
Negotiating Group on Market Access

MINUTES OF THE MEETING

Held in the Centre William Rappard on 9 – 11 July 2003

Chairman: Ambassador P-L. Girard (Switzerland)

<u>Subjects discussed</u>	<u>Page</u>
I. CONSIDERATION OF POSSIBLE MODALITIES FOR NEGOTIATIONS ON MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS	2
A. CHAIRMAN'S PAPER ON DRAFT ELEMENTS OF MODALITIES FOR NEGOTIATIONS ON NON-AGRICULTURAL PRODUCTS (TN/MA/W/35 + CORR.1).....	2
B. NON-TARIFF BARRIERS (NTBS)	2
- Non-tariff barrier notifications – Addendum (TN/MA/W/25/Add.2) and Non-tariff barrier notifications: Secretariat Compilation of the Various Barriers Notified by the Participants (Job (03)/128)	2
C. CONSIDERATION OF DOCUMENTS SUBMITTED BY PARTICIPANTS AT OR SINCE THE GROUP'S LAST MEETING	2
D. OTHER MATTERS	11
II. OTHER BUSINESS.....	11

The Chairman stated that the agenda for the meeting was contained in document WTO/AIR/2134 dated 26 June 2003 and its corrigendum, dated 30 June 2003. An annotated agenda had been circulated as Job(03)/131. In addition, a fax had been sent to participants on 2 July 2003 containing an informal room document titled "Guide to TN/MA/W/35".

He pointed out that since the issuance of the Airgram, three additional papers had been circulated, submissions from Papua New Guinea (TN/MA/W/39), Chinese Taipei (TN/MA/W/19/Add.2) and the United States (TN/MA/W/18/Add.5).

The Negotiating Group adopted the agenda as circulated in WTO/AIR/2134 and its corrigendum.

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

A. CHAIRMAN'S PAPER ON DRAFT ELEMENTS OF MODALITIES FOR NEGOTIATIONS ON NON-AGRICULTURAL PRODUCTS (TN/MA/W/35 + CORR.1¹)

1.1 The Negotiating Group went into informal mode to discuss the Chairman's paper on Draft Elements of Modalities for Negotiations on Non-agricultural Products (TN/MA/W/35).

B. NON-TARIFF BARRIERS (NTBS)

- **Non-tariff barrier notifications – Addendum (TN/MA/W/25/Add.2) and Non-tariff barrier notifications: Secretariat Compilation of the Various Barriers Notified by the Participants (Job (03)/128)**

1.2 The Negotiating Group went into informal mode to discuss Non-tariff barrier notifications – Addendum (TN/MA/W/25/Add.2) and Non-tariff barrier notifications: Secretariat compilation of the various barriers notified by the participants (Job (03)/128). During the discussion Members reaffirmed their commitment to progress work on NTBs and agreed to submit NTB notifications to the Secretariat by 31 October 2003.”

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

1.3 The representative of the United States stated that they had tabled two parallel papers on a related subject. There had been some confusion in the Group about how previous lists of environmental goods had been put together and they considered that it could be helpful to the NGMA to have more clarity on exactly how the OECD list and the APEC list had been compiled. TN/MA/W/18/Add.5 was an attempt to introduce their idea on a modality which was separate and distinct from the background that was provided in TN/MA/W/18/Add.4, which had outlined four specific considerations that influenced the development of the APEC list. First, the practical implementation of product distinctions by customs officials precluded the use of goods described as environmental on the basis of their product process and production methods (PPMs). Second, many harmonised tariff headings contained more than just environmental goods. Third, national harmonised tariff lines were not uniform below the six digit level, and fourth, there were questions about what could be done about dual use issues. The second paper (TN/MA/W/18/Add.5) outlined a possible approach that could contribute to moving negotiations forward and, in particular, address developing country export interests in a way that could begin to accommodate a wide variety of views and interests. The paper proposed the development of two lists of goods, a core list and a complementary list. The core list would consist of those products on which there was definitive consensus that they constituted environmental goods. Members would be expected to eliminate tariffs on these items within a certain period of time. The complementary list could be developed to cover products on which there was not full consensus but which individual Members could nominate for inclusion. If such an approach was pursued, procedures and related criteria would be necessary for nominating products. Members should be required to eliminate tariffs only on a percentage of the tariff lines on the complementary list within the same period of time designated for elimination of tariffs on the core list. To reflect less than full reciprocity, developing countries could be required to eliminate tariffs on a lesser percentage of products on the complementary list than developed countries. Overall, the proposed approach was to allow for some flexibility in the designation of particular products. They encouraged other delegations to develop their ideas on how to incorporate an approach for an environmental goods component into the broader modality to be agreed in these negotiations.

¹ French and Spanish only.

1.4 The representative of Mauritius stated that his delegation had submitted its paper in light of the Chairman's request to come up with proposals on the vital issue of erosion of preferences, a subject of serious concern to some of the most vulnerable Members of the WTO. From the perspective of the exporting country, erosion of preferences would be particularly serious where exports were concentrated on a limited number of products and very few export markets. While preference schemes in principle could cover most, if not all, HS chapters and tariff lines, in practice, exports were limited to a very few products and to a limited number of tariff lines. The sectorial approach proposed in the Chairman's paper Draft Elements of Modalities for Negotiations (TN/MA/W/35) affected in essence those very products which were of specific interest to preference-beneficiary countries, in particular textiles and clothing, leather products, footwear and fish and fish products. However, as already indicated, only a limited number of specific tariff lines was in the broad product categories of direct concern to those countries. Those tariff lines should be identified by the countries concerned and a list compiled by the WTO Secretariat. Such tariff lines should either be excluded from tariff reductions or at a maximum, should be subject to tariff reductions of 10 per cent on each tariff line so identified, to be staggered over 10 annual instalments in developed countries markets. With regard to the application of any agreed harmonisation formula, the exclusion principle of certain identified tariff lines should apply. Alternatively, consideration could be given to the proposed formula provided that a much higher B co-efficient was applied to identified tariff lines and the staging period was expanded over a longer timeframe. Consideration could also be given to amend the "ta" of the preference-granting countries in order to mitigate the erosion of preferences. They reiterated their proposal for setting up a competitiveness fund in the context of global coherence policymaking by international financial institutions in order to assist industrial restructuring and adjustment of countries most affected by reductions or phasing out of tariffs.

1.5 The representative of New Zealand stated that his delegation shared the view that using preferences as an excuse to reduce or delay liberalisation was not consistent with the letter and spirit of the WTO. Other participants had outlined their arguments why the Enabling Clause explicitly set out that preferences should not forestall multilateral trade liberalisation, and the preamble to the Marrakesh Agreement establishing the WTO highlighted the purpose and objective of maintaining the integrity of the WTO system. For that reason, New Zealand supported the view that erosion of preferences should not be dealt with in the form of modalities on non-agricultural market access. However, certain preference-receiving countries could be acutely affected from the erosion of preferential access for certain products to certain markets. New Zealand could consider positive measures to help mitigate the effects of the erosion of preferences on a case by case basis, using a formulation first presented by Barbados, Jamaica and Trinidad and Tobago, so long as the products were targeted at markets that could be demonstrated to be of acute concern to preference-receiving countries. This would require a creative approach as different countries could require different solutions. However, such positive measures should be transitional in nature with the objective being to help preference-receiving countries adjust to the erosion of preferences, not to provide a scope for permanent carve-outs. Any assistance provided should be integrated into the broader context of overall aid delivery. International financial institutions, UNCTAD, the Commonwealth and bilateral donors already funded a variety of activities that would complement any positive measures to facilitate the necessary transition if preferences were eroded. Preference-receiving countries should factor the effects of preference erosion into their national development plans now, discuss them with donors and work out relative priorities for assistance. An ambitious outcome from the current round of negotiations which reduced agricultural subsidies and improved access into major, protected markets would benefit developing countries much more than holding on to existing preferences. A recent World Bank Study had shown that preferences did not provide a sound basis for economic development and were a poor way of helping developing countries to integrate into the world economy. They were not bound in the WTO and thus were able to be withdrawn or made conditional at any time. They often excluded sensitive products for the preference-extending market and the country extending the preference could impose its requirements that the developing country must fulfil or agree to in order to qualify for the preference. Preferences were not designed to be permanent carve-outs from MFN tariff rates. Even without the current multilateral round of trade negotiations,

preferences would still be continuing to erode due to the proliferation of RTAs. Preference-receiving countries should recognise that preferences would erode and put in place appropriate plans to ease adjustment. New Zealand was ready to help them in that process.

1.6 The representative of Senegal stated that they supported Mauritius' very interesting proposal on erosion of preferences, an issue which was a major problem for some countries in these negotiations. A considerable number of WTO Members were encountering difficulties in this process of trade liberalisation and the system should take into account the interest and concerns of all Members and explore all possibilities to ensure a smooth transition in preparation of the forthcoming major changes. The question of the erosion of preferences should be included as an integral part of the modalities to be defined and not dealt with once agreement had been reached on all the other elements. The issue of erosion of preferences had been included in the modalities for agricultural negotiations and it should also be included in the non-agricultural market access modalities. The Group should also take into account the need for technical assistance that would allow beneficiary countries to address this issue. There were two fundamental elements to the Mauritius proposal; to try and identify the products affected by erosion of preferences for developing countries and LDCs, and this question of technical assistance which had been specifically envisaged in these negotiations. The Secretariat should identify the relevant products and this would help preference-beneficiary countries show participants that the trade involved did not constitute a major volume in international trade. Senegal also supported the establishment of a financial mechanism to support preference-beneficiary countries.

1.7 The representative of the Philippines stated that they welcomed the statement by Mauritius on the issue of erosion of preferences. They recognised that there could be some real difficulties for certain countries described by Mauritius as being extremely dependent on very few products and on very specific markets. The Philippines welcomed the fact that Mauritius was attempting to look at the issue in a more focused and holistic manner, including a possible financial mechanism with the participation of IMF, the World Bank and probably the regional development banks, because it was not purely a trade problem alone. Holding onto preferences without such restructuring and the so-called development of the supply side capability would be more difficult in the long term for countries under this category. With the proposal from Mauritius and the support from other possibly affected countries, the NGMA might be able to look closely at the very specific products and very specific country issues underlying the erosion of preference issue.

1.8 With regard to the United States' presentation, he believed that the attempt by APEC from 1996 to come up with a product list could be a useful starting-point for those participants who might want to negotiate on the environmental product issues. In 1998, the so-called Early Voluntary Sectoral Liberalisation Programme (EVSLP) of APEC identified 16 sectors including an environment sector for accelerated voluntary liberalisation. APEC was proud of the fact that they had reached some possible consensus on the industrial part of environmental products. However, following the 1998 Asian financial crisis, some resistance to further tariff reduction developed in most of the participating countries. Even so, the ministers declared that those who were willing to undertake autonomous liberalisation were free to do so. However, conditions had since changed considerably and in the context of the DDA there was a ministerial pronouncement to look at environmental products for possible liberalisation. In general, the issue of environmental products had to be looked at in a broader context and in a manner that would lead to a balanced outcome. With regard to the United States' submission, the Philippines would prefer it to be a voluntary undertaking that would not oblige any APEC member country to join. Its members would be free to look at this proposal as a sectorial candidate. Those who wanted to join the sectorial initiative could use the APEC list as a starting-point. With regard to the second question of the United States' proposal, which was really a suggestion for negotiations based on a specific modality for a complementary list, the APEC list was mainly on the industrial side, there was nothing on the agricultural side and as a result it was unbalanced. It did not consider some of the environment-related issues like organic products and products based on traditional knowledge which had very important implications for developing countries. The global

context in which participants were operating had to be taken into account and in that context the United States' proposal was unbalanced in terms of the product coverage of the list.

1.9 The representative of Kenya stated that with regard to environmental goods, although the OECD and the APEC lists could be considered good starting-points, they contained a limited number of products of export interest to Kenya. Kenya was currently in the process of preparing an environmental products list that it hoped to submit to the NGMA and also to the CTE in Special Session. Kenya hoped that it would find its way into the overall list that would be considered as environmental goods both here and in the CTE in Special Session. Such products would include coffee by-products, water hyacinth products, natural pest control products and many others. Some of those products were not included in the APEC and OECD lists and Kenya wished them to be considered as environmental goods. This would be in line with both paragraph 31.3 and paragraph 16 of the Doha Declaration which referred to goods of export interest to developing countries being given some preference. Kenya wished to know how the NGMA was going to handle some of the products which could be qualified as environmental goods but were excluded from the Chairman's list of sectors to be included under sectorial elimination. In particular, footnote 1 of TN/MA/W/35 stated that only products which were not covered by the WTO Agreement on Agriculture would be included in sectorial elimination, so he wanted clarification on how some of the goods that could qualify as environmental goods but might not fall within the Chairman's definition would be dealt with in the Group. With regard to the erosion of preferences, preference-beneficiary countries were aware that preferences were not permanent and for this reason Mauritius' submission was very good; it was only seeking measures to mitigate the negative effects of such erosion on beneficiary countries. The erosion of preferences was a WTO issue and Kenya wished to see a solution come from the WTO. He requested the circulation of his statement made on 9 July on behalf of 11 countries as a WTO document.

1.10 The representative of Pakistan stated that his delegation understood the problems being faced by Mauritius and Kenya because they also received preferential treatment. However, Pakistan agreed with New Zealand that such preferential agreements were not permanent arrangements. It was because of such preferential arrangements that countries were anxious to participate in FTAs, which negated MFN principles. The kind of products which had been listed as being subject to preferences; textiles, clothing and leather products, footwear, fish and fish products, were products of interest to developing countries. If tariffs were not reduced on them, then there would be no trade liberalisation for developing countries, and tariff escalation and tariff peaks would continue. Something had to be done about the situation, and perhaps assistance from financial institutions could smoothen the transition. Regarding the United States' proposal on environmental goods, Pakistan had no objection to having a core list and a complementary list. What it had seen of the APEC list so far was not very satisfactory and more work would have to be done on developing it.

1.11 The representative of Côte d'Ivoire stated that his delegation supported the paper from Mauritius and thanked them for putting this problem on the table. World trade was governed by a number of bilateral and plurilateral agreements and as long as those agreements existed any multilateral measure to be applied would have to take account of them. Côte d'Ivoire currently had a preferential arrangement with the EC but this situation could change. They understood that they might have to find other measures to replace preferential arrangements. However, currently a lot of countries depended on one, two or three products and if preferences were taken away abruptly it would be catastrophic for those countries. For that reason, the NGMA had to bear in mind that a number of countries' survival depended on the current preferential structure. As a result, some solution had to be developed to assist affected countries.

1.12 The representative of Hong Kong, China stated that his delegation welcomed the United States' submission which outlined a possible approach to modalities for environmental goods. The idea to draw up a core list and a complementary list of environmental goods would probably help avoid a lengthy debate on controversial items in terms of product coverage. The United States'

proposal could form a useful reference for Members' future discussion. The United States' proposed timeframe for the elimination of tariffs on environmental goods was quite different from the Chairman's proposed time-frame for sectorial tariff elimination. Under the United States' proposal all developed and developing country Members alike would have to eliminate their tariffs on environmental goods by no later than 2010. Under the Chairman's proposal developing country Members would have a longer adjustment period. This was an aspect that would require further consideration. With regard to the criteria for determining both the core and the complementary list, while this approach allowed some flexibility in discussing product coverage, there should be a common understanding at the outset that no PPM-related criteria would be used in determining either list. Hong Kong, China welcomed the initiative taken by Kenya to prepare its own list of environmental goods.

1.13 The representative of Switzerland stated that her delegation considered the United States' paper to be very helpful in advancing the discussion on the environmental goods issue. The lack of proposals on environmental goods may have made it difficult to include modalities on environmental goods in the Chairman's draft paper. It was an important issue and at some point it would have to be included in the draft modalities. The background on the APEC list was very useful since that list together with the OECD list should form a basis for the Group's discussion. The second United States' paper (TN/MA/W/18/Add.5) was very interesting as regarded the Group's future work on modalities, with its proposal of a core list and complementary list. It had the merit of being very flexible while still ensuring that some percentage coverage of tariff lines on a complementary list together with the core list would be required from every Member. It was important that a list of environmental goods actually included products of interest to developing countries and other Members should follow the very good example of Kenya in preparing its own list.

1.14 The representative of Australia stated that the United States' paper on the elimination of tariffs on environmental goods based on the core list and a complementary list drew on APEC experience to which Australia had contributed. They particularly supported the statement made by the United States on PPMs in paragraph 1 of their paper. The liberalisation of environmental goods in services was referred to specifically in paragraph 31 of the Doha declaration and the proposed elimination of tariffs on a core list and a certain percentage of lines on a complementary list would be one means of achieving this element of the Doha mandate. However Australia would need to reflect further on the paper including in consultation with its industry stakeholders.

1.15 The representative of the United States stated that they appreciated Mauritius taking the time to respond to the request of the Group to provide more information on what exactly were their concerns regarding the erosion of preferences. Like Pakistan, the United States remained concerned that some of the products that countries were getting preferences on were the very products on which other countries were seeking a reduction in tariffs. That presented a serious dilemma for the NGMA as the goal was to try to reduce or eliminate tariffs. Like New Zealand, the United States believed that coherence and bilateral aid programmes were the best answers. They had had a number of discussions recently with the World Bank and the IMF on the subject and would be intensifying their work with them. The World Bank saw a role for itself through Countries Assistance Strategies, but one of the most critical elements in that regard was that the countries themselves had to approach the World Bank to begin the process of offsetting adjustment costs and to encourage diversification. The United States would continue to work with the World Bank and the IMF on this issue as they considered that to be the appropriate focus. While understanding the concerns of beneficiary countries, the Group had to keep focusing on this issue as a discrete problem rather than an over-arching one.

1.16 With regard to the environmental paper, the United States had separated the two papers in order for Members to understand what was behind the OECD and APEC lists. The proposal on modalities was an attempt to address the fact that there were differences among the Group about what the modality might represent and what might ultimately be included. They welcomed Kenya's thoughts on which products might be included in that list. The United States had proposed the idea of

a complementary component to allow Members to nominate issues and lists of products that they thought might be appropriate.

1.17 The representative of Costa Rica stated that with regard to Mauritius's proposal, the last sentence of paragraph 6 of their paper "It is further proposed that such tariff lines be either excluded from tariff reduction or that a maximum tariff reduction of 10% on each tariff line so identified be staggered over 10 annual instalments on developed country markets." indicated that they were seeking tariff lines to be permanently excluded from reduction commitments. They would agree, like New Zealand and Pakistan, to mechanisms to assist those countries that might be seriously affected by this problem. Nonetheless, financial cooperation through the World Bank, the IMF and other existing structures was the best solution for this problem and it would not be appropriate to reflect this particular issue in the negotiating modalities. With regard to the paper submitted by the United States on environmental goods, the issue had been under review in UNCTAD and Costa Rica would be happy to participate constructively in the discussions in future. Costa Rica preferred that the selection of environmental products be distanced from the methods of production.

1.18 The representative of Egypt stated that Mauritius had provided interesting ideas to deal with the problem of erosion of preferences. Egypt was ready to engage in a constructive discussion together with Mauritius and other delegations.

1.19 The representative of the European Communities stated that the paper by Mauritius contained some very pragmatic suggestions along with some possible solutions to the erosion of preferences issue. The United States' paper helped to advance the discussion on environmental goods. The EC delegate welcomed Kenya's information that they were drawing up a list of environmental goods and suggested that all participants should be contributing to drafting this list by including products that were of interest to themselves and to developing countries. The United States' modalities paper was interesting, although some clarification was needed on the two lists. It would be necessary to see it in the context of the overall modalities and to ascertain the possibility of going for such a differentiated approach between lists. She agreed with Switzerland that this was a very important issue that should be reflected in the modalities. It might have been the lack of submissions that had prevented it from being included in the Chairman's draft paper on possible elements of modalities.

1.20 The representative of Brazil stated that they had a concern of a systemic nature. When discussing NTBs the need to avoid duplication had been expressed in the Group, yet with regard to environmental goods, there seemed to be a very serious problem with duplication in that both the NGMA and the CTE were addressing the issue without any clear idea of a division of responsibility and/or competence. It seemed that both were simultaneously engaged in trying to define a list of environmental goods. Brazil, from the outset, had maintained that the best way to proceed would be to entrust the CTE with the definition of an environmental good, following which the NGMA would take up modalities for addressing tariffs and NTBs on those goods. Another systemic issue that would have to be resolved was the question of the limit of the competence in this area. Last year, the CTE sent the mandate for environmental services to the Council for Services in Special Session and the mandate for environmental goods to the NGMA. However, it was unclear whether this referral included agricultural goods or not and if did not, then clarification was required as to which body was going to deal with the agricultural goods. The mandate from ministers did not specify non-agricultural goods and services. There had to be a decision and clarity for Members on this issue.

1.21 The Chairman stated that the Group should reflect on Brazil's suggestion and that it take a two-step approach to environmental goods. The first step would be to clarify the situation with the CTE and possibly ask them to give a view on so-called environmental goods. This should not prevent the Group if it wanted to from treating these goods either through the formula approach, the sectoral, the voluntary or any other approach. While the NGMA was supposed to define environmental goods, according to the report from the CTE, the CTE intended to be very active in defining environmental goods. There was a dichotomy on the part of the CTE on this matter. With respect to agricultural

products, the proper approach would be for Members to raise this question and possibly go through the CTE or communicate directly with the Chair of the Agricultural Committee in Special Session.

1.22 The representative of Jamaica stated that the members of CARICOM supported the paper submitted by Mauritius and welcomed the recognition by the Philippines, New Zealand, Costa Rica and others, of the real concern that had been identified by some Members in respect of erosion of preferences and their recognition that the issue needed to be addressed within the negotiations. Jamaica differed in the approach being suggested by New Zealand and Costa Rica, in that, whilst they had stated in their paper (TN/MA/W/30) that 'positive measures must be found to mitigate against the negative impact of the loss of preferential market access', options other than on a 'case-by-case' basis could be explored to provide an appropriate answer to the issue. In addition, financial aid and co-operation were not the exclusive means of addressing this situation.

1.23 The representative of Uganda stated that they were considering the United States' paper on environmental goods along with what had been stated by Brazil. They also supported and shared a lot of what was contained in Mauritius' paper. The spirit and letter of this submission was similar to the understanding expressed by New Zealand that preferences should not stand in the way of trade liberalisation. The submission by Mauritius did not suggest in any way that liberalisation should stop, it simply called for addressing the negative effects that would impact on those countries which enjoyed preferences, specially the small and vulnerable countries. At the same time, however, liberalisation should lead to fair trade and development for all. Looking at what was happening in other negotiations, agriculture for example, some Members were holding onto trade distorting domestic support measures and other Members were holding onto export subsidies for the similar reasons that they wanted to retain levels of development. Yet in the NGMA, when participants tried to do something similar they were told that they were being an obstacle to liberalisation. This did not show much coherence within the WTO. As Kenya had said, preferences were a WTO issue because they were a trade issue. Uganda believed, like Mauritius, that the erosion of preferences should be dealt with in the modalities and that the Chairman should provide some suggestions. The World Bank as an international organisation had some role to play in it, but it should be a supplementary one. Uganda would approach the World Bank itself, but the point was that since the NGMA was negotiating modalities for liberalisation in non-agricultural market access, the erosion of preferences issue should be addressed in the Group. It did not make sense that this issue should be resolved in the World Bank while all the other issues were being resolved in the WTO.

1.24 With regard to the New Zealand submission, one of the conclusions of the World Bank paper to which New Zealand did not refer was that a number of countries would face devastating effects in the short term. This was exactly what Mauritius was trying to address in its paper. The representative of Pakistan had stated that Pakistan would be ready to give up preferences without any compensatory measure. While this was a positive move, it was made possible because of Pakistan's level of development and not all Members were capable of doing the same thing. With regard to New Zealand's point that preferences had not led to development in the beneficiary countries, the World Bank paper further said that the issue was the utility of preferences by those countries. The paper concluded that the countries receiving preferences could have done better if rules of origin were improved and if NTBs had been addressed. Additionally, it advised beneficiary countries to address supply-side constraints. It would be helpful if New Zealand could provide information as to the extent to which their trade had been affected by preferences. In this way, Uganda would be able to compare the effect of preferences on New Zealand's trade compared to the effect the erosion of preferences and resulting abrupt reform would have on beneficiary countries, and as a result, see who was in a better position to pursue development goals.

1.25 The representative of Ecuador stated that Brazil had raised the same systemic concerns that Ecuador had. There was no definition on matters to be discussed in the CTE and the matters that should be coordinated with the NGMA. Therefore, the Brazilian suggestion was the most useful one to clarify the competent areas and the possible inter-relation between each committee. While the

United States' document was interesting, Ecuador considered it premature to talk about a core list and a complementary list to classify environmental goods when there had not yet been clarification on the definition of such goods. On the other hand, in Ecuador and some other developing countries, there was little knowledge about the topic of environmental goods and services. It was a new concept and some countries were yet not able to differentiate such goods and see the potential benefits to be derived from their inclusion.

1.26 The representative of Chile stated that the two United States' documents reflected their genuine concern to advance this part of the negotiation. Nevertheless, the United States' proposal was essentially a compulsory zero-for-zero agreement for the so-called environmental goods and Chile was not in favour of this type of agreement. Chile appreciated the important role that some goods, considered as environmental goods, had on ensuring a clean, more sustainable environment for scarce resources but environmental goods were not the only ones that had a social value greater than their commercial value; there were also drugs, medicines, books, medical instruments, textiles and clothing and food. However, this was not a good reason to negotiate a zero-for-zero agreement in other sectors. On the contrary, an ambitious structure with no product exclusion implemented in a horizontal, non-discriminatory fashion was a better way to liberalise trade, not only in environmental goods but in other areas as well. In that way, practical problems of defining the concept and coverage of environmental goods could be avoided. The Doha declaration did not contain a special mandate or a more ambitious one for the so-called environmental goods, paragraph 31 of the Ministerial Declaration merely reproduced paragraph 16 which was the general mandate for the Group.

1.27 The representative of Colombia stated that they were in favour of defining environmental goods by the final use rather than the methods and production processes. They were grateful to Brazil for their proposal concerning the need to define the competence of the Special Session of the CTE, the NGMA and the Agricultural Negotiating Group as regarded environmental goods. With regard to Mauritius' document, Colombia shared the same concerns already expressed by New Zealand, Pakistan, the United States and Costa Rica. Erosion of preferences should not be part of the negotiating modalities because it was an issue that had specific characteristics. In addition, solutions to the problem were being sought in other fora in the WTO as well as in other international organisations.

1.28 The representative of India stated that the submission by Mauritius underscored the need to identify appropriate ways and means to address their concerns and this would require some creative thinking. Turning to environmental goods, India had noted the contents of the United States' submission and endorsed the comments made by Brazil. His delegation believed that it was essentially for the CTE to consider what constituted an environmental good and that the NGMA should confine itself to looking at the kind of tariff treatment and the non-tariff issues that may arise thereafter.

1.29 The representative of New Zealand stated that they had offered some initial views at the last meeting on the first United States' paper on the environment issue. They were still attracted to the pragmatism of the approach set out in that paper and to the way that it built on an approach that had been track-tested in an APEC context. The other aspect that appealed to them was the way it offered some comfort to those who might not be comfortable with a list that had been developed in another region and so it seemed quite effective in the way it multilateralized the earlier APEC initiative. Turning to the second United States' paper, the idea of a hybrid approach with a core list and a complementary list had some attractions. It was driven by the aim of maximising the flexibility that was available to participate in the negotiation on environmental goods and that was the approach to take. New Zealand flagged the need for care, if this approach was adopted, as the criteria for the complementary list and some of the caveats set out in paragraph 5 of the second United States' paper were extremely important. With regard to the issue of preferences, Uganda had raised some very good questions, not least of which was whether New Zealand was guilt-free in this area. It was true that New Zealand traded extensively under preferential arrangements for much of its agricultural trade and manufactured exports. More than half of their manufactures went into the Australian market and the

results they were seeking from this Round would basically kill their preferential margins in Australia. In that sense, they were not naïve about the impact of substantial tariff cuts on benefits that were very important at a company level. Neither were they naïve about the employment and other consequences that flowed from that. They did not have an ideological position against preferential arrangements. In the last couple of years they had eliminated tariffs for all imports from LDCs. New Zealand had long-standing preferential arrangements for specific island countries and they were actively pursuing further FTAs. The main differences between their approach and the approaches that were being proposed by some preference-beneficiary countries was that New Zealand still believed firmly that the big gains came from multilateral liberalisation.

1.30 The representative of Korea stated that they supported greater trade liberalization in the environment sector. In accordance with that, they appreciated the United States' submission on environmental goods. As the United States had pointed out in its first submission, consideration of the PPM as a definition element for environmental goods could lead to extending the product coverage beyond the capacity of many Members, particularly developing countries. It could also prolong the negotiation process and thereby prevent the Group from completing the negotiations within the agreed time-frame. Therefore, the PPM criteria should not be taken into account in defining the scope of environmental goods. In its first submission the United States had suggested that the APEC list could be a good basis for discussion. However, limiting the scope of product coverage to a manageable level would not only be desirable, it would also be necessary in order to ensure participation of developing countries. Over half of the items on the APEC list were regarded as dual use goods. Whether to include those dual use goods in the category of environment goods was an issue for further study and discussion, in particular, how to implement the customs clearance of a multi-use environmental good. As indicated in its submission, Korea preferred end-use based criteria for the definition of environmental goods. Members should develop lists through a process of consultations with domestic stakeholders and subsequent negotiations among Members.

1.31 The representative of Canada stated that, while one agreed list would be the best solution, the concept of using a separate core list and a complementary list was a creative one and could certainly be considered. However, in relation to looking at proposed additions to the various lists that were on the table, Canada would urge Members to submit, for any products that they wanted to propose for the environmental goods list, the relevant HS code and an HS description. In the ITA context, there had been a messy and drawn-out exercise with regard to the B list of products which had been done with old HS codes and descriptions. Work was still continuing to sort out the fact that Members had placed a good number of those products in the ITA B list into different categories in the HS. If Members could submit HS descriptions and codes this could avoid some of the difficulties experienced in the ITA context.

1.32 The representative of Mauritius stated that their problem with erosion of preferences was a trade problem and that it should find a solution in the WTO. They also hoped that their proposal would be taken into consideration in the Chairman's modalities.

1.33 The representative of Nigeria stated that the problem of preferences was an ongoing one. His delegation thanked all the Members who had seriously appreciated the major concern of the preference-beneficiary countries. Nigeria understood that this was a very contentious issue for all Members, it had to be jointly addressed and a common acceptable solution had to be found as part of the package of these negotiations. Arguments had been put forward about the importance of open trade whether it went by the name of improved market access or further liberalisation. There had also been the WTO talk of further integrating into the system those Members who had been marginalized in the process. The question was how the WTO hoped to do this because it appeared that these countries would be denied the access they already had. Trade preferences were about market access, not about aid and preference-beneficiary countries wanted to be part of the trading world. Mauritius had presented a proposal on the issue and Members should take the time to consider its feasibility. While Nigeria welcomed suggestions about seeking solutions for the preference problem in other

bodies such as the World Bank and the IMF, it did not agree that a solution could be found through arrangements with those bodies. It was a market access issue for which the WTO had the overriding competence rather than referring the issue to other organisations which had their own mandates and objectives.

D. OTHER MATTERS

1.34 There was no discussion under this item.

II. OTHER BUSINESS

2.1 A fax sent to participants on 20 June 2003 indicated a change in the date of the next meeting of the NGMA. It would now take place from 13-15 August 2003. There were two more meetings of the NGMA after Cancún and they were scheduled for 23-24 October 2003 and 8-10 December 2003.

2.2 The Chairman stated that the Group had had an excellent meeting. Basic concerns had been expressed openly and clearly and innovative ideas had been presented. The Group had moved forward with its work although a huge amount of work remained to be done. He was confident that if the Group continued on the same track and with the same spirit, further progress could be achieved. He shared his preliminary personal assessment of the discussions on the various issues dealt with during the meeting.

2.3 Beginning with the formula, he sensed a general agreement that a formula represented a proper way to deal with the tariff reductions. The type of formula suggested in TN/MA/W/35, while being subject to qualifications, had been found to be creative and could constitute a proper instrument to work on with a view to correcting imbalances and deficiencies it contained. Nevertheless, there were clear divergences among participants on some general issues regarding the formula. With regard to its effect in practice, on one hand some participants were of the view that it was constructed in too soft a manner and that as a consequence, it was weak in terms of genuine liberalisation including the reduction of high tariffs as well as the treatment of tariff peaks and tariff escalation. On the other hand, some participants defended the position that the reductions implied by the formula would be too ambitious given their economic situation, and that a further softening of various elements of the formula would be warranted. In addition, the problem faced by developing countries which had both low levels of bound and applied duties had been mentioned as needing to be addressed. Clearly there was a need to pursue this discussion. The second general issue which had been the subject of many comments was the one regarding the appropriate level of binding once the tariff reductions had been made. Here too, serious divergences existed. Nevertheless, some interesting ideas had been presented which could be worth exploring further. He did not go into the more specific comments which had been made on individual elements of the formula such as the "Ta", the "B" coefficient, and the base rate, elements on which all Members of the Group needed to reflect seriously.

2.4 On the question of possible sectorials, the views of the participants were still clearly far apart. Leaving aside the question of sectors to be retained, some participants were of the view that this question should only be addressed once a better consensus had been reached on the formula and they furthermore envisaged sectorials to be of a supplementary and voluntary character. On the other hand, other participants argued that sectorials were of a mandatory nature and had value in themselves. They also considered them an integral part of the modalities which could, in particular, balance a possible weakness of the formula. This was another issue on which further discussions would be needed as the Group progressed on the other elements of the modalities.

2.5 The Chairman believed that the suggestions made on the issue of additional provisions for developing and LDCs, apart from the question of flexibility in binding coverage, had been rather well received and that there was a good basis for further discussions. There had been some interesting ideas on the question of bindings on which the Group might do some further work.

2.6 On the question of treatment of Newly Acceded Members, there was a basic agreement that their special situation should be taken into account. The views diverged on how to do it and in this aspect a number of participants were of the view that the suggestion made in TN/MA/W/35 might not be the best way to follow. Here, also, interesting suggestions had been made which would be explored further.

2.7 With respect to supplementary modalities, he sensed a general agreement to have them as part of the modalities and to keep open the possibility of having recourse to all the supplementary modalities listed in paragraph 11, and to come back to this issue once progress had been made on other more fundamental issues.

2.8 The question of elimination of low duties had been confirmed as a controversial issue and furthermore closely linked in the mind of a number of participants to the results achieved with respect to the formula and the sectorial approach.

2.9 In light of his earlier comments on NTBs it was not necessary to say anything further on the issue.

2.10 With regard to the way forward and the preparations for the August meeting, participants needed to explore the many ideas put on the table, to screen them and put them through some simple basic tests but to take them all seriously. He would try to develop more options, where needed, with respect to various elements of the text, for discussion at the next meeting. It was not his intention to produce a revision of TN/MA/W/35 for the next meeting but rather to try to put on paper possible options for some elements that would help the Group to converge on some points on which participants were still far apart. As a result of the discussions at the next meeting, the Chairman might possibly revise document TN/MA/W/35. He remained available for consultations, and would take the initiative himself when he felt it was warranted.

2.11 The Negotiating Group took note of the statements made.
