and these decisions should not be a source of undue delay or blockage. There must be flexibility under these modalities for those with specific well-defined interests to pursue them individually through the request/offer approach, on a plurilateral basis or on a multilateral basis.

1.58 The representative of Hong Kong, China stated that the Chairman's paper had covered the major elements of modalities for negotiations. There were elements which Hong Kong, China supported e.g. using bound rates as the base rate and the non-linear formula with line-by-line tariff cuts. There were also elements they did not support, e.g. insufficient consideration of giving credit for binding of zero applied rates. As a proponent of ambitious trade liberalisation, they were disappointed that the draft modalities had not set the total elimination of tariffs, at least by developed Members as an ultimate target. After half a century's efforts in reducing tariffs and with the proliferation of RTAs the time was ripe for developed country Members to commit themselves to a programme of total tariff elimination under the DDA. This would be a significant achievement in furthering the objective of the WTO and would set a good example for developing country Members to follow. Nevertheless, his delegation was prepared to use the draft as the foundation for further work. The challenge was to add specificity to the paper to deliver an ambitious package towards the goal of trade liberalisation consistent with paragraph 1 of the Doha mandate. The inclusion of the element " t_a " (individual Member's average base rate) in the formula was meant as a built-in element for special and differential treatment while leaving the coefficient B open at this point. In order to deliver meaningful results parameter B had to be sufficiently low and preferably as close to zero as possible. Another challenge was the wide range of average tariffs among Members, even among those with similar levels of developments. In this regard, Hong Kong, China was open to New Zealand's idea to set a ceiling for all tariffs, perhaps with a slightly higher ceiling for developing countries as part of the package for special and differential treatment and less than full reciprocity. New Zealand's idea of a harmonized or compressed " t_a " could also be further explored. On the sectors proposed for tariff elimination, coming from a free port with zero applied tariffs for all tariff lines, Hong Kong, China welcomed any initiatives to go to zero tariffs. Members had to first agree on the core modality for the formula before proceeding to detailed discussions on any supplementary approaches or the sectors to be targeted for tariff elimination. This would avoid the likely complicated and time-consuming discussions on which sectors should or should not be included in the tariff elimination.

1.59 The representative of the United States stated that the draft contained almost all the core elements necessary to effectively meet the Doha mandate, including a progressive formula applied to each tariff line, sectorial initiatives, low tariffs, an approach to the issue of newly acceded Members, special and differential treatment and NTBs. They were disappointed not to see the inclusion of the vision of zero duties but were committed to continue working on the basis of the core elements as a basic structure. They would be guided in their deliberations on the paper and modalities by their assessments of how effectively the modalities achieved equity, ambition and genuine market access including market access for North/North trade, North/South trade and South/South trade. The draft as currently written did not accomplish these goals, as the application of the formula to bound rates, in a large number of cases did not even reduce bound tariffs to current applied rates. An outcome where some Members did not cut applied rates at all made it virtually impossible for others to put their most sensitive sectors on the table for substantial real reductions. A bold approach to liberalising non-agricultural trade was critical to the Round as a whole because it would create momentum to do the other difficult things to be accomplished before Cancun. It would send a signal to the world that the

WTO was seriously engaging in real liberalisation that would help stimulate global growth and contribute to improvement in the global economy. While the draft elements fell short in meeting those objectives, it was possible to continue to work to deliver on these goals employing the elements contained in the Chairman's text. The United States continued to support the goal of tariff elimination because that was the kind of signal global markets were seeking and was also the approach that would demonstrate most clearly that WTO-based global liberalisation was more relevant than regional liberalisation.

1.60 The United States welcomed the application of the formula on a line-by-line basis, although this approach did provide for *a priori* exclusions for developing countries, which was not consistent with the mandate. It was important that the formula proposed was progressive rather than linear. The structure of the proposed formula was seriously flawed. There would need to be more balance within the formula itself and it would be possible to do this equitably by modifying one or both of the " t_a " and B factors. The use of average bound rates as an indicator of level of development was a flawed concept and did little to reduce disparities between Members, including those at similar levels of development. Effectively the approach proposed in the draft resulted in the use of 100 coefficients, the total Membership of the WTO, counting the EC as one and minus the 49 LDCs. This approach rewarded those who had done less to contribute to the stability of the trading system rather than providing incentives for all Members to make greater contributions to the system. It was essential to reduce disparities between Members, including developing Members and required alternative indicators to average bound rates that would better reflect the real differences in levels of development and stimulate economic growth.

1.61 The United States agreed with the approach of converting specific and compound rates to *ad valorem* tariffs for purposes of negotiation and believed that there should be a significant increase in the use of *ad valorem* tariffs. They also agreed in principle with the concept of credits for autonomous liberalization so long as the measures were bound. They sought additional information and clarification on the approach proposed for this but their main concern, as also expressed by Malaysia, was that this element should not create a disincentive to future liberalisation and binding outside the round. The exclusion of ITA and pharmaceuticals initiatives disadvantaged the many Members that had already undertaken commitments which benefited the trading system and it was unfair to all those Members particularly the developing country Members who were participating. Once the concept of credit was anticipated it could serve as a disincentive and this was a cause for concern. They welcomed the inclusion in the text of two suggested approaches to providing sectorial liberalisation. The approach suggested in paragraph 7 was mandatory while paragraph 11 called for augmentation of the mandatory sectorial component through additional sectorial initiatives employing more traditional critical mass concepts to produce zero tariff or harmonisation initiatives. The sectors indicated in the proposal were highly traded by developing countries. The United States were not demandeurs in these sectors although they did have interests in some of them. However, the sectorial component would need to be augmented through the additional mechanism to reflect sectors of interest to developed countries. There was merit in including this as an important element in expanding both North/South trade and South/South trade, in particular, as a means to liberalise inputs and to encourage greater access to developing countries to the global supply chain in those sectors. The approach to mandatory sectors appeared to be an effort to set up a sufficient level of market access liberalisation to offset the highly modest formula. If the ultimate modalities did not include such a component the formula itself would need to have a far more robust approach. Even some of the poorest Members of the WTO were globally competitive in some of these sectors and they should contribute in areas where they were competitive. Her delegation also noted the conspicuous absence of several other sectors that met the same criteria of highly traded goods of developing countries notably the forest products and chemicals areas as well as environmental goods which was the one area where Ministers had mandated for a sectorial initiative.

1.62 The United States welcomed several aspects of the draft elements: special and differential treatment was distributed throughout the draft text including in the use of cuts from bound rather than

applied tariffs; the formula's use of average bound rates as a base; the proposed provisions on unbound rates; the approach to autonomous liberalisation; the phasing of sectors for elimination. The approach suggested in paragraph 8a was an interesting concept. Some way should be found to address sensitive areas but her delegation was less certain of the specific approach proposed in the draft. It would be better to consider the idea of a less than formula cut for a certain percentage of tariff lines, with a cap on the amount of trade and measures to ensure that entire sectors were not carved out, as the proposal submitted by a group of 10 countries (TN/MAW/31) had also suggested. The goal of the NGMA should be 100 per cent binding for developing countries. They had concerns that the approach to LDCs did not help encourage integration of these countries into the trading system nor provide the kinds of certainty of market opportunities that attracted investment to these markets. It perpetuated discrimination between LDCs countries given that many LDCs had bound rates of 100 per cent. If it was agreed that LDCs should not be required to bind 100 per cent then a more equitable approach should be considered. All LDCs could be encouraged to undertake a level of binding above the current 49 per cent average of all LDCs bindings. Her delegation was prepared to consider binding duty free and quota free treatment for LDCs in the Round, except where LDCs were globally competitive. It would be useful for all WTO Members to phase in their tariff reductions immediately upon implementation for all LDC exports to their markets. The United States recognised the extensive commitments undertaken by many newly acceded Members which often exceeded those of existing Members. Ways had to be found to recognise these contributions, to recognise the need to consolidate the recent reforms and to ensure that other Members provided new market access to newly acceded Members in the Round. That said, no newly acceded Member had suggested an approach such as that outlined. According to the draft, not only would newly acceded Members benefit from a different coefficient, if they were developing countries, they also would benefit from the relevant special and differential provisions. Approaches such as those suggested by Latvia which called for longer staging rather than different coefficients was a more appropriate way to proceed.

1.63 With regard to supplementary measures, the concept of harmonisation was a useful concept to consider even in the context of the mandatory area. The inclusion of low duties in the mix of elements was welcome and they were willing to explore it further, noting that some Members had proposed elimination of duties of five per cent or below and others were suggesting elimination at lower levels. This was a challenge for recently acceded Members and other developing countries with a substantial number of low duties but the overall level of ambition of the modalities should produce a significant enough result that would permit the inclusion of this element in the final approach. They were broadly in agreement with the approach on NTBs which they considered to be workable on an overall basis from the point of view of the types of NTBs, the cocktail of modalities, the use of bilateral, plurilateral and multilateral agreements and the need for transparency mechanisms. They did have some concerns on how burdensome the administrative process would be and the time needed for the categorisation exercise which would detract from the need to actually address the problems. A more flexible approach to the management of this exercise was required. The United States was prepared to work hard on the draft to try to reach a consensus but would continue to judge the results on the contributions of all economies to economic growth. Like Costa Rica, they were deeply concerned that the NGMA should not approach the exercise as a least common denominator exercise and reaffirmed that tariff reductions should be rule, not the exception.

1.64 The representative of India stated that the Chairman's paper was somewhat complex in that it did not propose just a formula modality, there was also the sectorial dimension which made the examination more complicated. The proposals were far-reaching and ambitious and would also be particularly demanding on developing countries. The most important lacuna in the Draft Elements paper was the lack of provision to address developing countries' problems in respect of domestically sensitive products that were already bound. While some limited flexibility was indicated in respect of unbound items, India had already expressed the importance of also ensuring some special treatment for bound items that were highly sensitive because there was a high dependence of large segments of the work force at relatively low capital cost such as small scale industries on products that now figured in the industrial products list. This was also the case for certain items which could be called

agricultural products, sharing all the characteristics of products covered under the Agreement on Agriculture, but which nevertheless prevailed on the list of non-agricultural products. It was vitally important that the specific problems in such areas were fully recognised. In their submissions India had indicated the need for developing countries to have flexibility with regard to reduction commitments resulting from the formula in respect of a certain limited number of domestically sensitive bound tariff lines. This exclusion was proposed to be compensated by a more-than-average tariff reduction in other tariff lines. Such flexibility should be built into any tariff reduction modality to be agreed upon. India had proposed a linear formula with a certain modality to address tariff peaks and had expressed its reservations regarding the use of a Swiss formula type modality. The Chairman's paper proposed precisely such a modality but with a variation. To some extent, provision for adjustment was made by using the average tariff coefficient but it would be necessary to know the value of coefficient B to assess the full impact. Presumably B would be higher for developing countries than for developed countries in line with the need for less than full reciprocity in reduction commitments for developing countries. Also, the formula was to be applied to both bound and unbound tariff lines. Unbound items were more sensitive than bound items and binding an unbound tariff in itself should be deemed as a concession. It would not be appropriate to seek a further concession from developing countries by applying the formula to such tariff lines even if the starting-point was from twice the applied rates. They sought clarification on whether the proposal envisaged total elimination of the use of specific duties. The third bullet in paragraph 5 did not contain any affirmation in this regard, although while defining " t_1 " it had been said that " t_1 is the final rate to be bound in *ad valorem* terms " which appeared to indicate that the final bound rate could only be in *ad valorem* terms. It had been indicated that " t_a " was the average of the base rates. Paragraph 8(a) stated that developing country participants could retain five per cent of tariff lines as unbound provided that these did not exceed five per cent of the total value of the Member's imports during the reference period. While this flexibility would be important the double restriction could curtail the available flexibility. In the computation of the average of base rate, i.e. " t_a " would the tariff lines which could eventually remain unbound be also used for computing " t_a "? Regarding the proposed increase in binding coverage the particular needs of Members which currently had a low level of binding coverage or were LDCs should be adequately provided for. Footnote 6 of the draft indicated a certain procedure for the calculation of tariff averages in order to reduce the bias by the disaggregation of Members' tariff schedules. While this was useful, there could be even further scope to reduce the bias by undertaking these averages at each of the disaggregated levels. It would be useful if the Secretariat could consider and work on this suggestion to further refine the procedure.

1.65 India had constantly stated that sectorial tariff elimination approaches should be voluntary and kept to the absolute minimum. As per the existing WTO practice with several precedents, these initiatives were open to those desiring to join in, with the further proviso that the initiative itself would come into force only if a "critical mass" of Members had joined. Was a global participation in these initiatives envisaged and if so, what was the reason for this departure? Any zero for zero proposals in specific areas was tilted against developing countries and it would also distort the duty structure in an economy by radically changing the effective rates of protection even in other sectors, a point made earlier by Chile. The first sub-paragraph in paragraph 7 of the proposal mentioned that the sectorial tariff elimination was "in addition to the application of the formula" In paragraph 6 it again stated that "all non-agricultural tariffs shall be reduced on a line-by-line basis using the formula". Presumably, this envisaged an application of the formula on all tariff lines including those which had been proposed for sectorial elimination. However, the second sub-paragraph of paragraph 7, which explained the sectorial tariff elimination, stated that the basis for elimination would be the final bound rates as after the full implementation of current concessions. How was the sectorial tariff elimination proposed to apply to the tariff lines covered by those sectors on top of the formula? They also sought further information on how the proposals regarding retention of certain tariff lines as unbound and the possibility of some of them being included in the product coverage of the sectorial initiative would be resolved.

1.66 The sectors identified for sectorial initiatives were precisely in areas in which developed countries, after eight rounds of tariff negotiations, still retained certain high tariffs. It was expected that any meaningful contribution of developed countries in the current tariff negotiations on import prices in their markets was expected to be mainly in those specific sectors, in return for substantial tariff reductions that developing countries would be expected to make on their entire tariff universe. He queried why developing countries were also being required to contribute so drastically in the sectorial initiatives. The identified sectors were presaged by the sentence that these sectors were of particular export interest to developing countries and LDC participants. Except for one developing country, which requested the inclusion of gems and jewellery sector, no other developing country appeared to have requested such sectorial elimination. India had identified a few of these sectors as the ones for targeted reduction of tariffs in developed country markets and not for such a wide ranging sectorial tariff elimination initiative where developing countries were also mandatorily required to participate. With regard to the implementation period, certain WTO Members had their Uruguay Round tariff reduction commitments going beyond 2005, not referring to the newly acceded Members. The question, therefore, was whether the commencement of the first phase was proposed to be a common date for all Members. Finally, with regard to NTBs, considering both the discussions held in the NGMA as well as the specific proposals submitted it was difficult to outline a more detailed modality than that proposed in the Chairman's draft. The principles that should govern these negotiations, for example, that the negotiations on NTBs should be concluded in the same time-frame as tariff negotiations and that negotiations on NTBs in any fora should be inclusive allowing all Members to participate equally should be mentioned up front.

1.67 The representative of Venezuela stated that the NGMA should do its utmost to reach a consensus while bearing in mind that the mandate emphasized specific measures for developing countries to ensure a balanced outcome that would prove the Doha Agenda really was an agenda for development. His delegation welcomed the recognition that tariff reductions should be based on the bound rates, as these were the rates which reflected Members' obligations as contained in their schedules of concessions. They also welcomed that the final tariffs were to be bound in *ad valorem* terms. This was an important initiative which would enhance the transparency of the system. While the Chairman's draft was a basis for working out the path to Cancun and beyond, some of the elements might prove very ambitious or onerous for the developing countries. Such was the case with the sectorial elimination of tariffs. His delegation was concerned to see the elimination of tariffs in certain sectors as an integral and mandatory part of the modalities. Venezuela had thought that it had been widely recognized in the Group that this type of approach should be examined once the core modality had been agreed and should be adopted on a voluntary basis. They had doubts as to which criteria had been used for selecting the proposed sectors and for confirming that they were of interest to all developing countries. A preliminary analysis taking the total value of Venezuela's exports for 2001 showed that the sectors in question did not appear to be of primary interest to them. Furthermore, sectors of interest to some countries could be sensitive sectors for other countries. That was where a "voluntary approach" became important, because it would apply only where common interest existed among the parties. Incorporating that component as a key element of the modalities could run counter to the mandate of less than full reciprocity laid down in the Doha Ministerial Declaration. In this respect, Venezuela needed more time to complete the assessment of the impact of the formula using different coefficients. They also needed time to assess the impact on the national tariff structure as they completed the regional coordination required for the customs union to which Venezuela belonged. Nevertheless, although the formula contained the simple average of bound tariffs component, which varied the reduction according to each country's tariff structure, this might not be sufficient to take into account certain sensitive issues for developing countries. Venezuela had conducted several simulations on the basis of the formula, using coefficients of 0.5, one, two and three. The result, even using a coefficient of three, was that the bound level was exceeded in certain sectors that were particularly sensitive because they were major sources of employment. This was the case, however, for only a few tariff lines.

1.68 The proposals on special and differential treatment provided for longer time-frames and allowed five per cent of lines to remain unbound. Because the latter would not apply to all of the developing countries, especially those that had bound their entire tariff universe, provision should be made for another type of treatment that would allow for less than full reciprocity and special and differential treatment to be fulfilled. They supported Colombia's proposal to examine the possibility of a differential B coefficient for developing countries and for a reduction on certain tariff lines that would not correspond to the formula. The *raison d'être* of special and differential treatment was, first, to recognize the structural imbalances between industrialized and developing countries, which were such that trade liberalization did not automatically lead to development or an equitable sharing of benefits; and second, to recognise that developing countries did not have the same capacity as industrialized countries to take advantage of the opportunities offered by trade liberalization. With regard to the calculation of *ad valorem* equivalents, Venezuela was concerned that Annex I provided for the possibility of using different calculation methods. It would be more appropriate for all Members needing to make such a calculation to use a single methodology. Venezuela had doubts about some of the proposed draft elements. For example, it was still necessary to define what constituted a "newly acceded Member". Venezuela also had doubts regarding the meaning of the phrase "tariff reduction will take place after implementation of current concessions", because according to the document containing Members' tariff profiles countries such as the United States and Japan would reach the last year of implementation of their concessions in 2009, and it was unclear as to how they would then apply the reductions. A number of the draft elements still needed clarifying or discussing in order to reach agreement.

1.69 The representative of Canada stated that the Chairman's paper was a set of basic elements on which more work needed to be done. They supported the thrust of the New Zealand intervention, in particular, the emphasis on sectorial trade liberalisation since the formula alone appeared insufficient to achieve a high level of ambition. His delegation associated with Chile's remarks concerning the consequences for the global trading system if the NGMA failed to be ambitious in the negotiation. On the subject of the erosion of the preferences, it was just a matter of time before this happened anyway. Canada had negotiated FTAs with a number of Member countries and by definition the margin of preference extended to developing countries under its general preferential tariff program had been lowered. This trend was likely to continue in the future unless the NGMA was able to achieve a high level of ambition in the negotiations. Only in this way could it give effect to a recent proposal by former WTO Director-General Mr. R. Ruggiero that countries agree to a standstill on new RTAs. The Draft Elements Paper appeared to cover most of the elements that needed to be addressed in the context of the current discussion. However, the draft elements would not provide the required level of ambition to enable the achievement of significant liberalisation in non-agricultural products. They were disappointed with the proposed formula. The way in which it incorporated an average of the base rates very significantly blunted the effect of the cut as it applied to higher rates. This rewarded Members who maintained many high rates. One part of the Group's mandate was to address high tariffs and tariff peaks, and in that context a more ambitious approach would be in order. That might be achieved by using a more direct application of the Swiss formula, which would serve to address both tariff peaks and high tariffs.

1.70 Canada was pleased that the proposal covered all non-agricultural products, including currently unbound items, and that it used a line-by-line, non linear reduction. However, it was unfortunate that the base rate for unbound items would be double the applied rate. There was no justification for being asked to negotiate down from 80 per cent on an applied rate of 40 per cent which was already high and which basically afforded little or no access. This approach simply rewarded Members who had a large proportion of high rates and those who still had a high proportion of unbound items. It was magnified for those who had both. The word "reward" was used loosely since high tariffs often prevented rather than promoted economic growth. Conversely, it disadvantaged other Members, many of which were developing countries, that had already bound a very high proportion of their tariff lines, or even all of them. In addition, the distribution of these so-called rewards was uneven and disadvantaged many of them. Canada welcomed the sectorial element

of the paper and the indication of a number of sectors. The sectorial proposal was designed to encompass both developed and developing Members, in order that the benefits of such liberalisation would accrue to all Members and would thus also promote rapidly expanding South-South trade. However, some Members would no doubt attach various sets of priority rankings to the sectors on the list. Canada's participation in any specific sector would depend on their overall balance of interest in any eventual package of agreed sectors, and on the overall level of ambition attained in the negotiations. At this point, the level of ambition was both uneven and too low. Some sectors were conspicuously absent from the list, most notably environmental goods which were singled out by Ministers in the Doha declaration paragraph 31. In addition, a number of other sectors were excluded, which might have appealed to various broad groupings of Members including developing countries, for example, forest products, non-ferrous metals, fertilizers, chemicals, and energy-related equipment. The proposal for longer implementation period for developing country Members could be appropriate for some developing countries but it might not be necessary or justifiable for others, especially those at higher levels of development.

1.71 Canada was disappointed that the Chairman's draft did not propose the binding of all non-agricultural tariff lines. All agricultural lines had been bound in the Uruguay Round. In addition, many Members including some developing countries and newly acceded Members, were at or near 100 per cent binding coverage. Both these sectors made it anomalous that the NGMA could seriously consider ending the negotiations with anything less than 100 per cent bindings for all products. Canada agreed with the proposal that LDCs' contribution be limited to binding their tariffs. This proposal could also be extended to the poorest of the non-LDCs. Imports from those countries should also be granted duty-free and quota-free entry. However, the upper-income developing countries should grant similar terms to imports from LDCs. If development was to be truly at the centre of the negotiations, it needed a wider range of participants who were improving and building on new market access opportunities for LDCs. It was not necessary or justifiable to use a different coefficient in the formula for newly acceded Members. While some degree of special consideration was needed, a combination of appropriate staging and a breathing space between implementation periods would meet this objective. Canada welcomed the mention in the paper of supplementary modalities, including zero-for-zero, harmonisation agreements, and request/offer activity. There were significant benefits in using these approaches to further the shared negotiation objectives. However, the invitation to simply consider the elimination of low duties should be strengthened in order not to miss the opportunity to simplify and streamline tariffs, eliminating those which served little or no real industrial policy purpose. The proposals on NTBs appeared to be practical and useful and a good basis for further consideration of the issue. On the overall range of issues to be addressed, Canada would work to build on the draft elements contained in the paper to move toward a more ambitious and balanced outcome. In this connection there was an inevitable connection to the agriculture negotiations where similarly a more ambitious result was very important to Canada. The DDA was about development and the road to development lay in more effective integration of all WTO Members into the world trading system through the active process of reform and liberalisation of trade policies rather than leaving many high tariff rates and other barriers and distortions largely intact.

1.72 The representative of the Kyrgyz Republic stated that his delegation had some serious concerns about the Chairman's draft. His delegation considered that all tariffs should be converted to *ad valorem* rates and then the harmonisation formula applied to them. This would result in a more predictable and fairer initial phase of the core negotiation process. The idea of elimination or significant reduction of low nuisance duties should be voluntary. The prevalence of low duties in a schedule merely indicated a country's commitment to be integrated into the multilateral trading system. They welcomed the proposal under footnote 2 to grant credits to those Members who had prepared their schedules of commitments after the conclusion of the Uruguay Round. His delegation reserved its right to further elaborate on the proposal regarding newly acceded Members, especially with respect to the grace period for the implementation, numeric value of the coefficient B as well as the tariff average " t_a ".

1.73 The representative of Norway stated that the draft paper reflected the discussion in the Group. Norway had endeavoured to consider the package of draft elements taken together as a basis for building modalities. They welcomed the proposal of a harmonising formula to be utilised on a line-by-line basis for all non-agricultural products, resulting in binding commitments. The formula had the potential to reduce tariffs significantly at least in OECD markets with already low average tariffs. It incorporated an element of less than full reciprocity for developing countries as average tariff rates were generally higher in developing countries than in OECD countries. Therefore, the reduction in any given duty in a developing country would be lower than the same duty in an OECD country. Norway appreciated the concerns of several developing countries that the average tariff levels did not necessarily reflect the level of development in all cases. The main question was the level of ambition, namely the value of the coefficient B. A number of issues discussed in the Group were not mentioned in the draft and Norway would have welcomed the inclusion of the elimination of tariffs on a general basis. However, the discussions so far had not given a sufficient basis to include this element, nor a number of other elements proposed by Members. There were some technical aspects, some of which were important and could have significant consequences for the outcome of using the formula and they were prepared to have technical discussions at a later stage. The draft proposal was not the final solution, it was up to Members to ensure that this round on non-agricultural tariff negotiations delivered meaningful market access. In order to reach consensus on the modalities for the negotiations on NTBs a clear outline for the Group's work was required. As the Group was currently in the process of identifying and examining NTBs of relevance to the negotiations it should agree on a set of modalities that would be sufficiently flexible to be adjusted in light of a more extensive analysis of the measures notified, as well as further information and reflection by Members. The overall responsibility for dealing with NTBs lay with the NGMA which had been mandated to deal with them. The Group should proceed with a first phase of identification and examination of the various NTBs as well as categorising and identifying them and then select the individual NTBs that needed to be addressed further. In light of the limited time available a specific deadline should be agreed upon for the former phase in order for the NGMA to be able to conclude the negotiations by the end of 2004. Norway's overall assessment of the draft elements on modalities was positive, albeit with a number of questions. They were prepared to work constructively on the basis of the draft in order to secure a result that was both ambitious and balanced.

1.74 The representative of Cuba stated that the Chairman's Draft Elements of Modalities was a particularly useful tool for enabling the Group to reach an agreement on the modalities. The summary prepared by the Secretariat showed that consensus was possible on the base rate, the nomenclature to be used and the reference period. However, the paper failed to fully comply with a basic premise of the Doha mandate, which provided that "The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments". Developing country Members promoted the use in these negotiations of a line-by-line tariff reduction formula using different reduction rates for developing and developed country participants, but this was not the same as that set out in the Chairman's draft. He asked the Secretariat to prepare a simulation, possibly through a technical assistance work programme, to help Members to determine the impact of the application of the formula on tariffs. The sectorial tariff elimination approach had been severely criticized by developing country Members who stated that it should be used as an supplementary approach on a voluntary basis by countries with similar development levels once the basic modalities had been agreed to.

1.75 The representative of Argentina stated that it was prepared for a high level of ambition as an integral part of the single undertaking, considering the balance that needed to be achieved between the different negotiating areas, in accordance with paragraph 49 of the Doha Ministerial Declaration. Argentina attached special significance to agriculture. They endorsed the notion of "positive linkages" established by the WTO Director-General and were confident that strong advances in agriculture would lead to equally strong advances in non-agricultural products. Such a balance was necessary in order to meet the interests of all Members and to ensure that the benefits secured in each individual

negotiation were bolstered by the outcome in the other negotiating areas. The incorporation of special and differential treatment was an integral part of the modalities as was the fulfilment of the less than full reciprocity mandate. Argentina was paying close attention to the element of non-discrimination between developing countries, separate from the category of LDCs for whom there should be even more favourable treatment. Argentina agreed that bound rates should serve as the basis for tariff reductions and that non *ad valorem* tariffs should be bound in *ad valorem* terms at the outcome of the negotiations. The proposal that the base rate for unbound tariffs should be twice the MFN applied rate would not only mean taking much higher rates as the starting-point for reduction but would also, in the absence of any specific moderating mechanism, significantly impact the tariff average and hence the coefficient used to apply the formula. Argentina was examining the negative effect of this proposal, especially on developing countries that had bound 100 per cent of their tariffs. They were also examining the proposal on sectorial tariff elimination, as this could have far-reaching implications for the industrial structure of developing countries, in many instances adversely affecting development opportunities. Sectorial elimination should be adopted on a voluntary basis, at least in the case of LDCs, so as to ensure that the principle of less than full reciprocity was maintained. The proposal in paragraph 8(a) to allow five per cent of tariff lines to remain unbound could only benefit a limited number of developing countries. Practically all of Latin America had bound 100 per cent of their tariffs in the Uruguay Round, which meant that an entire region would be deprived in a significant respect of the benefits of the proposed exception. The modalities should incorporate special and differential treatment in such a way that they would benefit all developing countries and not exclude those who had made a very significant and hard-earned contribution to the multilateral trading system by binding their entire tariff universe. With regard to NTBs, clarification would be required on the scope of the bullets in paragraph 13(c). Having conducted an initial analysis of the various categories of NTBs identified, there was some overlap and it was not at all clear what course should be adopted in each case.

1.76 The representative of Brazil stated that the Chairman's paper was a good first step in achieving the Ministerial mandate, containing both positive and less positive points. It was a workable basis for drawing up agreed modalities in the future that would meet the challenge of both complying with the Ministerial mandate and establishing a level of ambition that was compatible with other areas of the single undertaking. Devising a relatively simple formula using each Member's tariff average as a component of the coefficient to be applied to the Swiss-type formula was presumably intended to integrate the concept of less than full reciprocity in the formula itself while the personalised coefficient for each Member recognized that each country's tariff structures was a reflection of its development process. It was also intended to act as an instrument to tackle tariff peaks, tariff escalation and high tariffs. Brazil would still need to calibrate the level of ambition they would ultimately aim for, but that was not a task that could be solved exclusively in the NGMA. Brazil had no objections in principle to the sectorial zero-for-zero negotiations. Brazil had understood that the broader feeling of Group pointed towards supplementary modalities being discussed only after agreement on the core modality. This point was essential because treating these sectorial negotiations as part of the core modality would completely negate and undermine the less than full reciprocity component of the formula. It was self-evident that tariff elimination on a range of non-agricultural products that made up a very considerable portion of trade would lead to greater reductions in tariff commitments from developing countries, in direct opposition to the mandate given by ministers. The only way around this would be to leave the sectorial negotiations, be they zero-for-zero or otherwise, exclusively to the supplementary modalities proposed in section 5 of the document.

1.77 While sections 3 and 4 of the proposal were nominally mandatory components of the modalities, they were in essence a selective non-application of the modalities for some Members. Some of the concepts conformed to the principles of special and differential treatment for developing countries and LDCs and respected the Group's mandate, such as longer transition periods for developing countries and the exemption of reduction commitments for LDCs. The other components would have to be further analyzed. Additional time would be required to completely evaluate the draft elements proposed and certain specific details would have to be explored in greater depth before they

were prepared to sign on to the proposed modalities, for example, the question of non-*ad valorem* tariffs. The Annex on modalities for calculation of *ad valorem* equivalents was merely a marker for this issue, as the NGMA had agreed to revert to this point on the basis of a Secretariat background document on possible alternatives. It was essential that there be greater clarity on the final outcome in this area, with a precision that final rates be bound exclusively in *ad valorem* terms, so as to enhance transparency for the private sector. Notwithstanding these points, Brazil was prepared to continue working on the draft elements paper as a basis for the further deliberations of this Group, within the overall context of the single undertaking of the round.

1.78 The representative of Hungary stated that the Chairman's Draft Elements Paper could be the basis for further work on the modalities. They welcomed the principle of a single formula applied on a line-by-line basis but had certain doubts about the effects of tariff averages being introduced as a component to the coefficient of the formula. Tariff averages did not necessarily reflect the level of development of the Members concerned. Her delegation had no problem with the proposed technical elements, namely with the base rates, base year, non-*ad valorem* duties, nomenclature and reference period. Although they did not like the idea of sectorial tariff elimination and had some problems with the sectors proposed, they could consider it as an addition to the application of the formula. They agreed that this modality should be applied by all Members. With regard to the additional provisions for developing countries and LDCs, they could go along with most of the proposals made except the flexibility of developing countries retaining five per cent of unbound tariff lines. According to the Doha mandate, product coverage should be comprehensive and without *a priori* exclusion, therefore the binding coverage should also be comprehensive. Supplementary modalities should be considered after reaching an agreement on the core modality. With regard to NTBs, while Hungary would have preferred to see export duties listed in the draft.

1.79 The representative of Israel stated that since 1990 Israel had gone through extensive autonomous liberalisation. While there were benefits from lowering tariffs there was also pain and structural change that had to be undergone in order to achieve such benefits. Israel recognised the necessity of giving every Member flexibility in determining when its economy was ready for such dramatic changes, although it was clear that it was a necessary step for real economic growth. His delegation would have difficulty accepting the proposed formula as it was a straightforward line by line approach without flexibility to deal with highly sensitive sectors. In this respect, Israel was carefully examining footnote 2 relating to credit for autonomous liberalisation and paragraph 8(a) dealing with implementation periods and tariff line coverage. Israel was not sure that this would give the flexibility needed to avoid causing damage to Israel's industries. Sectorial tariff elimination should be part of the supplementary modalities and there should not be a list of sectors identified at this stage, especially along the lines included in the draft. At this point in formulating the modalities, the sectorial tariff elimination should be a supplementary modality. Israel also preferred a more voluntary approach to sectorial tariff elimination, similar to the ITA. This, together with a request and offer stage, would give an opportunity for real negotiations on market access for sectors of importance to developing and developed Members.

1.80 The representative of Ecuador stated that it was important to preserve the integrity of the multilateral trade system where market access on the basis of special and differential treatment and less than full reciprocity in commitments was of unique importance for developing countries. Using bound rates as the base rate in the proposed formula was important. However, adjustments would have to be made not just to the formula but also to the estimation made for the reduction of unbound rates. If a line-by-line approach to tariff reduction was being considered, the modality should contemplate a special and differential treatment among Members through differentiated coefficients and reductions and longer implementation periods for developing countries. Non *ad valorem* duties should be converted to *ad valorem* terms so as to achieve transparency and predictability. However, Ecuador supported Venezuela's statement regarding the methodology. With regard to sectorial elimination the Group had to adhere to the Doha mandate. It was premature to identify areas or sectors for tariff elimination. Additionally, the principle of less than full reciprocity between Members

should be incorporated. Ecuador still had doubts regarding the time-frame for the three annual phases of reduction and considered that it would be necessary to first determine the formula and then consider supplementary methods. With regard to newly acceded Members, it would be desirable to specify which Members were considered newly acceded and for how long. If newly acceded Members were granted longer periods for tariff reduction Ecuador wondered what the situation would be for other developing countries. Granting longer implementation periods to newly acceded Members would be the right option rather than higher coefficients in the formula since tariff reduction was the goal of the negotiations. With regard to NTBs, Ecuador sought further clarification on the last point made on the issue in the draft elements. To preserve the integrity of the multilateral trade system the level of ambition being pursued in other negotiating groups, particularly in the area of agriculture which was the main area of revenue for many developing countries had to be borne in mind.

1.81 The representative of Uruguay stated that the proposed formula was an ambitious one and her delegation was analysing it on the understanding that the same level of ambition would prevail in other areas of the negotiations, particularly in agriculture. Uruguay agreed with the elements on which the formula would be based as well as with its application on a line-by-line basis. Uruguay also agreed that the final rate "t₁" had to be bound exclusively in *ad valorem* terms. Uruguay needed further analysis of the proposal for sectorial elimination since they considered it to be very ambitious. Uruguay agreed with identifying certain sectors but other sectors could be included subject to negotiations among Members. The special and differential treatment in the proposal did not cover the Doha mandate completely since it penalized those Members who had bound all their tariffs; they were just given more time to implement the reduction. While understanding that the ultimate goal of these negotiations was full binding, Uruguay could concede as a special and differential treatment to developing countries the flexibility to maintain exceptions up to five per cent of tariff lines. The Chairman's paper proposed a differential coefficient for recently acceded Members and not for developing countries. Uruguay was not clear from the document which Members were considered newly acceded and from what date they would no longer be considered as such. Uruguay could consider a longer timeframe or differential coefficient for newly acceded Members if the same treatment was given to developing countries. With regard to NTBs, Uruguay requested more information on paragraphs 1 and 4 of the draft. Developing countries should be included among the Members to be considered in capacity-building measures in accordance with paragraph 50 of Doha.

1.82 The representative of Switzerland stated that the Chairman's Draft Elements Paper contained the basic elements of draft modalities. It proposed procedures without proposing figures, it showed a path without prejudging the destination or the outcome; it proposed ways to fulfil the mandate for each specific issue of the modalities; the only point it did not mention and where there was a mandate from Ministers in Doha was the issue of environmental goods. This was an important issue which would have to be dealt with in the modalities, but was also one of the issues which could be dealt with once the basic elements were known. The draft contained useful elements as a basis for discussion as it allowed for an ambitious approach but also contained proposals on some basic elements to take into account different development situations of WTO Members. With regard to the formula, it should fulfil the criteria of being transparent, easy to use, harmonising, take into account different development situations of WTO Members and address effectively peaks and escalation. Comparing these five criteria to the proposed formula showed that the formula satisfied the transparency requirement. Regarding easiness of use, the calculation of the average tariff which depended on the tariff structure of specific Members could prove to be complicated and difficult. There was need for some discussion to ensure that the average was calculated in a unbiased way. Regarding the criterion of harmonisation, the formula allowed for harmonisation within a Member's tariff, depending on the level of coefficient B. However, the use of the average in the formula did not allow an effective harmonizing effect between Members' tariffs which was an important element of any tariff reduction on non-agricultural products. Regarding the fourth criterion, taking into account the different levels of development, the average tariff rate was a flawed indicator of their level of development. The formula addressed the level of development indirectly, taking into consideration only developing countries with higher tariff levels. In general, the formula could have very different effects on countries which

had a similar level of development and this was a serious shortfall. Switzerland would reflect on more appropriate indicators to build into the formula in order to be able to take into account Members' levels of development. Finally whether international peaks and escalation would be effectively addressed by the formula would depend on coefficient B. Only if B was very low, closer to 0 than to anything else, might the formula come to grips with peaks and escalation.

1.83 Regarding the different parameters of the formula, Switzerland agreed that the bound rates should be the base rates for the negotiations. The proposal in the case of unbound rates (double MFN or five per cent if the MFN was zero) seemed to give a very high point of departure, especially for Members with high applied rates and a low rate of bound tariffs and Switzerland would favour a much lower figure. The proposal on import data made sense in order to avoid yearly fluctuations. Switzerland was more concerned with the actual submission of the relevant information as in order to really appreciate the effects of the formula the relevant data would be required. Therefore, it was very important that all Members submit the necessary data as soon as possible. With regard to the issue of non *ad valorem* duties, they agreed that for the use of the formula the calculation of non *ad valorem* equivalents was necessary, but this was without prejudice to the conversion of specific duties to *ad valorem* duties on a more permanent basis. While it was an important issue with regard to transparency, the solution would depend on the overall level of ambition. Switzerland was in a special situation with respect to the AVE issue and its specialists were studying the different calculation methods in order to come up with a method which would be transparent while at the same time taking into account the fact that the base rates for all Members in these negotiations were the bound rates.

1.84 With regard to sectorial tariff elimination, her delegation supported the idea of eliminating tariffs on goods which were of special interest to developing countries and LDCs. Switzerland was still in the process of evaluating which sector should fall under this heading. Regarding the treatment of developing countries and LDCs, Switzerland was not convinced of the proposal to exclude five per cent of tariff lines from binding as contained in paragraph 8(a). 100 per cent binding coupled with flexibility on the level of bindings was a much more promising way to proceed. As regarded LDCs, Switzerland agreed that better market access was crucial to them and therefore supported the proposal regarding duty free and quota free access for non-agricultural goods for LDCs. Switzerland also agreed that the contribution expected from LDCs should be confined to enhancing the level of binding, but at a level of 100 per cent or close to it. This treatment should be extended to poorer developing countries not belonging to the category of LDCs. Regarding newly acceded Members, the extensive market commitments which they had made during accession should be taken into account and these Members should be given longer implementation periods rather than a specific coefficient. Switzerland welcomed the possibility of supplementary modalities in the draft and would further explore that issue. Switzerland also welcomed the proposal's consideration of the elimination of low duties, while acknowledging that there was no consensus on that point. The solution would depend on the level of ambition of the overall results. The approach to NTBs in the draft made sense. The difficulty would lie in the identification and examination of the various NTBs and their individual legitimacy. Switzerland was prepared to work in the NGMA on the basis of the draft in order to come to an ambitious result which had to be to the benefit of all Members and had to, in particular, ensure a more effective integration of developing countries in the world trading system.

1.85 The representative of Iceland stated that the Chairman's paper made a serious attempt at addressing all the major objectives of paragraph 16 of the DDA in a constructive manner. The formula succeeded in addressing the reduction or elimination of tariff peaks as well as addressing tariff escalation. However, it might not go far enough to meet the objectives of reducing or eliminating high tariffs. This would depend on the value of the coefficient B. Members with high average tariff bindings would still be able to apply high tariffs after the reduction according to the formula, which had the principle of less than full reciprocity built-in. This could be of advantage to developing countries. As other Members had pointed out, the level of average tariff bindings did not reflect a country's level of development. The lower the B coefficient, the closer the formula would be

to fulfilling the objectives of the Doha declaration. The concept of tariff elimination was addressed in an interesting manner which was worth exploring further. However, the formula alone would not be in line with what the Group had agreed because it would not result in any tariff elimination. Commitment by all Members, with the exception of the LDCs, to eliminate tariffs on selected sectors that were of export interest to developing countries and LDCs would be in line with the mandate on elimination of tariffs taking the export interests of developing countries into account. Iceland was willing to take part in the elimination of tariffs on products of interest to developing countries and to negotiate an extension of the proposals in the draft to additional sectors that were of export interest to developing countries, especially LDCs. The ideas presented in paragraph 8 on special and differential treatment for developing countries and LDCs and the issue of less than full reciprocity were interesting, especially those regarding the LDCs. The proposal on newly acceded Members in paragraph 10 was also worth exploring further. On the elimination of low duties, such duties provided limited revenues to governments, even more limited protection and hindered trade and trade development. The definition of what constituted a nuisance duty was arguable but five per cent or under had been suggested. Such a move, even if multilateral, would be more favourable to developing countries. Even though Iceland supported supplementing additional tariff reduction and elimination on sectorial modalities with other complementary approaches, such as zero for zero, such a move would not be necessary if the modalities proposed were used properly.

1.86 The representative of the Philippines stated that a majority of Members had problems with tariff elimination so the formula gave Members flexibility by allowing them to contribute to trade liberalisation according to their ability. Members had to make a choice on a unique value for the coefficient which, together with Members' average base rates, would determine the manner in which high tariffs, tariff peaks and escalation would be addressed. While this compression objective might only work within each Member's tariff profile it was a good start, as not all Members could attain the level of tariff elimination. While average base rates did not represent Members' development levels they provided a modulating influence on the final bound rate which could give a more efficient tariff cut compared to linear cuts of a proportionate nature. His delegation objected to such linear cuts because they retained the relative level of tariff disparities in the final outcome. In order to provide special and differential treatment and less than full reciprocity, the value of coefficient B had to be higher for developing countries than for developed. While there was still a lot of work to be done before completing the formula and assessing the full impact of its application on all Members' tariff profiles, the Philippines were willing to work on the proposal with an open mind. The Philippines supported the use of bound rates after full implementation of the Uruguay Round commitments as the base rates, but they wanted to further explore the implication of commencing the reduction on unbound tariffs at two times the MFN applied rates and of using the 2001 applied rates as the base year. In past negotiations, commitments had been paid for in terms of the bound rates and changing the rules of the game would be unfair if Members were not duly compensated for it. It would have the effect of pushing some base and average rates upward, thereby penalising Members who were involved in the reduction process. However, the proposal would be acceptable to his delegation if Members were not required to make further reductions once having bound their tariffs at two times the applied rate. Another element missing from the proposal was the phasing of final bound rates in the formula. Longer phasing for developing countries should not only be available in sectorial initiatives but in the basic formula itself.

1.87 According to the study (TN/MA/S/10) non *ad valorem* duties of varying complexities were imposed by more than a third of WTO Membership on a number of products of export interest to developing countries, mostly in agriculture but also in industries like textiles. The agriculture negotiations had taken an earlier decision to adopt a tariffs-only basis and it was timely for the non-agriculture sector to do so. The Philippines expected early agreement on a conversion guide of non *ad valorem* rates to *ad valorem* rates so that it could be integrated into the existing tariff profiles of non *ad valorem* imposing Members. This was a necessary prerequisite in completing the element of the non-linear harmonizing tariff formula. They also supported the exemption of five per cent of total unbound tariff lines from binding and from tariff reduction commitments. The exempted products

should also be excluded in calculating the average base rates. With regard to sectorial tariff elimination, he queried whether the proposed list of sectors was open-ended. The Philippines supported the sectorial approach as a supplementary modality and one limited to only a few sectors so that it would not lead to distortion in the overall outcome of the non-agricultural sector. While participation could only be on a voluntary basis the liberalisation commitments arising from them must be extended on an MFN basis. On the elimination of low tariffs, as a measure of flexibility his delegation would have no objection to developed countries eliminating their tariffs which were around three per cent. A 50 per cent tariff cut on low tariffs in developed countries meant practically nothing but for developing countries they were essential sources of state revenues, a lifeline of employment for a number of people. Without prejudging their position on paragraph 8 (a) and (b) each element in the proposed draft and any future elements should include its own special and differential treatment and less than full reciprocity provision i.e. the formula for tariff reduction, sectorial tariff elimination, supplementary modalities, the treatment of NTBs and the phasing of implementation. Where Members agreed, the modalities could still be supplemented by a request/offer approach but this should only be done if the main approaches could not yield the same results and it was carried out in a transparent manner with the outcome extended on a MFN basis for all.

1.88 The matter of appropriate studies and capacity building as a means of technical assistance was of immediate priority. The UNCTAD studies had been very instructive as had the recent WTO discussion paper on industrial tariffs and the DDA. With regard to South/South trade, which was referred to by many developed countries, it was important to determine whether it was a myth. A Dutch paper on economic benefits of the DDA estimated that up to one third of the benefits from liberalisation would come from the full participation of developing countries but this was probably mainly due to North-South trade which was generally in favour of the former. Another third of the estimated gains from DDA was supposed to come from agriculture and the OECD, World Bank and IMF highlighted the centrality of agriculture, not only in the success of the trade round, but more so because of the benefits that could arise from it. The dispersal effects of agricultural reforms and liberalisation, which had not been imputed into the estimates could be substantial particularly from the viewpoint of poverty elimination. Hence the essential linkage of non-agricultural negotiations to agriculture negotiations should never be lost. The NGMA should exercise "ownership" management and overarching control of the negotiations on NTBs particularly as they affected products covered by its liberalisation commitments. The procedural outline presented in the Draft Elements paper fell short of requirements and required further discussions. Negotiations on NTBs had to run in parallel with and finish in the same timeframe as negotiations on tariffs. His delegation was not convinced that the erosion of preferences was an acute issue for many participants. Tariff elimination was still unacceptable for most Members even on a longer term basis, therefore, the impact of preferential erosion could be predicted and assessed in advance for bilateral donors and international financial institutions to address. The WTO trade policy orientation would neither provide the sole nor crucial answer but it could help mobilize global resources where the problems of specific countries were identified. Multilateral liberalisation should not be held back in order to protect bilateral or regional liberalisation and the reverse was also true, bilateral or regional initiatives should not be restrained should multilateral liberalisation fail.

1.89 The representative of Singapore stated that the Chairman's paper was not ambitious enough, particularly when measured against the Doha mandate. The essence of paragraph 16 of the DDA was the reduction and the elimination of tariffs, tariff peaks and tariff escalation. The NGMA should work toward improving the draft so that it could respond adequately to the Doha mandate. His delegation supported the notion of applying a single non-linear harmonising formula but the contents of the current formula needed to be improved. The use of average tariff rates would frustrate the goal of achieving ambitious tariff reductions or elimination. It would also accentuate the discrepancies in the tariff structure of countries with high tariff rates and those with low average rates. In addition, there could be conceptual and measurement difficulties in establishing comparable and credible average tariff rates. While Singapore questioned the advisability of using average tariff rates in the formula Singapore would work constructively within the Group to find innovative ways to address any

potential problems inherent in the use of average tariff rates in the formula. In this connection, Singapore noted New Zealand's idea of including the possibility of capping the average tariff rates. A low value of coefficient B, preferably close to zero was required to facilitate meaningful tariff reductions. Additionally, a low B was necessary, though not sufficient, to balance the minimum tariff cuts that the current formula would entail for Members which had high tariff rates *vis-à-vis* those with lower average tariff rates. The sectorial approach was an important complement to the formula though Singapore would have preferred more sectors to be included in paragraph 7 of the draft. The mandatory nature of the sectorial approach was also very critical. Singapore agreed with paragraph 4 of the draft modalities that these negotiations should be carried out in such a way that the integrity of the multilateral trading system was preserved. Tariff liberalisation in the form of ambitious tariff cuts and tariff elimination should be the rule and not the exception in these negotiations. A good outcome on NTBs was also needed to complement the tariff reduction and elimination and to maintain the ambitious outcome of the tariff negotiations.

1.90 The representative of the European Commission stated that they would evaluate any elements of modalities put on the table on the basis of the Doha mandate which had placed development at the heart of the negotiations. Progress in this respect was not only a matter of greater access to developed country markets; since 40 per cent of trade of developing countries occurred between themselves, the need for participation by developing country Members was a key element in meeting the Doha development objectives. His delegation welcomed the use of bound rates as the base rate for bound items, the proposed base year, the HS nomenclature as well as the reference period and the line-by-line approach of the formula. However, the formula might need some adjustments in its application. It was the most innovative part of the draft elements but it did not include any of the elements of the EC's proposed compression mechanism, which would enable Members to negotiate different degrees of compression depending on their current situation. Such an approach met all the objectives of the Doha mandate. The EC was prepared to examine the draft elements but several issues would have to be addressed in order for it to live up to the objectives subscribed by Ministers in Doha. There was currently a real risk of inequity among Members and this had to be discussed since it raised the question of the definition of what special and differential treatment commensurate to the needs of all developing countries and LDCs meant. The EU was committed to a rules-based system. As such it could only support a formula that favoured the reduction of dispersion not only within the tariff schedule of a Member but also between Members at the same level of development. The question was how to address the concerns expressed by some Members regarding the equitable application to all developing country Members of the concept of less than full reciprocity. Least developed Members should be an exception to any such considerations. In that respect paragraph 8.b. of the draft elements went in the right direction.

1.91 The draft elements proposed an approach that was de facto based on a definition of peaks as "national" peaks, as opposed to "international". That was at odds with the position traditionally taken by the EU, and it would not be able to change its stance. It would be difficult to explain to stakeholders that some Members with very high tariff averages remained protected, irrespective of their level of development and as a result did not offer real concessions that would benefit EU exporters or developing country exporters, the latter being where the largest potential for growth and development existed. With regard to unbound items, some form of credit had to be granted to developing countries putting their unbound items on the negotiating table, provided the final rates were bound. If one of the parameters of the formula to be agreed upon was to be anchored to the tariff profile of a Member, then only tariffs that would be finally bound deserved to be taken into account. It was proposed that developing countries could retain up to five per cent of tariff lines unbound provided that they did not exceed five per cent of a Member's imports but there had to be a question over who benefited from this. Over fifty Members (EU counted as one), about half the Membership, had fully bound their tariffs and that group encompassed Members from developed to least developed countries. Over 30 Members had a binding coverage well above 95 per cent and several were in the range of 99.9 per cent. 13 Members had a binding coverage between 50 per cent and 95 per cent. Most of the Members that were below 50 per cent of binding coverage were LDCs. This meant that

there were extremely limited exceptions to the list of countries that had bound their tariffs. Therefore, whether the proposal met the test of special and differential treatment available to all Members needed to be clarified. With regard to sectorial tariff elimination, the EC welcomed the inclusion of textiles, clothing and footwear, and, in particular, the suggestion that it would be mandatory. They attached great importance to making progress on this initiative which could be part of the core modalities to be adopted. A sectorial approach should be part and parcel of the core modalities applied to all Members even though the definitive list could only be finalised at a later stage in the negotiations. As regarded the staging proposed, they agreed with the need for differentiated periods between developed countries and other Members but questioned the economic rationale for the three-phase staging where there would be a sort of plateau in the middle. The proposals on tariffs, newly acceded Members and supplementary modalities contained some initial elements which could be further worked upon. It was a complex task, but so far good progress had been made while bearing in mind the importance of preserving the integrity of the WTO multilateral system.

1.92 The representative of the Czech Republic stated that the wide disparity in the positions of Members over how to reduce or, as appropriate, eliminate tariffs and NTBs could explain why the Chairman's draft elements lacked a number of proposals raised in discussions to date. Notwithstanding this, the draft contained a number of positive elements which were worth further exploration and elaboration. The most important element was the formula which called for across-the-board cuts in tariffs on non-agricultural products. This approach was fully in line with the comprehensive coverage of the ongoing negotiations, as set by ministers in Doha. It also went in the direction of engaging all Members in new market openings which was of paramount importance. His delegation would need more information on how the formula would operate in order to assess its implications and whether it involved something specific for his country. At the same time they continued to review the manner in which the formula addressed their concerns with regard to high tariffs and tariff peaks and the extent to which it endorsed the idea of compressing tariffs into a flatter range. They understood the Chairman's rationale for proposing the use of a country's average tariff rate as one of the components of the formula but it should not result in a situation where those who had already substantially reduced their tariffs would become hostages of their past efforts. It was not advisable to use a formula which would result in a country having an opportunity to offer a lower reduction just because of a higher average tariff. This concern could be addressed by using a variable coefficient approach, in which all products would be subject to the same reduction formula but would be subject to different coefficients, depending on the average levels of the base rates or the levels of individual base rates. Another important element missing from the draft was the establishment of a maximum tariff that Members would be authorized to keep. They requested further details on the suggested rules for credit for unilateral liberalisation taken since the conclusion of the Uruguay Round. The Czech Republic would examine the possibility of giving credit in a formula-based approach for recently acceded Members whose tariffs were lower than those of countries with comparable levels of development.

1.93 His delegation supported the addition of sectorial supplements to the formula approach. However, the Czech Republic would be extremely reluctant to bring any specific sector on board at this particular point in time and in a situation where Members were still striving for an agreement on the parameters of the formula to be used. While the seven sectors proposed by the Chairman for tariff elimination were of particular export interest to developing and LDCs participants, it would be necessary to look at some data concerning trade in the products in question, including trade shares of individual Members and their levels of protection, before agreeing to those sectors. Members should be cautious about rushing discussions on the elimination of nuisance tariffs. Special and differential treatment should be in proportion and constructed in a way that enabled a balance between the principle of less than full reciprocity and the need to have adequate and meaningful contributions from all participants. His delegation preferred special and differential treatment which was more customised to the specific situations of individual developing country Members. In that regard, his delegation did not support the possibility of developing countries keeping five per cent of their tariff lines unbound and the modalities should include a commitment by all Members to bind all tariff lines.

With regard to LDCs, his delegation fully endorsed the concept of duty-free and tariff-free treatment for non-agricultural products originating in the LDCs, and would seek a more ambitious outcome by having a clear commitment on the part of developed countries and some other major LDCs' trading partners. The Czech Republic was willing to consider the Chairman's proposal for proceeding with NTBs and expressed the need for acceleration in this issue so that there could be maximum benefits resulting from market access. They strongly expected that Members would be able to agree, as a minimum, on the general principles which would be further elaborated in the run-up to Cancun and finally approved by the time of the Fifth Ministerial Conference.

1.94 The representative of Trinidad and Tobago speaking on behalf of Barbados, Jamaica and Trinidad and Tobago stated that the Chairman's draft was lacking in the basic elements which were crucial to their interest, which was the development dimension of the Doha negotiations. Therefore, they were gratified to understand that these modalities were to be seen as a set of basic elements, which would need to be adjusted, refined, etc. The concept of less than full reciprocity had been less than fully provided for and meaningful special and differential provisions needed to be integrally reflected in the basic elements. These concepts were key principles in the formulation of the modalities for negotiation. The formula approach proposed in the draft would have a detrimental impact on their economies and development objectives, since for certain small developing countries tariffs were an importance source of fiscal revenue, and drastic cuts in the level of tax receipts would have a disruptive effect on their economies and further threaten the viability of domestic industries. Furthermore, they would expect to see provisions for the special treatment of certain domestically sensitive products in keeping with the proposal that special and differential treatment was to be incorporated as an integral part of the negotiations. They supported Mauritius' position that erosion of preferences should not be arbitrarily dismissed as being inconsequential, as some Members seemed to consider. The matter of preferences was of critical importance to a significant number of WTO Members and had to be taken into account in the development of modalities. Finally, the prompt and focused delivery of technical assistance was one of the integral elements which would facilitate their effective participation in the negotiations as well as other developing countries such as small vulnerable economies which would also benefit from the provision of studies and other capacity building measures. They hoped that the Chairman's revised draft would reflect this.

1.95 The representative of Japan stated that the formula suggested in the Chairman's Draft Elements paper virtually offered two separate formulae, one for developed country Members and one for developing country Members. This would not serve to remove disparities in tariff levels among the WTO Members. In contrast, the Japanese proposal, a trade-weighted average formula, was both appropriate and realistic. Each Member should increase its binding ratios by binding as many tariff lines as possible. It was necessary to study the appropriateness of the use of two times the MFN applied rates as the base rate for unbound dutiable items and applying the formula based on these base rates. It would also be necessary to study the appropriateness of the method of calculation of *ad valorem* equivalents for specific duties through consultations with domestic industry concerned. At the same time, he underlined that specific duties were consistent with the WTO rules. With regard to the sectorial approach, while the Chairman's paper included some sectors such as electronics and electrical goods and motor vehicles parts and components which were also suggested in the Japanese proposal, they could not agree to the inclusion of fish and fish products and leather goods and footwear as mentioned in the Chairman's paper. From the viewpoint of the global environmental conservation, they could not agree to the inclusion of the forestry sector. The use of different coefficients for newly acceded Members would be problematic since there were no persuasive reasons to differentiate them from other Members since they had already obtained full Membership in the Organisation. As regarded the elimination of low duties, since they were the outcome of enormous efforts made on tariff reduction during past Rounds, their elimination should be left to the judgement of each WTO Member, particularly as it was not easy to establish a reasonable definition of low tariff duties. They supported the Chairman's approach to NTBs as contained in the draft. Japan was fully committed to the process of liberalisation in the non-agricultural trade area according to the mandate of the Doha declaration.

1.96 The representative of Romania stated that Romania supported a single formula to address each tariff line, even though it still had some concerns about how this formula would address development needs and give impetus to South-South trade. The basic elements for the application of the formula seemed very close to those already discussed and Romania's concern related to unbound rates, for which the envisaged approach was too soft. The idea of sectorial tariff elimination was not strongly supported but it should be seen as a supplementary step in liberalising trade and the sectors to be included should be a matter of negotiation. The elimination calendar was also a matter for further evaluation. They were unhappy with the additional provisions included in paragraph 8(a) which represented a roll-back even from the Uruguay Round initial objective, which was to bind all customs duties. During the Uruguay Round Romania had taken the objective of binding all their tariffs very seriously. Binding all tariff lines was a very important element of pursuing a principle that would govern multilateral relations i.e. transparency and predictability. If there was agreement to provide some flexibility for developing countries, this flexibility could be in relation to the level at which developing countries had to bind all their tariff lines or it could be an exception to the rule and maybe one, two, three or five per cent could be taken into consideration. The elimination of low duties should not be compulsory but rather a matter of negotiation. Newly acceded Members should be given credit for the higher degree of liberalisation assumed at the moment of their accession but the proposed solution could impede on the idea of a single formula and maybe another solution should be found. The proposal of supplementary modalities increased Romania's concerns regarding the concept of reductions based on one single formula. There would be enough work to be done in applying the formula and negotiating on possible sectorial approaches, therefore, Romania would be in favour of the request and offer modality. With the focus being on having balanced modalities, there remained a lot of work to be done in the area of NTBs. There should be more specific provisions regarding how the negotiations would cover trade facilitation, improvement of rules, technical barriers, export duties, etc. It appeared from the draft that a selection of non-tariff measures would be made, put into different boxes and then agreement reached that there were not enough clear modalities for their elimination, reduction or improvement. In conclusion, Romania considered this draft as a good beginning and would contribute to its improvement and development.

1.97 The representative of the Slovak Republic stated that the Chairman's paper was a structured compilation of a number of elements discussed rather than a comprehensive modality draft. Outlining some proposals in a general way could allow for desired flexibility in the modalities. However, the Chairman's text required more clarity and precision. On a preliminary basis they could support a number of proposed elements. Firstly, they supported the use of the formula approach as the working basis for further tariff reductions since this was the most appropriate way to achieve the objectives set out by Ministers. Such an approach would ensure comprehensive product coverage, it could remove the disparities among the WTO Members as well as tackling high tariffs, tariff peaks and tariff escalation at the same time. However, they had some doubts about whether the proposed formula would fully achieve all the above-mentioned objectives. The element of using average base rates would not sufficiently eliminate the differences between countries with a high level of average duties and those with a low level of average duties, neither would it reflect the level of development of individual Members. The Slovak Republic supported using bound rates as the basis for tariff elimination on all non-agricultural products, including other technical parameters. They were not happy with using the calculation of two times the applied rate for the reduction of unbound tariffs as it would further weaken the ambition of the proposed formula. Furthermore, they did not support additional sector initiatives which could be considered as supplementary elements to the formula approach as it could potentially deepen differences among the Members in terms of tariff protection. Further clarification of coverage, criteria as well as status (voluntary versus compulsory) was needed. They also had some doubts about the proposal to eliminate low duties before more detailed information on possible parameters was available. They favoured tackling this issue after core modalities had been agreed upon. They supported the proposal on newly acceded Members though they would have preferred a longer period for the implementation of future agreed liberalisation steps for these Members. They welcomed the inclusion of duty-free and quota-free access for the LDCs as

well as a gradual phasing of commitments for developing countries as part of the negotiation modalities, while indicating the need for discussion on the issue. They agreed that the identification and examination of the various types of NTBs should be undertaken since market access would not be significantly improved without addressing this issue properly.

1.98 The representative of Poland stated that the formula approach proposed in the Chairman's Draft Elements Paper was biased against Members who had shown a greater degree of tariff discipline in terms of bindings and low or moderate duty levels. With the proposed formula tariff peaks would remain a major problem. It was also important that the computation of trade data and the levels of aggregation at which the simple average tariff rate was calculated followed exactly the same methodology for national schedules. Work would also have to be done to determine the criteria for setting the value of coefficient B. With regard to the selection of sectors envisaged for special liberalisation, the substance of the proposal would be further examined when the Group defined the product coverage as mentioned in footnote 7. No final decision on tariff liberalisation would be possible without ensuring that non-tariff obstacles to trade would not be used to circumvent the new tariff commitments. Some positions expressed in the Group seemed to imply reluctance to do away with unbound tariffs, allegedly for development related reasons. In a certain way, one could understand the view that less trade discipline meant more freedom. In its own case, Poland entered into the Uruguay Round negotiations with a completely unbound tariff structure. It emerged from the Round with some 97 per cent of its total schedule bound, all in one step, and would soon have 100 per cent binding. While it had not been easy it had been worth the price. Concerns had also been expressed about declining tariff preferences with suggestions of possible claims of compensation to offset this side-effect of tariff liberalisation. It should be noted however that the Doha round was not just about development as such but also about the development of the WTO and all that it represented. It had to be accepted that market access would become easier for all at the expense of tariff preference margins that were hardly anything more than just a temporary instrument of adjustment. This fact was not so much a product of WTO politics, but rather the matter of plain arithmetic and economic logic.

1.99 The representative of Korea stated that its primary expectation was that the current negotiations would bring about a substantial improvement in market access with a higher level of ambition than was achieved at the Uruguay Round. However, Korea needed flexibility in applying a tariff reduction formula to its sensitive products which were largely in two sectors: fish and fish products and forestry products. The two sectors were not very large in Korea's overall economic landscape and the relevant tariff lines of the two sectors combined accounted for barely six per cent of Korea's total tariff lines. The domestic sensitivity of these two sectors arose from Korea's unique level of development as they held very important political, social and cultural implications for Korea. They hoped that their expectation for a high level of ambition in this negotiation would be met while, at the same time, retaining flexibility for sensitive sectors, which were the views expressed by Mexico and other delegations in this regard. There were two possible options for dealing with flexibility for sensitive products. One was the idea of the minimum reduction rate and the other was the idea of an average reduction target rate. Both would be applicable to a certain percentage of Members' total tariff lines, for example five per cent or so or even less.

1.100 The introduction of the average tariff rate in the formula could reflect the difference in Members' development level and tariff structure but it could also result in unfairly favouring those countries with higher tariffs over countries with lower tariffs. As a result it might not be effective in improving market access to countries with higher average tariffs. Since the proposed formula took its shape largely from the Swiss formula, this would force greater reduction to higher tariffs than to lower tariffs and in this way the formula could address the Doha mandate on addressing high tariffs and tariff peaks. The value of coefficient B would be critical in determining the level of ambition in tariff reduction since the formula would vary with different values of B. Korea expected that the value of B would be such that would result in a high level of ambition in accordance with the Doha mandate. There were two elements of difficulty in the proposed formula. Korea had advocated the trade-weighted average tariff reduction formula in its approach to tariff reduction in order to take into

account the different levels of development and tariff structures of Members and to provide flexibility for Members dealing with sensitive sectors in applying the tariff reduction formula. The proposed formula lacked such flexibility which had been one of main elements constituting Korea's formula in the tariff reduction approach. The inclusion of such flexibility would increase the level of comfort in the negotiation process. The second element of difficulty was the binding issue. Like many Member countries, Korea subscribed to the view that the coverage of bound tariffs had to be improved as an outcome of the negotiations and they were prepared to improve binding coverage as much as possible by binding unbound items significantly. However, they did not favour reducing the bound rate of newly bound products as proposed in the Chairman's draft. Binding should occur at the current applied rates and such rates should not be subject to further reduction by the formula after binding. In that situation Korea would be willing to make efforts to improve its binding coverage as close as possible to total binding.

1.101 The representative of Uganda stated that Uganda associated itself with Morocco's statement on behalf of the African Group as well as with the statements made by Kenya and Mauritius. Uganda welcomed the exemption of LDCs from reduction commitments which recognized the place of LDCs in the multilateral trading system. As mostly net importers of industrial goods, Uganda's average applied tariffs were low and more oriented to revenue collection. These tariffs might only be considered high in sectors where infant industries needed protection. Uganda hoped that the increase in the level of binding commitments by LDCs would be strictly on a voluntary basis in order to take into account their particular needs. They welcomed India's support on this issue. Paragraph 7 seemed to negate the preferential access given to LDCs in paragraph 9 under EBA, Cotonou; AGOA, GSP, etc.. Their products had to compete with those already dominating the markets or those actively seeking market access. Uganda agreed with the views expressed by Mauritius, Kenya and Nigeria on the question of preferences. This issue had to be addressed seriously so that vulnerable and weak economies were not the ones that had to reform dramatically and at a fast pace. A large number of WTO Members including LDCs, ACP countries and others would be affected by the erosion of preferences. Costa Rica's proposal on this issue was not helpful and should be rejected by the Group. The agreed approach should take into account the concerns of all Members. The negotiations were about the livelihood and welfare of all peoples and more so the most disadvantaged of all. They noted that the proposal on NTBs did not suggest modalities as such. This was a matter of great importance to LDCs and they would like to see the substance of the approach to NTBs.

1.02 The representative of the United Arab Emirates stated that the proposal on sectorial tariff elimination excluded a sector which was a priority for them in the negotiations, i.e., the sector of raw materials and primary products, and they believed that it should be added to the list contained in the draft. It was a sector of particular export interest not only for the UAE but for other Members as well and its liberalisation would be profitable to both developed and developing countries. Duty-free raw materials and primary products were essential for the competitiveness of developed countries' manufacturing and semi-manufacturing businesses, while at the same time such products generally constituted strategic exports and emerging industries of developing countries. They were still studying the impact of the proposed formula and would return to it later. Participation in supplementary modalities should be on a voluntary basis. Furthermore, it should be explicitly stated that particular attention should be given to the interests of developing countries during the application of supplementary modalities and the determination of low duties. The final results of the negotiation should be transposed into the HS2002 in order to preserve the stability of the process and to relieve the burden of the negotiators, especially those of the developing countries.

1.103 The representative of Paraguay stated that his delegation attached high priority to the issue of market access. As a developing country with a small economy they had a large number of limitations in being part of the multilateral system and they also had some other intrinsic disadvantages in areas such as greater cost of transportation for imported and exported products and in attracting investment for the development of the non-agricultural goods sector. This resulted in a double impact when it came to further liberalising a small and already open market. The debate and assessment of the draft

should take into account the concerns expressed by all Members and in particular by developing countries. Paraguay agreed, in general, with the proposed formula and with the use of bound tariffs as the base rate. The greatest possible efforts should be made to bind 100 per cent of tariffs as this would avoid differentiated treatment among Members. Paraguay had bound 100 per cent of its tariffs and urged Members that still had unbound tariffs to take advantage of the negotiations to bind them. They supported the use of MFN applied tariff rates for 2001 as the base year. They also supported the proposal to convert non *ad valorem* duties into *ad valorem* equivalents on the basis of the Annex 1 procedures. Paraguay already had all of its customs duties on an *ad valorem* basis. They also supported the use of HS96 as a basis for negotiation. They would comment further on the formula once the figure for the coefficient B was known.

1.104 The proposal on sectorial tariff elimination could be a response to the Doha mandate but not if it retained its proposed mandatory approach. Instead, it should be voluntary. They were also concerned with the present drafting which placed an obligation on developing countries to eliminate tariffs in sectors which might not be of interest to them currently but which in the future could be important for their development. Many developing countries which currently had a high degree of dependency on agricultural exports could diversify their exports by including industrial products. Supplementary modalities should be left to Members to apply as a further complement to tariff reductions. It was premature to determine formulae or any other modalities to deal with NTBs as they still required study and subsequent categorisation. The WTO together with other international organisations should identify the issues related to capacity building within the framework of strengthening coherence in global economic policy-making thereby improving developing countries' participation in negotiations. Preferential tariff schemes in their present state were discriminatory against other third party developing countries since part of the market share gained by preference-receiving countries was at the expense of other developing countries who had equal if not worse conditions. These negotiations could effectively reduce preference margins for the current beneficiaries but it could also improve access opportunities for other developing countries which were not covered at this point in time. However, some Members had a legitimate interest in this issue and Paraguay supported Mauritius and other delegations who pointed to the need to find a means of resolving this matter in a balanced way to the satisfaction of Members.

1.105 The representative of Morocco stated that the proposal to use two times the MFN applied rate as a basis for calculating unbound items penalized countries like Morocco which had made a considerable effort to bind their tariffs on a broad basis. It amounted to depriving those countries of a virtual liberalization credit equal to the MFN applied rate. While there were differences between the bound rates and the applied rates in Morocco's tariff these differences were far from equalling twice the applied rates. It would be fairer to allow developing countries with a high level of binding to be able to choose for the calculation of the applied rate for " t_a " between the bound rate or double the applied rates for a percentage of positions to be determined. This would ensure a degree of equity among Members and it would not counter the level of ambition for the negotiations because the Members had to determine the level of the B coefficient for the formula. It was important to find a certain balance with respect to special and differential treatment, since the proposal that developing countries retain five per cent of tariff lines unbound deprived countries with high binding levels of such a measure. Sectorial tariff elimination should be considered on a voluntary basis once the Group's negotiations on core modalities for tariff reductions had been finalized.

1.106 The representative of Hong Kong, China stated that they were disappointed that credit was only given to autonomous liberalisation that resulted in non-zero bound rates. The actual effect was that credit would be given to Member A who decided to lower autonomously its tariff from 30 per cent to 10 per cent but not to Member B who lowered its bound rate from 30 per cent to zero. This would send a discouraging signal to those Members which had autonomously bound tariffs at zero. While the autonomous liberalisation of binding tariffs above zero was certainly contributing to liberalising international trade, the liberalisation of bound tariffs at zero was the ultimate step for achieving a tariff-free environment. According to the Secretariat, the omission of credit for binding at

zero was for technical reasons and not as a matter of principle. While there could be technical difficulties in giving credit for zero bound rates with the line-by-line reduction formula they urged Members to work out an approach to calculate and give recognition to such credits. The proposed formula had not adequately addressed the binding of zero applied rates. As a free port, Hong Kong, China had all along maintained zero applied rates for all its imports. Pursuant to paragraph 2(a) of Article XXVIII *bis* of GATT 1994, the binding of duty-free treatment should, in principle, be recognised as a concession equivalent in value to the reduction of high duties. Accordingly, Hong Kong, China considered that the level of tariff reduction required by a formula approach should, in their unique case, be translated into the portion of tariff lines to be bound at zero. Further deliberations on this could be made after determination of the core modality.

1.107 The representative of New Zealand stated that while arguments had been that the preferences enjoyed by some Members should be protected against "the myth of trade liberalisation which had engendered numerous economic casualties" and some other delegations had argued that they should be allowed to choose the rate and timing of liberalisation for themselves, it was necessary to recall the overall purpose and objectives of the WTO and DDA. The preamble to the WTO agreement said "parties wish to contribute to those objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations" and the parties go on to express that they are "determined to preserve the basic principles and further the objectives underlying this multilateral trading system (MTS)". This was the agreement which had been signed up to and which the current negotiation aimed to advance further. As a small country, New Zealand fully endorsed the EC's observation that there was no substitute for the MTS. As Chile had noted, this negotiation was really about whether or not the MTS would be able to respond to the challenge from FTAs. To sustain the MTS, Members had to make meaningful contributions and the modalities negotiated had to be directed to achieving the development objectives which were central to the round through liberalisation of trade rather than an attempt to avoid liberalisation. It was hard to see the basis on which the preservation of preferences could have been included in the Chairman's draft. It was not part of the mandate and it would be inconsistent with the wider goals of the WTO. The Enabling Clause, in paragraph 3 was clear about this point. More importantly, trade preferences were precarious foundations on which to build economic development as they were not bound in the WTO and therefore could be withdrawn or made conditional at any time.

1.108 He disagreed with suggestions that the draft text did not contain sufficient provision for less than full reciprocity or special and differential treatment. The proposed formula and associated provisions even without considering the selection of sectorial deals was a fulsome response to that aspect of the mandate, if not too fulsome in some places. Tariff cuts had to be off bound rates, but it did not mean that participants with large gaps between their bound and applied rates, typically developing countries, would be relatively sheltered from the effects of cuts. The proposal to calculate the base rate for unbound lines at two times the applied rate would mainly benefit developing countries which typically had from 30 per cent up to more than 90 per cent of their tariff unbound. This proposal could inflate the overall value of the tariff average and needed to be examined. The proposal to allow some countries to keep up to five per cent of their tariff lines unbound raised several intractable problems: there was a huge variation in binding coverage even among developing countries and LDCs. More than 40 developing countries and LDCs were 100 per cent bound so they would not benefit from the proposed special and differential provision. This appeared to be an exemption for a select group of Members rather than special and differential treatment. There were some real equity concerns arising from that aspect of the proposal. It went against the basic WTO principles of transparency and building predictability for trade and it was clearly not compatible with the mandate which emphasised comprehensiveness. Allowing participants from the outset to exclude from binding up to five per cent of their tariff lines would amount to a priori exclusion. The formula would produce large and probably unsustainable gaps between the final bound tariff ceilings of typical developed countries (two to three per cent) and developing countries (30 to 40 per cent for some major developing country economies). It would also lead to unsustainable discrepancies among

and within developing countries. One structural problem was the interplay of coefficient B and " t_a " under the current formula. This could make it difficult to have a realistic negotiation on the value of B because the level of ambition would be discussed in a variable geometry because of the impact of " t_a ". The structural problem and many of the other problems of equity might be reduced if tariff averages were harmonized before applying the formula. That could set up the basis for a more realistic negotiation at a later stage in the process around the value of the coefficient B. It would also allow the formula to address a significant omission of addressing international peaks between Members. With regard to sectorial liberalization, New Zealand supported the maintenance of fish and fish products in the list of sectorial proposals in the draft and the addition of other sectors to that list, for example, forestry would be a reasonable response to the export interest of developing countries.

1.109 The representative of Chile stated that there appeared to be a great degree of resistance to the sectorial approach proposed. With regard to the formula, it could result in an unfair situation for many developing countries in different ways depending on, for example, the value of the coefficient, the use of the averages tariff, the multiplication of the applied rate by two for unbound tariffs, the five per cent margin of unbound trade. New Zealand had expressed some ideas which would be interesting to explore further. Taking several elements into consideration, including the configuration of the formula and the opinions expressed by delegations, in particular, from the relevant markets for Chile in the Asia-Pacific area, it appeared that at this stage the negotiations offered very few benefits for Chile. Furthermore, the formula could create a very unfair, very unbalanced situation for countries such as Chile, in particular, because of some of the assertions made by Japan on forestry and Korea on fisheries. In the NGMA the two delegations had resorted to environmental arguments against the liberalization of those sectors saying that liberalisation could lead to a problems of exploitation while in other fora they said that there are no problems of exploitation and that there was no need to reduce subsidies. From a sustainable development point of view and from an economic point of view, all the empirical evidence showed that the best support that could be given to sustainable resources was to allocate resources most efficiently and that did not happen with closed markets. It was achieved by open and undistorted markets, so therefore, to use an environment argument had no economic basis at all. Many countries were concerned that reducing customs duties would lead to lower fiscal income and while it was important to recognise and support this, it was necessary to explain exactly on what products, what markets and for what country this would be the case. In that way negotiations could move past abstract talk about the problems caused by preference erosion. Joint efforts had to be made to analyse the erosion of preferences in detail for agricultural and non-agricultural products and from that diagnosis to find solutions that would be sustainable in the long-term and that would be coherent with the fundamental basis of the multilateral trade system.

1.110 The representative of Cost Rica stated that they had made no proposals for negotiations regarding the topic of erosion of preferences. However, there was already an express agreement on the issue in the Enabling Clause and Costa Rica had only limited itself to recalling this principle which was also part of the negotiations. He clarified that they were expressing this position as a Member which was a recipient of various preferential schemes.

1.111 The representative of Chinese Taipei stated that his delegation wished to echo Korea's view on the importance of flexibility to sensitive products when considering the tariff reduction formula. The options proposed by Korea to address sensitive products, i.e., minimum reduction rate and the idea of a target rate could serve as a basis for further discussion in that regard. In terms of a sectorial approach, tariffs on exhaustible natural resources such as forest and fishery products should not be eliminated for reasons of sustainable development. Chinese Taipei also had difficulties in including products such as textiles and auto parts into the proposed list of sectors subject to sectorial tariff elimination.

1.112 The representative of India stated that Article XXVIII *bis* paragraph 3 of GATT 94 was worth bearing in mind as the first principle for negotiation. His delegation was concerned with the tenor of certain interventions regarding the need to harmonise the tariffs of all countries and the importance of modalities working towards that objective. This was not spelt out anywhere in the mandate. The

proposed formula would bring down higher tariffs in each national schedule by a much higher percentage than India had envisaged in its linear approach. In this regard, the Secretariat document on the results of the Uruguay Round stated "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 was 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". India would examine the Chairman's proposal from that perspective and also from the view that the objective of the NGMA was to carry forward national schedules which were the result of successive negotiations. His delegation agreed that appropriate flexibility should be provided in respect of products which had been bound. While India was willing to go along with the line-by-line application of a formula type modality to a large majority of bound items it was important that this limited flexibility was provided for developing countries. Virtually all developed countries, barring Japan, were now arguing for no flexibility. In the previous round, those countries had used this flexibility to desist from overall tariff reduction percentages particularly in sectors of interest to developing countries.

1.113 Some questions had been raised as to why the flexibility proposed in the draft should be given when all agriculture tariff lines were already bound. While the coverage was no doubt 100 per cent the level of bindings taken were arbitrary. The appropriateness of the precedent of AOA was therefore questionable. While granting this limited flexibility the proposed draft at the same time sought to bring rigour to the manner in which the rest of the unbound items should be bound, i.e., after the application of the formula. This was not what India had proposed and they would be examining the proposal carefully from that perspective. Some Members had commented about the importance of a low coefficient B, closer to zero than to one. Their understanding of the proposal was that a number by definition was either one, two or three and not a fraction. It was important that the development process taking place in many developing countries, including India, was not undermined in the name of ambition. India was progressively liberalising but also keeping in view the twin concerns of revenue considerations and the needs of industry. With regard to the proposed sectorial initiatives, several countries mentioned the difficulty they might have in participating in sectorial initiatives but India would have also liked to hear some comments about the asymmetry involved in the process. A balance was being sought in sectors where developing countries had a comparative advantage. All Members would bring their tariffs down to zero and in return for bringing down their tariffs substantially developing countries had expected some gains in areas where they had a comparative advantage. However, what was being proposed was that to be able to secure gains in those areas developing countries would also have to reciprocally bring their tariffs down to zero. This showed a certain level of asymmetry in terms of the additional contribution that developing countries had to make in sectors of export interest to them.

1.114 The representative of Uganda stated that there was no doubt about the existence of a preference erosion problem, citing as an example his own country which was a landlocked LDC, dependent on a few primary products. They were making an effort to diversify but if they were to diversify to textiles and clothing, leather goods, fish and fish products they would then be faced with a proposal to zero tariffs. The DDA had specific mandates which Members had signed but paragraph 44 on special and differential treatment talked about provisions that should take into account the concerns of all developing countries including in particular the LDCs. For that reason, erosion of preferences had to be addressed and should not be put aside as having no place in the modalities. Paragraph 2 of the DDA talked of enhanced market access, but it was unclear what that meant for LDCs. In the case of other countries enhanced market access possibly meant MFN zero, but for LDCs it was through preferential treatment that they were able to enhance their market access.

1.115 The representative of Egypt stated that the view of some delegations that the proposed formula induced further disparities and inequity among Members' tariff schedules depended on whether consideration was given to the reduction percentage or to the absolute reduction cut. Ignoring the disparities in Members' tariff structures and applying an average independent harmonisation

formula would entail higher concessions on the part of developing countries as compared to those entailed by developed countries. Those delegations who supported this approach had based their argument on a harmonisation approach, which was not the basis of the Group's work nor should it be, as it contradicted the mandate for negotiations. Egypt had proposed at the meeting to adopt a linear reduction approach where all tariff lines above 50 per cent could be reduced to that level, and all other lines up to 50 per cent could be reduced by 15 per cent.

1.116 The representative of Mauritius stated that there was an incorrect perception among some delegations that addressing the issue of erosion of preferences would undermine trade liberalisation at the multilateral level. Addressing the problem basically meant that the percentage tariff cuts on a number of products exported by preference beneficiary countries, especially those considered to be sensitive, would have to be marginal and modulated over a longer time scale. Not all countries had equal capacity to evolve in a competitive environment, pursuant to trade liberalisation, nor had they the means to undertake competitive adjustment as competition unfolded. Since preference erosion was intricately linked to the current negotiations it was clear that it would have to be addressed in the NGMA. Mauritius agreed with the proposal by some delegates that the question should also be tackled in the context of the debate on global coherence, in particular regarding the setting up of a competitive adjustment fund. However, the WTO, and by extension the NGMA Negotiations were also pillars of global coherence. So the question of preference erosion could not be disassociated from the negotiations. Mauritius had serious apprehensions about the sectorial approach proposed as a modality. They would favour one core modality that took on board the different levels of development of Members as well as their specific situations. A harmonised approach would therefore not be the answer to the concerns of one and all, either in terms of addressing fiscal problems or pursuing domestic industrial policy. They would favour tariff cuts on an average basis as proposed by a number of delegations.

1.117 The representative of Norway stated that the Group had a number of commitments that it had to address in accordance with the Doha mandate. One was that the modalities for tariff reductions or, as appropriate, elimination included tariff peaks, high tariffs and tariff elimination. In order to fulfil this part of the mandate, coefficient B in the formula would have to be sufficiently low. Also, in order to fulfil the Doha mandate the concept of less than full reciprocity in reduction commitments for developing countries had to be operationalized. The formula was based on the assumption that Members at similar levels of development had similar tariff structures and levels and this was not necessarily always the case. So some way would have to be found to correct unwarranted results that would come from utilising the formula. With regard to tariff elimination on sectors of particular interest to developing country Members, her delegation was surprised at the suggestion of many developing country Members that this part of the formula should be voluntary. In practical terms, a voluntary scheme would imply that those Members with the most interesting export markets for exports from developing countries be it textiles, or footwear would have the possibility to opt out, which would make the whole thing useless. The Group needed to continue to look at the modalities to find a way to deal with the products of particular interest to developing countries. There was a substantial proliferation of regional and bilateral trade arrangement between neighbours and across continents and Members who were part of such arrangements tended to defend them. One problem with such agreements was that third party Members had no control over what Members were doing and what deals they struck. All Members had a collective responsibility to preserve the multilateral trading system as Members were best served by transparent and predictable market access on an mfn basis.

1.118 The representative of Malaysia stated that with regard to the treatment of unbound tariffs his delegation welcomed the five per cent window for unbound tariffs subject to it being less than five per cent of a developing country Member's total imports (without prejudice to their position stated earlier that they would like the linear-cut approach). Even though some delegations had questioned such flexibility his delegation would like to see it retained in the text. They appreciated the fact that several Members, particularly those in Latin America had bound 100 per cent of their tariffs. Malaysia would

have liked to have done so but it was not possible given its level of development. While it would not be able to bind all its tariffs, it would very much like to move in that direction but no Member should be forced to take specific action. Flexibility had to be provided. While recognising the importance of ambition, ambition had to also be tempered with realism. Some developing country Members had two per cent binding levels and it would be impossible for them to even come up to the five per cent level. Unbound duties should not be subject to the proposed formula, they should be treated in a different way. While retaining the five per cent window, the binding of the remaining 95 per cent of tariff lines should also be flexible in the sense that bindings could happen at the applied level or at a ceiling level. Referring to special and differential treatment, Malaysia disagreed with Canada's statement that a longer time-frame should not be available for all developing countries. The longer time-frame should be for available for all developing countries regardless of their level of development. Malaysia supported Uganda's statement regarding erosion of preferences. Members such as Uganda had to be helped. Such Members were not against multilateral liberalisation, even though they were preference-receiving countries. They were only seeking assistance to help them out of a difficult period. A similar situation was contained in the agriculture modalities, where the text targeted technical assistance to help in the diversification of crops. Perhaps in the context of market access for industrial products, something similar could be done.

1.119 The representative of Brazil stated that his delegation rejected the allegations that beginning negotiations on the basis of bound rates was in any way a concession to developing countries. Bound rates had been paid for by corresponding concessions and any lower applied rates that had been in effect since the end of the Uruguay Round had in effect been a bonus. They did not constitute any kind of acquired rights for trading partners. The many calls for a core modality that would ensure a harmonising effect among different Members tariff structure was not reflected in the Ministerial Mandate. Such an approach would fundamentally negate the development dimension of the negotiations since it presumed that every WTO Member was at a similar stage of development and thus should have a similar tariff structure. Somewhat in contradiction to this, there were calls that the proposed formula should in some way adapt the concept of the tariff average taking into account that it was not really a reflection of each Member's stage of development. Ministers had explicitly cautioned against the creation of new sub-groups of Members in paragraph 35 of the Doha Ministerial Declaration. Equally, it would be impossible to agree upon a definition of which country should qualify for what kind of treatment. He questioned what criteria could be used to separate developing countries; per capita GDP, a PPP methodology or the UNDP Human Development Index. The options were inexhaustible and would only serve to delay the Group's work. Ultimately, a formula had to be agreed upon that gave each Member an acceptable balance of gains and concessions. Allegations were made that the proposed formula would produce very limited reductions in the applied rates of many developing countries yet reductions in tariffs from four to two per cent would also produce negligible additional market access opportunities. The best approach was to offer each Member a tempting package which would allow it to make the necessary painful concessions in its own sensitive sectors. Reference had been made in the debate to sectorial elimination and that the seven sectors identified were of export interest to developing countries. Yet it was the developing countries who had shown the greatest hesitancy on those sectors. Referring to the proliferation of RTAs, FTAs, etc., while understanding the issues that motivated such concerns, why had more meaningful progress not been achieved in the forum specifically established to discuss the relationship between RTAs and the WTO? That was a specific negotiating forum trying to address the issue and yet the results had not been overwhelming.

1.120 The representative of Tanzania stated that his delegation supported the statements by Morocco, Egypt, Mauritius and Uganda. In addition, being a co-sponsor of the paper presented by Kenya they concurred with the issues highlighted in that document. One of their main concerns was the proposal that developed countries grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from LDCs. The LDCs had requested binding commitments for such duty and quota free access. The proposal that selected NTBs would be dealt with by the NGMA while others would be sent to appropriate WTO bodies for action and reporting

back also caused them concern. As LDCs, they had small missions and would be unable to follow NTB issues if they were spread over several groups and bodies. In addition, the Doha mandate had stipulated that NTBs should be dealt with in the NGMA. They requested that both these elements of modalities be reconsidered.

1.121 The representative of Nigeria stated that countries likely to be affected by the erosion of preferences and those who still had a significant proportion of tariff lines unbound were coming to terms with the challenges and the likely outcomes of the current negotiations. With regard to unbound items, Members who still had not bound all tariffs had shown a degree of flexibility and would be willing to increase their scope of binding. This was a reasonable way forward and would be a significant contribution to the negotiations. With regard to the transparency and predictability of bound rates, some Members had questioned what special and differential treatment would be applicable to those Members who had already bound all their tariff lines if some developing country Members were allowed to maintain five per cent of tariff lines unbound. Such a situation if allowed, would be discriminatory. He requested clarification from the Secretariat on specific decisions taken by the Membership on binding non-agricultural products at the end of the Uruguay Round. Developing countries had been encouraged to increase their scope of binding, yet were given the opportunity and discretion to determine at what level they wished to bind. If this was correct, then each Member had taken advantage of the provision. As a result, some developing country Members, at their own discretion and given the economic considerations and exigencies which prevailed in their economies at the time, decided to undertake 100 per cent binding. Equally, those developing country Members who at the end of the Uruguay Round chose not to bind at 100 per cent had taken such decisions based on their own economic conditions. Therefore, it was unclear why those Members who bound at 100 per cent now argued that all Members had to bind all tariff lines, simply because they had already done so. There was no discrimination in a situation where Members had exercised their choice. Those Members who were asking for certain items to remain unbound had not said that they would not contribute to the process, instead they had shown an increasing amount of flexibility by agreeing to increase their scope of binding.

1.122 Preference-beneficiary Members were coming to terms with the possibility that there would be an erosion of preferences. However, to argue that preferences were not part of the negotiations, even when the outcome of the negotiations were going to have a huge impact on those preferences and consequently impact adversely on the economies of a significant number of WTO Members was to belittle the issue. The WTO recognised that preferential schemes were a means of responding to the needs of a group of countries in a manner in which the WTO could not. While WTO rules were the basis on which global trade should operate, WTO rules had not conferred equal benefits to all its Members. If they had, there would have been no need to enter into the bilateral, regional and free trade arrangements that were currently proliferating. The issue of equity had been raised in connection with unbound tariffs and preferences, but persisting implementation-related problems and existing agreements in agriculture and textiles and clothing did not point to equity in the WTO rules. If those Members who had specific obligations under special and differential treatment had been forthcoming with the assistance needed by developing countries then there would no imbalances in the agreements. The WTO Agreement emphasized the need to preserve the principles and objectives of the MTS, including the substantial reduction of tariffs and elimination of discriminatory practices. At the same time, it talked about raising the standard of living, ensuring full employment, expanding production, including sustainable development and enhancing the means of doing so in a manner consistent with Members' respective needs and concerns for different levels of development. In that context, all Members' concerns had to be addressed. It was not enough to quote statistics about the number of Members having attained a specific binding threshold or to say that because preferences were not part of the WTO rules they could not be entertained. Progress could only be made when Members began to appreciate each others' difficulties and worked towards solutions which would be acceptable to all Members.

1.23 The representative of Jamaica stated that her delegation supported Malaysia's comment that LDCs were not against further liberalisation or their countries' participation in multilateral negotiations but rather were seeking measures to assist them during an adjustment period. Technical assistance and capacity building measures, while valuable for the effective participation of developing least developing countries in the negotiations and as such should be integral elements, were not the only solutions to addressing developing countries' concerns. The substantive content of the modalities had to also meaningfully address their particular needs.

1.24 The representative of Indonesia stated that the proposed formula had to use a method other than two times the applied rate for binding unbound items. Some Members had stated that this method would not give a meaningful reduction in tariff rates, but having run a simulation on the Secretariat's paper his delegation found that reductions would be quite significant. Another approach which would encourage Members to increase their binding coverage should be used. It would be counterproductive if Members had to apply the proposed formula and at the same time increase their binding coverage. With regard to the five per cent unbound tariff flexibility for developing countries it was unnecessary to link the five per cent with the total import value. Members' binding levels were a matter of policy and it was up to Members whether or not to bind all tariffs. Tariff bindings should not be harmonised in the current round of negotiations but the next round of trade negotiations. Additionally, the latter could have higher levels of ambition where binding coverage of 100 per cent for all Members could be reached.

1.25 The Chairman clarified certain points on the draft paper. There had been a lot of discussion about which were the core modalities and which were the supplementary modalities. All four sections of the paper, formula, sectorial elimination, additional provision for developing and least developed countries and newly acceded Members were integral parts of the paper and should be taken together. T_1 was the final rate and it would be bound in *ad valorem* terms and reflected in the schedule. With respect to " t_a " and the kind of rate to be included there, all non-agriculture tariff lines only would be used. Coefficient B would have a unique value, i.e., all the participants with the exception of the newly acceded Members, (it being understood that the LDCs would not have to apply the formula) would have the same value B which would be determined by Members. With respect to the coverage of sectorial tariff elimination, the formula would not apply to products included under those sectors, they would get special treatment. The starting date for sectorial elimination would be the same for all participants and it would be the same date as the commencement of formula reduction. The sectors indicated in the draft had been clarified in a general way and footnote 7 indicated that the specific coverage of sectors would be up to the participants. All the sectors mentioned in the paper had so appeared because according to studies and statistics these sectors were of special interest to developing countries. The five per cent flexibility on unbound lines provided that five per cent of tariff lines could remain unbound provided they did not exceed five per cent of the total value of a Members' imports. This provided a double safety valve because while the flexibility only allowed for five per cent of the tariff lines to remain unbound, in some cases, theoretically, this could constitute a huge percentage of a Member's imports during a reference period. In addition, the five per cent of imports applied only to products subject to the formula. The products subject to tariff elimination were not concerned as indicated in footnote 9 which said "does not apply to those products included in the sectorial tariff elimination approach". In response to a question raised regarding the beneficiaries of appropriate studies and capacity building, he drew attention to a sentence that he had deliberately included which indicated that studies and other measures would not be restricted in the very narrow sense to LDCs but would also take into account the concerns of other developing countries.

1.126 With respect to some questions which were raised regarding the calculation of t_a the Secretariat would elaborate further on the effects of different methods of calculating t_a in a transparent manner while taking into account problems which were posed by the different levels of disaggregation in Member's tariff schedules. In this regard, the Secretariat would be very interested in receiving proposals from Members. With regard to questions raised about NTBs, the identification

process had to be completed before the Group could go on to define in a more precise way the various modalities that might be agreed upon. In response to a question as to the definition of newly acceded Members, the Doha declaration gave some guidance on this matter but it was up to the participants to make the decision themselves. With regard to a request for a simulation using the formula, the Secretariat had gone as far as it could with simulations for the time being. To make a further step would require more guidance from participants and in particular with respect to the parameters to be used. Rates bound at zero given in the context of, for example, accession negotiations and renegotiations under Article XXVIII were by definition not autonomous and consequently had not been part of the credit scheme. If there were other requests then they would have to be further discussed in the Group. In response to comments on the non-inclusion of erosion of preferences in the paper, while it was a serious issue for a number of countries the way that had been proposed to address the matter would delay liberalisation which was inconsistent with the letter and spirit of the WTO. Therefore, alternative means and innovative suggestions would need to be made in order to address this serious issue.

1.127 The representative of Egypt stated that it would be useful to know whether specific treatment on erosion of preferences was being accorded in the draft modality for the Negotiating Group on Agriculture.

1.128 The representative of Thailand stated that his delegation did not understand how the formula worked and it was for that reason that they had suggested that the Secretariat help Members by providing further explanations or simulations. It was necessary to see the effect of different coefficients by using the actual tariff structure of each Member.

1.129 The representative of Mauritius stated that they supported the sentiments expressed by Egypt regarding the question of preference erosion. The Chairman's text had to reflect that this was an issue that needed to be addressed. Trying to address the problem of preferences did not mean halting the process of trade liberalisation. It was a question of affecting tariff cuts marginally on certain items and maybe modulating the process but not halting it. It was his delegation's strong view that this had to be reflected in the text since it was an issue that had support.

1.130 The representative of Pakistan requested clarification on whether there was any timeframe in mind for the identification and examination of the various types of NTBs. A decision had to be made as to which NTBs would be dealt with in a vertical/horizontal approach, sent to other WTO bodies or dealt with through request and offer and that would be a huge exercise.

1.131 The Chairman stated that the categorisation of NTBs could start as soon as the Group agreed that sufficient inputs had been received.

1.132 The representative of the Philippines stated that if different values did not exist for coefficient B then support for the formula could dissipate. The integration of special and differential treatment was an integral part of the negotiations and had to be negotiated in the discussions before agreement could be reached on the modalities. In that context it was fundamental that B would be different for developing countries as a matter of special and differential treatment.

1.133 The representative of Uganda stated that the Chairman should address the question of preferences.

1.134 The Negotiating Group took note of the statements made.

B. TARIFFS

- **Incidence Of Non-Ad Valorem Tariffs In Members' Tariff Schedules And Possible Approaches To The Estimation Of Ad Valorem Equivalents(TN/MA/S/10)**

1.135 A member of the Secretariat (Mr. J. Richtering) stated that document TN/MA/S/10 drew heavily on an earlier document "Ad valorem, Specific and Other Tariffs: Background Paper by the Secretariat" (AIE/S5 February 1998). TN/MA/S/10 showed the incidence of non *ad valorem* duties in the final bound duties as recorded in the CTS database and the incidence of non *ad valorem* duties in the MFN applied tariff schedules as recorded in the IDB. It showed the importance of these non *ad valorem* duties in Member's tariff schedules, in particular in the Annex table 4 which showed the significant importance that these duties had in agriculture but also in industry. Non-agricultural products used to have a very large incidence of non *ad valorem* duties. Annex Table 4 showed that only six HS chapters had non *ad valorem* duties at all, leaving aside Switzerland which was a special case in that respect. Annex Table 2b also pointed out that *ad valorem* equivalents were available for five countries but they were not available for all non *ad valorem* duties, neither were they available for the year 2001. In addition the *ad valorem* equivalents available were only provided for the IDB, for the MFN applied tariffs. The paper presented two approaches to the calculation of *ad valorem* equivalence; the revenue method and the unit value method, and it showed the limitation and possible applications of these two methods.

1.136 The representative of Switzerland stated that they had problems with the two methods of calculation. When the revenue method was applied to the tariffs, taking into account preferential trade, the method understated the applied rate. This was not an appropriate method of calculation if the bound rate was the basis of the negotiations. The unit value method was a more appropriate method but depending on the product, it did not yield stable figures. Applying it to homogenous products could give stable unique values but when applied to products which changed according to quality or because of technological progress or changes in the origin of the product, it had resulted in products changing value up to 100 times. This method would need to be refined in order to get a method which would better reflect the value of the specific duty. While the unit value method was relatively easy to apply neither of the two methods was the correct methodology to apply and her delegation welcomed the proposal in the Chairman's draft that Members could use another methodology as long as it was transparent.

1.137 The representative of the United States stated that they were very comfortable with the approach proposed in the Annex and that the paper was generally moving in the right direction.

1.138 The representative of New Zealand stated that they welcomed the proposal to convert non *ad valorem* duties to *ad valorem* duties and to bind results in *ad valorem* rates. However, they had some hesitation with the provision allowing Members to calculate their own *ad valorem* equivalents with certain specified qualifications. If the Secretariat were to calculate the *ad valorem* equivalents for all Members that had non *ad valorem* duties then all Members would be able to have a high level of confidence in the consistency and the comparability of those calculations. It was important to be able to accurately and reasonably calculate binding levels for *ad valorem* equivalents and that was quite difficult with the revenue method. In addition, there would need to be a method that delivered proper *ad valorem* equivalents for bound tariffs as well as applied rates.

1.139 The representative of the Philippines stated that Members were not being asked to change the method of imposing tariff measures, only that there was a need for a reliable, transparent methodology for use in the negotiations. It would be used as one of the elements in completing the proposed formula. The Secretariat had the responsibility to give reliable, transparent, comparable and stable criteria to Members.

1.140 The representative of Costa Rica stated that the calculation of *ad valorem* equivalents was key to the full achievement of two clearly differentiated and separate objectives. The first objective concerned the application of various types of formula, including the harmonization formula and the formula proposed in the Chairman's paper. The proposed formula could not be applied without *ad valorem* equivalents. The second objective concerned the way in which the tariffs would be expressed in Members' schedules. Costa Rica, as well as other developing and developed country Members endorsed the proposal to bind all lines exclusively in *ad valorem* form. There were numerous systemic reasons justifying the substitution of non-*ad valorem* tariffs. Such tariffs were non-transparent, penalized more effective and lower-cost producers and did not provide for a maximum percentage in their application in order to raise protection as prices dropped. They also tended to be used as part of the tariff escalation scheme, i.e. not only did the amount charged tend to increase with the level of processing of raw materials, but the type of tariff levied on a product with greater value added also tended to become increasingly complex. They had noted several cases in which a relatively low or zero *ad valorem* tariff was applied on raw materials, specific tariffs were levied on intermediate products, and the final product was generally subject to a mixed or compound tariff. When a highly sensitive product was exported, the final product would in all likelihood be subject to a technical tariff. It was hardly equitable for some Members to be using these types of tariffs in their schedules when the majority of Members used solely *ad valorem* tariffs. In the interests of trade facilitation all non-*ad valorem* tariffs of Members should be eliminated as there was no technical reason for maintaining them. TN/MA/S/10 recognized the feasibility of calculating *ad valorem* equivalents in most cases and recognised that the exercise would have to be undertaken by only a small number of Members. Costa Rica sought clarification from the Secretariat on what percentage of bound tariffs fell into the "computable" category and what percentage would be "non-computable" according to the typology in Tables 1a and 1b. Should a calculation prove impossible in some cases because of the type of tariff used there would be very good reasons for this Group to carefully examine that type of tariff and convert it as soon as possible into *ad valorem* terms. It was very important that the methodology for the calculation of *ad valorem* equivalents was unique, transparent, generally accepted and applicable by any interested Member, i.e. calculations should be made on the basis of data available to all Members and in such a manner that any Member wishing to verify a calculation could do so. Any arbitrary or "watered-down" method of calculation should not be accepted. This was the only way to ensure uniform, systematic and comparable results for all the Members involved.

1.141 The Negotiating Group took note of the statements made.

C. NON-TARIFF BARRIERS (NTBs)

- **Non-Tariff Barrier Notifications – Addendum (TN/MA/W/25/Add.1)**

1.142 The representative of the United States stated that at the April meeting of the NGMA a number of delegations had asked questions about the US proposal for vertical NTB agreements as a negotiating modality. They now wished to provide some clarification on how this vertical modality might work. Many industries were highly globalized and they wanted assurance before tariffs were liberalised that NTBs which were critical to their market access would also be addressed so that they would achieve real market access at the end of the negotiations. Packaging together NTBs of interest to a single industry with a vertical approach was a useful way of engaging industry in the negotiating process and would put them in a position to sell the results to industry. In their NTB modality proposal, the United States had suggested textiles and clothing and automotive products as priority sectors for the vertical approach but there were other highly globalized industries for which this approach might be equally useful, for example, several Members had mentioned fish and forest products as possible candidates and the chemical industries were also interested in the vertical approach and were already discussing it with their industry counterparts.

1.143 A vertical NTB agreement would be highly flexible. It could include a mix of plurilateral and multilateral elements and in addition, individual Members could customize the vertical package by

adding bilateral elements. The multilateral elements could be negotiated horizontally either in the NGMA or in other negotiating groups, as could the plurilateral elements. Participation in the vertical NTB packages was also flexible. Multilateral aspects would clearly involve all Members, however, the package might also include plurilateral and bilateral elements. There would need to be a core group of countries for each of the plurilateral elements but participation in the various plurilateral agreements within a single vertical agreement might not involve the same exact number of countries. There could be several different plurilateral agreements within a single vertical agreement which would have different participation. All agreements within a single package whether they were multilateral, plurilateral or bilateral would be applied on an MFN basis and there would be no re-opening of existing agreements through the protocol agreement process. With regard to the role of the NGMA in the vertical agreements it would be up to interested Members of this NGMA to identify the elements of a particular vertical package, for example, customs documentation, licensing, standards, etc. It would be more appropriate for some of those issues to be addressed elsewhere and appropriate transparency mechanisms would have to be devised, as already discussed for NTBs more generally. It would be appropriate to deal with other of the issues in the NGMA. At the end of the negotiating process, the Group would have two tasks: to re-package the elements of the vertical NTB agreement including the results of the work of other committees or other negotiating groups; and to devise appropriate mechanisms for achieving commitments made. This could take the form of a short summary with the various elements listed, whether each element was multilateral, plurilateral, etc. and include a list of the signatories to each plurilateral agreement.

1.144 The representative of New Zealand stated that there were a couple of details on the treatment of NTBs within the Chairman's paper that needed further examination. Regarding the proposed preliminary process of identification/categorisation, this could be more procedurally heavy than was required and the limited time available to the Group could become taken up in that process, leaving insufficient time to address the substance of the issues. On the other hand there was a need to ensure sufficient transparency about the process and the specifics of what would be addressed. A workable, practical process had to be found that would put more weight on a proponent driven process including the identification of specific NTBs. Their second concern was regarding the suggestion that participants should agree on selected NTBs to be negotiated. Ministers had already agreed in general that negotiations should be conducted to reduce or eliminate NTBs and against that background it may not be necessary to have an additional step of Members agreeing to negotiate on particular NTBs. They were unsure about sending NTBs via the TNC to WTO bodies which did not have a mandate for negotiations as it could have some consequences for those agreements where there was no mandate for negotiations.

1.145 The Negotiating Group took note of the statements made.

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

1.146 The Chairman stated that five papers had been submitted by participants at or since the last meeting. He invited those Members who wished to do so to introduce their papers.

1.147 The representative of Chinese Taipei stated that they as well as other Members had noted the contribution issues facing newly acceded Members in the Doha negotiations. The average tariff rates for industrial products of these countries were between four and nine per cent, with almost all of the tariff lines bound while at the same time some developed Members did not have their tariff lines close to being fully bound. Newly acceded Members had to participate fully in the Doha negotiations and make contributions to further advancing the liberalisation of the multilateral trade system. However, newly acceded Members faced difficulties when it came to fulfilling Doha commitments so soon after, or even in the same timeframe as the implementation of their WTO accession commitments. To address this issue, Members had suggested that newly acceded Members could make a small tariff concession and receive a longer implementation period. The next issue was how to decide the length

of the grace period and in this regard, Chinese Taipei proposed a six-year grace period between fulfilling their respective accession commitments specified in their tariff schedule and embarking on the implementation of the Doha commitment. According to Article II of the Protocol of the GATT 1994, "Tariff reductions agreed upon by each Member shall be implemented in five equal rate reductions and the final rate shall become effective no later than the date four years after the date of entry into force of the WTO agreement". In other words, Members as of 1995 should complete the fulfilment of their concession commitments made in the Uruguay Round by 1 January 1999. On the other hand, the mandate of the Fourth Ministerial Conference was for WTO Members to finish negotiations by 1 January 2005. Therefore, existing WTO Members had not been required to fulfil any concession obligations for most non-agricultural products between 1999 and 2005 and as a result, their national industries would have enjoyed a grace period of 6 years before having to adjust to a new round of liberalisation concessions. Taking this into account it was only fair that newly acceded Members be given a similar period to adjust their industries. If newly-acceded Members could have a grace period of six years, on a product-specific basis, from the year of completion of their accession commitments to the year that implementation of Doha commitments began, it would both help the industries of newly acceded Members and the successful completion of the current multilateral negotiations on non-agricultural trade by their governments.

1.148 The representative of Latvia stated that they considered the draft elements as a good basis for further work. They welcomed the structure of the proposed draft elements using formal bound rates as base rates and the conversion of non *ad valorem* tariffs to *ad valorem* duties. However, they had concerns regarding the flexibility for developing countries to leave five per cent of tariff lines unbound. When Latvia joined the WTO they had bound all tariffs at levels which were close to applied rates. They also had concerns relating to " t_a " and found it very hard to accept any average as a determinant of a final tariff rate. As a result of such treatment, Members with lower tariff rates would be hit harder than other Members, and newly acceded Members were among those countries with low average tariff levels. Therefore, Latvia sought a formula which would not include tariff averages. They were looking for greater market access in their export markets as a result of these negotiations and not for some protection on the basis of their recent accession.

1.149 The Negotiating Group took note of the statements made.

E. OTHER MATTERS

1.150 No items were raised under Other Matters

II. OTHER BUSINESS

2.1 No items were raised under Other Business.
