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Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 2-3 December 2002

Chairman: Ambassador P-L. Girard (Switzerland)

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The Chairman noted that the agenda for the meeting was contained in document WTO/AIR/1976 dated 22 November 2002, and an annotated agenda had been circulated as JOB(02)/191.

The Negotiating Group adopted the agenda as circulated in WTO/AIR/1976.

1. Consideration of possible modalities for negotiations on market access (tariff and non-tariff barriers) for non-agricultural products

1.1 The representative of Switzerland stated that the objective of the modalities should be to ensure the greatest possible reduction of tariffs across all Members. The best way to achieve this was to use a harmonizing formula which would be transparent and which would reduce tariff peaks, high tariffs and tariff escalation substantially, i.e. more than other duties. In order to fulfil the Doha mandate with regard to development objectives, the formula should be modulated to take into account different levels of development, of trade participation and of competitiveness of WTO Members. The formula should be supplemented in parallel by initiatives which would go further and would enhance liberalization even more, be it harmonization at a very low level or an elimination of tariffs. Some Members had made proposals in this respect in their recent submissions and Switzerland was studying them. In this context, Switzerland felt that special consideration should be given to pharmaceutical products referred to in the Doha Declaration on TRIPS and public health. Finally, for a very limited number of sensitive products, a request-offer approach could be envisaged. This possibility, however, could not have the effect of sheltering specific sectors from liberalization, especially if these sectors concerned products of particular interest to developing and least-developed countries. On the subject of "low" duties, such duties had to be the subject of negotiations like all other duties, but their elimination should be considered a concession like any other concession in these negotiations. Regarding the basis of the negotiations, her delegation proposed the bound rate at the end of the

implementation period of the Uruguay Round, and the HS96 nomenclature. However, with respect to the latter point the results of the negotiations should be published in HS2002. Regarding coverage, the objective should be to bind all tariff lines of all Members, and in principle they should be bound at the applied rate at the beginning of the negotiations, i.e. 2001. On staging, Switzerland favoured a specific time-period, for instance five years combined with longer periods for major cuts on sensitive products to developing countries. On initial negotiating rights (INRs), although INRs were not applicable when a formula was used, it was an important issue for medium and smaller sized economies when tariffs had been negotiated bilaterally. The agreed modalities should include that INRs would be reflected in the final results of the negotiations, in those cases where they were applicable. On environmental goods, the discussion had demonstrated that it would be very difficult to agree on a common set of criteria for the goods to be covered. Therefore the best way to proceed would be to draw up a list of the goods to be covered. This corresponded to the approach taken by the ITA regarding product coverage. Such an approach would enable participants to cover those products included in the APEC and OECD lists which they deemed should be covered but would also go further and could cover other environmental friendly products. This approach also ensured that the interests of all Members were covered. For Switzerland, the part of the negotiations on market access for industrial products was important as it enhanced trade liberalization while at the same time taking into account some specific environmental concerns. Finally, on non-tariff measures, Switzerland had sent a questionnaire to the business community in order to get the information necessary on NTMs which affected trade. Speaking from experience so far, she assumed that for a substantial part of the problems it should be possible to come to a solution through bilateral negotiations between the Members concerned.

1.2 The representative of Chile stated that his country had a very high level of ambition for these negotiations. Chile recognised that there were links between this negotiation and others, including agriculture and rules, mainly anti-dumping. The proposals made by New Zealand and Hong Kong, China did point in the right direction. Most participants were moving towards a fully liberalized trade regime for goods on the basis of regional, sub-regional, transregional or plurilateral integration patterns. Chile's main concern was whether this liberalization should take place inside or outside the framework of the WTO. If it was inside the multilateral system, then distortions on, for example, rules of origin which could result in a distortion of trade and an inappropriate allocation of resources could be avoided. On time-frames, there was a direct relationship between the level of ambition of these negotiations and the time-frames to be established to implement their results. The longer the time-frames the more ambitious participants could be. As regarded modalities for negotiations, the most effective, transparent and fair approach was the formula approach. This had to be applied across the board to the non-agricultural sector without exceptions. As a consequence, Chile did not believe that it would be fair to do this on the basis of averages, be they simple or weighted. A Swiss formula approach would address higher tariffs more significantly, in other words an element of harmonization would be included. In addition it would make the negotiations simpler and easier. If participants were to agree on a formula it would not be necessary to define such concepts as tariff peaks, tariff escalation, high tariffs or environmental goods. There may be additional complementary approaches such as a sectoral or request-offer approach that would make it possible to liberalize further and more quickly. The basis of the negotiations should be bound tariffs and in the case of unbound tariff lines the applied tariffs in force at the time these negotiations were launched. As for environmental goods, there was no commonly accepted definition. The definitions that had been suggested were arbitrary or dangerous such as Production and Process Methods (PPMs). The Ministerial Declaration referred to environmental goods but nowhere in the Declaration was it said that there should be priority liberalization of such goods over other goods included in the negotiations. In other words, Chile considered environmental goods to be on the same level as other goods and the same level of attention had to be accorded to both. As regarded environmental goods, there were environmental concerns and interests but trade interests were also involved. These environmental goods were processed, produced and sold by companies. Obviously there was a profit to be made on them. Thus those who wished a deeper and speedier liberalization of environmental goods would have to give *quid pro quo* in other

sectors and other products in order to achieve mutually profitable results for the negotiations. As regarded negotiations on non-tariff barriers (NTBs), the Group should avoid a duplication of work.

1.3 The representative of the United States was pleased to announce the US modalities proposal for the negotiations on non-agricultural market access which was an ambitious, far-reaching proposal. It reflected a great deal of thought, hard work, consultations with civil society, and tough political decisions, by the entire US government. This proposal was a further demonstration of the US commitment to continue to move the world towards free trade. The three elements of market access in the Doha agenda – agriculture, services and non-agricultural goods – drove world trade, and they constituted the core of the overall negotiations. The US proposal on non-agricultural market access complemented the initial US contributions made in agriculture and services earlier this year. Her delegation looked forward to moving into a more intensive stage of negotiations. Her delegation intended to pursue all three market access areas with equal vigour. In the case of industrial and consumer products, her delegation was proposing a different approach to that which it had pursued in the Uruguay Round. This approach demonstrated her delegation's understanding of the limitations of past experience, its efforts to meet the specific mandate set out in Doha mindful of the long history of industrial tariff negotiations, and its commitment to moving this negotiation and liberalisation of market access for non-agricultural goods forward in a definitive manner. Her delegation had listened to the concerns of Members, particularly developing country Members, as it had developed its proposal. It was to be noted that the US proposal was comprehensive. It did not exclude any non-agricultural product from the negotiations. As she had already noted, this was a departure from earlier positions taken by her delegation, such as pursuing request-offer negotiations, which had resulted in exceptions, higher tariffs and escalation on some products and widely skewed schedules across the membership. The US proposal aimed to ensure that market access opportunities were created for all Members and that all Members participated in the liberalisation process. When it viewed the situation of non-agricultural goods trade today, her delegation believed that the most effective means toward this end was the elimination of all non-agricultural tariffs and NTBs by all WTO Members. Her delegation noted that some already had remarked about how ambitious this proposal was and reflected concerns about whether it could be achieved. She had also noted that some other Members, including both developed and developing Members, were attracted to the idea of an ambitious goal. Her delegation believed that Members should not let fears and protection stand in the way of solid progress in liberalisation. Her delegation was inspired further by several key facts: 1) as a result of more than 200 regional or bilateral FTAs now in place, over 50 per cent of global trade was conducted in a duty free basis, yet, according to the WTO Secretariat, only six per cent of duties were bound at zero in the WTO. This gap stood to widen after the implementation of near 50 FTAs that were currently under negotiation. Developing countries were likely to be the most affected by resultant trade distortions. Clearly the explosion of FTAs over the past decade was a recognition of the benefits of liberalisation, including for developing countries. On a global scale, the World Bank estimated that the complete elimination of all tariffs would generate income gains of US\$ 500 billion for developing countries. Nearly US\$ 6 trillion in world goods trade would become duty free. Her delegation believed it was time for the WTO to return to its core role as a central global liberalising force, bringing benefits to all and had now to set the standard for duty free trade, rather than lag behind regional initiatives. The US view was that a point had been reached in non-agricultural market access where there was no other choice but to be ambitious. She hoped that others would explore this goal and the US approach to it with an open and creative mind. Continuing the positive momentum in this negotiation was critical to driving other issues in the Doha agenda.

1.4 As to the modality, the proposal called for an elimination of all tariffs by 2015 using a simple two-step approach. The first step called for WTO Members to cut and harmonise their tariffs during a five-year period from 2005 to 2010. Specifically, WTO Members would: 1) eliminate all tariffs at or below five per cent by 2010; 2) eliminate tariffs in highly traded industry sectors as soon as possible, but no later than 2010. The US written proposal also included the successful Uruguay Round zero-for-zero sectors as well as those which were discussed during the Uruguay Round on which there was

no conclusion. The US also was open to consideration of other sectors and possibly might table additional sectors, for example, in the electrical and equipment sectors and fertiliser sectors; and 3) for all other tariffs, apply a Swiss formula with a coefficient of eight which would reduce tariffs to less than eight per cent by 2010. The second step would occur from 2010 to 2015 and called for all Members to go to zero through equal annual cuts on all remaining tariffs. Reductions had to be based on applied rates or final UR bound rates, whichever were lower. In this regard, if this modality were to be employed, the issue of base rate was less relevant. Finally, she stressed that negotiations on specific NTBs had to take place concurrently. Tariff elimination could not be undermined by existing or new NTBs. As her delegation reviewed its proposal on tariffs with US industry, it had consistently heard complaints about NTBs and the need to ensure that they were addressed in this negotiation, particularly if an ambitious approach was undertaken. Her delegation would be offering more specific thoughts on this critical component of the negotiation and would provide an inventory of NTBs in response to the Chairman's request by the end of January 2003.

1.5 Regarding how the US proposal addressed developing country concerns, while industrial goods made up approximately 89 per cent of developing country exports this in no way diminished the importance of the US efforts in agriculture and services. Through the US proposal, developing countries would secure bound duty free market access for non-agricultural goods now entering the US at tariff levels at or below five per cent, within five years. This represented a significant down-payment on liberalisation that would help developing country trade almost immediately. Despite impressions to the contrary, this component accounted for three-fourths of US imports from developing countries and currently could result in significant tariff charges for some developing country exporters. For the remaining developing country exports that faced a US tariff above five per cent, the US proposal would reduce those rates to less than eight per cent in five years. This fully addressed the Doha mandate to reduce or eliminate tariff peaks, high tariffs and tariff escalation, all primary concerns expressed by developing countries. However, access to developed country markets, while important, was only part of the story. Under the US proposal, developing countries at various levels of development would be able to realise significant liberalisation with respect to trade with one another, since 70 per cent of duties collected by developing country exporters were imposed by other developing countries. This proposal promoted developing country interests and should be welcomed as the modality that maximized market access opportunities for all Members, in particular developing countries. In the US proposal, her delegation signalled the importance it attached to special and differential treatment and the role that it could play in ensuring effective integration of developing countries into the trading system. Her delegation was mindful, for example, of concerns expressed about the need to maintain revenues. She noted that the international financial institutions, particularly the IMF and World Bank could provide technical and financial support for countries willing to undertake tax and trade reform efforts in the context of sound economic programs. Reforms of this nature would not only help developing countries generate sufficient revenue more equitably, but would improve resource allocation and reinforce their growth prospects. Her delegation was prepared to discuss further about how special and differential treatment could be provided in a manner that would ensure revenues could increase, not decrease as a result of these proposals. In this regard, however, her delegation noted the experience of the Information Technology Agreement (ITA), where for many Members, national revenues had increased significantly as a result of participation in this zero initiative. However, in the US view, as a first step, general parameters and the direction that Members wished to pursue had to be established. It was her delegation's intention to work with developing countries and LDC partners to identify more precise, customized approaches to special and differential treatment to ensure full participation. Her delegation firmly believed this proposal was fair. The US was putting its own sensitive areas – textiles, apparel, footwear, glassware – on the table in an unprecedented manner. The US was also reflecting the knowledge that for many developing countries, their priorities went beyond these traditional sectors to a much broader range of industrial products. The US was matching this proposal with equally bold proposals in other areas of market access.

1.6 The representative of India commented on the EC proposal and said that while it appeared from the graphic representation of the proposal made to the meeting that the formula would sharply bring down high tariffs, it would not address peak tariffs effectively. Paragraph 5 of the proposal suggested an additional initiative for products of interest to developing countries. While India welcomed that the Communities were ready to address peak tariffs in these products, it had to be pointed out that while the formula sharply reduced high tariffs, its relatively easier treatment of lower tariffs was favourable to developed countries. This was not appropriate and would be a negation of the principle of less than full reciprocity in reduction commitments, which was an integral part of the Doha mandate. Without prejudice to this position, on the additional initiative proposed for dealing with textiles and leather, his delegation sought a clarification on what the EC meant when it said that the tariffs should come within a narrow common range as close to zero as possible. He asked if this meant that the end tariffs of all countries may not be identical, for example, in the case of developed countries, the tariff could be zero while in the case of developing countries it could be a different value. Japan had also proposed a specific formula for tariff reductions but, as with the EC submission, this formula had not built in the concept of less than full reciprocity. Also with regard to the Japanese formula, his delegation saw that there was discontinuity in the cutting ratio in Japan's formula where the initial tariff rate increased from 10 per cent to 20 per cent to 30 per cent. He sought clarification on whether these were the different target tariff rates Japan had mentioned in its paper. If so, as in the EU submission, if high tariffs were being tackled by a common formula which would be hard on developing countries he queried the need for any additional measure to deal with tariff peaks. The proposal by Oman was very interesting in that it recognised the concerns of developing countries and their need for flexibility in order to address their developmental concerns. Oman's suggestion for dealing with tariff peaks in developed markets could effectively address the problem. The Mexican paper had also made similar suggestions. India agreed with Mexico that the current discussions should lead to the establishment of a formula for global reduction of tariffs. Mexico's suggestion for a linear reduction seemed more appropriate for developing countries even though using such a percentage reduction resulted in higher tariffs being reduced more significantly in absolute terms. The flexibility Mexico had suggested in terms of sensitive items was very important for developing countries. Therefore, India requested greater clarity with relation to the proposal for an average tariff reduction of (X per cent). His question was whether the X per cent would be the same for both developed and developing countries alike. India also wished to know whether for tariff peaks the intention was to bring down tariffs by the same percentage "X".

1.7 India noted with interest the elements of the US proposal and said that it was a radical initiative that could perhaps be undertaken by the developed countries. However, as indicated in India's comments on the EC and Japanese proposals, India found no provision in it with regard to special and differential treatment for developing countries. Market access had to be calibrated to allow for flexibilities to developing countries and not create economic, social or political unrest in them. Tariffs were also vital for generating government revenues and for meeting developmental expenditure. Many developing countries, including India, had autonomously been bringing down tariffs and this would continue but such action needed to be undertaken on an autonomous basis. In fact, India saw the reference to Article XXVIII *bis* of GATT 1994 in the Doha mandate as precisely intending to take account of such needs of developing countries. India also needed to reflect carefully on whether the zero-for-zero or harmonisation approaches were developing-country friendly. India had presented its initial thoughts on this issue in some detail in its paper TN/MA/W/10.

1.8 The Chilean paper rightly recognised that the zero-for-zero approaches resulted in the virtual exclusion of developing countries. Calling upon developing countries to reduce their tariffs to zero irrespective of their current levels of tariffs was clearly unfair and did not take into account the developmental and fiscal needs of developing countries. Moreover, such approaches did not reflect any special and differential treatment. However, this did not preclude unilateral action of duty elimination by any developed country. The impact on developing countries needed to be carefully examined. India did not share the argument outlined in the Chilean paper for binding unbound items

at their applied tariffs. In the earlier part of the same paragraph the Chilean proposal stated that bound tariffs must be the basis for these negotiations. India wished to stress that unbound items were generally far more sensitive than bound items in a country's tariff schedule and that flexibility was required with regard to the level of bindings on such products. Additionally, if certain items were very sensitive or were of strategic interest then flexibility should be given to keep them unbound.

1.9 Regarding the communication from Switzerland, India agreed that the bound rate should be the starting-point for bound items. There appeared to be wide agreement on this point. India also noted that the proposal recalled the main elements of the Doha mandate and the reference in the Ministerial Declaration to place developmental issues at the heart of the Doha agenda. However, it was not clear to his delegation how it could be inferred that the mandate sought to ensure a harmonising effect on tariff schedules of all WTO Members. More important to India was the need to address the developmental aspects clearly referred to in the Doha mandate. The reference to INRs in the proposal was a new element and of some interest although it would have been useful if Switzerland had indicated how it intended to carry out its proposal. With regard to environmental goods, his delegation reiterated its position that the OECD and APEC lists could not form the basis of the negotiations as most of the products in these lists were industrial products, with at best a limited environmental use. The acid test should be whether a product had a predominantly environmental use and no more than a handful of products in the OECD and APEC lists would meet this test. As for NTBs, their identification was a necessary first step. India had received the proposed format for NTBs submission prepared by the Secretariat, which it noted was an indicative format, and would examine it in detail. An issue of some concern to his delegation related to what were virtual NTBs operating in many markets that were being prescribed not by governments but either by buyers acting in concert or by other means and which had the same effect as NTBs. Some of these measures were not even related to the product or its standards. His delegation wished to hear any suggestions on how such measures could be captured in the Group's work.

1.10 In conclusion, he wished to stress the importance of factoring in what was clearly laid down in Article XXVIII *bis* of GATT, namely that "the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes". No one questioned the importance of progressive tariff reductions which many developing countries including India had been undertaking autonomously during the past few years and which India would continue to do. However, one should not forget the fact that the dependence on customs revenue in developed countries was much less than in developing countries. For the top 25 countries in the scale of development, the contribution of customs revenues to total state revenue was less than three per cent. In respect of the US for example, the Bureau of Economic Analysis figures showed that customs duties contributed only one per cent to current revenue. Developing countries on the other hand derived a substantial chunk of their revenues, in the region of 30 per cent to 40 per cent and in some cases even more, from customs revenues. Any formula that was based on sharper reduction of high tariffs in comparison with low tariffs would imply that developing countries would have to sacrifice a much higher proportion of their total revenues than developed countries which in effect was tantamount to going against the principle of less than full reciprocity. Any such result would have an adverse impact on the scarce resources of developing countries resulting in higher fiscal deficit and lower availability of funds for infrastructure building and social services. All developing countries should therefore be extremely careful while evaluating such proposals and the impact they were likely to have on the development process.

1.11 The representative of New Zealand wished to focus on the US proposal. This was not surprising in light of New Zealand's own proposal for eliminating non-agricultural tariffs which was introduced at the previous meeting. The US proposal shared with New Zealand one central overarching goal which was "putting the WTO back as the central globalizing force for the liberalisation of trade". It deserved very careful reflection. He was surprised to see the US proposal for the simple reason he did not think that there could be an internal consensus inside the US to put

forward a proposal as bold as this. It was an ambitious proposal and the real question was whether it was realistic. This, after all, was the question raised with respect to New Zealand's own concept paper suggesting that the time for eliminating industrial tariffs had come. While it was not realistic to imagine agreement within the next 6-12 months on such a goal, it was a very different question when looked at as a goal for the end of the round. He recalled that the basic lesson of the Uruguay Round was that participants had built ambition to enlarge the package to create more trade-offs and had expanded the vision for that negotiation. In terms of being realistic, if a participant, at the outset of the Uruguay Round, had proposed comprehensive tariffication of all agricultural quantitative restrictions, the capturing of export subsidies, the binding of dispute settlement rules and the replacement of GATT with a new institution other participants would have called these proposals unrealistic. So, such a goal of zero duties was not realistic now because it clearly went beyond the negotiating instructions of the large majority of delegations. Several comments had been made on the fact that the US proposal was a self-serving proposal. He reflected on that statement in terms of New Zealand's own proposal. Was the proposal by New Zealand self-serving? It had taken many months to steer the concept through New Zealand's tariff peak industries of *inter alia* textiles, clothing and footwear. It had caused a lot of political pain and eventually ended up with the Council of the CTU, New Zealand's main trade union body, disassociating itself from the government as well as some other lobbies. So when New Zealand had put forward the proposal, he did not get a sense that it was self serving. When he applied the same test to the US he looked at, for example, the reaction of the textile lobby which was summarized in the journal "Inside US Trade" where it stated that "the American textile manufacturers institute blasted the proposal this week. It said that the proposal put at risk one million US textile and apparel jobs" He recalled that the figure in the World Bank was that for every job protected in the EU, Canada and the US textile and clothing sectors, it was at a cost of 35 jobs in the developing world. So assuming the figure was right, it might mean the loss of 1 million jobs in the US, but 35 million jobs in the developing world would be created. Whether the figure was accurate or not, it was quite clear that to categorise these proposals as self-serving was stretching the point. If the US proposal had been self-serving, then it would have required the liberalisation of developing country tariff peaks down to the level of the US tariff peaks, it would have indulged in an exercise of cherry picking of various types, it would have chosen a formula the target of which could have been met without cutting into defensive sectors and most important of all it would have used the request-offer as a central modality because of the political and economic power of the US.

1.12 On special and differential treatment, this was a difficult issue that needed to be solved not just in this Negotiating Group, but across all Negotiating Groups. Was special and differential treatment achieved by minimising the liberalisation of developing countries' protective frontiers or was it to be achieved by maximising economic opportunities for developing countries? This was not a black and white matter. When one looked at the level of integration of developing countries into the global trading system, there was need for greater flexibility. So, on that aspect of the development agenda, the US proposal was a bit light. However, the US proposal did state that "As a first step in the negotiations, Members should secure agreement on the modalities and a common vision for the result of our negotiation. Once achieved, WTO Members should turn to more precise and customised approaches to ensure participation by individual developing countries, particularly the least-developed country Members, consistent with their individual development needs." Most professional negotiators should be capable of interpreting what that meant. His authorities had felt that they could be a little more forthcoming in their version of the tariff elimination proposal – precisely to meet at least one concern relating to revenue issues. So, New Zealand had proposed that any contribution from LDCs should be voluntary. From a long-term development prospective, relying on revenues from introducing distortions in the trading framework was not a long term solution. The second aspect of development was the creation of trading opportunities and the US had contributed to this development aspect. Like New Zealand's own more modest proposal, putting forward all protected sectors on the table was as large a contribution as any a country could make to the process of development especially when the sectors were of primary interest to developing countries. So would developing countries say now that this was a tactic, that this was not realistic? It required very careful reflection.

1.13 Turning to the most difficult and uncomfortable political fact of all which had been discussed extensively, the implications that developing country trade barriers were a larger problem for developing countries than developed country trade barriers, he said that this was a very sensitive matter. However, such a negotiating round did not happen frequently and as indicated by Chile, the question was not whether this would be done or not, but whether this would be done multilaterally or through a network of regional agreements. Those developing countries which were very concerned about the erosion of preferences through multilateral liberalisation needed to reflect on this central fact. This was going to happen as these regional agreements proliferated. If the US were giving a set of countries preferences and was simultaneously offering regional trade agreements to a whole series of other trading partners, it was, by definition, inevitable that those preferences would be reduced over time. The fundamental question for all Members was whether this was the most efficient way to do it.

1.14 His delegation saw two types of proposals. Those that fell into the traditional mercantilist mode which meant putting forward a position in which the targets could be met without doing much to the most protected sectors. There were a number of such proposals. Then there were the comprehensive proposals. There were also statements by a number of delegations that pointed in this direction such as that from Hong Kong, China. Switzerland's, Chile's, Mexico's and New Zealand's proposal could also be put in this framework. It would also include the EC and the US proposals. The interesting question from New Zealand's perspective was how different was the EC proposal from the US proposal? First of all both of these major trading entities had to be congratulated for putting forward comprehensive proposals that would involve adjustment by their most protected sectors in the non-agricultural area. The EC proposal was somewhat less ambitious with respect to tariff peaks. For example if one looked at the tariff peak of 20 per cent, under the EC compression proposal this would move to 12.2 per cent and under the US proposal it would move to 5.7 per cent. So, there was a high level of ambition in the coefficients and the technical structure of the US proposal. However, one could say that the proposals were pointing in the same positive direction. There was one particularity of New Zealand's exports in non-agricultural trade where it had a considerable number of items that fell into a tariff range from 5 per cent to 10 per cent. By definition, the approach that the EC had chosen did rather less there but nevertheless it would result in some improvements. The two proposals were very encouraging, they were not self-serving, and they both pointed in the same direction. They were consistent with the overriding reason why this institution exists. The question as to whether at some future point the EC proposal could be modulated to go a step further was an interesting one. It was not necessarily inconsistent to think that this proposal could be developed in a more ambitious direction.

1.15 With respect to the choice of modalities, one of the main reasons why New Zealand favoured the ambitious proposal of tariff elimination, accepting that further flexibilities for developing countries had to be defined, was that it facilitated a whole range of negotiating problems that could arise in choosing modalities. For example, the use of bound versus applied rates. One thing that New Zealand did not agree with in the US proposal was the US decision to base reductions on applied rates as of 1 January 2001 or the Uruguay Round final rates whichever were lower. Participants needed to reflect more carefully on this but his delegation believed that the negotiations should be based on bound rates and New Zealand, like some developing countries, wanted credit for autonomous liberalisation. If one were to look at New Zealand's tariffs on automotive vehicles for example, the bound tariff rate was 55 per cent, and the applied rate was zero per cent. New Zealand wanted some credit for that. But the point was that once the objective was the elimination of duties, base rates became a very small issue. He fully understood those delegations, such as Canada and US that had argued for the use of applied rates, because they wanted to ensure that what looked like a very significant tariff cut actually could be said to liberalise trade. In certain situations, where there was a large gap between the bound and applied rates, such as was the case in New Zealand's tariffs on motor vehicles, elimination of the bound rate would be required to reach the level of applied rates. So there was a legitimate concern. The second example concerned the front loading of export opportunities for developing countries. If the Group agreed on this long-term objective of tariff elimination which

involved a huge contribution from everybody then it would be politically very straightforward to achieve a significant and large front loading of export opportunities in any formula that the Group might negotiate. In short, the choice of modalities was very much facilitated by having this unifying objective.

1.16 The representative of Uruguay stated that with regard to the Chile's submission, Uruguay shared the views and concepts set out therein. First, Uruguay shared the very high level of ambition to be given to the negotiations. For this purpose, it was vital that participants accepted a Swiss type formula. Second, Uruguay agreed with some of the additional approaches to the Swiss formula. Third, Uruguay wished to use bound tariffs as the basis of the negotiations. Fourth, there had to be a correlation between the level of ambition and deadlines. The more ambitious the expectations the longer had to be the time-periods for implementation. Fifth, Uruguay also recognised that there were links between the level of ambition in these negotiations and the level of ambition in other negotiations such as agriculture and rules. Uruguay also agreed with the views expressed regarding environmental goods and NTBs. As a result Uruguay welcomed Chile's paper which seemed to be a good basis for future discussions. On the US paper, Uruguay agreed with the views regarding the high level of ambition that had to be given to these negotiations for two reasons: 1) Ministers had agreed on that in the Doha Declaration which called for significant reductions and removal of tariff and NTBs. The US proposal fitted in very neatly with that ambition; 2) Uruguay had embarked on the negotiations with the view to setting up a free trade area for the Americas and with the EU. Another point was that the world trading situation was facing very poor growth prospects for the coming years, therefore something had to be done to improve world trade generally in order to convert it into a driving force for better world economic growth. Every effort had to be made to liberalise trade with that purpose in mind.

1.17 Turning to the US proposal, he said it pointed in the right direction and although there were differing views on some aspects, it would be useful to get the discussion moving forward. However, there were two important qualifications that he wished to make on the proposal. First, this type of proposal could be accommodated by Uruguay if the same level of ambition was applied to all sectors including agriculture. The average tariff on agricultural goods was twelve times that of industrial goods. Tariff peaks and tariff escalation in the agricultural area were far more important than in industry. Uruguay's objective was to place agriculture on a par with industrial goods. This was a minimum objective for Uruguay. Liberalisation had to move forward in parallel in both sectors. The US proposal on agriculture was ambitious but not as ambitious as its proposal on industrial goods. However, it was part of a series of proposals by industrial countries where the level of ambition on industrial goods and agricultural goods was totally different. The first qualification Uruguay would have on the US proposal, if it were to be implemented, was that it should try to bring into the negotiation a certain amount of balance in ambition among all sectors. His second qualification on the US proposal related to developing countries. In Uruguay's view the US proposal did not accommodate the development needs of developing countries. It provided for longer time-periods to achieve full liberalisation but it did not appropriately reflect and incorporate different levels of development of Members or different levels of industrialisation. The US representative had explained that the US was determined to continue to negotiate with developing countries and he was sure that a number of elements could be incorporated to reflect the specific interests of developing countries as the negotiations moved forward. On the Swiss proposal, the fact that Switzerland was in favour of a negotiation based on bound tariffs and with harmonisation in view was commendable. However, the two qualifications he had made with regard to the US proposal also applied to the Swiss submission.

1.18 The representative of Singapore stated that the US proposal was positive and ambitious and aimed towards a tariff free world, with a parallel track for the elimination of NTBs. Singapore particularly welcomed the US commitment that it would not exclude any industrial product from its proposal. In Singapore's view, the objective of a tariff free world was very much in line with proposals by New Zealand and Hong Kong, China which sought to match regional and bilateral

initiatives. It was one that was quite consistent with Singapore's own objective to see the eventual elimination of tariffs and NTBs for industrial products. Singapore felt that a tariff free world might become a reality eventually. Singapore also felt that the proposals from the US, New Zealand, and Hong Kong, China would stand to benefit all countries, developed and developing alike, as trade in industrial goods made up a very significant proportion of world trade. Singapore noted other apparent similarities between the elements of the US proposal and elements in proposals by other Members. For instance, the US and the EC proposed some form of harmonisation of tariffs to address tariff peaks and high tariffs as well as elimination of low tariffs which would increase access to developed country markets. The US and Japanese proposals proposed certain sectors for immediate reduction or elimination including products that were covered under the ITA. Singapore was keen to see increased liberalisation for trade in products under the ITA with perhaps the possibility of expanding product coverage, for instance by including those that were contemplated under ITA II. On the Swiss proposal, one interesting element was its proposal to have modalities for INRs.

1.19 The representative of Korea stated that the US had proposed a new formula for tariff reduction and elimination. Korea appreciated the US proposal for its boldness and unexpectedly high level of ambition. Without a doubt, tariff-free trade was the ultimate goal of market access negotiations on non-agricultural products. No country would reject such an idea in principle. But the question was would it be possible for all WTO Members to support in reality. Korea's average tariff rate in non-agricultural products was below eight per cent and Korea did not have many tariff lines considered as high tariffs or tariff peaks. Therefore, Korea's burden of tariff reduction or elimination under the proposed US formula would not be as serious as one might anticipate if there was some flexibility in applying the formula. Each country, developing and developed country alike, had various sectors or products with different kinds of sensitivity. Developing countries might have more sensitive sectors or products of their own. Given such realities, Korea wondered whether WTO Members, developing countries in particular, could accept a proposal for eliminating all tariffs with no exceptions. Korea also wondered whether the proposed formula was fair enough in terms of balancing advantages or disadvantages among Members. The burden of tariff reduction on developing countries through what the US called a "tariff equalizer" formula was far greater than on developed countries, because the formula targeted developing countries with high tariff structures. Given the already low level of average tariffs in developed countries, the burden of tariff reductions on the part of the developed countries would be only minimal, except for a few sensitive sectors where tariff peaks were prevailing. As emphasized by Korea at the previous meetings, modalities should be designed to address tariff peaks of both developing and developed countries in a balanced manner. Korea had been working on a tariff cut formula based on this approach. But as internal consultations on specifics of the formula were still underway, Korea was unable to submit its proposal before this meeting. Korea hoped that, by the agreed deadline, Korea could contribute a proposal that it believed was more balanced in addressing tariff disparities of both developing and developed countries.

1.20 The representative of the Slovak Republic speaking also on behalf of Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Poland and Slovenia stated that he attached great importance to the further liberalisation of trade in non-agricultural products. The gradual liberalisation in the industrial sector had been going on for decades now and these negotiations provided an opportunity to carry forward this process in an equitable manner. Compared to the agricultural sector, where the substantial opening of markets started only after 1995, the liberalisation of trade of industrial products should be speeded up. The Members on whose behalf he was also speaking comprised of both founding WTO Members and recently acceded Members which had undertaken considerable liberalisation commitments. It was their clear expectation that the present imbalances in the openness of industrial markets in various countries would be greatly decreased and that WTO Members with a level of development comparable to these countries would also contribute to this process. Turning to some specific issues, product coverage had to be comprehensive, without *a priori* exemptions and aimed at a substantial reduction of tariffs, in order to achieve further improvement in market access. The aim of the negotiations should be improved transparency and stability resulting from bound rates,

reduction or elimination of tariff peaks, high tariffs and tariff escalation. Comprehensive coverage was of utmost importance for the predictability of the tariff regime and for the functioning of the whole system. Scope of bindings had to be improved. These Members were ready to fulfill this ambitious mandate and commit themselves to reach improved market access through tariff reductions. On modalities, they favoured a formula approach that would best ensure comprehensive product coverage and address issues like tariff peaks, high tariffs, and tariff escalation. Such a formula approach also had to be flexible enough to take into account the different levels of development and competitiveness of WTO Members. The difficulties of LDCs and other WTO Members with lower levels of development were understood and less stringent obligations would be expected from them. On the other hand, he could not support an understanding of special and differential treatment which would mean that competitive developing countries with highly developed industrial sectors did not open their markets to an extent comparable with the commitments of the countries on whose behalf he was also speaking. These elements needed to be fully reflected when establishing modalities. Regarding the basis for the negotiations, he proposed the use of final bound rates in Members' schedules. With regard to the NTBs, he supported the reduction and elimination of these trade distorting measures. The starting-point should be the identification of the concrete problems that Members faced.

1.21 The representative of Hong Kong, China stated that he could see some common ground emerging from the proposals on the table. For instance, he noted that there was general agreement that non-agricultural market access was germane to the core business of the WTO. There were high ambitions for these negotiations and he noted that most Members were mindful that the liberalisation process had to take into account the development needs of countries and that the outcome had to be beneficial to all Members. Obviously an overall target for the negotiations had to be set and this would guide the discussions on the detailed elements of modalities. In this regard, Hong Kong, China was encouraged by the number of proposals including that from New Zealand, United States and his own delegation that had set tariff elimination as a target. Hong Kong, China saw merit in having such an overall target. It was indeed timely to do so especially for developed Members who could set an example for developing Members. In return, developing Members were expected to commit to substantive and progressive reduction of tariffs in this Round with the view to ultimate elimination in the longer term. This was indeed an ambitious approach but as was so eloquently argued by the representative of New Zealand, he did not think that such an approach was unrealistic. It was against this background that Hong Kong, China had put forward the two-stage approach in its proposal. In the first stage, Hong Kong, China had proposed that Members follow a formula approach to reduce or eliminate tariffs immediately upon the conclusion of the Doha negotiations. Developing Members would be subject to a smaller reduction. In the second stage, Hong Kong, China proposed that developed Members eliminate all remaining tariffs within a reasonably short period of time, for example five years, whereas developing Members continue to reduce tariffs over a longer time-frame by re-applying the formula. Hong Kong, China's proposal fulfilled the mandate of the Doha Declaration by addressing products of export interest to developing economies and by providing special and differential treatment for developing and LDC economies, including less than full reciprocity in reduction commitments.

1.22 Turning to the proposals introduced at this meeting, he noted their high level of ambition. He was very encouraged by the US proposal which was even more specific than Hong Kong, China's proposal in setting a clear time-frame for elimination of tariffs by all Members. Overall, Hong Kong, China welcomed the US proposal as an ambitious one. In particular, Hong Kong, China welcomed the suggestion that no single product would be excluded in the elimination of tariffs of five per cent or less; the elimination of tariffs of highly traded goods and the harmonization of tariffs to less than eight per cent by 2010. Hong Kong, China noted that the harmonization of tariffs to less than eight per cent and elimination of tariffs of five per cent or less would benefit all Members. However, it was not clear how the US proposal addressed the mandate of special and differential treatment and less than full reciprocity in reduction commitments. Another preliminary observation was that while the US

proposal suggested fast-track zero-for-zero initiatives for some sectors, it seemed to his delegation that those were not necessarily products of significant export interest to developing Members. One obvious omission in this regard was the textile, clothing and footwear sector. He requested clarification on a couple of technical points regarding the US proposal: 1) what were the modalities for tariff reduction from the conclusion of the negotiations, presumably 1 January 2005 to 2010? Should Members follow a linear reduction or wait until 2010 to eliminate the duty? 2) Applying the tariff equalizer formula to a duty of for example, seven per cent would result in a duty of 3.7 per cent. Would tariffs on these products be eliminated immediately in 2010?

1.23 The representative of Costa Rica welcomed the thought-provoking views put forward by the United States, which, as he understood, concurred with those expressed by New Zealand at the previous meeting. Costa Rica saw these proposals as a constructive step towards fulfilling the ambitious negotiating mandate set out in paragraph 16 of the Doha Ministerial Declaration. He wished to ask a preliminary question of the United States. Paragraph 8 of the US document, describing step 1 and the elimination of tariffs lower than five per cent, implicitly suggested that all non-*ad valorem* duties would be converted to *ad valorem* equivalents in order to apply such criteria. He wished to receive confirmation that his understanding was correct.

1.24 As regarded the proposal made by Korea at the previous meeting on the definition of "tariff peaks", Costa Rica wished to use a few figures to illustrate its concern in this respect. Korea proposed to define tariff peaks as tariffs "equivalent to or higher than X per cent". In Costa Rica's opinion, Table 8 in document TN/MA/S/4/Rev.1/Corr.1 was most useful in estimating the potential level of the X per cent in question. According to the table, if the international definition of tariff peaks (i.e. X=15 per cent) were to be adopted, 57 Members, all of them developing countries, would have more than 50 per cent of tariffs above that level. This meant that over 50 per cent of their tariff levels would be considered "tariff peaks". The table's simple average duty column was also very useful in assessing the potential level of the X per cent in question. It showed that, for 87 of the 144 Members, the average tariff level was higher than 15 per cent. For 74 Members, i.e. more than half of the WTO membership, the simple average of non-agricultural bindings was above 20 per cent. If one looked at higher levels, 59 Members had a simple average of more than 30 per cent, and 35 even stood at over 40 per cent. If one considered that these simple averages did not include unbound levels or non-*ad valorem* duties (NAV), both of which were, in Costa Rica's view, tariff peaks, then obviously the chances of agreeing on an X per cent figure that even came close to 15 – or any other relatively low figure – were very slim indeed. Therefore the question regarding the use of agreeing on such a definition could be legitimately asked. As a result, Costa Rica concurred with those delegations which felt that it would be best not to attempt to define these elements in explicit terms but to establish a formula that came to grips with these problems in mathematical terms. For instance, the Swiss formula was a mathematical tool for dealing with tariff peaks, high tariffs and tariff escalation without resorting to definitions. If Members nevertheless considered it necessary to have a definition, Costa Rica thought that it should be of the type that Korea proposed for high tariffs, for example "Y times the national average"; or a criterion similar to that used by the Secretariat in defining "national peaks" in its document.

1.25 As regarded Japan's proposal, Costa Rica appreciated the clarification of the formula in document TN/MA/W/15/Corr.1. Costa Rica viewed the proposed formula as a constructive step towards the implementation of paragraph 16 of the Doha Declaration. Despite the clarification provided, Costa Rica still failed to understand the reason why the " $\alpha = 0.3$ " component was added at the end of the formula. As he saw it, its sole function was to increase the result by 0.3 per cent in order to prevent certain levels from reaching zero per cent. What purpose would this serve? Costa Rica also requested Japan to explain how the " t_0 " would be calculated, and what would happen in respect of tariff lines with no imports. Since import weighted tariffs were being dealt with would one be looking at a zero base rate for these lines? In other words, would application of the proposed

formula mean that all tariff lines with no imports be bound at zero per cent? And if not, Costa Rica wished to know what impact the formula would have on such tariff headings.

1.26 Costa Rica welcomed Switzerland's recent proposal, which appeared to be very constructive and pragmatic. Costa Rica also agreed with a number of aspects of Chile's proposal.

1.27 On bindings of tariff levels and in reference to what the representative of India had said about the subject, Costa Rica considered that all non-agricultural products of all Members should be bound without exception as a result of these negotiations. Table 8 in the Secretariat document (TN/MA/S/4/Rev.1/Corr.1) was most instructive in this regard. Only 52 of the 144 WTO Members had bound all their non-agricultural duties; 46 Members had bound less than 95 per cent of their non-agricultural duties, including 33 Members for which less than 50 per cent of tariff items were unbound. In addition, 17 Members had bound less than 10 per cent of their non-agricultural tariff headings. Costa Rica was concerned about this situation, which ran counter to the transparency and predictability that should prevail under the multilateral trading rules. Moreover, Costa Rica saw no reason why a Member should have so many unbound tariff items, especially if it had no local production under most of those headings. Clearly, an unbound tariff was tantamount, in mathematical terms, to a tariff binding equal to infinity, which (by any definition) was the highest of all tariff peaks or high tariffs. Costa Rica believed that the levels at which such products would be bound were certainly negotiable and that the concerns expressed by certain Members could be accommodated in these negotiations. In this respect, Switzerland's proposal, as set out in document TN/MA/W/16, that tariffs should be bound in principle at the applied rate, with the possibility of a binding at a higher rate for a specified number of tariff lines, seemed to be a good way of accommodating such concerns. In any event, Costa Rica considered that all duties of all Members should be bound as a result of these negotiations. This was by no means a novel concept, since it already emerged during the Uruguay Round in respect of the most sensitive of all products, i.e. agricultural products. Costa Rica therefore reiterated that binding of the tariff universe should be one of the key outcomes of the Doha Round in this area.

1.28 Finally, Costa Rica endorsed the comments made by the representative of Uruguay regarding global balance in the Doha round of negotiations and the connection between these negotiations and those on agriculture.

1.29 The representative of Colombia congratulated the US for its proposed objective of completely eliminating tariffs from 2015 onwards in an exercise that would involve all goods. In addition, considerable progress was planned for 2010 which would bring a substantial improvement in export access for developing countries to the US market. The least that participants could do was to make a commitment to analyse the conditions under which the reduction formulas and harmonisation formulas for tariffs would operate especially in those areas which were traditionally protected from international competition. However, Colombia had concerns regarding the base rates proposed by the US. He welcomed Members' views regarding NTB elimination, tariff rate quotas and non *ad valorem* tariffs. Switzerland's contribution contained extremely valuable elements. One could begin to get a glimpse of consensus around the definition of negotiating modalities. Colombia would emphasise as a modality the application of a transparent formula which contained a harmonising element and which would be complemented by the use of the request-offer approach (for a limited group of products which were sensitive) as well as sectoral initiatives or the zero-for-zero approach for environmental and pharmaceutical goods. Colombia had also listened to different proposals for the treatment of so-called nuisance tariffs which, according to Switzerland, should be the subject of negotiations. Colombia wished to analyse these proposals further because rather than facilitating negotiations, they could end up complicating them. Colombia welcomed additional information on the Swiss proposal to take account of INRs in the negotiations. It was also important to hear Switzerland's view with respect to non *ad valorem* tariffs, less than full reciprocity in reduction commitments, and special and differential treatment. Colombia shared a large number of the points which had been raised by Chile

in these negotiations, particularly in respect of the role of regional initiatives and the correlation between implementation periods and the level of ambition. Furthermore, Colombia believed that Chile's view was correct on the use of a Swiss style formula rendering the exercise of defining tariff peaks and high tariffs superfluous. Colombia also agreed on the points made by Chile regarding the disadvantages of using formulas which had as their objective a simple or weighted trade average reduction. Finally, Colombia fully agreed with the points made by Costa Rica on tariff peaks.

1.30 The representative of the European Communities stated that in the power point presentation to be made by his colleague the Group would see figures which had been used to illustrate the Communities' approach. At this stage, the most important issue to discuss was the approach. When the time was right, the EC would table its proposal regarding the figures to be applied to this approach.

1.31 Another representative of the European Communities, in making the power point presentation, (see Annex), stated that her delegation's analysis was based on two specific questions: "Where do we want to go?" and "How do we want to get there?" (Slide 1). WTO Members would have to reach a common vision on both points. On the question, "Where do we want to go?", this depended also on the starting-point. Members had inherited a certain legacy from the Uruguay Round (Slide 2). The legacy meant that developed countries tended to have almost 100 per cent bindings, and an average reduction of 40 per cent or more. Developing countries tended to have a binding coverage which was on average 73 per cent, with an average tariff reduction of 25 per cent (these figures were sourced from WTO studies). Various criteria could be used to examine the profiles of schedules namely (Slide 3): the scope of bindings; the average duty; the binding overhang (i.e. the difference between the bound and the applied duties); tariff dispersion; (tariff dispersion meant several things, but it also meant the way schedules tended to be construed with eight-digit headings which were sometimes far removed from the overall average of the schedule); High tariffs, tariff peaks, tariff escalation – basically what the Doha mandate quoted. The language in which these peaks were written into the schedules were also looked at i.e. whether they were written in terms of specific duties or *ad valorem* duties because the difference tended to be very marked for analytical purposes but also in respect of a proposed formula; finally commitments entered into by Members in terms of export restrictions or otherwise. These were the criteria that were examined and which enabled her delegation to move towards reaching a proposal.

1.32 There were three principles at the heart of the Communities approach on which the Communities could show no flexibility (Slide 4): 1) a balanced outcome; 2) achieving growth and alleviation of poverty; and 3) a single undertaking. With respect to the third point, the achievements of GATT and the WTO should be achievements for the whole membership. The Communities did not like the idea of a two tier membership or second class membership. Those three principles were the core of the Communities' strategy. However, there were always constraints and three main areas of constraints could be identified: 1) the different tariff structures; 2) sustainable development. Liberalisation was not something that her delegation conceived as attainable without keeping in mind sustainable development which had several facets; and 3) backsliding from WTO rules. These three areas of constraints created problems such as 1) high protection and sheltering; 2) economic inefficiencies, lack of a level-playing field; and 3) lack of predictability. Sheltering might be the result of high tariffs, tariff peaks or non-tariff protection, but it might also be due to the fact that commitments which were undertaken were not being implemented, which was the notion of backsliding from WTO rules. There were economic inefficiencies resulting from high tariffs because such tariffs protected industries that possibly should not be there. Economic inefficiencies could also stem from a type of development which was not sustainable. Regarding lack of predictability, it might be due to the fact that a Member was unable to apply what it had committed to because its level of development did not enable it to apply those commitments. However, there was a distinction to be made between sheltering which was prompted by a deliberate attempt to not abide by the rules that one had committed to and the problem of lack of development which made it impossible for one to

implement those rules. Specific solutions had to be devised for all these problems. In the EC's opinion, the solutions came in the shape of: 1) a compression mechanism that would address problems created in the traditional field of tariffs; 2) consolidation, i.e whatever was agreed had to be consolidated. For tariffs there was the idea of bindings but there could be other aspects; and 3) special and differential add-ons. There had to be elements that addressed the problems created by a desire to attain sustainable development. So this was an explanation of the basis of the Communities' approach which was why the formula was only one part of the equation.

1.33 Slide 5 showed old tariffs and the new tariffs resulting from the application of the Communities' compression mechanism. The blue line (old tariffs) indicated where duties currently stood. Applying the compression mechanism one obtained the red line (new tariffs). One could also see what the situation would be like with the US approach up to 2010. However, no details had been provided by the US on the staging process but it was obvious that for 2015 there would be a dot at the heart of the graph with respect to the US proposal.

1.34 Why did the Communities get to the compression mechanism which was one part of the whole picture? The Secretariat in its paper on formula approaches had shown the historical development of formulas. Formulas could be linear, harmonizing like the Swiss formula, or even logarithmic. However, one needed to have a goal. The linear or the Swiss formula was more or less process oriented (Slide 6). Depending on the tariff profile, such formulas had a certain impact. The approach that the EC had put forward before the Seattle Ministerial Meeting had contained deficiencies. However, there was one aspect of it that was interesting which was the idea of an end result. She had seen a similar idea in the proposal by Japan when it referred to a target rate. The Communities had decided that a formula that mixed the two approaches was required i.e. a formula that resulted in a reduction, but also one that achieved a certain result. In fact in the compression mechanism, the idea of the end or target rate had been kept in mind. Slide 6 showed a pyramid. The compression mechanism formed the first building block of the Communities' approach. In this regard, the Communities were willing to discuss the figures to be included in it. The second building block was called special and differential add-ons. These were the solutions that the Communities were able to conceive, but they were willing to listen to other ideas about how special and differential treatment could be translated into the Communities' proposal. Then there was the third building block which was that of deeper cuts. The Communities were interested in deeper cuts, for example on environmental goods. That was the structure of the Communities' approach. Her delegation was willing to discuss what should be included in each individual part. For the deeper cuts, proposals had been tabled by Japan, Korea and the US of a sectoral nature. However, for the time being, the Communities did not think that that was the priority.

1.35 Slide 7 showed a graph which contained figures. There was a triple jump in that graph. In the first jump, there was the first stretch of duties which the Communities had taken to be between 0 and 15 per cent, and as mentioned by the representative of India, the reduction on those duties was not that sharp. Her delegation was willing to discuss this. That first stretch had a reduction which was more or less the reduction that had been achieved during the Uruguay Round. There was a second stretch which started from 15 per cent. This was the stretch that was of concern to her delegation because of tariff peaks. The Communities thought that 50 per cent could be the area where the third jump could start. She noted that the compression mechanism was run on the basis of provisional figures and all figures could be discussed. The formula had also been distributed, but the results depended on where upper and lower bands were set.

1.36 On special and differential treatment, there was the compression mechanism, although for specific products of interest to developing countries, the Communities were willing to go further, and move to a flatter range of duties. The Communities had indicated that such duties could be as close as possible to zero. Since historically textiles, clothing and footwear tended to be engines of development, her delegation had offered this possibility, this add-on. On the phasing-in of results, her

delegation had specified that depending on the level of ambition, the Communities would be willing to discuss the phasing. In addition, by proposing to dismantle very low duties her delegation had thought that it would be accommodating requests made by developing countries concerning some specific sectors. In addition, all developed countries should be offering tariff and quota free access to LDCs.

1.37 So, in short the proposal comprised of a whole series of elements that were of importance. First of all, the compression mechanism applied to the HS heading. Her delegation did not want to use averages, or an overall goal. The Communities wanted the compression mechanism to be applied at the tariff item level so that sheltering was no longer possible. Furthermore, this approach applied to bound duties. Depending on the binding overhang, the reduction would be more or less painful. These two elements could not be forgotten. Finally, there was a possibility for the Group to devise some guidelines for credit for autonomous liberalisation. She stressed that the Communities were proposing a method, not figures. The figures were for the membership to choose.

1.38 The representative of Australia welcomed the tabling by the US of its proposal on market access. Market access was the core business for the WTO and for this round of negotiations. It could be argued that the response by the US to the mandate in this particular sector would be critical to the success of not just the non-agricultural negotiations but to all the market access negotiations. Of course the US was not the only major Member whose responses across the three market access negotiations would be judged as critical for the pace of the whole Doha agenda. Nor was it the case that the success of these negotiations would be determined solely by the contribution of the developed countries to these negotiations. The US paper made the point that developing countries would be major beneficiaries from industrial market liberalisation. The econometric modelling of the kind quoted in the US paper made it clear that, as most protection remained in developing countries, and in view of the growing South/South trade, developing countries themselves would benefit most if they also participated fully in the liberalisation process. To some this remained a counter-intuitive finding. What was not counter-intuitive was that the politics of managing trade liberalisation was based on the ability of negotiators to sell to their domestic constituencies the fact that all countries were engaging in trade liberalisation and that markets in other Members were being opened up at the same time as domestic ones were. This message, at least, should be self-evident to all Members. Of course, the special circumstances of developing countries, particularly the LDCs would need to be reflected in the modalities that the Group ultimately agreed on for dealing with market access liberalisation.

1.39 Returning to the US paper, this appeared to be a comprehensive response from the US to the Doha mandate and was particularly welcome against the background of what were sensitive sectors for the US. It helped to set the benchmark for the levels of ambition in this sector. There were a number of features in the proposal that Australia particularly welcomed: it conformed to the mandate for the negotiations of being comprehensive with no exclusions; it aimed through a definite time-frame, for an initial tariff elimination including through the elimination of nuisance tariffs leading to the elimination of all remaining tariffs by 2015; it called for the earlier elimination of tariffs in sectors to be agreed but including a range of Uruguay Round and other sectors; it envisaged the participation of all Members; it addressed NTBs on a parallel track, and flagged an intention to provide more specific details on options for dealing with this important element of the mandate while at the same time trying to identify specific NTBs of concern to the US. Like others, Australia had recently become aware of a number of the details of the US proposal and would want to find out more about how precisely the US intended to operationalise its approach. On the Japanese proposal, Australia was interested in the observations by Costa Rica on the implications of the Japanese formula. Australia shared some of those observations and would welcome a response by Japan.

1.40 The representative of Romania stated that during the present negotiations Members had to be realistic and ambitious without forgetting the core development component of the Doha agenda. Further liberalisation in the area of non-agricultural products was important. Romania strongly

supported the idea of starting these negotiations from the levels bound in the Uruguay Round and using 2002 or 1996 HS nomenclature. As far as the scope was concerned, it was important that all products were covered here including textile and clothing. Tariff peaks and tariff escalation were to be addressed with the view to their elimination. Romania was in favour of a formula approach that would best ensure both comprehensive product coverage and address high tariffs, tariff peaks and tariff escalation. The formula identified as appropriate should be flexible enough to take into consideration the different levels of development of WTO Members and thus make place for fair special and differential treatment. About modalities, Romania's view was that it was crucial for the transparency and predictability of the multilateral system to establish as an objective the binding of the new custom duties resulting from the negotiations. Even if, after so many rounds of negotiations, the average level of custom duties had diminished considerably, Romania felt that the role of customs duties remained unaltered mainly for developing countries. Customs duties were the only protection instrument allowed including for new industries and restructuring ones. Keeping this in mind, liberalisation of trade in non-agricultural products had to continue with the view to ensuring better access on the world market for all WTO Members. To this end, reduction of tariffs was essential but not enough. Elimination of NTBs became compulsory. Romania hoped that the initiative of the Chairman would be useful and that WTO Members would be able to identify the modalities for reducing and eliminating these trade distorting measures.

1.41 The representative of Chinese Taipei stated that his delegation found the Swiss paper helpful and well-balanced and that it took account of Members' various concerns. His delegation shared some views with the Swiss delegation on the issue of nomenclature, base rate, etc. His delegation was also quite interested in the idea of INRs and they hoped to learn more about this from the Swiss delegation. On the US paper, Chinese Taipei considered it a very ambitious negotiating proposal which envisaged the ultimate goal in the multilateral trade system and drew a roadmap. However, he wondered how a coefficient of eight had been chosen. Moreover having heard the comments made by other Members, the US proposal might be more acceptable if it allowed Members to have more flexibility, for example by having longer staging period for sensitive items.

1.42 The representative of Mexico stated that the US proposal was very ambitious and in keeping with what the US had proposed in other negotiating groups. This was different from other developed countries which unfortunately had not demonstrated the same ambition on other fundamental issues in order to make progress in the Doha Development Agenda. However, this very ambitious proposal meant that one would have to see if developing countries could support it in light of the sensitivities that such delegations had expressed in meetings. In this connection, Mexico wished to hear how special and differential treatment would be dealt with in a more concrete manner in this proposal. Mexico also had some doubts as to whether this proposal could withstand internal pressures exerted by some sectors in the US. Mexico favoured a balanced approach which promoted broad trade liberalisation and which at the same time paid heed to the sensitivities and sensibilities of developing countries.

1.43 The representative of Malaysia stated that his delegation could agree with parts of Chile's paper, in particular, on the fact that the request-offer approach should only be used to complement a formula based approach. Malaysia also agreed on the treatment of environmental goods as suggested by Chile; on the approach taken on high tariffs, tariff escalation and tariff peaks; and that reductions should be from bound levels and not applied levels. Malaysia also agreed with Chile's suggestion on the treatment of NTBs. However, Malaysia was unable to agree with Chile's ideas on the treatment of unbound tariff lines and with its argument that since current applied rates could be considered as providing sufficient levels of protection, such items should be bound at the applied levels. This reasoning did not take into account the fact that such tariffs remained unbound for the simple reason that they were sensitive items, be it from the point of view of tax revenue or the vital goal of economic development. On the Swiss paper, Malaysia wished to know more about the inclusion of INRs in the final results of the market access negotiations. With regard to the US paper, he considered

it to be extremely ambitious. While appreciating the need to be highly ambitious, particularly at this time of the negotiations, one had to be realistic. Special and differential treatment and less than full reciprocity in reduction commitments as contained in paragraph 16 of the Doha Declaration were absent from the US proposal. Also absent was the gist of Article XXVIII *bis*. While it was well-meaning to see export markets of developed countries opened up for goods from developing countries, it was of paramount importance to understand that developing countries like Malaysia harboured their own ambitions to become developed countries in their own perspective and time-frame. The important step in this direction was the economic development of their country and the ability to afford the appropriate level of tariff protection to their industries, and this would be zealously guarded. He wondered how the US proposal would take on board this particular concern.

1.44 With respect to revenue, while for Malaysia, the use of revenue from customs duties was increasingly becoming less important as a policy tool, nevertheless it still relied on customs revenue to a certain extent, a case in point being the Asian crisis in 1997 during which Malaysia had to raise tariffs on certain items. Malaysia, therefore, was not ready to commit to surrendering this important source of revenue in the foreseeable future. In fact, the US proposal reminded Malaysia of the discussions held in 1994 in the context of APEC, when Malaysia was unable to join in a very ambitious idea for commitments that went beyond only voluntary and best endeavour commitments. Malaysia was still unable to join in such a high level of ambition for the very same reason that had been expounded and argued in APEC in 1994 and as stated in this intervention. On the specifics of the US proposal and firstly, on nuisance duties or extremely low tariffs, Malaysia would not, for reasons already stated, be able to join such an endeavour. The US had also proposed the use of applied rates as the basis for reduction. Malaysia had always stated that the basis of reductions should be bound levels. Lastly, Malaysia sought clarification regarding the meaning of the last sentence in paragraph 15 of the US proposal concerning special and differential treatment. The Group needed to find an appropriate formula that would deliver substantial tariff cuts in all markets while allowing developing countries sufficient flexibility to pursue their economic development goals including through the use of tariffs.

1.45 The representative of Japan stated that the US proposal was comprehensive, ambitious and idealistic. From a realistic perspective, the negotiating timeframe was limited and there were over 140 WTO Members engaged in these negotiations. Taking into account these fundamental conditions, Japan believed that a realistic and flexible approach was needed for tangible achievements. In this regard, Japan drew attention to its proposal tabled at the previous meeting which was intended to be realistic. Japan's proposal was a formula named "Target Average Tariff Rate" combined with "zero-for-zero" and "Harmonization" sectoral approaches. Japan had prepared handouts for participants to further examine its proposal. Japan's proposal was, in short, simple, substantial and realistic. There were two approaches, a formula and a sectoral approach. By combining the two approaches, market access for a substantial part of global trade in industrial products could be improved. In addition, tariff peaks and tariff escalation could be addressed by using the two approaches. He pointed out that Japan's specific formula had been provided on page two of the proposal. He then responded to clarifications which had been sought by Costa Rica and Australia. The first clarification concerned the meaning of " $\alpha = 0.3$ " in the formula. Originally this formula was designed to bring about an overall outcome of tariff reductions equivalent to that of the Uruguay Round. Meeting this target meant certain adjustments had been required which explained the inclusion of " $\alpha = 0.3$ " in the formula. The other clarification related to tariff lines which carried no trade. Since Japan was using the trade weighted tariff average, such tariff lines had not been included in the calculations. Page three of the proposal provided information on Japan's sectoral approach in which Japan had proposed approximately 18 sectors for duty elimination and harmonization; sectors which were not only of interest to developed country Members but also to developing country Members, such as textiles and clothing.

1.46 Regarding the US proposal, Japan believed that there was need to be realistic. Participants had to aim for a tangible result within an agreed time-frame which would enhance the credibility of the WTO. Japan had some preliminary comments and clarifications. First, the US proposal suggested the use of applied rates as a base rate for the tariff negotiations. Japan, however, supported the use of bound rates as the base rate for the negotiations which was a tradition in WTO/GATT negotiations. Second, Japan could support the sectoral approaches proposed by the US such as "zero for zero" which were fairly effective during the Uruguay Round. Specific sectors proposed by the US were identical to sectors contained in Japan's proposal and these included glass, ceramic products, motor vehicles, etc. The US had included the textile and clothing sector which was an area of interest to both developed and developing Members. Japan had already expressed its willingness to liberalise trade in textile and clothing. In this regard, Japan extended its appreciation to the US for its effort to include these product areas in its proposal in spite of their sensitivity. Japan believed that this formed part of taking account of developing country Members' interest. Japan wished to know whether or not any other specific consideration or elements pertaining to developing country Members' interest or special and differential treatment were included in Phases I and II of the US modalities proposal. Lastly, the US proposal referred to "zero for zero" for fish and fish products and wood products. Japan was of the view that these groups of products had serious implications in terms of environmental protection and the sustainable use of exhaustible natural resources referred to in the Doha Declaration. Therefore the US proposal on these groups of products was not realistic. Regarding the Swiss paper, Japan appreciated it and supported the idea of using bound rates as base rates for the negotiations. However, the granting INRs in a formula cut was a new idea and Japan would need to study it further.

1.47 The representative of Pakistan stated that all participants wished to have an ambitious reduction in tariff levels in line with the Doha mandate. In fact, many countries had substantially restructured and reformed their tariffs. So while ambitious proposals were fine, unfortunately many developing countries might not be in a position to go along with such proposals. First, as Malaysia and Japan had said, participants needed to be realistic and not idealistic. It would be difficult to achieve zero levels within the foreseeable future. Second, if Members agreed to drastic reductions such as zero rate of duty for certain sectors such as automobiles, this would result in the termination of further investment in any of those sectors that were in the process of being developed. Moreover, although reliance on customs duties was going down even in the case of developing countries, for example in the case of Pakistan it had gone down from 40 per cent to 12 per cent, it still represented a substantial sum of money which developing countries could not do away with currently. With all this in mind, he wished to make some specific points: 1) Pakistan's preference was for a formula cut approach. Such a mechanism was feasible and would enable the negotiations to move at a comparatively faster pace. At the same time, it would provide flexibility to developing countries to tackle certain sensitive sectors. In this connection, Pakistan strongly supported the Communities' suggestion that all WTO Members agree to deeper cuts on textiles, clothing and footwear with the view to bringing these tariffs as close to zero as possible. Developing countries should have the liberty to follow a different time-table. Pakistan could also agree with Japan's proposal in Annex 1 to document TN/MA/W/15, that the textiles and clothing sector should be dealt with by a sectoral approach. For tariff bindings, Pakistan was of the view that all countries could commit themselves to binding their entire tariff headings. However, considering the extreme sensitivity of certain sectors, many developing countries might not be in a position to do so. Therefore, Pakistan suggested that as a first step developing countries might bind three-fourths of their tariff headings and developed countries could bind 100 per cent of their tariff headings. The base rate for developing countries should be the bound rate and if applied rates had to be used, then they should be those prevailing at the conclusion of the Uruguay Round of negotiations. For the purpose of tariff negotiations, the HS 2002 version should be taken into account as almost 70 per cent to 80 per cent of participants had already implemented that version. Even if participants agreed to conduct the negotiations in the HS96 version, a transposition into the HS2002 and a process of verification would have to take place. Lastly, Pakistan felt that some of the tariff schedules were extremely complicated and had the effect

of impeding trade; such schedules had to be simplified. Pakistan was developing a paper and hoped to submit it soon.

1.48 The representative of Norway stated with regard to the EC proposal which had been presented at the last NGMA meeting, that in many respects the so-called compression formula addressed the same issues that Norway considered necessary for meaningful negotiations to take place. Norway hoped that the Group could enter into a constructive discussion on the EC proposal. However, there were some improvements which could be made to it, regarding two aspects in particular. The first one was the floor below which tariffs would be eliminated. The second one was the ceiling of 25 per cent and the modest reductions of tariffs in the range of up to 15 per cent, which was where most tariff lines lay in practice. Norway's main impression of the EC proposal was a very good one and this augured well for the future negotiations. On the Japanese proposal, Norway welcomed the fact that Japan had chosen a formula approach and appreciated that the formula proposed would ensure reductions of the overall tariff level of Members. Norway's greatest concern was that the formula left it to each Member to decide what tariff rates to reduce, and what not to reduce. At the last meeting, the representative of New Zealand had focussed the Group's attention on the issue of when and how tariffs for non-agricultural products could be eliminated. This was a very important initiative. Norway agreed that eliminating tariff barriers on a MFN basis for all non-agricultural products should be the long-term ambition. On the US proposal, Norway appreciated that the US, on the same basis as the EC, had so clearly come out in favour of a general cross-cutting formula approach. There seemed to be a growing body of consensus that it was through such approaches that the Group could best achieve the comprehensive tariff reductions which the Doha Mandate had laid down. Norway could also endorse the high level of ambition in the US proposal as it agreed that the aim of the negotiations had to be tariff elimination within a reasonable timeframe. She understood that 10 years was the figure put in the US proposal and Norway did not find that unreasonable. By suggesting elimination of tariffs at or below five per cent in the first phase by 2010, the US was taking a cautious first step. The second step, from 2010 to 2015, would consist of five equal annual cuts. That was an important detail because one needed to avoid the situation where Members made the seemingly easy cuts in the first instance and left the sensitive products for last minute reductions. There had been such an experience in another area.

1.49 Regarding the treatment of developing countries and in particular how to ensure special and differential treatment in the market access negotiations, both the EC and US had emphasised in their proposals the positive effect of increased market access for products of export interest to developing countries. Norway could agree that to eliminate tariffs on all non-agricultural products would be of major importance for exporters in developing countries – arguably even more so than for exporters in OECD countries. There was no doubt that competitive exports of industrial products from developing countries often met high tariffs, tariff peaks and tariff escalation. Tariff elimination and bound duty free tariff rates would do away with all that in a more transparent, simple and predictable way than any preferential GSP scheme could do. Therefore, there should be no doubt that it would be in the interest of most developing countries to participate actively in these negotiations to bring about the ambitious goal of tariff elimination by 2015. Norway acknowledged, however, that to adhere to the same ambitious goal could be difficult for some developing countries and this was reflected in the mandate from Doha which *inter alia* referred to "less than full reciprocity in reduction commitments". Norway, for its part, would expect developing countries other than the LDCs, to make contributions to the negotiations in line with their level of development. Depending on how the formula was finally constructed there should be ample ways of working in different treatment of tariffs of developing countries through the coefficients and timeframes. In addition, two particular elements had struck his delegation when studying the tariff profiles as compiled by the WTO Secretariat and needed to be addressed were: 1) there were very large differences in the number of bound tariff lines among developing countries and that with the possible exception of some African countries, there did not seem to be any systematic differences based on levels of development. Norway saw no reason why not all Members could not do as Angola, Bolivia, Djibouti, Mozambique and Solomon Islands had

done which was to bind 100 per cent of their tariff lines. This was a contribution that Norway would expect from all WTO Members. The second point was that for quite a number of developing country Members, there were very significant differences between bound and applied rates. Again it was difficult to see any systematic link between the level of bindings and the level of development of the particular WTO Member. Since the Uruguay Round, many WTO Members had taken significant steps to open up their economies to outside competition including through the autonomous lowering of tariffs on a wide range of products. This had been done mainly to improve the efficiency of their own economies as part of programs of broader structural changes. However, it had the important side-effect of improving market access for outside traders. However, the unbound nature of the resulting tariff rates limited the value of such liberalisation efforts. The modalities for discussion by the Group needed to include ways to acknowledge such autonomous tariff reductions where the Member at a minimum was prepared to bind resulting tariff rates as part of its commitments in the Doha Development Round.

1.50 The representative of the Philippines stated that he admired the level of ambition in the US proposal. This complemented the US submission in agriculture, services and rules. The first question that the US paper elicited was whether this proposal was realistic and he had heard Japan mention many times that it was not. The Swiss and the EC proposals appeared to be more realistic, and more friendly to the Doha development mandate. In this regard, he subscribed to Malaysia's views on the US proposal. Philippines could not support the zero per cent target rate that the US had proposed for 2010 as it would impose, as India had said, a greater burden on countries with relatively high tariffs and the revenue implications for those countries which needed this revenue for their development and socio-economic situation, would be harsh. His delegation was also concerned with the issue of elimination of so-called nuisance tariffs. Such an action would also have revenue implications which were unacceptable to the Philippines. On special and differential treatment, paragraph 15 of the US paper stated that WTO Members should customise a process to ensure participation by individual developing countries. This theme had been heard in discussions on special and differential treatment in a forum which had been intended for agreement-specific provisions and their operationalisation but which had then wandered into cross-cutting issues like tiering, differentiation and graduation. If the intention of the US was to define special and differential treatment in this manner, then the Philippines and the US were going in opposite directions. Like Chile, his delegation did not want to have a definition of environmental good for negotiating purposes, but wished to undertake negotiations in this area on the basis of a request and offer list. If there was full implementation of special and differential treatment and less than full reciprocity in reduction commitments and the concept of credit for autonomous liberalisation, then the Philippines would engage in positive negotiations. Without these elements, the Philippines would reserve its position as far as the negotiating proposals were concerned.

1.51 The representative of Croatia stated that as one of the countries that had recently joined the WTO, its position within the membership was specific and delicate in many aspects. The high degree of liberalisation of the domestic market, which could be perceived as a common denominator for the countries that had recently joined the WTO, was recognized by Ministers in paragraph 9 of the Doha Declaration. He wished to stress that Croatia's position regarding the course of negotiations was similar in many aspects to those expressed by the representative of the Slovak Republic on behalf of Croatia's close partners. Croatia shared their view that the discrepancies in current liberalisation and level of openness of non-agricultural product markets throughout the world should be reduced to the maximum after completion of the present round. Nevertheless, Croatia believed that there should be room for adjustments in the case of LDCs in particular, as well as other Members with a low level of development and for recently acceded Members. This would ensure that implementation of future liberalisation would be balanced and acceptable to all Members. Furthermore, with reference to the modalities, Croatia shared the view that NTBs should be abolished in order to ensure an efficient development of trade flows. A full increase in the scope of bindings, along with the elimination of all specific duties together with full product coverage in the negotiations on non-agricultural market

access would constitute one of the most important outcomes of this round for the world trading system. The benefits of such undertakings would be far greater than any possible increase in global trade flows. Transparency and predictability of global market conditions, together with security which would accrue as a consequence of these developments, would undoubtedly bring more benefits to individual Members and to the system as a whole.

1.52 The representative of Canada recalled that at the end of the Negotiating Group's August 2002 meeting his delegation had concluded its statement with the following quote from a speech presented by Mr. M. Moore at the end of his term: "it was now about substance and real negotiations". At Doha, Ministers had laid out an ambitious agenda for this Negotiating Group. As part of the it's mandate, the Group was to aim "to reduce, or as appropriate, eliminate tariffs... in particular on products of export interest to developing countries". In doing this, "product coverage shall be comprehensive and without *a priori* exclusions". There were several modalities proposals before the Group which sought to address the Doha market access agenda for non-agricultural goods in a direct and open manner. Several of the proposals were far-reaching. They were both bold and innovative and warranted the Group's collective close consideration for at least two very good reasons. In the first place, they addressed the level of ambition as originally envisaged in paragraph 16 of the Doha Declaration – that is they aimed "to reduce, or as appropriate, eliminate tariffs". In the second place, they addressed, in a significant manner, "unfinished business" – i.e. those tariffs that remained after eight previous rounds of negotiations. Canada welcomed the level of ambition that these proposals asked all Members to consider. Very clearly, several of the proposals stood to deliver major economic benefits of a size and scale that had never been attained in past rounds. This included the opportunity to address the problem of poverty for all Members, particularly many developing Members who stood to reap at least one-third to one-half of the total welfare gains that would come from eliminating barriers to trade. Canada was drawn to certain principles in its examination of the proposals. Canada saw distinct benefits in those proposals that were comprehensive in product coverage and without *a priori* exclusions. Canada was attracted to those proposals that would result in commercially significant, real, progressive tariff liberalisation. Canada supported those that specifically prescribed a role for all Members, both developed and developing, since without such participation benefits would be skewed or one-sided. On the other hand, Canada was less attracted to those proposals that represented one-sided approaches, that limited overall benefits, or that fell short of the level of ambition set out in the Doha declaration.

1.53 From the discussions to date, Canada saw that a formula-based approach had considerable merit in meeting the needs of a broad range of Members, in bringing forward across-the-board liberalisation of interest to all Members and in respecting the set timeframes. Canada continued to see scope to include other modalities, including sectoral agreements and request-offer in order to meet and address the individual needs of Members. As stated previously, Canada supported the sectoral approach as a way to attract attention from the trading and investing community. Formula approaches alone, aside from the ones that aimed for duty-free trade as their target, fell short of the goals Canada had set for advancing further sectors in the course of this Round and in broadening the participation in sectoral agreements reached in previous rounds. In addition, the request-offer modality might provide flexibility to advance and respond to selected specific interests. Another element addressed at the Group's last meeting was the so-called "nuisance tariffs". An emphasis on nuisance tariffs was not displaced. Across-the-board liberalisation would be complemented by the elimination of these low rates; their role was too important to be overlooked. Aside from the Group's focus on modalities, there were other elements that warranted the Group's attention if it was to ensure that the benefits of liberalisation were fully captured and secured. This first involved an emphasis on raising the number of bindings to as high a level as possible, some had mentioned 100 per cent. In addition, *ad valorem* rates had to be used to the greatest extent possible. Canada supported the concept of credit for prior autonomous liberalisation. Credit should be given where liberalisation was secured by bindings.

1.54 Regarding the role of the Doha Round as a "development round" and the guidance provided in the mandate on non-agricultural goods, Canada recognized that these "negotiations shall take fully into account the special needs and interests of developing and LDC participants, including through less than full reciprocity in reduction commitments". Canada believed that it was in the interest of developing countries to improve access to their markets. One could not lose sight of the fact that true benefits were contingent upon enhanced access for products to all markets – those of the developed countries and increasingly so, those that involved new opportunities in South-South trade. In the latter case, this also delivered related benefits, for example, the attraction of investment. Several proposals to date had raised differentiated timetables and commitments and the use of stagings to address concerns. The Group needed to use these and other strategies with a view to best advancing and delivering benefits to all. Canada also wished to reiterate a concern expressed by other Members that the Group had to redouble its efforts to obtain the necessary data to support its discussions. It was impossible to assess the impact of the various formulas if information in the IDB was incomplete or out of date. Canada therefore urged Members who had not yet completed their submissions to the IDB to do so urgently.

1.55 The representative of Brazil stated that there appeared to be some common points in several of the submissions. The first of these threads was the fact that there seemed to be a remarkable consistency in putting that portion of the Group's mandate regarding the concept of less than full reciprocity to one side. Brazil appreciated the efforts that had been made to include the issue of addressing products of special export interest to developing countries in the proposals but this was an entirely different part of the mandate. Brazil also appreciated the efforts to discuss and consider elements of special and differential treatment such as staging or transition periods. These concepts in themselves did not go to the heart of the concept given by Ministers which was that of less than full reciprocity and this was an unambiguous mandate. It meant very clearly that concessions given by developed countries had to be deeper than those given by developing countries. To propose that this could be achieved by enhanced reciprocal market access among developing countries could only be perceived as shifting the burden of the concept of less than full reciprocity to developing countries. Furthermore, it would require, at least on the part of Brazil, a major leap of faith to accept that such market access concessions by developing countries would have other developing countries as the main beneficiaries. In any case, he would appreciate clarification from proponents on how they intended to incorporate the concept of less than full reciprocity into the negotiating modalities. The second aspect which was apparent in several proposals was the perception that it was inherently necessary or even desirable for Members to have broadly similar tariff structures. It seemed only logical that each Member's tariff structure reflected its own particular circumstance and level of development. Furthermore there was, as far as he could tell, nothing in the mandate that guided the Group in the direction of harmonizing tariff structures of all Members. A number of Members had put forward a very bold interpretation of the Group's mandate to reduce or as appropriate eliminate tariffs by moving straight to the full elimination of tariffs. Brazil welcomed the political impetus that this kind of proposal gave to the negotiations but at the current stage Brazil remained to be convinced that it made sense to strive for full liberalisation in non-agricultural tariffs while leaving in place a whole range of restrictions that continued to afflict developing country exports, be they restrictions in the agricultural sector or in the area of rules. Finally, he wished to express concern that a lot of the submissions seemed to address the concepts of tariff peaks and high tariffs in exactly the same manner. By suggesting approaches which would tackle tariff peaks and high tariffs in the same way, it seemed that this would lead to a less favourable treatment of developing countries, as they would be in a position of making significant concessions on almost their entire tariff structure, while developed countries would limit their concessions to some specific sectors where tariff peaks existed.

1.56 The representative of Kenya stated that his delegation was pleased to note that Switzerland was proposing to extend treatment applied to LDCs to countries with similar development characteristics. He hoped that this meant quota free, duty free market access for developing countries that had the same characteristics as LDCs. The current international trading framework had already

limited the range of development options available to developing and LDC Members and the period available to them to get their international policies in tune with international market demands. Since the concept of development had not been adequately addressed in the existing international trade regime, future trade agreements had to take fully into account the reality in developing countries and LDCs, especially those of Africa. This meant making readjustments in trade agreements that would take account of development needs. In the past, developing and LDC Members that had responded to pressure to liberalise their economies had suffered greatly from overexposure. A weakened industrial base and market failures had in effect created a situation where there were now millions of newly poor people in developing and LDC Member countries. The recent trade liberalisation had been accompanied by worsening income distribution. While Kenya agreed with those arguing that greater openness to trade should be the ultimate aim of all Members, it should not be the immediate aim of countries at early stages of industrialisation. Developing country Members at an early stage of industrialisation would need to go through the learning phase to improve productivity and competitiveness. Learning took time as the process was specific to each sector and activity. The recent process of mergers and acquisitions had made the entry of new developing country firms into the markets even more difficult and learning had therefore become more complicated. Hence the need for protection of infant industries was more justified today. The modalities that the Group was striving to establish had to take this into consideration. It had to allow Members to assist infant industries in developing and least developed countries to compete with well established firms in the international market. Across-the-board trade liberalisation had to be supportive of and not a substitute for trade in industry policy.

1.57 Regarding the approaches suggested by some Members, a formula-based approach had the advantage of reducing tariffs that would benefit Members with a limited ability to negotiate on a request-offer basis. However, care had to be taken in the formulation to avoid some Members being adversely affected by such a formula. For instance, a 36 per cent average cut, as was the case in the Uruguay Round, could be achieved by undertaking very high percentage cuts on very low tariff rates while allowing high tariffs to remain intact. This was not what Kenya wanted. If a formula approach was found desirable, it should target high tariffs, tariff escalation and tariff peaks in developed countries. Exceptions had to be provided for developing country Members to address their development needs. The starting-point of the formula approach had to be the bound rates and not applied tariff rates as had been suggested by some delegations. The modalities had to recognise how the important and useful functions of maintaining a difference between bound and applied rates and of not binding some products lines served developing countries' interests. Developing countries had to be allowed to choose to reduce the difference between the bound and applied rates or to increase the number of bound tariff lines according to their development needs. On special and differential treatment, most of the provisions in the WTO Agreements on special and differential treatment were not binding on developed country Members and some had been reduced to longer transitional periods. Taking development seriously meant that the traditional special and differential treatment had to cease to be applied and this would require mainstreaming development in the WTO Agreements so that trade could be a vehicle for achieving certain national development objectives. Kenya expected that the Negotiating Group would take a new approach to special and differential treatment so as to include development in the modalities to be established. In short, the new special and differential treatment had to seek to ensure that multilateral obligations would assist in and not detract from the realisation of development objectives.

1.58 The representative of Egypt noted with concern that the level of ambition contained in some of the proposals went beyond the Doha mandate and the parameters of paragraph 16 of the Doha Ministerial Declaration. He wished to emphasize that the negotiations had to take fully into account the special needs and interests of developing and least developed countries including through less than full reciprocity in reduction commitments in accordance with Article XXVIII *bis* of GATT and as contained in the Doha Declaration. This point had been clearly elaborated upon by India, and Egypt shared India's view in this regard.

1.59 The representative of Thailand stated that the US proposal seemed to forget that the WTO comprised of developed and developing countries. In the US paper, the modality proposed seemed to be built on a parity treatment principle rather than the less than full reciprocity principle. The latter was the principle which should drive forward the negotiations on market access on non-agricultural products. The sectors proposed for zero-for-zero and cited in footnote 3 did not cover any sector of interest to developing countries. Additionally, mention had been made of the use of applied rates as the base rates. Thailand could not accept this and was of the view that the bound rate should be the basis of the negotiations. The special and differential treatment section of the paper was the most disappointing because it seemed to suggest that Members should agree on the modalities first and work out the details on special and differential treatment subsequently. Thailand wished to see special and differential treatment being discussed first and being made part of the modality. While Thailand could agree in principle with the following sentence of the US proposal: "Simultaneously, as part of these negotiations, Members must work to eliminate non-tariff barriers, in parallel with tariff commitments", his delegation nevertheless needed to see the details of the US proposal on modalities for NTB negotiations.

1.60 The representative of Jamaica wished to register her delegation's concurrence with a particular comment made by several developing countries on the value of customs duties. Many developing countries relied on duties as a significant source of revenue, Jamaica for example, derived about 30 per cent of government revenue from customs duties. This was not to discount the concept of liberalisation but simply to point out that the pace of liberalisation had to take into account a number of factors. These included the possibility to realistically make use of trade remedy measures especially if tariff protection was to be removed from nascent and sensitive sectors. These were some of the factors which Jamaica believed had to be taken into account when considering approaches to tariff reduction and/or elimination.

1.61 The representative of Indonesia stated that Indonesia shared the view expressed by some Members that the US proposal was very ambitious. However, implementation of tariff elimination was difficult for many Members, especially developing countries. This concept even went beyond what Indonesia had envisaged when it had agreed on negotiations on non-agricultural products. The exercise in this Negotiating Group should be focused on tariff reduction rather than tariff elimination. Tariff elimination was best pursued among more advanced Members. With regard to special and differential treatment, this aspect was not fully reflected in the US proposal. Indonesia believed that given the solid mandate in the Doha Declaration, special and differential treatment should be an integral part of the modalities.

1.62 The representative of Nigeria stated that the representative of New Zealand had appropriately classified Members in these negotiations into two categories – namely the mercantilists and the comprehensive proponents. Unfortunately, Nigeria did not think that it fell into any of these categories. Nigeria saw itself in a third category, that of the "developmentalists". This was because Nigeria neither possessed the ability of the mercantilists nor the capacity of the comprehensive proponents. On the US proposal, Nigeria in principle did not have much problem with the general thrust of the proposal based on the following: it was a comprehensive approach with no exclusions; it had an initial phase of tariff elimination, reduction and harmonisation and a second phase of eliminating all remaining tariffs; participation of all WTO Members was required; and NTBs were to be addressed on a parallel track. While welcoming the vision of eliminating all tariffs, Nigeria was not certain about the achievement of such an objective by the target date of 2015. Nigeria's position about the uncertainty of this date was based on the experiences already had in the WTO. It pointed to the fact that it was easy to set target dates but sufficient thought was not always given to the implementation aspects, particularly by developing countries. This proposal did not seem to give much weight to the different levels of development much as it strongly noted that developing countries in overall terms were also bound to draw improved gains. In this regard, his delegation had also observed that like some other proposals including that of the EC, acknowledgement was made of

the need to give cognisance to special and differential treatment but sadly these proposals had been lacking in specific details on this aspect. Nigeria noted that the US had said that it was giving further thought to this aspect of the negotiations. His delegation also wished to know what consideration was given to the issue of less than full reciprocity in reduction commitments when proposing tariff elimination. Nigeria did not share the view that reductions should be based on applied rates. The basis for reductions should be the bound rates which were the legal commitments Members had undertaken. He wished to remind Members that the mandate of the negotiations aimed to achieve among others the reduction of high tariffs, peaks and escalation, especially on products of export interest to developing countries.

1.63 The representative of the European Communities stated that his delegation was pleased to see an increasing number of delegations actively participating in the debate on modalities, and he thanked all of them, in particular those who had submitted specific papers on the issue. The latest communications by the US, Switzerland and Chile were useful contributions because they were anchored to the idea of a formula (i.e. no exclusions), and because the formula they advocated was a single one.

1.64 The US proposal, as stated by the US delegation itself, was a clear departure from positions defended by the US in previous rounds and which hinged on the request-offer system of old. His delegation was pleased to see that the US, agreed on the virtues of a formula and actually proposed it as modality for this round. The US proposal was also a clear departure from the active sheltering the US industry had demanded from its negotiators for decades and which, as New Zealand had mentioned, contributed to weaken the value of the Uruguay Round for a number of participants. His delegation was most pleased to see that the US, just like New Zealand at the Group's latest meeting, was now urging all Members, developed, developing and least developed ones, to conclude the work on non-agricultural tariffs that began in the GATT over fifty years ago, an objective which had never been expressly provided for by the GATT Agreement. The US proposal stressed that the goal of tariff elimination had to be shared by all delegations. As New Zealand would say, it had to be a "unifying" goal. The Communities would fully agree with the significance of such a common objective which had also been singled out by Chile, and he could confirm that the Communities could certainly consider participating in a move towards elimination if shared by all Members. His delegation had come to this meeting well nourished by the several press releases on the impressive proposal by the US. However, his delegation was surprised to see in the US previews a comparison with the EC proposal, although the EC had not yet proposed any specific figures. Equally, he did not understand New Zealand's comment which explicitly referred to figures the EC had never put on the table. The EC was hoping to participate in an enthusiastic debate on this daring and bold objective. Unfortunately, the degree of comfort with the proposal was not equally shared, and his delegation wondered whether this could not have been foreseen in advance.

1.65 Going into greater detail, when analysing the possibilities that would therefore interest the whole of the Membership, there were two distinct questions which could be put: "1. Where do we want to go? and 2. How to get there?" Regarding the first question, one possibility was to go towards elimination. When analysing this possibility, his delegation realised that there were countless arguments in favour of it and they were certainly not self-serving: total liberalisation of all markets for all products including developing country markets that were of crucial importance to developing countries themselves, multilateralisation of treatment that was up to now only preferential, dismantlement of origin systems, etc.

1.66 The debate on "progressivity" vs. "big bang" was an old but fascinating one. Still in Latin he could say *summun jus, summa injuria*: multilateralisation of zeros would deprive some of the weakest Members of a relative margin of protection which they still needed for a period of time if they were to adapt and to compete on an equal footing with their competitors. As the Kenyan delegate had once

indicated, such a move should be assessed against the background of the EC's EBA¹ scheme (or the AGOA² initiative), which was now bearing its first fruits by attracting investment towards the weakest Members. The Communities had therefore thought, and this idea had been vindicated by the comments heard today, that total elimination across-the-board still remained very difficult, if not impossible for the DDA, in particular if Members were keen on preserving the balance of concessions needed to achieve a single undertaking, of which all Members would be able to benefit by subscribing to commitments in keeping with their capacity and level of development. The EC considered that tariff elimination could only be a priority of this Round if all Members shared in this objective. However, he had to admit to the fact that the extreme level of ambition shown in the US proposal clearly bore out the intensity of the US desire for true multilateralisation, which appeared definitely to be preferred over regional trade arrangements. Given the US current activism on the regional board, this demonstration could not but be praised by all Members.

1.67 His delegation felt that a more adjusted target would be sharp compression of all duties. To prepare Members for a last step to be taken at a later stage i.e. duty elimination, and in keeping with the mandate, the Communities had proposed a formula that was aimed at sharply reducing existing duties and trade-distorting discrepancies between tariff profiles of Members. Yet the mandate included another target too: consideration of products of export interest to developing countries. This was the reason why the Communities had tabled a specific proposal on labour-intensive manufactures, i.e. textiles, clothing and footwear, convinced that no modality would ever be accepted if this element of the mandate was missing. His delegation was extremely pleased to see that the US had not excluded textiles from their bold approach.

1.68 Once Members knew where they wanted to go, the next was to understand how. In this respect, modalities were co-essential with the target that was to be achieved. There had to be agreement on the end goal, but also on the way to achieve it. This was why his delegation thought that realism played a major role in devising modalities where all Members could be on board, and where the most developed countries helped the weakest in taking the last few steps.

1.69 The US proposed to achieve elimination in a two-stage approach. They also proposed that more customised approaches be devised after "agreement on the modalities and a common vision on the result of the negotiations". If one were to interpret the US statement correctly, his delegation would tend to agree that where appropriate and depending on the results of the negotiations, there could be differentiated phase-in periods for the various Members.

1.70 In the various contributions to the debate and through the various papers, his delegation could discern some common strands upon which the Group should build its approach: Members were interested in a formula. Their interest had been variously justified. Amongst the most recurring reasons were: current disparities between tariff profiles: intractable in the absence of a formula; the need to abide by the DDA Mandate that required no *a priori* exclusions: request-offer or zero-for-zero would offer ample possibilities of sheltering; the risk that in request-offer because of the small size of their markets, some developing countries would find it impossible to make progress; the distortions that zero-for-zero approaches could cause in the economies of developing countries. Raw materials and intermediates tended to be inputs for several sectors, whose inclusion or exclusion in zero-for-zero would result in differential effective rates of protection which would affect producers of raw materials/intermediates differently.

1.71 There was need to abide by the mandate. On this basis, the formula chosen would have to reduce or eliminate peaks, high tariffs and tariff escalation. One single formula could tackle the three

¹ EBA stands for "Everything But Arms", the EU initiative for tariff and quota-free access for products from LDCs.

² AGOA is the acronym for the US "Africa Growth Opportunity Act".

aspects as the EC formula did. One single formula applied to the whole of the membership would live up to the criterion of transparency rightly quoted by the Swiss representative. In this respect, he wished to recall that the compression mechanism that the EC proposed ensured a balanced exchange of concessions as all duties were compressed focussing on developing countries' priorities: (a) developed countries' peaks (generally tilted against developing countries' exports) would be eliminated; (b) by reducing dispersion, compression reduced tariff escalation, which mattered so much to developing countries; (c) compression of high tariffs through a cap improved the possibilities of fully exploiting the complementarities between markets (increase in trade between partners at similar stages of development was important for countries taking steps up the technology ladder). Developing countries needed to pay more attention to the tariff structures applied between themselves as trade with neighbours was more important than trade with the rest of the world.

1.72 There were to be no *a priori* exclusions. All submissions had reiterated that no sector could be excluded. In fact, his delegation had some doubts that some of the proposals on the table which referred to "average reductions" (as was the case of the Korean, Mexican or Japanese proposals) would result in sheltering of sensitive sectors that were not consistent with the DDA mandate. The Communities wished to emphasise that the compression method applied to each tariff line and was not to be averaged. In this respect, he noted with concern that specific duties did not appear to be included in the US proposal, which was rather striking coming from a Member whose schedule included a relatively high number of specific duties, particularly in the clothing section.

1.73 There was need to eliminate peaks, high tariffs and tariff escalation in particular on products of export interest to developing countries. Any modality had to include specific proposals on this issue. In this respect, he wished to recall the words of Commissioner Lamy and of the Belgian Prime Minister Verhofstadt, who in a recent declaration emphasised the need for developed countries to open their markets to the products in which developing countries had a competitive edge. This was why the EC proposal included a specific initiative on textiles and footwear, historically central to industrialisation strategies and poverty reduction. Developing countries accounted for some 50 per cent of world textile exports and 70 per cent of world clothing exports. A bold liberalisation initiative by developed countries on products of interest to developing countries sent a strong signal to developing countries on the importance and urgency to follow up with their own reforms. High tariffs in developing countries on textiles and clothing had equally large costs: intra-developing country trade accounted for half of their total exports of textile exports and over 20 per cent of clothing exports.

1.74 The EC had also included other unilateral or asymmetrical elements in favour of developing countries and LDCs such as: 1) the elimination of low duties: even if multilateral, the move was more favourable for developing countries. However, he stressed the importance of tackling high/peak tariffs through a formula. If only low tariffs were removed, there was the risk of reducing economic welfare by diverting imports away from high labour intensive manufactures; 2) the EBA: experience in the EC had shown that broad-based tariff-free market access for LDCs, such as the EBA scheme, could assist in diversifying their export structures. Recent research suggested that if such schemes were adopted at least by all Quad markets, LDC exports to the Quad could increase by US\$2.5 billion, or about 11 per cent, with virtually no cost in terms of trade diversion; 3) Members could follow different timetables to implement final commitments.

1.75 More importantly his delegation failed to see how "dogmatism" in approaches to "full liberalisation" would indeed comply with the spirit and the letter of paragraph 16 of the Doha Mandate, when it mentioned that "negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments". The US described their proposals on market access as a triad. As regarded their proposal on non-agricultural products, the US had put developing countries under pressure not to stand in the way of full liberalisation, as the gauntlet they and New Zealand had

thrown could only be picked up by developed countries. Particularly, if one bore in mind the very short implementation period envisaged (ten years after the end of this Round). In this respect, one had to take into consideration the views developing countries had expressed on the issue of revenues. As Mexico had mentioned in its submission, abiding by the deadline of 2005 was important for the credibility of this institution. Several submissions were now on the table, some more revolutionary than others.

1.76 The representative of the United States stated that with regard to the Swiss proposal, the US would agree with the emphasis on formula as part of the modality but like others would be very interested to see what precise formula Switzerland would suggest. She also noted the Swiss support for the goals of the greatest possible reduction in tariffs and the inclusion of sectoral elimination where possible. Those were important elements of the US proposal. The US also agreed that the advanced developing countries had to participate fully. She was not clear what the Swiss proposal had in mind with regard to using request-offer for sensitive sectors and wondered whether this was a Tokyo Round approach that was being suggested and would welcome some clarity on this. On bindings, the US shared the Swiss view that the goal should be 100 per cent bindings. The US sensitive products were bound as well. Oil products which were the only unbound items in the US schedule were on the table in this Round and were included in the current US proposal. Her delegation would also welcome further elaboration of the Swiss ideas on tariff bindings at 2001 applied rates. Finally, her delegation agreed that low duties were not to be seen as a free concession. As the US proposal and background material demonstrated, low duties represented a huge portion of global trade. Such duties were not nuisance duties and such trade was not nuisance trade. Like others, the US remained interested in the Swiss ideas on INRs and would welcome the responses to questions already posed about how this work could move forward.

1.77 Her delegation shared many of Chile's views including those concerning the direction of the Group's work. Her delegation strongly shared the view that in light of the growing number of RTAs, WTO Members could either embrace multilateral liberalisation or be caught in a web of RTAs that would leave many, in particular many developing countries, outside the scope of liberalisation. However, if significant liberalisation did not come from this process, the US and others would proceed on the RTA route. In paragraphs 7-9, Chile had suggested that it would like to explore the issue of staging within all of these proposals. Her delegation was ready to work with Chile and others on this issue. Finally, her delegation appreciated Chile's effort to facilitate discussions on environmental goods and also welcomed Chile's thoughts on NTBs.

1.78 Regarding the questions raised on the US proposal, there was a first step in the first five years which consisted of the elimination of duties that were currently at or below five per cent. Then the Swiss formula with a coefficient of eight would be applied to the remaining items. In response to the specific question posed by Hong Kong, China, if a seven per cent tariff was cut to 3.7% by 2010, then the resulting 3.7% duty would be further reduced to zero through equal linear cuts over five years along with all other duties. This component alone represented more than 75 per cent of imports from developing countries to Japan, the EC and US markets. This would be a major contribution and evidence of the US commitment to liberalisation and a major benefit to developing country exports. However, this could only happen if countries participated actively. Her delegation believed that the sectoral component as well would bring additional benefits up front, including for developing countries. In response to queries regarding the sectors proposed in the initial US proposal, her delegation had indicated that it was open to consideration of other sectors. The challenge was to find a core of sectors that could command broad support. However, she noted that the sectors in the US proposal constituted 54 per cent of world imports and represented greater than 50 per cent of imports from Brazil and Korea, and 37 per cent from India. So these sectors were important to all Members not just developed Members. As to Thailand's comments suggesting that these sectors represented little interest to Thailand, her delegation was surprised at this statement. Looking at Thailand's exports alone, she noted that gems and jewelry, fish and electronics should be of significant interest.

Securing and binding these sectors at zero should benefit Thailand tremendously. The US would encourage developing countries not to foreclose on this option and to talk actively with their respective business communities in order to assess the benefits and deficiencies of this component of the proposal.

1.79 With respect to the tariff equalizer component and the application of the Swiss formula, Chinese Taipei had asked why the US had selected a coefficient of eight. The US had thoroughly studied a wide range of options on modalities and determined that a coefficient of eight was the most effective at reducing disparities across schedules and meeting the various aspects of the Doha mandate, including addressing tariff peaks, tariff escalation and high tariffs. Her delegation had also received several questions on the issue of staging in the initial period of 2005 to 2010. In this regard, her delegation was open to discussion on the appropriate staging, but specified that by 2010 this mid-term goal had to be achieved. Norway had raised a question on phase 2, i.e. how the US proposed to eliminate duties in the second step. The US proposed to reduce tariffs in equal annual cuts after 2010 until they were fully eliminated in 2015. There were several questions with regard to *ad valorem* versus specific duties. On industrial goods, the US would propose to convert specific tariffs to *ad valorem* tariffs and reduce them from that level. In general, the US believed that it would be useful to encourage the use of *ad valorem* duties and minimize the use of specific duties in final commitments to the greatest extent possible.

1.80 With regard to NTBs, Thailand had asked for more specifics on the US approach to NTBs. As others, the US continued to view NTBs as a critical part of these negotiations. It was clear that the Group needed to ensure that it looked at specific NTBs that related to individual HS lines. The US had put in place a system internally that would help to do this, and to seek the advice of interested parties in its own economy. Her delegation would welcome the exchange of ideas on this issue and how others were developing information in response to the Chairman's request on NTBs. The US aim was to ensure that the liberalisation secured by eliminating a duty was not undermined by a NTB. In some cases, it might be that existing agreements needed to be confirmed and to ensure that they addressed problems. In others, the Group might need to find a way to enshrine liberalisation of requirements that were not already addressed in some of the NTM Agreements. And in yet other cases, the Group might need to address specific items one by one.

1.81 Regarding the issue of the use of applied versus bound rates, her delegation was deeply concerned about the tariff binding overhang issue. Her delegation also noted that the entire US schedule was bound at applied rates, and thus represented a significant advantage in comparison to those with a binding overhang in market access terms. In essence the US ability to eliminate tariffs was related to the US obtaining real market access in return. That was why her delegation had consistently focused upon applied rates as a base. She noted that in the UR a number of countries did negotiate from applied rates. She heard the concerns about this issue, but also believed that the US position remained relevant. If the goal was zero duties then the issue of base rate became much less significant and could be managed. Her delegation had received a number of questions with regard to special and differential treatment. Her delegation did not have all the answers on the best way to undertake special and differential treatment in the context of this dramatic proposal. As the Group moved towards a final modality decision, the US fully expected to elaborate on these points further, taking account of the critical issues that had been raised at this meeting.

1.82 In terms of preliminary comments, first on the issue of erosion of tariff revenues, evidence suggested that as tariffs were reduced, tariff revenues went up as the incentives not to circumvent were reduced and trade was stimulated. Nevertheless, her delegation understood the concerns that had been raised and working with the Chairman would try to find a way to address these concerns. Second, with regard to overall revenues, she noted that for countries with efficient tax systems, revenues went up significantly with reductions in duties or elimination of duties as trade increased to respond to the reduced or eliminated duty. She realized that not all Members currently had efficient

tax systems in place. However, tariff regimes were neither an equitable nor economically efficient means of raising revenues in the short term, since they tended to distort resource allocation and shift the tax burden to the poorest segments of the economy. The US therefore believed that Members should look more closely at how to address the problem of improving tax systems in tandem with an elimination of duties. Some Members had suggested that they were more reliant on tariff revenues than other Members. The goal of relying less on tariff revenues was a development friendly approach. This proposal would help developing countries move to less reliance on such revenues, with the assistance of the IMF and World Bank and others. Once again, Members should be thinking about how this proposal could be used to achieve related goals, rather than simply not considering it. On the issue of erosion of tariff preferences, under the US proposal, these preferences would eventually disappear because tariffs would be at zero. Bindings at zero would provide greater predictability, certainty and permanence that preference programs because of their very nature, could not provide. She also pointed out that the Enabling Clause stated that special and differential treatment should not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis. It was important to note that many of the products excluded from the US and other preference programs had intricate rules of origin. She also pointed out that consultations with industry had shown that many companies especially small and medium-sized exporters had indicated real problems in administering differing rules of origin for many preferential trade agreements now in effect. The US proposal, once implemented, would eliminate the need for such rules which tended to negatively effect small suppliers and developing countries the most. On the issue of less than full reciprocity, the US had always taken the view that the objective of special and differential treatment was to assist developing countries integrate into the global economy. The question was whether this integration was hindered or hastened by maintaining high tariffs and tariff plateaus.

1.83 The US proposal for modalities set a destination that her delegation hoped Members would agree needed to be arrived at for a successful result in the negotiations. Starting with exceptions, either by taking products out or by opting out of participation in tariff reduction meant that others would take a similar path and there would be a very limited outcome. If countries wanted to realise the sweeping liberalisation in products of interest to developing countries, there would have to be far-reaching liberalisation for all participants. Her delegation was open to looking at transitions and other means to enable countries take more time to implement concessions but what her delegation was looking for was an eventual elimination of duties for industrial products. The US view was that the parameters or the destination point for the negotiations could be set and where needed adjustments to address specific special and differential concerns could be done. But her delegation did not believe that a single set of responses to special and differential treatment was the answer. Her delegation invited further discussion on this topic. A lot had been said about the realism of the US proposal. It was true that the US had been aggressive and probably surprised many people who thought the US would press for a limited negotiation, using modalities from the UR. The US aim had been to set the bar very high consistent with the US aims in the other spheres of market access for agriculture and services. Using a quote, "we should not confuse realism with obstructionism", she agreed with the representative from New Zealand that Members should not lower their ambition at this point in time.

1.84 The representative of Switzerland stated that the US proposal showed the long-term goal that this organisation should follow and as a long-term goal Switzerland could subscribe to it. However in the framework of the Doha Round, it was Switzerland's conviction that the modalities could be followed and agreed to by all Members. This was what made her delegation think that the time was not right for such a bold and far-reaching initiative. The objective of the Swiss proposal was to ensure substantial further trade liberalisation of industrial products which was an essential part of the Doha negotiations. At the same time Switzerland had tried to be pragmatic and realistic in order to ensure that all Members could go along with the modalities of liberalisation, and she was comforted by some of the comments by developing countries saying that they thought that the Swiss approach was a realistic and pragmatic one. On the issue of INRs which had raised a lot of interest from many

delegations, Switzerland was conscious that more information was needed on this issue. The purpose here was actually to flag the issue and not to make an in-depth explanation of what Switzerland wished to achieve. The importance of the issue of INRs would depend on the approach used for tariff cuts, because when using a formula INRs were not really applicable. Switzerland would submit more detailed information on how INRs should be reflected in the results of the negotiations at a later stage. On the subject of the formula to be proposed, Switzerland had not proposed a formula because there were already many such proposals. Switzerland was looking at the proposals to see which one would be the most effective in fulfilling the objectives of these negotiations. However, it was important that such a formula be modulated to take into account the Doha mandate which stated that negotiations shall take fully into account the special needs and the interest of developing and LDCs participants including through less than full reciprocity in reduction commitments.

1.85 The representative of Chile stated there were a number of points of convergence between Chile's and the Swiss proposal. For example, the use of a formula, the binding of all tariff lines, the use of the HS96 nomenclature and the Swiss position on the non-use of the PPMs criteria for the definition of environmental goods. However, there were a few differences. For example, Chile did not think that the sectoral and the request-offer approaches should be used in parallel with the formula approach but rather as a complement. In Chile's view there had to be an implementation period which was much longer than five years precisely in order to raise the level of ambition. Chile found the US proposal interesting and attractive. It contained very positive elements and served as a good complement to the US proposal in another area of the negotiations. Chile noted the fact that the proposal covered all products and all types of tariffs and this was a good input to the negotiating process. However, there were three elements of the US proposal that Chile did not agree with: 1) the basis on which the negotiations would take place. The bound level should be used and in the case of unbound tariffs the applied rate at a specified date should be used. The US maintained that reductions should be based on applied rates as of 1 January 2000 or UR final bound rates, whichever was lower. The US had said that effective results should be obtained from these negotiations and in that regard he had two comments: 1) Chile's applied tariff rate was seven per cent and its bound rate 25 per cent. Chile had not reduced the binding on its tariffs because its trading partners were not able to "pay" more for such reductions. So a binding at a higher level than the applied rate was nothing more than the expression of the outcome of the negotiations; 2) If the US paper proposed to take the lower of either the applied or the bound rate as the basis of reduction, then in the case of products under the GSP the basis of reduction should be the level of tariff preferences. Otherwise, the reductions would take place from a level that would always be higher than the generalized system of preferences. As a result of which, for a certain amount of time no concrete benefits would go to developing countries who had GSP access to the US.

1.86 The second element of the US paper with which Chile did not agree was with respect to the zero-for-zero approach. Chile's understanding was that this approach could be a complement to the formula approach which would accelerate tariff reductions in certain sectors, but not all Members would have to participate in these agreements. The comment made by the EC had to be borne in mind which was that sometimes the zero-for-zero approach could apply a tariff reduction for certain products with a resulting increase in effective protection for other more manufactured goods. Under such circumstances, Chile as a provider of raw materials and a country which wished to diversify would be in a worse off situation than before; 3) the US paper proposed that special and differential treatment had to be defined once agreement was reached on modalities. However, this was not the correct approach. Special and differential treatment had to be an integral part of the modalities.

1.87 He requested that the EC intervention be circulated. Additionally, he could not resist asking whether the comment made by Commissioner Lamy and the Belgian Prime Minister Verhofstadt, regarding the need for developed countries to open their markets to the products in which developing countries had a competitive edge also covered agricultural products.

1.88 India and Malaysia, in reference to Chile's proposal on unbound items, had stated that these items were unbound because they were highly sensitive. However, he had worked on the hypothesis that the tariffs being applied to sensitive products took account of that sensitivity. As Members wanted to have stable and clear rules, the starting-point for unbound tariffs should be their applied rates at the beginning of this Round. Any sensitivity that existed with respect to these products could be taken into account in the reduction periods or the slope of the reduction, for example whether it took more time before reductions actually began. With regard to special and differential treatment, this needed to be defined at the very beginning and it contained several elements. One component, perhaps the most important of special and differential treatment was to design much longer time-frames for developing countries, either on a country or a sectoral basis. There were some sectors which were more sensitive than others. On this aspect, the Group could explore having a high flexibility component. In Chile's view, every country was different and each sector was different. A sensitive sector in Chile might be different to a sensitive sector in Bolivia. As a result, the idea of special and differential treatment in terms of longer time-periods should contain this element of flexibility where each developing country would be able to choose the time-frame and the rate of liberalisation. Second, there was another element of special and differential treatment which might not seem to be as important but was equally attractive and that was ensuring that in this liberalisation process priority attention be given to products of export interest to developing countries. Therefore, Members should liberalise more quickly on products of interest to developing countries. In this way greater trade opportunities could be generated earlier on for developing country exports.

1.89 Members needed to keep in mind the trade concerns that many countries had with respect to the reduction of customs duties resulting in a reduction of the level of fiscal collection. The liberalisation process had to be a gradual process accompanied by programs which would change the tax collection base. There was a trend to move towards tax systems which were less and less based on customs duties and there were several programs underway for certain developing countries through the World Bank or regional banks such as IADB. Members needed to look at the time-frame and the prospects that these programs offered so that any liberalisation effort by such developing countries should face no prejudice to their economies. The delegations of Pakistan, Philippines, Japan, Switzerland, the EC had referred to being realistic. The reality was that approximately 50 per cent of all world trade was conducted on a duty free basis due to bilateral or plurilateral agreements. If one were to project the agreements which were being negotiated now and look at the situation a few years from now, i.e. 2005-06, one could imagine that 70 per cent of world trade would be conducted on a duty-free basis. Some countries that did not participate in these bilateral/plurilateral liberalisation exercises could be severely hit because their economies would be more and more marginalised. Brazil had stressed that ambitious results could be obtained for non-agricultural goods, but all of this was very closely tied-up with the degree of ambition and depth of achievement in other areas of negotiations particularly in agriculture and rules, in particular anti-dumping.

1.90 The representative of Korea stated that the representative of Costa Rica had expressed concerns about Korea's preliminary suggestion on the definition of high tariffs and tariff peaks. The suggestion Korea had made at the last meeting did not presuppose the proposal on modalities that Korea was going to table at a later stage. The suggestion was made as an attempt to contribute to conceptualising the issues at hand so that the process could move forward in a more balanced manner. By raising the issue of clearly defining the terms tariff peaks and high tariffs, Korea had wanted to emphasise the need to take different approaches to dealing with tariff peaks of developed countries on the one hand and high tariffs of developing countries on the other. Otherwise, the outcome of negotiations would not be balanced as it should be in terms of tariff reduction commitments or benefits. Korea might use a different tariff cut formula to deal with each of the two problems more effectively but it did not necessarily mean that Korea was going to introduce a definitional element *per se* in its proposal to address problems of tariff peaks and high tariffs. By introducing the concept of tariff peaks based on x times the national average tariff criterion, Korea had thought that tariff peaks of developed countries could be dealt with more effectively. Most of the high tariffs in

developing countries could also be addressed by applying the x times the national average criterion. At the last meeting, Korea had not suggested specific figures such as the 15 per cent international standard to deal with high tariffs of developing countries. On the contrary, Korea had mentioned that the 15 per cent criterion could not effectively resolve problems of tariff peaks in developed countries because not many of their tariff peaks were higher than 15 per cent. Korea appreciated the concerns expressed by some developing and developed countries regarding the danger of an exercise of defining such terms and took note of their comments. Korea hoped that it could address those concerns in a specific formula that it was going to present at a later stage.

1.91 The representative of the European Communities referred to the comment made by the representative of Chile on part of the following statement made by Commissioner Lamy together with the Prime Minister of Belgium: "We would urge the rich countries to take up their responsibilities by offering more direct access to products for which the developing countries had comparative advantage including in agriculture and services. Tariff peaks and tariff escalation must be reduced which very frequently affect products for which developing countries are precisely in a competitive position particularly textiles and clothing, food products and footwear. Agriculture subsidies on exports which distort trade must be seriously reviewed." The other part of the text referred to the "Everything But Arms" initiative taken by the EC. It also referred to special and differential treatment and in general the matter of making globalisation an instrument for development. He agreed with having a long-term objective but it was worth noting that short-term and more accessible objectives were more motivating. This would justify the EC's approach which set an attainable objective which was not lost in time.

1.92 The representative of Japan stated that India had requested clarification on three aspects of Japan's proposal: 1) whether or not less than full reciprocity elements were included in the formula; 2) if there was discontinuity in the cutting ratio in Japan's formula; and 3) whether tariff peaks were addressed in the specific formula. On the first point, four different coefficients (10, 20, 30 and 40) were used depending on the level of the bound rates. Those four coefficients manifested the element of less than full reciprocity. As a result, for the relatively higher average tariff rates there were less than deeper cuts. On the second point, it was true that there was some discontinuity in the cutting ratio. However, Japan had given priority to having a simple formula. Technically, Japan could have accommodated those elements but instead it had preferred to keep the formula simple since there were more than 140 WTO Members were engaged in these negotiations. As to the point raised on tariff peaks, Japan's modality had two elements. One was the formula and the second the zero-for-zero and harmonisation sectoral approach. By using both pillars, one could rectify the peaks to some extent. However, Japan believed that the zero-for-zero was the more effective approach to address tariff peaks particularly in the area of textile and clothing. That was why Japan was promoting the harmonisation of tariffs in the textile sector. Regarding the EC's comment that an average tariff approach could lead to a sheltering of sectors, he pointed out that Japan had proposed the average tariff approach in order to be realistic. However, Japan had no intention of sheltering any specific area as it respected the principle of comprehensive coverage without *a priori* exclusions.

1.93 The representative of India stated that his delegation supported the idea of simplicity in a formula because it would be more transparent and easier to comprehend. However, on Japan's proposal he was not sure that reductions would be less on higher tariffs. Additionally, according to Japan's formula were all tariff rates in a country's schedule to come closer to the targeted tariff rate or was it only the average that had to reach this targeted tariff rate? If the idea was the latter, then the question of tariff peaks became even more important because as had been seen in the past, while substantive average tariff reductions had taken place, peak tariffs remained. A related question was how under such circumstances tariff peaks would be addressed. Regarding the EC compression mechanism, it would appear that while it brought higher tariffs down much more sharply, it was relatively soft on tariff levels which were more prevalent in the EC's schedule. In light of this, he wished to know how special and differential treatment had been taken into account.

1.94 The representative of Japan stated that the use of different coefficients addressed the idea of less than full reciprocity in reduction commitments. If Japan had used only one coefficient in its formula and assuming it was 10, then if the average tariff rate was 20 per cent, the average tariff reduction would be to eight per cent. However, as four different coefficients were being used depending on the average tariff and using the same example, the coefficient actually used for an average tariff of 20 per cent could be higher and the reduction would be to 14 per cent. Tariff peaks were to be addressed through the use of zero-for-zero sectoral approach.

1.95 The representative of Costa Rica asked whether, according to Japan's formula, Costa Rica would have only one t_0 or would have as many t_0 as bound tariff rates.

1.96 The representative of Japan responded that each Member would have only one t_0 .

1.97 The Chairman wished to give the floor to those delegations which had some comments regarding specific elements on modalities such as base rates, nomenclature, tariff peaks, high tariffs, tariff escalation, staging implementation and special and differential treatment. While he recognized that some Members had made their views on these elements known in their general interventions, he wished to ensure that everybody had had the opportunity to take the floor on these issues.

1.98 The representative of Colombia stated that it was important to work on the basis of the HS96 nomenclature. As indicated by Switzerland, once the negotiations had concluded, Members would have to transpose their schedules with the new concessions into the HS2002 version. As to the base year, Colombia thought that the trade figures for 2001 could be used. However, this would require an effort on the part of all countries to update their IDB submissions. Regarding the base rate, negotiations had to be conducted on the basis of the final bound rate of the UR. Colombia was also in favour of increasing the coverage of bound products and only in certain cases would it be possible to leave certain products unbound. It should also be possible to bind a product above its applied tariff. Colombia supported giving credit for autonomous liberalisation measures undertaken since the end of the UR. On tariff peaks and high tariffs, Colombia agreed that the formulas that might be adopted should take these elements into account without it being necessary to agree to any definitions of these terms. Five years would be a reasonable period of time to implement reductions. Colombia was in favour of a linear approach so that implementation would be progressive and not take place in the last year. In given cases, longer periods of time could be considered depending on the commitment made. On environmental goods Colombia felt that a list based on end-use of the product was an adequate starting-point. Any attempt to define environmental goods would be much too complex a task. It would be more productive to prepare a list of such goods. On this point, she wished to know from Switzerland which criteria were applied to define environmental friendly goods. On NTBs, she indicated that her authorities were working with exporters to identify and notify difficulties that the latter encountered when exporting. At the second meeting of the Negotiating Group, Colombia had supported New Zealand's diagnosis of the complexity of the issues, as well as the initial classification which was made in order to categorize questions which would have to be analysed by this Negotiating Group when it began to look at these measures. Colombia therefore proposed that this document be used as a guide in developing the work programme. Finally, Colombia did not have very clear and precise ideas as yet on special and differential treatment. However, Colombia felt that there should be a distinction between special and differential treatment and the principle of full non-reciprocity and that special and differential treatment should not be restricted to extended implementation periods for more extensive commitments.

1.99 The representative of Costa Rica stated that Costa Rica had considered that bound levels, as historically recognized in these negotiations, should be used as the base tariff rate for tariff reductions. Costa Rica, along with other delegations, had given numerous reasons for this. Some Members had stated that only by using applied duties would "real" reductions be achieved. They had also pointed out that reductions in bound levels which did not affect applied levels were "empty" concessions and

should not be considered as concessions in these negotiations. They had even said that a difference between bound and applied levels was not good. Costa Rica did not consider these to be valid arguments. The objective of these negotiations was clearly traditional, namely to reduce bound levels. The mere fact of a tariff being bound was very important in this Organization as was demonstrated by the great interest expressed by many Members in seeing the completion of work related to the binding of tariff levels during these negotiations. The existence of applied tariffs which were lower than bound ones was a positive sign in that they reflected a trade liberalization effort on the part of the Member in question. Bound tariffs translated into transparency and predictability for trade in the products concerned. It therefore followed that making cuts in bound levels was also important *per se*. GATT history had confirmed this point. Costa Rica had made it clear since the very beginning of these negotiations that it aimed for ambitious results and that it believed that all Members should make reductions in their bound levels. However, Costa Rica considered that the level of ambition as regarded modalities for tariff reduction should be negotiated on the basis of the tariff reduction method, not the choice of the base tariff rate. As far as nomenclature was concerned, Costa Rica was of the opinion that the nomenclature used to prepare Members' new schedules of commitments should be that used in their certified schedules on a given date. Needless to say, ideally all Members would use the same tariff nomenclature, but Costa Rica did not believe that this was crucial to the Group's work, nor that this point warranted much discussion by the Group. It had to be recalled that the procedures for transposing the 1996 version of the Harmonized System to the HS2002 version had already been established, for which reason Costa Rica saw no need to dwell unduly upon this point. Costa Rica had taken note of the Swiss proposal, according to which the negotiations would be conducted on the basis of HS96 nomenclature and subsequently transposed to HS2002 for publication. Costa Rica found this proposal reasonable and was prepared to go along with it, provided that all Members' schedules were already certified on the basis of HS96.

1.100 With regard to the methodology for tariff reduction, Costa Rica concurred with those delegations which preferred the use of a formula or formulae, in the belief that this would be the instrument best suited to the current size of the WTO membership. Likewise, and as Costa Rica had stated previously, this (these) formula(e) had to be carefully crafted to tackle all related problems and comply with the considerations set forth in paragraph 16 of the Doha Ministerial Declaration. However, Costa Rica was still not in a position to endorse any one particular formula. Costa Rica hoped that the European Communities would soon be able to present the algebraic formulation for its tariff compression mechanism so that Members could examine its proposal in detail. Only when all elements and coefficients were on the table would Costa Rica be able to determine which formula met the objectives most efficiently.

1.101 With regard to possible supplementary modalities, Costa Rica was in favour of Members being able to decide to continue liberalization on the basis of other modalities, such as the zero-for-zero approach and sectoral negotiations. However, these negotiations should be on a voluntary basis and take place only after a general formula for all products had been applied. That was to say, approaches such as these had to complement the general modality, namely the application of a formula.

1.102 As regarded the specific mandate of reducing or eliminating tariff peaks, Costa Rica had already stated that it did not feel that defining such terms was necessary. Costa Rica considered that all that was required was a formula which tackled such problems in mathematical terms. Costa Rica believed that this would be the most efficient way of making good use of the little negotiating time at the Group's disposal. Costa Rica had taken due note of Korea's positive comments and clarifications in this respect and awaited its final proposal before making any further remarks.

1.103 With regard to products of interest to developing countries, Costa Rica considered that the possibility of including other sectors, in addition to textiles and footwear, should be left open. While these two sectors were indeed important to some developing countries, it was also true that other

developing countries, including Costa Rica, also had interests in other non-agricultural sectors which should be taken into consideration pursuant to paragraph 16 of the Doha Ministerial Declaration.

1.104 As other delegations had also indicated, Costa Rica believed that credit should be accorded for autonomous liberalization measures in this sector. For example, Costa Rica had made fresh commitments during the Uruguay Round under the ITA, whereby it had undertaken to modify its schedule of non-agricultural products and to liberalize trade in certain products on a multilateral basis. Costa Rica considered that it should receive credit in these negotiations for this mfn liberalization implemented during the Uruguay Round.

1.105 Costa Rica did not as yet have a definite position on special and differential treatment. Most probably it would not be submitting a formal negotiating paper by the end of 2002. It therefore requested that the positions which it had put forward since the first substantive meeting in August 2002, as recorded in the minutes of these meetings prepared by the Secretariat, be fully taken into account in the consolidated overview of proposals to be submitted to participants at the first meeting of the Group in 2003, as agreed by this Negotiating Group in the Programme of Meetings (TN/MA/3).

1.106 The representative of the European Communities stated that her delegation would try and circulate the EC formula as requested by Costa Rica. To respond to the Indian query, she stressed that all figures in the EC proposal were indicative, therefore she did not understand how it could be construed that the EC approach was softer on lower duties. In fact, the EC had proposed to eliminate low duties at and below a floor level to be negotiated. In any case, she stressed that all aspects of the EC proposal were negotiable. Her delegation was only proposing a method and not figures. As indicated in the EC submission and regarding the various elements of the modalities, the base rate of the negotiations should be bound. The nomenclature should be in HS96 with the results of the negotiations transposed into the HS2002 nomenclature. Tariff peaks, high tariffs and tariff escalation did not need to be defined if the correct approach was adopted. As to staging, her delegation was willing to discuss differentiated staging. On special and differential treatment while her delegation had included some elements in its proposal, it was willing to listen to proposals by all Members. Her delegation was willing to discuss credit for autonomous liberalisation measures.

1.107 The representative of India stated that the EC representative had stressed many times that her delegation was proposing only a method and the actual formula would depend on the numbers to be negotiated. Therefore, the numbers were an important detail in the formula and the graph which had been shown to the Negotiating Group during the presentation might not be sufficiently representative of the final method. Maybe once the formula once circulated, it would help clarify matters for his delegation. However, the aspect of how lower duties were going to be brought down was important. Additionally, he wished to know when the Communities would elaborate on the special and differential treatment which they had envisaged in their method.

1.108 The representative of the European Communities stated that the special and differential treatment was elaborated in her delegation's submission. However, as had been stressed already everything was negotiable and her delegation was willing to listen to further proposals on that aspect. The Communities' submission contained also proposals on deeper cuts on products including environmental goods which her delegation did not regard as a sectoral negotiation but rather cuts in the name of higher objectives which might be environmental policy objectives.

1.109 The Chairman stated that on NTBs, as agreed to at the last meeting of the Group, a letter dated 27 November 2002 had been sent to participants providing a common format for the notification of NTBs. He underlined the fact that this matter should not be looked at in a mechanical manner. He hoped that by the end of the exercise the Group would have some material that would help it clarify

its views on both the substance of NTBs that economic operators were encountering as well as permitting it to define a way to tackle in a more practical and operational manner this issue.

1.110 The representative of the United States stated that the proposed format met her delegation's needs in terms of the structure and that it was the kind of information her delegation was already looking at. However, she gave a few words of caution and made a practical comment. Participants had to be careful to not fixate on the columns or on this process. Sometimes, one could get caught in the details and lose the substance. In that regard, her delegation had learned from a recent experience, i.e. the ITA discussion on NTBs, that sometimes at the start of the process it helped to not initially include the "Maintaining participant" column but to look at the existing barriers and their commonality. It would be useful as a first step to focus on where substantive problems existed. As a practical point, it would be useful if this information could be submitted in an excel format as it would make it easier to manipulate and analyze.

1.111 The Chairman recalled that this communication had been sent to participants at their request. He drew attention to the fact that it was a proposed format with flexibility regarding the information to be included or not included in the various proposed columns.

1.112 The representative of New Zealand stated that his delegation saw merit in focusing on the generic nature of measures at the outset rather than getting into too much detail about which particular Member was maintaining the measure. In this regard, the Chairman's clarification was very helpful. It was vital that this Negotiating Group delivered substantive results on NTBs if it had to deliver market access improvements which were meaningful for business. Participants were facing some difficulty in identifying the shape of the manageable negotiation on NTBs which would deliver these results. In that context, New Zealand would agree with Chile that it was likely that most of the measures which would be notified by end January 2003 would be already covered by WTO Agreements. For those measures which could not be covered elsewhere in the Doha mandate, New Zealand did not think that it was going to be very productive to try and decide whether or not that measure was WTO legal. That could only be definitively determined through the dispute settlement system and it was not likely that participants in this Negotiating Group would join a consensus that they were maintaining an illegal measure. Dispute settlement remained there as a possibility but it would imply a pretty limited discharge of the Group's mandate to push everything in that direction. In this context, New Zealand believed that the mandate from ministers on NTBs should be recalled which was to reduce or as appropriate eliminate NTBs. The legal status of an NTB was not on the face of it a consideration in this mandate. By analogy with tariffs which were WTO legal measures the Group's mandate was to reduce or eliminate the incidence of NTBs. One also needed to recognise that many NTBs were linked to legitimate public policy purposes, for example health, safety or environmental protection. So one could not simply reduce or eliminate an arbitrary proportion of those measures. Nonetheless, some of those measures did impose unnecessary costs on business and consumers and distort trade. This was especially the case where there were differences or variations for instance in mandatory product standards or the procedures for assessing compliance with those technical regulations among the major markets in the world. That was one of the issues that New Zealand saw as having to come to grips with in this Negotiating Group if it had to deliver some real results.

1.113 Like Chile, New Zealand had noted earlier that bilateral request-offer was a possible approach for dealing with these measures. New Zealand expected that request-offer would prove necessary for many measures but would caution against making request-offer the main modality for dealing with NTBs. It was a practical matter given the large membership and the potentially huge number of NTBs. The OECD had conducted a survey earlier this year in which more than 7000 such measures had been identified. New Zealand wished to suggest that to achieve substantial progress on the NTB part of the mandate, this Negotiating Group would also need to consider the feasibility of more generic approaches. New Zealand had in mind the possibility of looking at generic clusters of issues that arose around particular product groups. Such an example would be the forest products area and

the whole range of NTBs that arose in connection with building codes. This was an area and there might be others which could be approached in a generic fashion and on which the Group might be able to make some real progress.

1.114 The representative of the European Communities stated that the proposed format sent by the Chairman was a useful start for this complicated part of the Group's mandate. It was also useful to hear from the Chairman that there was flexibility regarding the filling up of the columns as the inventory on NTMs (TN/MA/S/5) that had been proposed was old and in the meantime, there were some "new" barriers which did not fit in with this Inventory. Her delegation hoped to be able to introduce some new sub-categories. The New Zealand representative was right in stating that the Group should concentrate on general barriers. She wished to draw attention to the importance of column 4 of the proposed format entitled "Trade effects of the barrier". It was a difficult column to fill in. The most important part, at least for Members to discuss was going to be information in column 3 entitled "Nature of the barrier". Participants had to explain, to the extent possible, what type of obstacle was being referred to. Column 6 entitled "Relevant WTO provision" was also a difficult column to fill in, and Members had the freedom to not provide information and engage in any difficult discussion. Finally, Column 7 entitled "Treatment of the barrier" was very useful but at the same time a very challenging one because it dealt with how such NTBs should be addressed, i.e. multilaterally, bilaterally etc.

1.115 The Chairman recalled that on environmental goods, the Group, at its last meeting, had agreed that as an illustrative exercise the Statistics Division would generate statistics basing itself on the Japanese list of environmental goods in order to try to see the volume and direction of trade in such goods. The exercise was more complicated and less clear than expected but nevertheless it might be interesting for Members to have this information as an illustration of the special case of some environmental goods.

1.116 A representative of the Statistics Division (Ms. R. Jackson) stated that the document entitled "Trade in Environmental Goods" (TN/MA/S/8) gave a snapshot of the situation and was based on available official export/import statistics that were found in the UN Statistical Division COMTRADE database and in the WTO IDB. Information for all WTO Members was not available and data was missing for thirty-four Members which were listed in footnote 2. The Secretariat had also run into a practical problem which was that the HS codes in the Japanese list were at the 6-digit level and there were quite a few cases where the 6-digit HS level was not detailed enough to identify the environmental goods in the list. That meant that a precise idea of the magnitude of each Member's trade on environmental goods as defined in the Japanese list was not possible. Table 1 of the document demonstrated this problem. In that table there were two sets of data. The first one was called "Excluding ex" and that was the sum of the HS 6-digit codes in which all the products contained therein were defined as environmental goods in the Japanese list. The list of these codes was given in Annex 1 of the document. The second set of data was called "Including ex" which was the sum of all the HS 6-digit codes in the Japanese list. It included products that were not environmental goods but which could not be excluded because they could not be identified at the HS 6-digit level. The first data set underestimated the magnitude of the trade and the second data set overestimated the magnitude of the trade. To help participants in assessing the relative importance of the two datasets the Secretariat had provided a column which gave the share of the two sets of data in each economy's total merchandise trade. For example, in the case of the first Member on the list, the share of exports ranged from 0.2 per cent to 0.9 per cent. The Secretariat also had available for each Member listed in Table 1 detailed HS6 digit level data. The totality of this data set ran to over 80 pages so the Secretariat proposed to make it available on the Members' website. If this was done, the information could be accessed in spreadsheet format and participants could undertake further analytical exercises on it.

1.117 The representative of Australia requested that comparable data be prepared for the APEC environmental goods list.

1.118 The representative of Japan stated that Japan had used "ex" in some instances in this list because the product coverage at the HS 6 digit-level was too broad.

1.119 The representative of Brazil stated that his delegation took note of the lists on environmental goods that had been presented to this Negotiating Group. Brazil was not a party to the elaboration of any of them and so did not feel bound by any of them. Brazil accepted them as useful contributions to the work, but no more than that. The second issue was the question of how the Group was going to decide on what the list would contain. The list could not be a compilation of what 144 Members understood as being an environmental good; there had to be a criteria. To give an example, in the Japanese list, there was under Section 2, "Cleaner Technology and Products", a first item was an "ex" of paper and paper board called "recycled paper". This was an issue that had been object of debate in other fora but the question was whether recycled paper was inherently better for the environment than paper produced from sustainably managed forestry products. The Group would enter into a very difficult debate if it had to discuss whether each proposed item was in effect an environmental product or not. Brazil wished to see the CTE in Special Session take up a bigger role in the definition of an environmental product.

1.120 The Chairman expected the CTE in Special Session to take an active role in this matter as they had a mandate on that.

1.121 The representative of Malaysia stated his country's position was that all goods were to be treated in the same manner and subject to the same formula without prejudice to special and differential treatment. In this case, Chile's and Malaysia's approach as far as the treatment of environmental goods was concerned was the same. Notwithstanding this position, Malaysia supported Australia's proposal that the Secretariat do similar statistical work on the APEC list of environmental goods.

1.122 The representative of the United States supported the request that the Secretariat prepare an additional statistical study using the APEC list.

1.123 The representative of Canada supported Australia's request that the Secretariat do similar work using the APEC list.

1.124 The representative of Pakistan agreed with Brazil that the exercise of compiling a list of environmental goods was a difficult job. Pakistan also agreed with Malaysia that all goods should get the same treatment.

1.125 The representative of New Zealand stated that if the Group were to adopt as a working assumption a move to tariff elimination over time, Chile's proposal on the treatment of environmental goods looked rather attractive. In the meantime, as a practical point the Group would need to continue with the analysis of the options available to it and from that perspective New Zealand saw value in Australia's suggestion that statistics be generated on the APEC list of environmental goods. New Zealand shared Brazil's observation that questions of definition in this debate properly belonged with the CTE in Special Session.

1.126 The representative of Argentina stated that in light of the problems related to the statistics generated on Japan's list of environmental goods, it might be preferable not to do more of the same type of work. With regard to the work on environmental goods, Argentina agreed with Brazil that the Group should establish a criterion to decide which products should be on that list. The list should be established in a clear and specific manner in order to make sure that the products listed had a direct relationship with the environment.

1.127 The representative of the European Communities stated that concerning the statistics produced by the Secretariat, she wished to know from a technical perspective how certain figures were produced. This was with respect to the "ex out" items. The correct approach on the issue of environmental goods would be to develop a criterion. However, the perception of an environmental good differed from Member to Member, and there was nothing that prevented Members from submitting proposals of products at the same time explaining why such a good had been included in the list or the criteria used. She was pleased to hear the remark by Brazil when he had referred to "recycled paper" and raised the question of whether recycled paper was inherently better for the environment than paper produced from sustainably managed forestry products. In the latter case, one would be using the criteria of PPMs. It was a good indication of how developing countries could find possibilities of balancing lists. While, she was not against a study being undertaken by the Secretariat on the basis of the APEC list, she would caution against the utility of such a study since the Japanese list subsumed most of the APEC products. She did not wish the scant resources of the Secretariat to be used to analyse yet another list.

1.128 The representative of India stated that one piece of information that India had been looking forward to from this list was how equitable it would be to give special treatment to environmental goods in terms of benefits to developing countries and products of comparative advantage. It seemed that the document did not give that information. It was not the fault of the Secretariat. It was because Members did not have a classification based on items which were used for predominantly environmental purposes. Even if another statistical analysis was produced of the APEC list, there might be the same limitations. With the more general data, his delegation had not been able to come to any conclusion and he looked forward to the detailed tariff line information on the Members' website. On the issue of classifying environmental goods, India had examined the APEC list and had come to the conclusion that only a handful of items, maybe 12 to 16 would fall into a group of products which could be classified as being used predominantly for environmental purposes. India had taken the point that not all products could be used 100 per cent for environmental purposes. So that being the nature of those lists, India was attracted by the Brazilian proposal that it was not the work of the Negotiating Group on Market Access to define and identify products which were predominantly for environmental purposes.

1.129 The representative of Costa Rica was pleased to note that the Swiss proposal suggested moving away from the criterion of PPMs, a position which Costa Rica endorsed. Costa Rica welcomed clarification as to what kind of "environment friendly" products Switzerland was referring to in paragraph 13 of its proposal. Could it provide some examples of products which it considered environment friendly? Costa Rica had on previous occasions shown an interest in Chile's proposal that the focus should first of all be on the modalities for tariff reduction and subsequently, as an additional task for this Negotiating Group, on an analysis of the issue of environmental goods. This was reflected in writing in paragraph 16 of the formal proposal submitted by Chile and circulated in document TN/MA/W/17. Costa Rica had taken note of Brazil's remarks concerning the definition of environmental goods taking place in the Committee on Trade and Environment in Special Session and hoped to comment on them on a future occasion.

1.130 The representative of Switzerland stated that in its submission, Switzerland had indicated that participants should draw up lists of products because discussing criteria would make the process difficult. Of course, every list was based on some criteria including the APEC and the OECD lists. These lists were a good basis but they did not cover all the products which could be of interest for Members. In its submission, Switzerland made the point that one could envisage having environmental friendly goods other than those mentioned in the APEC and OECD lists which could be of interest. In this connection, Switzerland had thought of packaging material like jute or other kinds of products which had as characteristic environmental friendliness. This was just one example.

Switzerland was drawing up some more examples, and hoped to give more information to the Group in the future.

1.131 The representative of Brazil recalled that at the Group's last meeting, he had asked the question whether in transferring this matter to this Negotiating Group, the CTE in Special Session had sent only non-agricultural products or all products. If it was just non-agricultural products, would there be a treatment of agricultural products in any other body under the mandate of paragraph 31.3 of the Doha Declaration.

1.132 The representative of Japan stated the reason for submitting this list was to avoid a philosophical discussion on the definition of environmental goods and to engage in a more practical discussion on this matter.

1.133 The Chairman stated that regarding the general issue of whether the Group should try to define environmental goods, his view was that the Group was not that far yet in the debate. It had been useful for this Group to have an exchange of views on so-called environmental goods without this being clearly and precisely defined. There had been an exercise of trying to illustrate what the flow of trade would be with respect to a list containing environmental goods as defined by Japan. Members would have at their disposal additional information which might help clarify more questions. The point made by Brazil was legitimate, and it was in this way the Group could clarify its views with respect to the whole subject of environmental goods. It was clear that there was no take over by this Group of what the CTE was mandated to do. There was no misunderstanding about the fact that there were many ways to deal with so-called environmental goods, whether it was first through defining them and giving them special treatment or giving the same treatment to all non-agricultural products and then giving special treatment to environmental goods. The only point which was important to keep in mind was that in the Doha Ministerial Declaration there was a special mention under paragraph 31.3 of environmental goods and a hint from Ministers, at far as he had understood it, that they had to be given special treatment. The Group was in the process of clarifying the matter. In this connection, there had been a suggestion by a number of delegations that the Secretariat do the same exercise with the APEC list as it had done with the Japanese list. There were limitations in doing that but he wished to give the floor to the Secretariat to indicate whether such work could bring more value to what had already been done.

1.134 A representative of the Secretariat (Ms. R. Jackson) stated that in response to the question raised by the EC as to how the data was compiled in Table 1, it was an extraction from the databases at the 6-digit HS level of all of the codes that were included in the Japanese list. Therefore it included HS 6-digit codes that were greater in scope than in the Japanese list. So, in that sense the statistics in this table were indicative. In fact, the one column "including ex" items was much broader than if one had been able to define more precisely in the import and exports statistics the products covered in the Japanese list. The same problem would exist for any statistics compiled on the APEC list. The Secretariat could only do it at the HS 6-digit level and therefore would come up with a total that would be broader than what was actually defined in the APEC list.

1.135 The Chairman stated that it appeared that undertaking statistical work on other lists of environmental goods would bring very limited value added. With the output produced by the Secretariat, there were already some elements which helped to illustrate the matter. He proposed that the Group pause for the time being and reflect on the matter. He would convene a meeting with the Chair of the CTE in Special Session and try to obtain information from her about the intention of the CTE concerning its own work in this area. He noted that nothing prevented any participant from tabling a list of what it considered to be environmental goods.

1.136 The representative of New Zealand noted that his delegation's support on having data on the APEC list was prompted by an interest in having more updated trade figures. New Zealand had circulated the APEC list in the CTE and had included an annex which contained trade data from 1999.

So earlier trade data at the 6-digit level was available, with the caveats mentioned by the Secretariat, for any interested Members and was contained in TN/TE/W/6.

1.137 The representative of Brazil agreed that a compilation of new statistics might not be very useful. The level of trade would not give a clue as to whether a product was environmental or not. So he could understand the Chairman's recommendation that the Group pause and reflect on this issue for a while. He requested the Chairman that when consulting with the Chair of the CTE to ask for a very precise indication of the mandate that the CTE had transferred to this Group, i.e. had the CTE transferred the whole mandate under paragraph 31.3 of the Doha Declaration or was it undertaking the definition itself and should this Group wait for it to finish that work before starting its own. Additionally, had the CTE transferred the responsibility for negotiating on all products or only on non-agricultural products.

1.138 In response to a question by Malaysia, the Chairman stated that he was going to ask the CTE Chair where the CTE was in respect of its work, what was the intention of the CTE regarding this issue, and how each Group could reinforce the other in fulfilling the Doha mandate.

1.139 The representative of Malaysia stated that there was no question of asking the CTE to undertake a definitional exercise of an environmental good. Brazil had raised an important point that should be taken up with the Chair of the CTE. Malaysia's position was that the treatment of all goods should be the same and in this regard it differed from the Chair's and other Members' interpretation regarding paragraph 31 of the Doha Declaration. Malaysia took the Chair's advice that the Group pause and reflect on this matter and therefore would not insist on trade statistics on the APEC list at this stage.

1.140 The Chairman noted that the CTE in Special Session was a sovereign body which could undertake the definitional exercise if it so desired.

1.141 The representative of Australia noted the Chairman's intention on how to proceed on the proposal which Australia had put forward concerning work on the APEC list. He did not demur from the Chairman's judgment on that, having noted at the same time that there was support for proceeding with that work and no strong opposition. The point was that part of the value of being able to have that information at some stage would be to help those who were sceptical about the value of putting up lists of environmental goods. The trade statistics would help to enlighten that discussion. On the discussion of the definition of environmental goods in the CTE, he recalled being in the CTE at the time when the discussion was held on what to do with the mandate. A suggestion was made at the time that the CTE should in fact be looking at a definition of environmental goods, and he recalled making an intervention at that point saying that while Australia had no difficulty with the CTE looking at that issue, his delegation did not want to be in a position whereby work in this Negotiating Group was held up pending agreement in the CTE on the definition of environmental goods. That was accepted at the time and he would not want to see any subsequent discussions unravelling what was a clear understanding at the time.

1.142 The Chairman stated that there was no problem generating the statistics for the APEC list as requested by Australia, however, the question was what was the value-added in doing that work. From the information provided it appeared that the value-added would be limited.

1.143 The representative of Australia clarified that his delegation was not insisting on the statistics. He had merely indicated that if those statistics were available, they would help some of those Members who were raising questions about the value of the sort of lists which were on the table for their own particular trade interests.

1.144 The Chairman proposed that the Group pause on this matter. He did not foresee, at this stage, additional statistical work. As he had understood from the discussion, delegations needed to clarify in

their minds much more important issues and questions regarding environmental goods which additional statistics would not help to do. The Group could revert to the question of additional statistics at a later stage.

1.145 The Negotiating Group took note of the statements.

2. Other Matters

2.1 No discussion was held under this item.

3. Stock-taking of the work in progress

3.1 The Chairman stated that he was satisfied with the work done in the Negotiating Group. The Group had held very interesting meetings where a number of important submissions had been introduced, and where an even greater number of substantive statements had been made. Participants had held a focused debate and dealt with modalities almost from the first day. A lot of progress had been made in terms of clarification, statement of positions and the beginning of defining parameters for the modalities. On the basis of the work done so far the Group could enter with some confidence into the phase beginning in January 2003 which would hopefully lead the Group to an agreement on modalities by the end of May 2003 at the latest. The Group would need to focus more and be more operational in the future but if it were to keep the spirit and the commitment that it had shown so far, it was going to make good progress toward fulfilling its mandate.

3.2 The representative of Brazil shared the Chairman's sense of optimism and the most important aspect to underline was that the Group was where it should be at this stage. Concerns that might have existed regarding the late start in the Group's work had been eliminated. As the Chair had indicated the Group should be trying to arrive at a more operational or focused debate. It had been useful to have this general debate where delegations could present a complete overview of their views on the whole modalities issue. However, moving to next year it would be more useful if the Group could have a more focused and interactive debate on each one of the multiple elements that would have to be taken into account in defining modalities. In this sense, the annotated agenda was a useful guide of how the agenda and the debate of this Group could be structured for next year. In preparing such a format, he requested the Chair to separate out the issue of special and differential treatment from less than full reciprocity which were two different concepts and deserved each their own individual treatment. He also suggested that this approach be applied in the overview paper in order to give the Group an additional input for the discussions next year.

3.3 The representative of the United States concurred with the Chair's overall assessment of the discussions so far. From the first meeting until this meeting, Members had come prepared and with an open mind. His delegation also wished to remind Members that there still remained 28 days to submit proposals on modalities. The more proposals there were, the more fruitful would be the discussions as the Group moved forward into 2003. He also encouraged Members to use the data and the software tool that were available in order to apply the various proposals to their own schedules and to the schedules of their major trading partners so that participants could discuss in greater detail the various modalities. He encouraged Members to continue to provide tariff and trade data as such data would be a critical element to the Group's ability to discuss these modalities. His delegation also encouraged Members to be mindful of the objective of providing some input to the NTBs process. His delegation intended to provide its initial thoughts and contribution by the end of January 2003.

3.4 The representative of New Zealand wondered whether the Chairman could give some indication of the form the overview paper would take.

3.5 The Chairman stated that it was going to be a consolidated overview of proposals which participants had submitted until 31 December 2002. For the moment, there had been no decision taken on the precise form that this overview paper would take. Brazil had made some suggestions in this regard and any other suggestion would be welcome.

3.6 On the question of the state-of-play of the negotiations, it would appear that participants shared the short positive assessment that he had made. He took it also as a sign of the commitment that participants were going to continue to put into the negotiations of non-agricultural goods. He reminded participants once more about the requests which had been formulated regarding submission of tariff and trade data and/or the authorization letter and information on NTBs. Regarding the authorisation of transfer of data to the IDB, so far only a limited number of authorisations had come. He understood that some Members did not feel it necessary to send this so-called authorisation because they had already fulfilled their obligation in this respect. Nevertheless, he asked all participants to have a look at this matter again and remind respective capitals of the request which had been addressed. Signing such an authorization paper would ensure that the necessary data would be available for participants for the negotiations.

3.7 The Negotiating Group took note of the statements.

4. Establishment of the calendar of meetings up to 31 May 2003

4.1 The Chairman proposed the following meeting dates until May 2003: 19-21 February, 14-16 April, 26-28 May 2003. The proposed dates had not been reached easily. He had kept in mind a certain number of constraints and parameters.

4.2 The representative of Japan stated that as it was clearly stated in the work programme, all Members had agreed that not only the end of May but also the end of March 2003 were important target dates and the Group should proceed in fully observing this time-frame. The absence of meetings in the month of March 2003 further reinforced the importance of the consolidated overview of proposals to be submitted to the February 2003 meeting. In this regard, the Japanese delegation would like to highlight the importance that all modality proposals were to be incorporated and properly reflected in this consolidated overview in an objective manner

4.3 The Negotiating Group took note of the statements and agreed to the following calendar of meetings until 31 May 2003: 19-21 February, 14-16 April, 26-28 May 2003.

Annex

Slide 1



European Commission
Directorate General for Trade

DDA Market Access

Hervé Jouanjean

Lead negotiator for market access negotiations
on non-agricultural products

Where do we want to go ?
How do we get there ?

Slide 2

DDA Market Access

The Uruguay Round Legacy

A significant improvement in market access for
industrial products

	Share of bound duties	Average reduction
Developed	99%	-40%
Developing	73%	-25%

European Commission
Directorate General for Trade

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Slide 3

DDA Market Access

Assessing Protection / Openness

- Scope of bindings
- Average bound duties (share of bindings at free, share of non *ad-valorem duties*, etc.)
- Binding overhang
- Tariff dispersion
- High tariffs, tariff peaks, tariff escalation
- Export restrictions, in partic. export duties

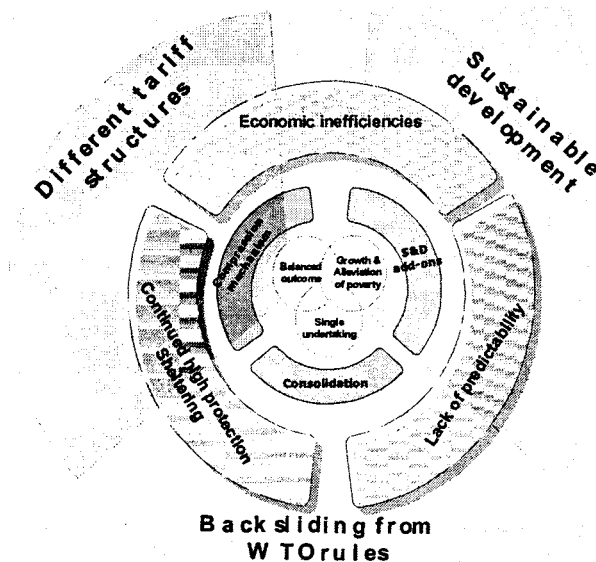
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Slide 4

DDA Market Access

An Integrated Strategy



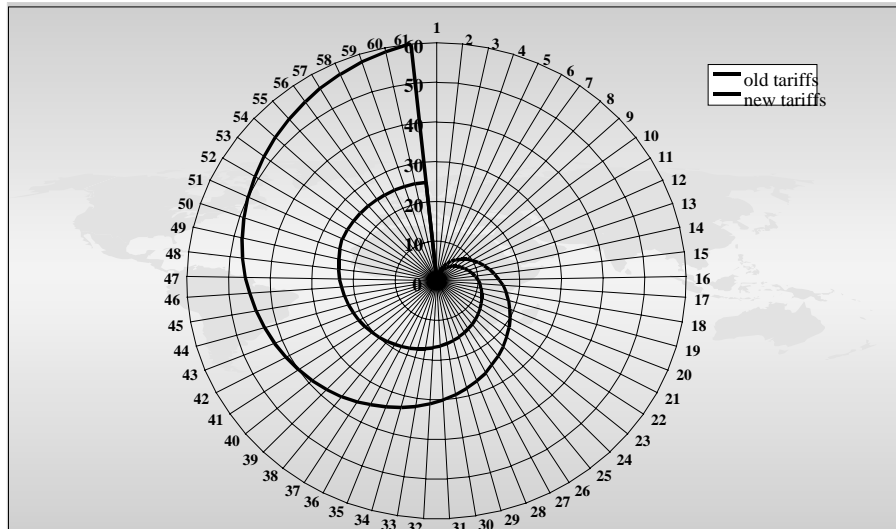
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Slide 5

Tariff Compression

DDA Market Access



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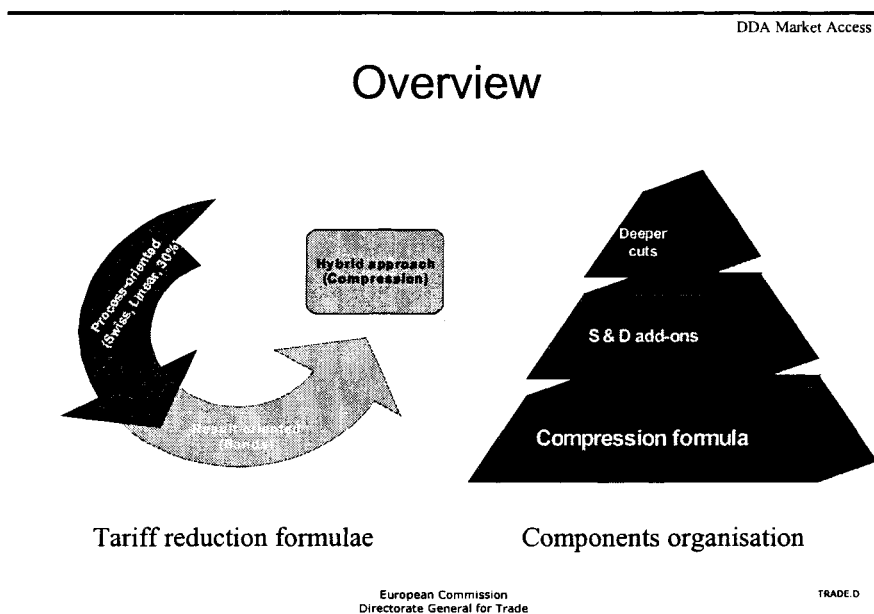
European Commission
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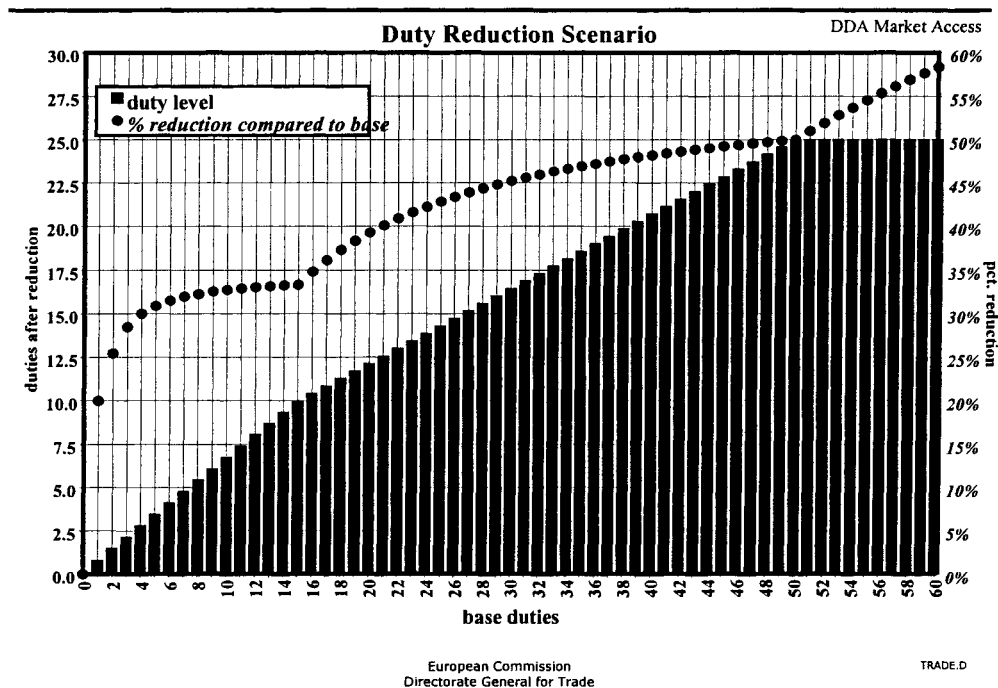
A Proposal for Modalities

Compression Approach

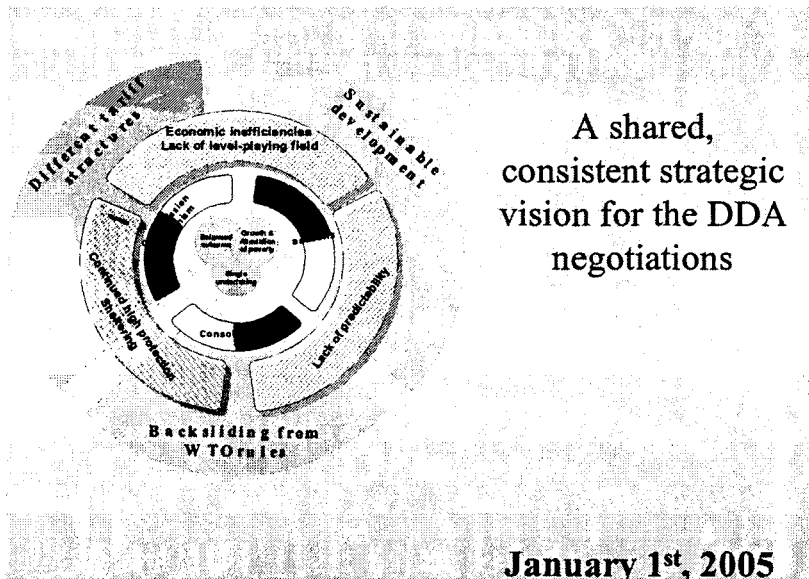
Slide 6



Slide 7



Conclusion



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